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ORIGINAL

Volume IV of IV

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Eugene C. Griffith, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH ANDREW LYNCH,

APPELLANT

APPELLATE CASE NO. 2012-212547.

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THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS # 7 - # 17 (PHOTOS OF APARTMENT), STATE'S # 120 - 122 (PHOTOS OF MEDICINE), STATE'S # 129 (PHOTOS OF CLOTHES IN CLOSET), STATE'S # 130 (PHOTOS OF TOILETRIES), STATE'S # 131 (PHOTOS OF CLOTHES IN CLOSET, STATE'S # 154 (PHOTO OF BLOOD SPLATTER IN CHAIR), STATE'S # 166 (PHOTO), STATE'S # 179 (PHOTO OF SINK), STATE'S # 181 - # 182 (PHOTOS OF TOOTHBRUSHES), STATE'S EXHIBIT # 202 (PHOTO OF GRANDBABY CLOTHES)

STATE'S EXHIBIT # 29 (CD)

1 the form of buccal swabs from two individuals?

2 A Yes, I did.

3 Q Who did you collect those from?

4 A Theresa Brown and Sallie Jones.

5 Q And what was your understanding of who those ladies
6 were?

7 A It's my understanding that Theresa Brown was Cassandra L.
8 [REDACTED] mother and Sallie Jones was Portia
9 Washington's mother.

10 Q And then what was the relationship between Portia and
11 Theresa?

12 A Portia would have been Theresa's mother.

13 Q So --

14 A Four generations.

15 Q -- four generations of females?

16 A And I was collecting standards from the -- every
17 other generation, the two available.

18 Q And the purpose of you doing that was what?

19 A To try to make some sort of comparison to the
20 evidence in the case and to some other items that had been
21 offered from the residence as possible alternate
22 standards. However, it was just meant to be a way of
23 discerning between two -- potentially discerning who the
24 evidentiary samples may have come from.

25 Q Is it fair to summarize and say that you were trying

1 to develop a profile for Angelica and Portia?

2 A That was the goal, or at least to know which profiles
3 might have belonged to them.

4 Q Tell me about the process of collecting these
5 standards from Ms. Sallie Jones and Ms. Theresa Brown.
6 How did you do that?

7 A Well, they were transported to SLED and to the lobby
8 there, and I went downstairs and used sterile swabs,
9 rubbed those sterile swabs on the inside of their cheek
10 and then labeled them up, labeled the swabs. I had to
11 leave them open for a little while to let them dry. But
12 they were collected in the lobby at SLED and I took them
13 back upstairs to the laboratory area and later packaged
14 them up after they had dried.

15 Q Let me show you an item and ask if you recognize
16 this.

17 A This is a heat-sealed pouch that I placed the
18 standards that I collected into. You can see where there
19 is a seal here that I've initialed and dated, and both of
20 the -- our Items 21 and I believe Item 20 are both inside
21 here, envelopes, individual envelopes.

22 Q And that's again one of SLED's tamper-resistant
23 plastic heat-sealed bags?

24 A Yes, it is.

25 Q Do you recognize that bag particularly?

1 A Well, I would have placed the label here on it, but
2 this bag in particular, that's my handwriting and my
3 initials.

4 Q So is it fair to say that you heat sealed that bag
5 that had the contents from the buccal swabs of Theresa
6 Brown and Sallie Jones inside of it?

7 A Yes, I did.

8 Q Nobody else touched it before you put it in there?

9 A No.

10 Q You have the chain of custody of those items before
11 --

12 A Well, I cut it for analysis prior to even placing
13 them in there.

14 Q So this is actually after the fact?

15 A Right.

16 Q You actually developed the profile, and this is
17 sealing it after the fact?

18 A They had to be placed under my hood in the laboratory
19 and allowed to dry or else they would stick to the paper,
20 so that's normal practice, to allow all evidence to dry
21 before packaging it. And I did that and then cut for
22 analysis prior to placing it in the heat-sealed pouch.

23 Q So this is what was left after you cut for analysis?

24 A Yes.

25 MR. GRAHAM: Your Honor, the State would offer

1 the bag and its contents into evidence.

2 MR. MCGUIRE: No objection.

3 THE COURT: State's 200 admitted without
4 objection.

5 (WHEREUPON, State's Exhibit No. 200 was marked
6 for identification and received into evidence.)

7 BY MR. GRAHAM:

8 Q Lieutenant Taylor, referring to State's 200, which
9 contains what was left after you took for analysis the
10 buccal swabs from Sallie Jones and Theresa Brown, were you
11 able to develop profiles for each of those ladies?

12 A Yes, I was.

13 Q And they were full profiles?

14 A Yes.

15 Q What does that mean when I use the term "full
16 profile"?

17 A Well, when we do DNA analysis in the forensic field,
18 we test for 13 loci or locations on the chromosomes, and
19 when you make the statement of full profile that means I
20 got information, what I deemed to be complete information
21 from all locations.

22 Q Let me show you what's been marked as State's 107 and
23 ask if you recognize this. This is SLED Item 65.

24 A Yes. This is again a heat-sealed pouch that we use,
25 and you can see where it was initially sealed by the

1 submitting officer, and here is where I opened it and I
2 made a cut right here to get into the pouch.

3 Item No. 65 is a buccal swab or buccal swabs
4 from Kenneth Lynch.

5 When I finished my analysis, I placed them back
6 into the bag and sealed it and initialed it.

7 Q Prior to you going in to the bag for the first time,
8 was there any evidence that that bag had been tampered
9 with?

10 A No, there was not.

11 Q If somebody had cut in that bag, there would have
12 been evidence, wouldn't there?

13 A Yes. That's the purpose of that type of bag. And if
14 there had been any indication, I would have halted
15 analysis and checked out what was --.checked out the issue
16 before proceeding with any analysis.

17 Q So similar to the last exhibit, SLED Items 20 and 21,
18 State's 200, the buccal swabs from Ms. Jones and
19 Ms. Brown, what you have in front of you is what was left
20 after you did an analysis of the swab that's attributed to
21 Mr. Lynch; is that correct?

22 A That's correct.

23 MR. GRAHAM: Your Honor, the State would offer
24 what I believe is marked as ID at this time 107 into
25 evidence.

1 MR. MCGUIRE: Judge, we'd object on the chain.
2 There appears to be a year gap that we can't account for.
3 THE COURT: You want to delve into that further,
4 Mr. Graham?
5 BY MR. GRAHAM:
6 Q When did you receive this item? When did you go into
7 this bag for analysis?
8 A I believe I actually went into the bag for analysis
9 in February. I don't have a copy of the chain actually in
10 front of me, but that's when I resealed it apparently by
11 that date.
12 Q Lieutenant Taylor, do you have the chain of custody
13 form for SLED Item 65?
14 A I do. I have the one you just handed me.
15 Q When does it show you first coming into possession of
16 that item?
17 A I first am showing possession of it on February 26,
18 2011. It was in a storage drawer in our department
19 between January 20, 2011, and February 26-of 2011. It
20 remained in my possession during that time in a secure
21 area, secure laboratory. I have a place for my own
22 evidence, the same as all the other analysts do, and it
23 remained there until March 19th of 2012.
24 Q And that was until after His Honor granted the second
25 Schmerber order allowing you to process this case; isn't

1 that true?

2 A It was after the second Schmerber order that I
3 started analysis on it, yes.

4 Q When you retrieved it out, there's -- on State's 107
5 there is a seal across the top which is standard for SLED,
6 right?

7 A That's correct.

8 Q When the submitting agency submitted.

9 When you first retrieved this item out,
10 regardless of the date, it had not been tampered with,
11 correct?

12 A That's correct.

13 Q When it left your possession, you sealed it back up,
14 heat sealed it and initialed it; isn't that correct?

15 A That's correct.

16 Q Are there any other -- other than your initials, is
17 there anybody else who went in that bag and sealed it back
18 up?

19 A It does not appear that there have been any other
20 entries into the bag other than the initial placing of the
21 evidence on January 19th of 2011 and then my seal. There
22 don't appear to be any other instances where it's been
23 opened and resealed.

24 MR. GRAHAM: Your Honor, the State would offer
25 that into evidence and I believe that we have established

1 the chain..

2 MR. MCGUIRE: Judge, we maintain an objection on
3 the chain in that it appears to be in her possession for
4 about a year, and I know she used the word "secure," but
5 we don't know who may have had access. I don't know if
6 this is a drawer in a lab, that it just has her initials
7 on it or --

8 THE COURT: I think both the DNA witnesses
9 testified that the DNA lab is a secure lab. I think they
10 did, the young lady just before her. And I believe now
11 the chain's been sufficiently established by the State.

12 I heard the dates and was listening exactly for
13 what was just testified to because I knew of the two
14 Schmerber orders, and I believe the chain is complete.
15 We'll allow it.

16 So State's 107 would be admitted subject to your
17 objection.

18 MR. MCGUIRE: Yes, sir.

19 (WHEREUPON, State Exhibit No. 107 was previously
20 marked for identification and received into
21 evidence.)

22 BY MR. GRAHAM:

23 Q Now, Lieutenant Taylor, that's all the known
24 standards you have in this case; is that correct?

25 A That's correct.

1 Q There were other items that came to you for
2 comparison, though, weren't there?

3 A Yes.

4 Q Let me show you State's 49 that's in for
5 identification now and ask if you recognize that bag.

6 A I do. This is labeled as Container A and my initials
7 are on here.

8 Actually, it appears that I opened and resealed
9 this bag twice on the same day, July 17, 2006. It
10 contains several items of evidence. One can see the
11 initial seal that was made at submission and apparently it
12 has already been gone into recently.

13 Q It has been opened in court. So knowing that, does
14 it appear that when you took possession of that bag, did
15 you make any notation it had been tampered with at the
16 time, or is there any evidence now that that bag was
17 tampered with prior to you taking it out?

18 A When I received the bag, there was no evidence of
19 tampering. And other than this tear here that is
20 unlabeled, there don't appear to be any other entries into
21 the package.

22 Q When you opened that package, what was inside it?

23 A It contains items of evidence labeled with -- or
24 actually I affixed our item number labels, but it appears
25 to be items collected from the crime scene.

1 Q For the record, would you go through and list what
2 those items are?

3 A Yes, sir. It's Item No. 3, which is labeled as
4 "Blood from master bedroom sink." I listed it on my
5 report as a swab from master bedroom sink.

6 Item No. 4, which I listed as "Swab from blue
7 Sterilite container."

8 Item No. 5, which I listed on my report as
9 "Swabs from green chair in master bedroom."

10 Item No. 6, listed on my report as "Swabs from
11 carpet in master bedroom."

12 Item No. 7, listed as "Swabs from bottom of
13 green chair."

14 Item No. 8 is listed as "Swabs from master
15 bedroom door."

16 Item No. 9 is listed as "Swabs from hall
17 bathroom sink after LCV."

18 Item No. 10 is listed as "Swabs from metal mop
19 bucket."

20 And Item No. 11 is listed as "Swabs from
21 steering wheel of victim's car."

22 Q Now, each one of those items that you read out are in
23 a gold or manila small envelope; isn't that correct?

24 A Yeah. We call these coin envelopes. They're
25 generally used for processing of crime scenes or used in

1 evidence processing.

2 Q Each one of those were sealed with yellow SLED
3 Forensic Services tape; is that correct?

4 A That's how I received them, yes.

5 Q Okay. And there are initials of R.A.G. with the date
6 of 6-22-06 on 11, and I believe the other ones, 3 through
7 10, all have the same tape, the date, June 20, 2006, with
8 R.A.G.; is that correct?

9 A That's correct.

10 Q For 3 through 11, were any of those items -- were
11 they properly sealed when you got them?

12 A Yes, they were.

13 Q And if they would have been tampered with prior to
14 your seeing them, you would have made a notation of that?

15 A I would have made notes, and I would have followed
16 up. I would have tried to find out what had happened.

17 Q And you attempted -- either did or attempted to
18 develop profiles on each and every one of those items; is
19 that correct?

20 A That's correct.

21 Q In addition to those items, did you also receive some
22 other items for analysis?

23 And let me show you State's Exhibit 199, which
24 is SLED's Container C regarding this case, which are items
25 that Jan Bryson testified that she created.

1 There is an outer plastic bag on that exhibit,
2 and there is an inner plastic bag. I'm going to ask you
3 to open it up and look at the inner plastic bag.

4 A (Witness complies.)

5 Q Lieutenant Taylor, the bag that you're opening, does
6 it appear to be properly sealed?

7 A It does. And it has an initial seal made at
8 submission on January 19 of 2011. And then there is
9 another seal that I initialed, I made this cut on the side
10 and resealed it again February 21st of 2012.

11 Q Looking at the contents of that exhibit, do you
12 recognize that bag and its contents?

13 A I do. This was received as a result of processing of
14 some items by Jan Bryson in our evidence processing
15 section.

16 You can see where she initially made the seal at
17 the top, and then on the side you can see two -- evidence
18 of two points of entry in this bag.

19 That first one occurred 7-25 of '06, and it was
20 co-initialed by myself and then Katie Koy, who was
21 training under me and working under my direct supervision
22 at that time.

23 I again opened this bag in February of this year
24 and resealed it.

25 Q When you first went into the bag in July -- was it

1 July of last year? Was that the first date --

2 A No, July of '06.

3 Q When you received that bag, I believe it was from Jan
4 Bryson. Was there any evidence -- I mean, she handed it
5 directly to you, I think, is what her testimony was. Are
6 you able to determine that?

7 A I don't recall. I can -- I'd have to check the chain
8 of custody again.

9 Q Would you check the chain of custody for me on that?

10 A I apologize. I do not recall.

11 Yes, it was transferred directly. She created
12 this item or at least one of the sub-items in here on the
13 19th of July, 2006, and I took possession of this
14 container on July 25th of 2006.

15 Q And then inside there, I believe, there were multiple
16 items. There were three cuttings from the carpet labeled
17 13.1, 13.2, 13.3; is that correct?

18 A I believe so, yes.

19 Q And there were five items from Item 14, 14.1, .2, .3,
20 .4, .5, which were cuttings from the sheets, and there was
21 a -- two cuttings from the comforter, 15.6.1 and 15.6.2.

22 Is that what your records reflect?

23 A I would have to look at the chain of each of those
24 items. I can open it and verify the contents.

25 Q Yes, ma'am. If you would open it and verify that's

1 what was in there when you did.

2 MR. MCGUIRE: Judge, while she's doing that,
3 just for the record, our only remaining objection would be
4 pursuant to the objection to the search warrant of the
5 apartment on June 20th.

6 THE COURT: And that objection's been argued in
7 the in camera hearing.

8 MR. MCGUIRE: Yes, sir.

9 THE COURT: And ruled upon.

10 MR. MCGUIRE: Yes, sir.

11 THE COURT: So subject to your objection, noted
12 for the record in the trial.

13 MR. MCGUIRE: Yes, sir.

14 THE COURT: You're protected on that issue, the
15 search warrant issued on the 20th.

16 THE WITNESS: Okay. This Container C contains
17 Item 13.1, a section of carpet; 13.2 and 13.3, also
18 sections of carpet or cuttings from carpet.

19 Items 14.1, 14.2, .3, .4, and .5, all cuttings
20 from a flat bed sheet.

21 Items 15.6.1 and 15.6.2, which were cuttings
22 from a comforter, and Item 15.3.1, which was a cutting
23 from a pillow sham.

24 BY MR. GRAHAM:

25 Q Now, when you received those from Ms. Bryson, were

1 you able -- did you attempt to or develop profiles from
2 each and every one of those items?

3 A I did.

4 Q And then what you have in front of you is what was
5 left that you sealed back up; is that correct?

6 A That's correct.

7 MR. GRAHAM: Your Honor, the State would offer
8 the bag and its contents as evidence at this time.

9 MR. MCGUIRE: The only remaining objection, Your
10 Honor, as I stated would be the search on June 20th of the
11 apartment.

12 THE COURT: All right. Perhaps I'm wrong, but
13 the comforter, the 15.6.1, I thought those weren't going
14 to be offered.

15 MR. GRAHAM: I'm sorry, Your Honor. I guess the
16 bag and its contents of everything but 15.6.1 and .2 and
17 those, I guess, will be ID --

18 THE COURT: Yes.

19 MR. GRAHAM: -- and the rest of the contents
20 will be in evidence.

21 THE COURT: All right. Subject to the objection
22 and subject to your proffering 15.6.1 and 15.6.2 in camera
23 later, are admitted. And I think we're doing it as
24 Exhibit 199? Is that right, Carol?

25 THE COURT REPORTER: It's 199, Judge.

1 THE COURT: This is the envelope with cuttings
2 from Box C.

3 THE COURT REPORTER: Yes.

4 THE COURT: That's what it is. It's 199 without
5 the -- it's offered into evidence subject to the
6 objection, subject to the withdrawals.

7 It's admitted, but not 15.6.1 and .2 are not
8 admitted. That would mean 15.3.1 is. All 14, the bed
9 sheet subparts -- there's five of them -- are admitted.
10 And the carpet sections 13.1, .2, .3 are admitted. And
11 all those are within the bag marked 199 for identification
12 purposes, now State's Exhibit 199.

13 MR. GRAHAM: Your Honor, for clarification,
14 would it be easier if we'd bring each one out and then
15 mark them individually?

16 THE COURT: Certainly, and we can do the 199
17 subpart A, B, C.

18 Would that be the simplest for your records,
19 Carol?

20 THE REPORTER: Yes, sir. Thank you.

21 THE COURT: 199 and then subpart it out for the
22 purposes of this record.

23 (WHEREUPON, STATE'S Exhibits Nos. 199A-K were
24 marked for identification only.)
25

1 (WHEREUPON, STATE'S Exhibits Nos. 199A-I were
2 admitted into evidence.)

3 MR. GRAHAM: Your Honor, I think that I moved
4 State's 49, which is the bag, into evidence, but I don't
5 know that I introduced all of its contents into evidence
6 when we went through that.

7 THE COURT: Let's identify those sub-items.

8 MR. GRAHAM: That's going to be -- let's see
9 where we start -- 187, '88, '89, '90, 191, 192, 193, 194,
10 and 195, Your Honor. We would move all of those. I
11 believe those are currently ID, and we would move those
12 into evidence as well.

13 THE COURT: And we IDed those during Detective
14 Green's testimony, Roderick Green.

15 MR. GRAHAM: Yes, sir.

16 THE COURT: Those will be admitted.

17 I'm sorry, did I hear you-all on that? I didn't
18 think there was --

19 MR. McGUIRE: We were maintaining a chain
20 objection, but we believe we're past it now.

21 THE COURT: And I ruled on your chain. Your
22 chain objection's noted. I just overruled it, so you're
23 protected on that issue.

24 MR. McGUIRE: Thank you, Your Honor.

25

1 (WHEREUPON, STATE'S Exhibits Nos. 187-195 were
2 admitted into evidence.)

3 BY MR. GRAHAM:

4 Q Lieutenant Taylor, all those items that we have now
5 put into evidence, you analyzed and developed profiles the
6 best you could from them; is that correct?

7 A I did.

8 Q Let's talk about Item No. 11, which was a swab from
9 the steering wheel of the victim's car, I believe is how
10 you have it labeled.

11 A Yes.

12 Q That's SLED Item No. 11. Can you tell me what, if
13 anything, you found when you compared that to the profile
14 you developed for Mr. Kenneth Lynch?

15 A The partial DNA profile developed from Item 11
16 matches the DNA profile of Kenneth Lynch, and the
17 probability of randomly selecting an unrelated individual
18 having that partial profile matching that item is
19 approximately 1 in 690,000.

20 Q Item No. 9 was labeled as a swab from the hall bath,
21 SLED Item No. 9. Do you see that on your report?

22 A I do.

23 Q Now, did you -- what, if anything, did you do to
24 determine whether that was blood or some other type of
25 DNA?

1 A Item No. 9 I performed -- actually, I did not perform
2 any body fluid identification type analysis on Item No. 9.
3 It was indicated that it had already been treated with
4 LCV, which is Leucocrystal Violet. The swab was purple.
5 And as our blood indication tests are color reaction as
6 well, it would have invalidated any results, so I took
7 that swab straight to DNA.

8 Q And what, if anything, can you tell me, then, as to
9 the DNA of that swab, which is Item 9, compared to any of
10 the known standards; what can you tell me?

11 A Well, I can tell you that I developed a mixture from
12 that item and Kenneth Lynch could not be excluded as a
13 possible contributor to the mixture. The probability of
14 randomly selecting an unrelated individual who could have
15 contributed to that mixture is approximately 1 in 3. I
16 was unable to perform any further comparisons without
17 known standards from the victim -- victims, I'm sorry.

18 Q So a mixture is what -- you talked about a mixture.
19 What does that mean?

20 A There is indications in the profile that there is
21 more than one contributor.

22 Q And whatever mixture-type profile you develop, you
23 can't exclude Mr. Lynch as being part of it, correct?

24 A That's correct. He couldn't be excluded from the
25 information I had.

1 Q As far as either Portia or Angelica, what can you say
2 about them?

3 A Since I didn't have their known standards, I was
4 unable to make a determination as to whether or not they
5 would have been included or excluded to that profile.

6 Q 13.1 was a cutting from carpet; is that correct, one
7 of the ones that Jan Bryson created?

8 A That's correct.

9 Q Tell me what, if anything, you did as far as -- did
10 you do any tests to see whether it was blood?

11 A On Item 13.1, I performed an analysis that indicated
12 the presence of blood, and then I performed DNA analysis
13 and generated a profile from that item.

14 Q So it was blood?

15 A Yes.

16 Q Okay. Were you able to develop a DNA profile for
17 13.1, the blood from the carpet?

18 A It was a mixture as well, the DNA profile.

19 This was a particular type of mixture in that it
20 yielded what we call a discernible major contributor. I
21 could tell that there was more DNA from one particular
22 person than the rest, and it appeared to be consistent
23 with a daughter of Theresa Brown.

24 The minor contributor, there was very little DNA
25 present, there was male DNA present, but other than that,

1 it's not suitable for any further interpretation.

2 Q So it was a mixture of a profile that's consistent
3 with the daughter of Theresa Brown, and the mixture is
4 enough for you to tell it was a male but little beyond
5 that?

6 A Correct.

7 Q Are you able to rule out Mr. Lynch as being the male
8 contributor to that?

9 A No, I wouldn't offer any inclusion or exclusion based
10 on that small amount of information. I can only tell that
11 there is a little bit of male DNA there; however, I
12 wouldn't do any further interpretation.

13 Q Item No. 7 was labeled as a swab from the bottom of
14 the chair; is that correct?

15 A I have it labeled as "Swabs from bottom of green
16 chair," yes.

17 Q What, if any, test did you do to determine the
18 presence of blood on that item?

19 A I determined on Item No. 7 that blood was indicated,
20 and then I performed DNA analysis.

21 Q What was the results of your analysis?

22 A The DNA profile of it also -- I'm sorry. The profile
23 developed from Item No. 7 also was a mixture, and it also
24 yielded a major contributor profile, and the DNA profile
25 of the major contributor to this mixture is consistent

1 with being from a daughter of Theresa Brown.

2 No interpretation of the minor profile can be
3 offered pending submission of suitable standards from the
4 victims was my initial interpretation. I added no
5 conclusive statement could be made regarding the inclusion
6 or exclusion of Kenneth Lynch as a possible contributor to
7 that mixture.

8 Q What can you tell me about Items 3 and 4, what are
9 they?

10 A Item 3 is a swab from the master bedroom sink, and
11 Item 4 is a swab from the blue Sterilite container.

12 Q And what, if anything, did you do to determine the
13 presence of blood on Items 3 and 4?

14 A I did some testing that indicated the presence of
15 blood on Items 3 and 4, and then again proceeded to do DNA
16 analysis.

17 Q So both 3 and 4 were blood?

18 A Yes.

19 Q And then what did your DNA analysis reveal?

20 A Both of those profiles developed from the items are
21 mixtures and again yielded a profile of a major
22 contributor that was consistent with being a daughter of
23 Theresa Brown. There are at least two unidentified minor
24 contributors in the mixture. Once again, I could not make
25 a conclusive statement as to the inclusion or exclusion of

1 Kenneth Lynch to the mixture.

2 Q Item 10, what was that?

3 A Item 10 is "Swabs from a metal mop bucket."

4 Q And what, if anything, did -- did you test that for
5 blood?

6 A I did, and it was negative.

7 Q Did you attempt DNA analysis?

8 A I did.

9 Q And what was your results?

10 A I did not detect any human DNA on Item No. 10.

11 Q In your time as a DNA analyst and as an expert in
12 this field, are you familiar with LCV?

13 A In a peripheral way. I've read some about it and am
14 aware of its use at crime scenes.

15 Q What is your understanding of its use at a crime
16 scene?

17 A That it is sometimes used to visualize blood where
18 there may have been an attempt to wash it or wipe it where
19 it may not be otherwise readily visible.

20 Q Can you tell me what effect cleaning agents, bleach
21 or other type of agents may have on human DNA and blood?

22 A Well, we use bleach to clean the laboratory of DNA,
23 so it would effectively destroy it. As far as -- I'm
24 sorry, I've forgotten the other part of the question.

25 Q Both for blood and DNA.

1 A Blood and DNA. Again, cleaning agents such as bleach
2 would negate the value of the testing, could potentially
3 wash away the DNA or wash away the blood and yield --
4 cause negative results.

5 Q Item No. 5, what was that?

6 A Item No. 5 was "Swabs from green chair in master
7 bedroom."

8 Q What, if anything, did you do to determine the
9 presence of blood for Item 5?

10 A I did testing and determined that the presence of
11 blood was indicated.

12 Q And as far as DNA analysis, were you able -- what was
13 your opinion as to whose blood that was?

14 A The DNA profile developed from Item No. 5 was a
15 single-source DNA profile and it was consistent with being
16 from a daughter of Theresa Brown.

17 Q When you say "single source," that's different from a
18 mixture how?

19 A That's correct. There's no indication that there's
20 more than one contributor.

21 Q So there was one contributor for that item and your
22 results make it consistent with a daughter of Theresa
23 Brown?

24 A Yes.

25 Q Item No. 6 was what, Lieutenant Taylor?

1 A Item No. 6 was "Swabs from carpet in master bedroom."

2 Q What, if anything, did you do to determine the
3 presence of blood on Item 6?

4 A I did do testing that indicated the presence of
5 blood.

6 Q And again, were you able to do -- what were the
7 results of your DNA analysis and comparison on that item
8 of blood?

9 A It, the same as Item No. 5, was a single-source DNA
10 profile and was consistent with being a daughter of
11 Theresa Brown.

12 Q Item No. 8, what was that?

13 A Item No. 8 was "Swabs from master bedroom door."

14 Q And what, if anything, did you do to determine the
15 presence of blood in Item No. 8?

16 A I did testing that indicated the presence of blood.

17 Q And what were the results of your analysis and
18 comparison?

19 A Item No. 8, just like 5 and 6, was also a
20 single-source DNA profile that was consistent with a
21 daughter of Theresa Brown.

22 Q Item 13.2, what was that?

23 THE COURT: Hang on. Hang on, hang on. Y'all
24 are going fast. I'm writing as fast as I can.

25 MR. GRAHAM: I'm sorry, Judge.

1 THE COURT: I can't keep up.

2 (Pause.)

3 THE COURT: All right.

4 BY MR. GRAHAM:

5 Q 13.2, Lieutenant Taylor, what was that item?

6 A It was a cutting from carpet.

7 Q Those are the ones that Jan Bryson made for you?

8 A That's correct.

9 Q And what, if anything, did you do to determine the
10 presence of blood on 13.2, one of the cuttings from the
11 carpet?

12 A I did testing that indicated the presence of blood on
13 that item.

14 Q And as far as a DNA analysis or comparison, what were
15 your findings?

16 A Item 13.2 also yielded a single-source DNA profile
17 that was consistent with being a daughter of Theresa
18 Brown.

19 Q Item 13.3, was that also another cutting from the
20 carpet that Jan Bryson prepared for you?

21 A That's correct.

22 Q What, if anything, did you do to determine the
23 presence of blood on 13.3, that cutting?

24 A I performed testing that did indicate the presence of
25 blood and then proceeded to DNA.

1 Q And what did your DNA analysis and comparison show?

2 A For Item 13.3, it also yielded a single-source
3 profile consistent with being the daughter of Theresa
4 Brown.

5 Q 14.1, what is that item, ma'am?

6 A 14.1 is a cutting from a sheet.

7 Q And what, if anything, did you do to determine the
8 presence of blood on the cutting from the sheet labeled as
9 14.1?

10 A I did once again do testing that indicated that blood
11 was present.

12 Q And as far as the DNA comparison, what did you find?

13 A On Item 14.1, I was able to develop a single-source
14 profile once again consistent with a daughter of Theresa
15 Brown.

16 Q 14.2, that's also another cutting from a sheet; is
17 that correct?

18 A Yes, and yielded the same results as Item 14.1.

19 Q In fact, 14.1 and 14.2, 14.3, 14.4, and 14.5 all had
20 the same results; isn't that true?

21 A Yes, that's correct.

22 Q All of them showed the presence of blood?

23 A Yes.

24 Q All were a single-source?

25 A Yes.

1 Q And all are consistent with being the daughter of
2 Theresa Brown?

3 A That's correct.

4 MR. GRAHAM: Thank you, Lieutenant Taylor.

5 MR. MCGUIRE: Thank you for coming, ma'am. No
6 questions.

7 THE COURT: You may step down.

8 THE WITNESS: Your Honor, I'm under subpoena for
9 the defense. Am I released from both subpoenas?

10 THE COURT: Is she released from the subpoena?

11 MR. MCGUIRE: Unless she's recalled by the
12 State, we're going to release her.

13 THE COURT: All right. You're released from
14 both subpoenas.

15 THE WITNESS: Thank you.

16 THE COURT: Is that enough for today?

17 MR. GRAHAM: Yes, sir.

18 THE COURT: It's enough for me. My hand's
19 tired.

20 All right. We'll stand adjourned until
21 tomorrow. See you-all in the morning about the same time.

22 (The proceedings were concluded for the day to
23 be reconvened on April 27, 2012.)

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

25 VOLUME 8 OF 10

1 THE COURT: All right. Are we ready to
2 continue?

3 MR. HUBBARD: The State's ready.

4 MR. MCGUIRE: Yes, sir.

5 MR. HUBBARD: The State calls Steve Derrick.

6 STEVEN M. DERRICK, after being duly sworn,
7 testified as follows:

8 THE CLERK: Have a seat, please.

9 Once you're seated, state your full name,
10 spelling your last for the record.

11 THE WITNESS: I'm Steven M. Derrick,
12 D-E-R-R-I-C-K.

13 DIRECT EXAMINATION

14 BY MR. HUBBARD:

15 Q Mr. Derrick, where do you work?

16 A I am currently retired.

17 Q Where did you use to work?

18 A I was a senior agent at the South Carolina Law
19 Enforcement Division, more commonly referred to as SLED.

20 Q How long were you with SLED?

21 A Approximately 20 years.

22 Q Before you were with SLED, were you with another law
23 enforcement agency?

24 A Yes, sir. Prior to being with SLED, I was with the
25 Aiken County Sheriff's Department; prior to that, the

1 Lexington County Sheriff's Department.

2 Q During your law career, law enforcement career, what
3 area did you focus on and work in?

4 A I spent --

5 Q What was your specialty?

6 A I spent approximately 26 years in forensic science,
7 specifically with crime scene processing, crime scene
8 analysis, blood stain pattern analysis, the science of
9 fingerprints, and the science of tire and footwear.

10 Q Let me ask you this: As to your experience in blood
11 spatter analysis and blood analysis, how many years did
12 you work in that area?

13 A From 1989 until 2007.

14 Q Did you have any training or formal training or
15 education with regard to blood spatter analysis and blood
16 spatter interpretation -- and blood interpretation?

17 A Yes, sir, I did. The first school I had was
18 sponsored through the South Carolina Law Enforcement
19 Division. It was a basic course in blood stain pattern
20 analysis. That was in 1989.

21 Following that, I took a basic and advanced
22 course from a certified instructor with the Georgia Police
23 Academy. And those were the three specific courses
24 dealing with blood and its flight characteristics from the
25 analysis of stains at the scene.

1 Supplemental courses that corresponded to that
2 would be a comprehensive death investigation school at the
3 Medical University of South Carolina plus several seminars
4 sponsored by MUSC in death investigation.

5 I attended a number of homicide schools, with
6 probably the biggest one being the Southern Police
7 Institute Homicide School where during those curriculums,
8 a day to two days was spent with the analysis of blood
9 stains in correlation to other physical evidence at a
10 crime scene.

11 Apart from my training, I was a member of the
12 South Carolina chapter of the International Association
13 for Identification. I served two terms as president of
14 that association. I also served as the representative to
15 the international body as well as chairman of the State
16 Crime Scene Certification Committee. Through the SCIAI,
17 we presented several seminars from certified instructors
18 on blood stain pattern analysis.

19 In addition to that, I was a member of the
20 International Association of Blood Stain Pattern Analysts.
21 I am currently a life member of the International
22 Association for Identification, which furnishes me still
23 to this date with periodic updates in my specific fields.
24 And I am also currently and previously certified as a
25 senior crime scene analyst through that association.

1 Q Okay. Very good.

2 Let me ask you this: Can you tell us how many
3 trials you have testified in as an expert in the analysis
4 of blood stains?

5 A I've testified approximately 64 times in the courts
6 of General Sessions in South Carolina and on one occasion
7 in U.S. District Court.

8 Q And that's just on blood stain analysis?

9 A That's correct.

10 Q Now. Mr. Derrick, have you testified in court many
11 more times than that?

12 A Yes, sir.

13 Q Have you had an occasion to testify in death penalty
14 cases in South Carolina?

15 A Yes, sir.

16 Q Do you know about how many you've testified in?

17 A To the best of my memory, approximately 22.

18 MR. HUBBARD: Your Honor, I'd offer Mr. Derrick
19 as an expert in the analysis of blood stains.

20 MR. STITELY: We have no objection to
21 Mr. Derrick being qualified as an expert.

22 THE COURT: Mr. Derrick is so qualified as an
23 expert in the field of blood stain analysis.

24 BY MR. HUBBARD:

25 Q Mr. Derrick, how did you get involved in this case?

1 A I was contacted by the Solicitor's office here in
2 Lexington County.

3 Q And when you were contacted by us, what, if anything,
4 were you tasked with?

5 A I was asked to look at some photographs, and I was
6 furnished with a crime scene diagram and asked if I could
7 interpret the stains that were represented in the
8 photographs and what they meant.

9 Q Let me ask you, the diagram you mentioned, does that
10 look like the diagram we see in State's Exhibit No. 3?

11 A Yes, sir.

12 Q The layout of an apartment?

13 A Yes, sir.

14 Q And the photographs, we gave you those photographs,
15 you were asked to look at the blood and see if you could
16 make an analysis?

17 A That's correct.

18 Q Now, did we ever give you a full report about this
19 case?

20 A No, sir.

21 Q Did you ever get, in fact, a report from the
22 investigating agency on all their investigation in this
23 matter?

24 A No, sir, I did not. And it wouldn't matter because
25 it wouldn't have anything to do with what I was asked to

1 do.

2 Q Right. After getting those photographs, did you at
3 some point meet with the officers from SLED that actually
4 went in and collected and processed that scene?

5 A Yes, sir.

6 Q Would that be Rod Green and Carl Kinley?

7 A Yes, sir.

8 Q Why would you want to meet with them, Mr. Derrick,
9 before making a full analysis of what you saw in those
10 photos?

11 A The reason I wanted to meet with them is I wanted to
12 know exactly what they had done in their processing of the
13 crime scene. In addition, I suspected what dye stain
14 they'd used to enhance and locate hidden blood, but I
15 wanted to verify that my conclusion was correct and it was
16 the proper dye stain that they had used.

17 They gave me general information of what they
18 discovered at the crime scene, of which some of the
19 determinations that I had made and they had made
20 complimented each other.

21 MR. HUBBARD: Very good.

22 Your Honor, I would request that the witness be
23 allowed to step down so we can go through photographs that
24 are already admitted into evidence.

25 THE COURT: I have no problem with that.

1 MR. HUBBARD: Thank you.

2 Mr. Derrick, if you would.

3 BY MR. HUBBARD:

4 Q Mr. Derrick, I'm going to ask you to stand here.

5 This is a microphone. Our court reporter obviously needs
6 you to speak up, and, of course, the judge needs to hear
7 as well.

8 Now, I'm going to show you what's been marked as
9 State's 166. Does that photograph look familiar to you?

10 A Yes, sir, it does. That is a photograph showing a
11 green reclining chair located, I believe, in what was
12 determined to be the bedroom of the apartment.

13 Q Okay. And one of the questions you asked your -- the
14 SLED agents is whether they'd sprayed anything yet at that
15 point?

16 A I asked them two questions. Number one, in the
17 photographs I had viewed they had documented stains, they
18 had the appearance of being blood, which they verified was
19 blood. And then, a series of photographs where a dye
20 stain had been applied to the chair.

21 Q Okay. I show you State's 165.

22 A Yes, sir.

23 Q Now, let me ask you. This little item here, what are
24 we looking at right there? It's hard to see on the big
25 screen, but if you can say, looking maybe at the

1 photograph, and just orient the judge.

2 A That stain appears to be possibly a broken droplet of
3 blood. By "broken," is it appears to be a drop of blood
4 because it's hit a coarse surface, has broken up, so that
5 it's not uniform all the way through.

6 Q I'm going to show you another photograph,
7 State's 164. Is this a close-up of that same droplet?

8 A Yes, sir, it is.

9 Q Okay.

10 A Looking at the droplet, it's elliptical in shape,
11 which means that it hit the surface at an angle. And the
12 highlight characteristics of that particular stain,
13 looking closely at the photographs, the heavier volume of
14 the blood in that droplet remains on the top of that
15 coarse surface of the chair.

16 Q And, again, it's kind of hard to see, but are you
17 referring to this portion of the droplet --

18 A Yes, sir.

19 Q -- in this exhibit?

20 A Yes, sir.

21 Q All right. I'll show you State's 163. The arm of
22 the chair, which I guess if you're sitting in the chair,
23 just for the record, would be the right arm of the chair,
24 is that where that droplet was, over on the far right side
25 of this exhibit?

1 A Yes, sir.

2 Q Now, going down the arm of the chair, what is this
3 discoloration we see right where the hand might rest if
4 you were sitting in the chair?

5 A Okay. Those bluish black stains that are on the
6 chair is a reaction from the chemical commonly referred to
7 as LCV. It's a chemical that reacts to enzymes and
8 protein in blood. Even though blood may not be visible
9 and the color would be gone, the enzymes and proteins have
10 a tendency to remain on surfaces. This chemical reacts to
11 the protein in blood and the enzymes and makes, shall we
12 say, invisible blood visible to the human eye.

13 Q Let me ask you this if I can, Mr. Derrick: What, if
14 anything, can you say about the pattern of that stain?

15 A Okay.

16 Q Here you go. You can use that, use that pointer.

17 A In this particular stain here, this is what is
18 referred to as a transfer stain. By transfer stain,
19 there's an object that has blood on it that's transferred
20 to the surface of the arm of the chair or there's blood on
21 the chair that made contact with another surface and was
22 transferred off.

23 In looking at this stain right here, there are
24 three or -- yeah, three distinctive lines, and it's better
25 in the photograph than it is on the screen up there, but

1 these outlays would be consistent with what's known as a
2 three-finger impression. In other words, three fingers
3 have made contact with the side of the chair and outlaid
4 their form. The ridge detail was present in there, but
5 that is not unusual if a hand has a sufficient volume of
6 blood that would fill in the furrows.

7 Q I ask you to look at 162. Is that a different angle
8 of the same area we're looking at?

9 A Yes, sir. It's a different angle highlighting --
10 this would be the area where the transfer took place.
11 There was a stain there that could possibly be a transfer
12 or a blood drop that was smeared.

13 Q And, again, 161 even -- that same angle but a
14 close-up?

15 A Yes, sir. Right up in here, right in here, those are
16 transfer patterns and smears.

17 Q All right. Now, I want to look at the undercarriage
18 of this chair for just a minute, State's 160.

19 Now, looking at this photo, if you will, this
20 is -- are we looking from the front or the back?

21 A And I believe we're looking from -- this being the
22 back and that being the front.

23 Q Okay. Now, in this photograph -- and I don't know if
24 you can really see it up there on the screen -- but in
25 160, State's 160, what are we looking at right here?

1 A All right. There are several blood patterns that are
2 visible in this photograph, the first being a blood drop,
3 which is on the board right there next to the bolt. And
4 then we have some transfer pattern of blood that's on the
5 base of this piece of wood. Then we have some dye-stained
6 blood which is on the base of, I guess, the footrest of
7 the chair, which the LCV has detected and outlaid.

8 Q Now, I want to show you the undercarriage from a
9 little bit different angle, State's 159, this being, I
10 believe, the front of the chair with the footrest, just to
11 orient you. What are we looking at there?

12 A Okay. We've got several stains located in this
13 photograph.

14 Up in this area here, which is very faint on the
15 screen but very predominant in the photograph, there has
16 been blood there. It is lighter in color, which would
17 indicate that it's been diluted, and it also is wider than
18 just what a normal transfer pattern would be, almost like
19 it had been wiped.

20 As we come farther down, as we get to the lip of
21 that footrest, we have a number of blood smears or
22 transfer stains which are on the very base of this.

23 The third area is on this piece of wood, and
24 this pattern here is consistent with what is known as a
25 hair transfer pattern. And what that is is there's a

1 quantity of blood that is caught up in the hair that when
2 the head -- when the surface with the hair on it makes
3 contact with the surface, it transfers the volume of the
4 blood plus outlays the various hair design that is caught
5 up in the stain.

6 Q Okay. Now, I'm going to refer you to State's 158.
7 And if you would note, in State's 159, there's a tear
8 here?

9 A Yes, sir.

10 Q State's 158, is that a close-up of that same area?

11 A Yes, sir.

12 Q And let me ask you this, too. This portion of the
13 chair right here --

14 A Yes, sir.

15 Q -- what portion of the chair is that?

16 A That's the underside of the chair.

17 Q Okay. And what are you seeing in this photograph?

18 A Okay. In this photograph, specifically, is up in
19 here and right in here.

20 These patterns are what are referred to as
21 spatter patterns. And by spatter, a surface that has
22 blood on it, when it is impacted with force, will spatter
23 and fly away. The greater the degree of force, the
24 smaller the little spatter patterns are. The less degree
25 of force, the larger the spatter patterns are.

1 These in -- spatters that are located in here
2 and in here would be with some medium range of force. It
3 could be from a fist or a blunt object. But a degree of
4 force has been applied to blood on the surface that has
5 caused it to fly away and make contact with the base of
6 this chair. And this is not a normal free-flowing blood
7 action.

8 Q Let me follow up on that. If it was just somebody
9 with a cut, would you have spatter like you see in this
10 exhibit?

11 A Not unless they impacted their hand with a variable
12 degree of force to cause --

13 Q Okay.

14 A -- the blood to spatter away.

15 Q And if --

16 A If an individual is cut, there's free-flowing blood
17 until something stops the free flowing. Normally you get
18 drops. Or if it's cuts, say, on the hand, the outside's
19 cut and the blood flies away, these are big droplets of
20 blood. There's still full drops of blood because there's
21 been no force applied to them to cause that one blood drop
22 to break up into smaller spatters.

23 Q Let me ask you this as we're talking about spatter:
24 What about high-velocity spatter? Where would you see
25 high-velocity spatter?

1 A High-velocity spatter would be associated with a
2 gunshot wound or high-speed equipment. The spatters in
3 that would be very, very tiny, less than a millimeter in
4 size. In fact, they would -- unless they were in a large
5 pattern, to find those particular single drops, you'd have
6 to go over that area pretty much with a magnifying glass.

7 Q The drops or the spatter we see here, you
8 characterized as -- was it medium velocity?

9 A There's some degree of force that is less than a
10 high-velocity force but greater than no force, I simply
11 cut myself, or actions that an individual would normally
12 take. So it's a medium range of force.

13 Q And would a -- you mentioned a blunt object or a fist
14 would be consistent with medium velocity?

15 A Yes, sir.

16 Q Okay. I'm going to have you look at another
17 photograph, State's 157. Do you see this tear on
18 State's 158 --

19 A Yes.

20 Q -- this little tiny nick?

21 A Yes.

22 Q Can you identify it in 157?

23 A Right there, yes, sir.

24 Q All right. Again, is that some of the -- a close-up
25 of the spatter we're talking about?

1 A Yes, sir. This is a close-up of the spatter that is
2 on the base of that chair.

3 And if you'll notice within the spatter
4 patterns, some of these like this one right here are
5 totally circular. Some of them are elliptical in shape.
6 And what has happened there is that when the blood is
7 impacted and it flies away, if it hits a surface parallel
8 or straight across 90 degrees, it will give you that full
9 circle of spatter because it hits straight on. If it hits
10 at an angle, it becomes an elliptical shape or a teardrop
11 shape.

12 So here we have a number of spatters that have
13 hit straight on into the curve of that chair, and then as
14 we move up, we have the elliptical shape that shows that
15 that blood has hit the top of that and moved across the
16 top because it hit at an angle.

17 Q Mr. Derrick, could that be accounted for by movement
18 or repeated strikes?

19 A That came from force being applied to blood on the
20 surface that caused it to fly out and impact the bottom
21 part and the edge of that chair.

22 Q Since we're talking about the bottom part of the
23 chair, I'm going to go back to State's 166.

24 Mr. Derrick, in your opinion, was that chair in
25 an upright position when blood spatter was distributed on

1 that chair?

2 A No, sir.

3 Q What was the position of that chair when we got the
4 blood transfers and the blood spatter?

5 A For the spatter to be on the bottom side of that
6 chair, that chair had to be turned over with the bottom
7 side in an upright position.

8 Q Mr. Derrick, before any bloodletting onto that chair,
9 that chair had to be tipped over?

10 A I can't say before any bloodletting because there's
11 blood on the top.

12 Q Okay.

13 A But the amount of force that was applied to the blood
14 and the mere fact that the hair transfer stain shows that
15 the greater amount of violence applied to the surface of
16 the blood was why the chair was upside down.

17 Q Okay.

18 A There's just no way for all that to get on there with
19 the chair in the upright position.

20 Q I refer you to State's 156. Is that a close-up of
21 that tear that we were talking about?

22 A Yes, sir.

23 Q I think it goes down there.

24 A Yes, sir.

25 Q Okay. And I don't know if you can see anything close

1 on that.

2 A There is some spatter that is up in the tear.

3 I believe I looked at somewhat of a better
4 photograph.

5 But in the tear, there is a piece of this
6 leather, vinyl, whatever that surface material is, that
7 has been pushed up. On top of that pushed-up area is
8 another 90-degree spatter, which meant it hit the top of
9 that chair parallel or straight across from it. Down in
10 this area here, we have a combination of some spatter, and
11 it's difficult to tell if maybe there was a little bit
12 more blood there that was just saturated or absorbed by
13 the foam rubber distorting this stain.

14 Q Okay. Let me show you State's 155. What are we
15 looking at here?

16 A Okay. 155, what we're looking at here is transfer or
17 smeared blood on the base of this chair. Examining
18 photographs, speaking with the agents at the scene, these
19 run lines here are the runoff from the dye stain and are
20 not blood. The actual blood is the real blue/black
21 substance at the base of the chair. The secondary stain
22 is the hair transfer pattern that's located on the piece
23 of wood.

24 Q Looking at 154, State's 154, this is another shot of
25 that undercarriage?

1 A Yes, sir. More distinctive with the smears that have
2 taken place there, some droplets, the spatter was over in
3 here, and then we have the hair transfer pattern.

4 Q Let me ask you this, Mr. Derrick: That hair transfer
5 pattern, is that -- the frame of the chair that that's on,
6 is that -- does that appear to be still intact or is that
7 part of the frame broken?

8 A It appears to be broken.

9 Q Can you make any conclusions about that?

10 A It's a broken frame. I can't determine whether it
11 was before the incident, during the incident, or after the
12 incident.

13 Q And I just wanted to get that out.

14 All right. Now, looking at State's 153. What
15 are we looking at here?

16 A We're looking at a close-up of the hair transfer
17 pattern.

18 In this particular photograph, it's somewhat
19 washed out by the flash. When we get over in this area
20 here, you can see the outlays of various areas of hair
21 lines. And we get into this area in here, this is nothing
22 but a conglomerate of blood that has been dye stained.
23 And what that tells me is that there were -- it's an
24 indication that there is a wound in the hairline, and that
25 there is bloodletting that is occurring. That would be in

1 this specific area where there's a heavy volume of blood
2 that just distorts anything.

3 As the wound bleeds, the hair around it begins
4 to pick up the wet blood, and then whenever it makes
5 contact with the surface, it outlays the various hair
6 designs.

7 One other item of note, this would have to be
8 wet blood, not dried blood. Dried blood would not
9 transfer.

10 Q Okay. So the wound would be fresh?

11 A It would be wet blood.

12 Q Okay. State's 152. There, again, I don't think you
13 can see much on that one but the --

14 A There again, it's just the smear patterns that are
15 outlaid and dye stained in blood. What causes smearing, I
16 do not know.

17 Q Do we see some more -- and it's hard to see on the
18 big screen -- but on the edge here of this frame, wood
19 frame?

20 A Yeah, there's some more bloodletting that outlays the
21 corner of this frame. I can't determine exactly what
22 caused it. But then coming out from that, again, there
23 are some more of those tiny spatter patterns.

24 Q Looking at State's 157. What part of the chair is
25 this?

1 A This is the underside of the chair that actually --
2 it shows the blood stains as they appeared before they
3 were dye stained. And here again, it is obvious that up
4 in here we have those tiny drops, some circular, some
5 elliptical of the spatter that was represented on the
6 bottom of the chair.

7 Q Again, does this exhibit, State's 151, does that
8 comport with your belief that the chair was on its back
9 before there was bloodletting on the chair?

10 A Yes, sir.

11 Q Okay. Again, I want to show you another photo,
12 State's 150. Is that the same area but just a different
13 photo?

14 A Yes, sir. It's just -- it's just showing a wider
15 area. This was the area represented in the previous
16 photograph. Now we're getting up into here where the
17 blood was dye stained that I spoke of earlier. This is
18 actually a photograph taken before the stain was applied,
19 again showing the spatter patterns and transfer patterns
20 that had taken place on the base of the chair.

21 Q And I'm going to show you State's 149, even more of a
22 close-up area?

23 A Yes, sir. Again, a replication of what I've already
24 testified to, except this time it's the reddish brown
25 color blood and not the dye stain.

1 Q Mr. Derrick, can you say to a reasonable degree of
2 professional certainty whether what we were looking at as
3 far as that chair is concerned was a natural incident or
4 something else?

5 A I would have to call it something other than a
6 natural incident.

7 Q How would --

8 A Merely by the fact that force was applied to blood on
9 the surface and because of a pattern that is indicated or
10 it's a textbook hair transfer pattern that shows a pooling
11 of blood inside a hairline.

12 Q Would it be out of -- or a stretch to characterize
13 this as an assault?

14 A Not in my opinion, no, sir.

15 Q Okay. I'm going to show you some other photos,
16 State's 175. Just to orient you, a lamp and a green
17 chair. Can you see some rubber containers there?

18 A Yes, sir.

19 Q Okay. Just wanted to orient you with that photograph
20 and then show you 177 where the chair's been removed.

21 A Okay.

22 Q What are we looking at in that photo?

23 A In this photo, there were spatters that were located
24 on this backing, there were some spatters on that
25 particular object, possibly the holder for the backing,

1 and then there were spatter patterns that were located on
2 this blue chest which were documented by Agent Green and
3 Agent Keener --

4 Q Kinley.

5 A Kinley, I'm sorry -- in their processing of the crime
6 scene. That would be the white tape that they indicated
7 they identified where the spatter was on the blue chest.

8 Q Drawing your attention to the little handheld vacuum
9 cleaner, I want to show you two more photographs,
10 State's 178. What are we looking at there?

11 A Here, again, we're looking at spatter making contact
12 with the surface of the vacuum. It's making contact at an
13 angle because it's elliptical in shape.

14 Q And State's 167.

15 A A close-up of the spatter by the handle itself.

16 Q And I don't know if you can see on the screen --

17 A Yeah.

18 Q -- but is there something else right here?

19 A Yeah. There's another kind of faint spatter that is
20 located at the base of it.

21 Q Okay. State's 176, what are we looking at?

22 A Again, we're looking at the blue container which has
23 the various spatter patterns on it. And what they have
24 done in this photograph is they have put in a scale
25 showing height from the floor, and if you cross-reference

1 their documented spatter, the spatter that comes into this
2 is primarily at 90 degrees straight across, so the source
3 of bloodletting is out here and ranges anywhere from about
4 three inches to ten inches in height above the floor.

5 Q Mr. Derrick, what does that mean? I mean, what does
6 that tell you when you see spatter that's no more than ten
7 inches or so above the floor?

8 A If it's a human victim, the victim would be laying on
9 the floor and then the impact to a source of blood on that
10 victim causing the spatter to go out, it's very low. So
11 the source of bloodletting is between three and ten inches
12 from the floor.

13 Q 174, are we seeing a similar measurement?

14 A Yes, sir, that's correct, just putting the scale on
15 this side.

16 Q Okay. Let's see here. I don't know if these will
17 show up, but 172, what are we seeing there?

18 A Right there. That's an elliptical-shaped spatter,
19 which if I am correct, would have been right there on the
20 curvature of that box, that blue box, where it kind of
21 rounded the corner. The blood hit it at an angle in that
22 particular corner.

23 Q Okay. I'm going to show you State's 171. Do you see
24 some more spatter?

25 A Yes, sir, I have two spatters up here that hit, again

1 at an elliptical shape, which means that it's projected
2 out at an angle. And then at the very bottom, there is
3 one spatter in there that is pretty much circular which
4 hit straight on.

5 Q State's 169.

6 A Again, another elliptical-shaped spatter.

7 Q And State's 170.

8 A State's 170 is very difficult to see in this
9 photograph. It's actually the lid of that bluish purple
10 box where there was elliptical stains that were present on
11 top of that lid.

12 Q Let me show you State's 148. What, if anything, are
13 we looking at here?

14 A State's Exhibit 148 is carpet on the floor with some
15 electrical cords. I can't identify specifically where
16 it's at.

17 Q Do you see impression marks in this photo?

18 A Yes, sir.

19 Q Okay. Would that be consistent with a chair?

20 A Yes, sir, it could be, with one there and one there.

21 Q Let me show you State's 145. What are we looking at
22 here?

23 A In State's Exhibit 145, we're looking at some areas
24 of bloodletting that has occurred in the carpet.

25 Examining this and receiving subsequent

1 information from the agents that processed the scene has
2 the indication that this blood has been cleaned or wiped.
3 How I draw that conclusion is when we look at this
4 particular area of the stain, it is very, very dark in
5 color, which means a lot of the makeup of the blood has
6 been absorbed by the carpet. As we move away from that,
7 these stains start to become lighter than the dark
8 concentration that's in there. That's not uncommon when
9 blood is diluted with water or other substances and the
10 blood still maintains its integrity, with the protein and
11 enzymes caught up in the fiber of the carpet.

12 Here again, there's -- in this area here, there
13 is blood but there is no, shall we say, immediate
14 indication of a source of bloodletting but that there has
15 been blood that has been on that surface, but there's no
16 concentrated area such as in this pattern here.

17 Q Let me show you State's 143, a little bit different
18 angle.

19 A Yes, sir. This was the one I was speaking of
20 earlier.

21 When we get over here closer to the mattress,
22 there are two smaller areas, one right in there and one
23 right in there, where there has been a pool of blood, and
24 again, a wiping or swiping action over the blood, thus
25 spreading it out over the carpet, but coming from the two

1 specific areas of where a pooling of blood took place.

2 Q So on State's 143, you would say this is a pooling
3 area?

4 A Yes, sir, that has an indication of a darker area in
5 there with pooling, and pooling here and pooling there.

6 Q From another angle, 142, do you see anything right up
7 at the mattress that's on the floor?

8 A The dye stain has reacted to the products of blood
9 here on the carpet, fainter than where a source of
10 bloodletting occurred, but a transfer of blood, very tiny,
11 not a big volume of blood that is transferred on the
12 carpet as it was over in these other stains here.

13 Q State's 41, is that yet another angle of the same
14 thing?

15 A Yes, sir.

16 And in this photograph, this was something that
17 caught my attention and was rather interesting.

18 In this photograph, it appears that this box
19 spring and mattress has been moved. Look right here,
20 there's that somewhat 90-degree angle or the curvature of
21 that box spring. At the base of that, if we go back to
22 the earlier photograph, if I may, most of the dye stain
23 that comes right up next to the mattress, specifically
24 right in here, they reacted to the blood in the carpet.
25 The interesting part is the dye stain never reacted to

1 anything on the mattress.

2 Q No indication of blood at all on the mattress?

3 A No, sir.

4 Q Now, I want to go back to State's 134 where you see
5 the green chair. This door, is that the door into the
6 master bedroom?

7 A That's a door leading out of that bedroom.

8 Q Okay. Out of it or into it?

9 A Right.

10 Q Let me show you State's 135. Is that a close-up of
11 that same door?

12 A Actually, that's more of a medium-range photograph.
13 It shows the door handle and it shows a blood stain which
14 is present on the door.

15 Q State's 136, is that a close-up of that stain?

16 A Yes, sir. It's a more close up, more definitive
17 photograph of the stain.

18 Q All right. And I'm going to show you one more, 137.
19 Is that even a better view of that stain?

20 A Yes, sir, this is the best view of this stain that is
21 on the door.

22 Q What, if anything, do you notice or any conclusions
23 can you draw from what you're seeing in that stain?

24 A Okay. In this stain, this is what is commonly
25 referred to as a swipe pattern. And what it is, is the

1 door was cleared, did not have any blood on it, there's
2 only the one single stain of blood, which indicates that
3 there was an object that had blood on it that made contact
4 and moved across the door. Now whether the door moved or
5 the object moved, that's hard to determine. But by the
6 mere fact that we start off faint and we have streak marks
7 within this pattern that suddenly come to a stop where we
8 have a small pooling of blood indicates that there's an
9 object in motion as the blood is being transferred.

10 Q What would that be consistent with?

11 A Based on its size and orientation, one possible
12 source of that swipe pattern could come from the blade of
13 the hand or the side of the little finger.

14 Q Which hand would have to -- that have to be to be
15 consistent with that, that stain that we're looking at?

16 A With its motion moving in this direction and moving
17 in an upward pattern, I'd be more inclined to believe a
18 left hand as opposed to a right hand.

19 Q I want to show you State's 184 of the master bedroom.
20 Do you see a room there?

21 A Yes, sir. That's a bathroom with a sink.

22 Q All right. Now, as to that sink, I want to show you
23 State's 180, and tell me what you see there.

24 A I believe this is on the edge of the sink or on the
25 edge of the counter. And what it is, is there is a blood

1 stain present, but that blood stain has been diluted with
2 water or some other substance.

3 The reason for that is, right in here, you'll
4 see the outlay, it is thicker in blood, whereas the other
5 part is very faint and diluted. There again, just a
6 textbook transfer of diluted blood to a surface.

7 Q Would that be consistent with cleanup?

8 A Yes, sir.

9 Q Let me show you State's 179. Is that another
10 photograph of that same sink?

11 A Yes, sir. This time it has been dye stained,
12 outlaying where blood was present on the counter,
13 outlaying two stains where blood had transferred to the
14 sink itself.

15 Q Okay. Specifically as to the counter, what are we
16 looking at there?

17 A Here again, it's faint in the center, and then the
18 blood kind of moves out to the edge of the stain, diluted
19 blood stain.

20 Q Would that be consistent with, say, a cleaning rag
21 that might have blood on it?

22 A It could be consistent to a cleaning rag, it could be
23 consistent to the palm of a hand. It would be hard to
24 determine exactly what object.

25 Q All right. But, again, would that be consistent with

1 cleanup?

2 A Yes, sir.

3 Q I want to show you another photograph, going back to
4 the chair and to the door, which is State's 160. With
5 this chair overturned, do you see the door and the marker
6 on the door?

7 A Yes, sir.

8 Q Okay. So that's where that transfer that could
9 possibly be from a left hand or some bladed hand, you see
10 that in conjunction to the chair?

11 A Yes, sir.

12 Q Okay. Steve, you may take your seat. Thank you.

13 Mr. Derrick, having gone through these
14 photographs and analyzed them, would it be possible to
15 have any blood spatter that we saw on any of those
16 photographs if it was simply from a nosebleed?

17 A No, sir.

18 Q Why not?

19 A Even if it -- having been a parent that raised two
20 boys, I'm real familiar with nosebleeds. When a nose
21 bleeds, that is free-flowing blood, it's flowing out of
22 the nostril of the nose. It would flow down across the
23 mouth and eventually drop to the lowest surface, liquid
24 and gravity. That would be big drops of blood. If it was
25 a nosebleed, then the individual with the nosebleed had to

1 be impacted one or more times on that bloody surface to
2 create the spatter that was projected out.

3 Q So even if there's a nosebleed, there would still
4 have to be an assault to produce the spatter?

5 A Yes, sir.

6 Q Let me ask you another question, and this one may
7 sound really unusual, but having gone through all those
8 photos and looked at the blood stains and blood spatter,
9 would anything you have seen in any of those photographs
10 be consistent with a menstrual cycle?

11 A As I understood it, the blood was identified to a
12 seven-year-old girl. That would be strange. But if it
13 was, unless she was totally nude, there would be clothing
14 to block the blood itself from the free-flowing blood, as
15 in a nosebleed. But here, again, with the scene with the
16 spatter, then that area would have had to have been
17 impacted with blood on the surface of the skin, would have
18 had to have been impacted to cause that spatter.

19 Q Let me ask you this: Regardless of who the victim is
20 or the age, if there's bloodletting by way of a menstrual
21 cycle, are you saying there still has to be an assault?

22 A Yes. There has to be an impact on the blood to
23 create the spatter.

24 Irregardless of what the source of bloodletting
25 is, there has to be an impact force to hit that blood and

1 cause it to spatter out.

2 Q To a reasonable degree of professional certainty, can
3 you say that this was a natural occurrence or is it
4 something else?

5 A It would be something other than a natural
6 occurrence.

7 Q How would you characterize it as someone who's been
8 in this business for 20, 30 years?

9 A I would have to classify it as an act of violence.

10 Q Could you see any other explanation in the
11 photographs you looked at?

12 A No, sir. The photographs are very clear. There's a
13 wound in the hairline, there is multiple spatters, which
14 indicates force has been applied to the blood causing the
15 spatter, and it's on the underside of an overturned chair.

16 Q One follow-up. As to the chair, the blood spatter we
17 see on the chair that you say was overturned, would the
18 person be on the floor at that point?

19 A No. For that spatter to occur, they had to be up at
20 least as high as the chair and above.

21 Q The spatter we see that doesn't reach any higher than
22 ten inches off the floor, would the victim be upright or
23 where would that victim be?

24 A That spatter would be more consistent to an
25 individual laying on the floor.

1 Q And, again, you would say no matter what, it is a
2 violent assault?

3 A Yes, sir.

4 MR. HUBBARD: Thank you, Mr. Derrick.

5 Please answer any questions that the defense
6 might have.

7 CROSS-EXAMINATION

8 BY MR. STITELY:

9 Q Good morning, Mr. Derrick. How are you today?

10 A Doing fine. Good morning to you, sir.

11 Q Ben Stitely. I swear I think we've talked before at
12 some point. You're very familiar.

13 A You are, too, sir.

14 Q When did you first get involved in this case?

15 A February of this year.

16 Q Okay. So it wasn't until 2012?

17 A Yes, sir.

18 Q Were you retained for your services in this case?

19 A Yes, sir.

20 Q Paid by the State?

21 A No, I haven't been paid a cent.

22 Q Will you be paid for your services in this case?

23 A I'm sure I will.

24 Q Okay. Is there any reason, to your knowledge, why
25 you were called instead of someone from SLED?

1 A I can't answer that question.

2 Q Do you know that SLED actually has people who do this
3 exact kind of work?

4 A Yes, sir. I worked with many of them.

5 Q Like Rod Green?

6 A Yes, I worked with Rod.

7 Q And they could have potentially used Rod Green to
8 testify to this?

9 A That -- that's their decision. I can't answer that
10 question.

11 Q But -- okay. But you were retained to come for your
12 expertise?

13 A Yes, sir.

14 Q Just, I guess, one or two real quick questions.

15 You can't indicate from those pictures who was
16 involved in what you categorize as something else,
17 correct?

18 A No, I do not know who was involved.

19 Q You can't offer any expert opinion as to the players
20 involved in what happened?

21 A No, sir.

22 Q One other question.

23 You also from just seeing this can't even tell
24 when the event occurred, correct?

25 A Time-wise, no.

1 Q Okay. And that's because those stains, in theory,
2 could sit there for six months and they could still be
3 found, correct?

4 A Yes, sir.

5 MR. STITELY: No other questions.

6 Thank you for coming.

7 MR. HUBBARD: No follow-up, Your Honor.

8 THE COURT: Thank you, Mr. Derrick.

9 THE WITNESS: Thank you, Your Honor.

10 MR. HUBBARD: Your Honor, we can turn those
11 lights back up if you need to.

12 Your Honor, would you like to take a quick break
13 at this point?

14 THE COURT: That will be fine. We'll do that.
15 We'll take a few minutes.

16 (A break was taken.)

17 THE COURT: All right, Solicitor.

18 MR. HUBBARD: The State calls Detective April
19 Bayne.

20 THE CLERK: Still under oath, Your Honor?

21 THE COURT: I think we can reaffirm her oath.

22 APRIL BAYNE, after being duly sworn, testified
23 as follows:

24 THE CLERK: Have a seat, please.

25 Once you're seated, state your full name on the

1 record.

2 THE WITNESS: It's April Bayne, B as in boy,
3 A-Y-N-E.

4 DIRECT EXAMINATION

5 BY MR. HUBBARD:

6 Q Detective Bayne, and if I call you April, where do
7 you work now?

8 A I work for the Solicitor's office here in Lexington.

9 Q How long have you been with us?

10 A Almost three years.

11 Q Prior to that, where did you work?

12 A West Columbia Police Department.

13 Q And how long were you with West Columbia?

14 A Almost eight years, I think maybe seven and a half.

15 Q I know you've been up on the stand several times in
16 pretrial hearings, but I want to ask you the question
17 again, anyway. Were you involved in the investigation on
18 a case involving Kenneth Lynch?

19 A I was.

20 Q What was your role in that case?

21 A I was the assigned investigator for the case.

22 Q When was your initial contact or initial assignment
23 to this case, when did that take place?

24 A Wednesday, June 14th, 2006.

25 Q And what was your initial contact or when was your

1 initial contact with the family of Portia Washington?

2 A I had information relayed to me. I can't remember
3 exactly when I met with the family. I believe I met with
4 them in person that day or very soon after.

5 Q Now, who, basically, put this case in your lap, for
6 lack of a better way to say it?

7 A My supervisor, Captain Tony Owens.

8 Q Ms. Bayne, as you worked with West Columbia, what
9 type of work did you do with West Columbia prior to this
10 case?

11 A I began as a regular uniform patrol officer. I was
12 there for about two years, and then I moved to the
13 criminal investigation division.

14 At that point, the division, for the first six
15 months, was just generalized investigations, and we were
16 on rotation call, so whatever came across your desk is
17 what you got, whether it was an armed robbery or a suicide
18 or a break-in to a store.

19 I did that for about six months and then I
20 applied for a position to start the Family Violence Unit,
21 which is more commonly known, I guess, as the Special
22 Victims Unit, and I ran that grant for three years and
23 eventually trained another investigator to join me in that
24 division and essentially we worked child abuse, elder
25 abuse, domestic violence, and any homicides that were

1 within that realm as well.

2 Q Was this one of the reasons why you were tasked with
3 this case by Captain Owens?

4 A It is.

5 Q Now, June 14th of 2006, when you got a call to come
6 in and get a briefing on what was going on and get
7 assigned this case, had your agency already gotten some
8 information about the whereabouts of Kenneth Lynch?

9 A Yes.

10 Q And were you apprised of that?

11 A Yes.

12 Q What did you do based on that information?

13 A Once I had met with Captain Owens, I was told that
14 Portia Washington owned a vehicle, the tag was entered
15 into NCIC, which is essentially a national database that
16 law enforcement uses. I got what's called a delayed hit,
17 which means that prior to the tag being entered into NCIC,
18 someone had run it earlier that day in Texas.

19 Q Okay. Did you follow up with that hit out of Texas?

20 A I did. I made contact with the agency that stopped
21 that vehicle in El Paso, Texas. It was the Texas Highway
22 Patrol.

23 Q And was that Shane Ramirez that ended up testifying?

24 A That's correct.

25 Q Based on the information that you were working with

1 that day --

2 And let me ask you this: Were other officers in
3 your agency also out there trying to get information?

4 A At that point, Captain Owens pretty much, for lack of
5 better words, said, All hands on deck, so anybody that was
6 still at work that day got tasked with doing something on
7 this case.

8 Q Kind of hectic?

9 A Yes.

10 Q On that day, did you have any information that Portia
11 Washington had family or friends in Texas or Arizona?

12 A No.

13 Q As we come here in this courtroom almost six years
14 later, have you turned up anything in your investigation
15 that might explain whether she has -- or let us know if
16 she has friends or family in Arizona, Texas, California,
17 or Washington?

18 A No.

19 Q Anywhere outside of South Carolina, does she have a
20 large part of her family?

21 A No.

22 Q Most of her family, many of whom are here today,
23 where are they from?

24 A From Columbia, local from South Carolina.

25 Q Based on interviews -- let me ask you this -- I'll

1 back it up even.

2 Who were you-all tasked with interviewing to get
3 information about Mr. Lynch but also Portia Washington and
4 Cassandra L. [REDACTED]

5 A Well, with any missing person case, the general first
6 place to start is to delve into their life and to find out
7 what kind of person they are. Do they travel a lot, what
8 do their friends have to say about them, what are their
9 daily routines, who are their family, who are they close
10 to, those kind of things.

11 So we began, investigators kind of spread out
12 and we all kind of took regions. Our victim advocate
13 spoke with family. I had calls coming in every day to my
14 desk that were routed, friends calling wanting to provide
15 information or wanting to find out information on the
16 case. We sent investigators out to Bob Bennett, which is
17 where Mr. Lynch and Portia Washington both worked. So we
18 kind of spread out our resources to task everything at
19 once.

20 Q And on June 14th, were you made aware that not only
21 Portia Washington was missing on June 14?

22 A Yes.

23 Q Okay. Who else -- what other names were offered up
24 as also missing?

25 A Cassandra L. [REDACTED]

1 Q Okay. Did you talk to any of Portia Washington's
2 friends to get information?

3 A Yes.

4 Q Do you remember speaking to a Lela Green?

5 A Yes.

6 Q How did you get hold of Ms. Green?

7 A I found her when I pulled Portia's phone records.

8 When we were talking to co-workers, we -- one of
9 the first things in the new technology age is to start
10 tracking cell phones. Our information was that Kenneth
11 Lynch hadn't had a cell phone in several months. Our
12 information on Portia was that she did have a cell phone,
13 she answered it, she used it all the time, so we got a
14 subpoena on that. And the last phone call that went out
15 was around 9:26 p.m., I believe, on Saturday, June 10th.
16 I called that number, and that's how I got connected with
17 Lela Green.

18 Q As far as the co-workers, because we've talked about
19 the family and no family out west, did you get any
20 information or anybody in your agency get information
21 through co-workers that Portia had friends or some planned
22 event out west or anywhere outside the state of South
23 Carolina?

24 A No. In fact, what I had learned was that she had a
25 birthday coming up --

1 MR. MCGUIRE: Your Honor, I'm going to object to
2 hearsay. She seems to be the conduit for all the hearsay
3 from all the interviews. We object to anything that she's
4 learned from these interviews.

5 MR. HUBBARD: As part of her investigation,
6 she -- in order to determine what the plans were for
7 Portia Washington, that's not hearsay, it's detective work
8 to determine the validity of her being missing or having
9 legitimate plans. It's part of her job.

10 THE COURT: I'm going to allow that question.
11 Go ahead.

12 BY MR. HUBBARD:

13 Q What, if any, plans were you able to learn that
14 Portia Washington had for the upcoming week?

15 A We learned two things. That generally Portia didn't
16 travel. She didn't like to be on the highways and she was
17 just a homebody, so to speak.

18 And additionally on the other flip side of that,
19 we had learned that she had a birthday coming up, so she
20 had made it known to several of her co-workers that she
21 had a birthday coming up, she expected some birthday
22 celebration.

23 I know Angelica had two camps scheduled for that
24 summer.

25 I know when I spoke with Lela Green, Lela had

1 plans to meet with her that upcoming week, and there were
2 a few other people that had plans to meet with her that
3 week for various reasons.

4 Q Did any of the people that you talked to indicate
5 that Portia Washington had called them or contacted them
6 to cancel plans?

7 A None.

8 Q Was there any indication that she gave notice to Bob
9 Bennett Ford that she wasn't coming back?

10 A None.

11 Q Now, you explained NCIC. Did you put this
12 information that you were looking for -- Angelica
13 Livingston, Portia Washington and also Kenneth Lynch --
14 did you look to other databases and enter their names in
15 other databases?

16 A Yes, they were -- they were all three placed in NCIC
17 along with the vehicle tag for Portia Washington's
18 vehicle.

19 Additionally, at a later date, we put Portia's
20 dental -- excuse me, Angelica's dental information into
21 NCIC so that -- and coroners often associate with NCIC,
22 and if they find an unidentified body, they will run that
23 through. So we placed that in there.

24 We also contacted the FBI and had DNA and
25 mitochondrial DNA submitted to them so that, again, if any

1 unidentifiable remains popped up, we would be able to
2 cross-reference that and see if any of that was a match.

3 Q Did you also enter Angelica into the National Center
4 for Missing and Exploited Children?

5 A We did.

6 Q What is that group?

7 A It's a national organization that -- we didn't have
8 the resources to be able to do a nationwide public
9 campaign, I guess, to speak. They would produce flyers,
10 advertisements that you find in the mail, have you seen
11 this child, they're missing. If that child's located,
12 they will reunite them with the family for free, they'll
13 pay for all of that. Basically, we went to them to see if
14 they could establish a hotline for us and to produce
15 flyers and assist us in locating her nationwide.

16 Q Did you also check with the Secret Service?

17 A We did.

18 Q What was that about?

19 A We, again, West Columbia is a smaller department, so
20 we were limited in our resources, so we went to SLED as
21 well as the Secret Service. They do this thing called an
22 Auto Track, and essentially what you do is you plug in a
23 date of birth and a Social Security number, and they can
24 run that to see if there are any hits or any activity on
25 the Social Security numbers.

1 And so I know with SLED -- the Secret Service is
2 a little bit different. They have a little more in-depth
3 ways to search that we don't have available to us and SLED
4 didn't have available. So to err on the side of caution,
5 we had all of that run.

6 Q They had a broader database?

7 A Yes.

8 Q Now, was that something that you would periodically
9 check?

10 A Yes.

11 Q And have you done that through the years?

12 A Yes.

13 Q Let me ask you, I know oftentimes when there is a
14 child missing, people often ask about Amber Alerts. Was
15 one done in this case?

16 A No. We called SLED, I believe, that day or the next
17 day and asked them about -- SLED is the one who actually
18 administers an Amber Alert, and they have to approve it.
19 They had four criteria in 2006, two of which we did not
20 meet.

21 The first one was that we had to show that there
22 were signs of an abduction. At this point, we didn't know
23 if she had been abducted, if she had been hurt, or if she
24 was missing or traveling, so that was one of the criteria
25 that we didn't meet.

1 The second was they needed vital information to
2 be able to release to the public. We didn't have
3 anything, we had no direction of travel, no clothing
4 description, who she might be with, car description,
5 nothing of that, so they turned us down for the Amber
6 alert.

7 Q But it was something you looked into?

8 A It is something we looked into, yes.

9 Q Now, talking about things you looked into, did you
10 make local checks as well?

11 A Yes.

12 Q What type of places did you check on and people in
13 your office check on to determine the whereabouts of
14 Portia Washington and Cassandra L. [REDACTED]

15 A There were numerous land searches. We got the
16 assistance of the Lexington County Sheriff's Department,
17 Richland County Sheriff's Department canine units. We did
18 land searches around the apartments, down near the river,
19 any tips that came in for foul odors or possible areas to
20 check, we did that as well as they came in.

21 Additionally, we started doing records checks of
22 all the local agencies that we could think of, Columbia
23 Police Department, the Lexington Sheriff's Department, the
24 Lexington PD, all of the local agencies to see if there
25 were any police reports on file where maybe somebody had

1 gotten picked up or jailed or somebody had contact, and
2 all of those were negative.

3 Q Did you check, for instance, local hospitals?

4 A Yes.

5 Q What other places did you check that weren't
6 necessarily tied to law enforcement?

7 A Well, we produced flyers, and we had investigators
8 spread out and contact the airlines. We checked bus,
9 train, taxi cabs, anything that we could think of that,
10 you know, maybe they just left town. I checked SisterCare
11 to see if maybe someone was in hiding, and all of these
12 were negative.

13 Q And all of that was very early on in this process?

14 A Yes.

15 Q Did you also seek the cooperation of local media
16 outlets?

17 A Yes. At this point, West Columbia had never had a
18 case like this and hasn't since. And it was a large case
19 that required everything we had. It -- when it hit, it
20 hit like a tsunami and we tasked anybody and everybody for
21 assistance. So several press releases were done in the
22 hopes that maybe somebody in the media would produce
23 something, there might be a call, someone might know
24 something that we didn't know at the time.

25 Q Did you use television?

1 A Yes.

2 Q Newspapers?

3 A Yes.

4 Q Radio?

5 A Yes.

6 Q Out-of-state television?

7 A Yes.

8 Q And we talked about the delayed hit in Texas. When
9 was the next time you got information of the whereabouts
10 of Kenneth Lynch?

11 A That would have been that Sunday, June 18th around
12 2 o'clock in the morning, U.S. Customs called me and said
13 that Kenneth Lynch had been stopped trying to gain entry
14 into Canada, and they had him detained. They had a hit.
15 They ran it through NCIC and discovered that he was
16 missing, so they contacted our agency as he was missing
17 out of our agency.

18 Q Now, going back to the Texas stop, did you have any
19 information that Portia Washington or Cassandra L. [REDACTED]
20 were with Kenneth Lynch when he was stopped?

21 A No. The trooper had related to me that there was a
22 car seat in there, like a baby seat in the back, but no
23 one was in the car, and when he asked about the registered
24 owner of the vehicle, Mr. Lynch indicated that he was on
25 the way to Arizona to pick up the registered owner of the

1 vehicle.

2 Q Now, at the border, the Canadian border, was Kenneth
3 Lynch alone or was Portia Washington and Angelica
4 Livingston with him?

5 A He was alone, and he was on a bus coming out of
6 Seattle.

7 Q And the Texas stop, what, if any, vehicle was he in?

8 A He was in Portia Washington's vehicle.

9 Q Now, in talking to those custom agents that work the
10 border, Nathan Bresee, some of the other folks that we've
11 met, did you ask them anything about what Kenneth Lynch
12 had with him?

13 A Yes. They indicated that he had several papers found
14 on his possession, and they faxed copies of that
15 information to me.

16 Q Why would you want that information?

17 A Because I wanted -- we've got three people missing
18 out of an apartment. He's the only one that we've been
19 able to make contact with. I wanted to know where he went
20 in hopes that maybe if he went somewhere with them, we
21 could backtrack and hopefully find Portia and Angelica.

22 Q Now, while he was being held, did you-all issue a
23 warrant to have that transmitted to the border?

24 A We did.

25 Q And was that warrant served?

1 A Yes.

2 Q And what was that warrant for?

3 A Grand larceny over \$5,000, I believe, for the -- for
4 Portia Washington's vehicle.

5 Q Now, you said at that time, though, he was on a bus,
6 correct?

7 A Correct.

8 Q How did you-all get information that Mr. Lynch had
9 ditched this car somewhere?

10 A He had a bus ticket coming out of Seattle going to
11 Canada, so we backtracked. We called Seattle Police
12 Department and asked them. We put a BOLO in NCIC and
13 asked them to look out for the vehicle, and we discovered
14 later that Seattle had found that vehicle. It was
15 completely clean, the tags were removed, and it was about
16 two blocks from the bus station.

17 Q Were there other items in Mr. Lynch's possession at
18 the border that indicated other stops he had made?

19 A Yes.

20 Q What was the first stop outside of the state of South
21 Carolina that you-all were able to deduce from the stuff
22 he had in his possession?

23 MR. MCGUIRE: And, Judge, just to protect the
24 record, I think I'd have to renew our objection regarding
25 the seizure of these documents and them being faxed to

1 Ms. Bayne before Mr. Lynch was arrested.

2 THE COURT: All right. And your record -- your
3 objection's noted on the record regarding the motion we
4 took up in camera as well as the subsequent testimony of
5 Officer Bresee and now Ms. Bayne.

6 All -- the same objection's now noted again for
7 this testimony, and consistent with prior rulings, your
8 objection's noted, but overruled.

9 MR. MCGUIRE: Thank you, Judge.

10 BY MR. HUBBARD:

11 Q Based on the items found on Mr. Lynch at the border,
12 what was the first stop that you were able to document
13 that Kenneth Lynch made once he left South Carolina?

14 A At a Motel 6 in Mississippi.

15 Q Would that be Vicksburg, Mississippi?

16 A Correct.

17 Q And following up that stop, were you able to
18 determine if he had anyone else with him at that time?

19 A I did. I spoke with the manager and I actually spoke
20 with the clerk who checked him in. He was staying alone.
21 She remembered, I think, that he had wanted a --

22 MR. MCGUIRE: Objection, hearsay.

23 MR. HUBBARD: Yeah. I'm not going to ask you
24 what they said.

25 THE WITNESS: Okay. Sorry.

1 BY MR. HUBBARD:

2 Q But one occupant or three occupants?

3 A He was staying alone.

4 Q Okay. What other -- as an investigator, what other
5 interesting fact did you find out from his stop at that
6 Motel 6 in Vicksburg, Mississippi?

7 A The information at check-in was incorrect. The
8 address was listed, I believe, [REDACTED] That
9 was an address that Kenneth Lynch used to live at;
10 however, the city and the state were -- I can't remember
11 the city, but the state was Florida, and that's not
12 consistent, and the ZIP code didn't match the city
13 provided as well.

14 Q Now, the day that he checked into that motel, do you
15 know that date?

16 A June 12.

17 Q Let me get this straight. He checks in on June 12th
18 at Motel 6, there is a false address?

19 A Yes.

20 Q And this is before law enforcement even knows he's
21 out there?

22 A Correct.

23 Q This is before law enforcement knows anything about
24 any missing people?

25 A Correct.

1 Q This is before family has come knocking on your door
2 saying we need help?

3 A Correct.

4 Q It is already a false statement?

5 A Correct.

6 Q When was the next stop you-all were able to document
7 he made?

8 A The next stop was at a bank in Waskom, Texas.

9 Q Okay. And that -- you heard the banker testify, was
10 that -- what was significant to you in your investigation
11 at the time?

12 A Essentially that he was draining his banking account.

13 Q Did you have any other stops in Waskom, Texas, based
14 on the information you got from the border?

15 A Yes. There was a Family Dollar receipt, and he had
16 purchased some toiletry items, and, I believe, a pack of
17 T-shirts at a local Family Dollar in Waskom, Texas, as
18 well.

19 Q Was that the receipt we saw for like \$10.19?

20 A Yes. And I believe he paid cash.

21 Q I want to show you something. See if this is an
22 accurate statement.

23 June 13th, 2006, at 12:43 p.m., Family Dollar,
24 Waskom, Texas, cash purchase, \$10.19.

25 A That's correct.

1 Q What was the next stop after Waskom, Texas, that
2 you-all were able to get through your investigation?

3 A The next stop was a Motel 6 in Arizona. I think it
4 was Casa Grande, Arizona.

5 Q Let me ask you this, and I'll probably ask the
6 question wrong, but before he went to Casa Grande,
7 Arizona, was that the traffic stop on the 14th in El
8 Paso, Texas?

9 A Yes.

10 Q Okay. Was Kenneth Lynch ever married to Portia
11 Washington?

12 A No.

13 Q So he didn't have a wife at that time?

14 A No.

15 Q Casa Grande, Arizona, you mentioned Motel 6?

16 A Yes.

17 Q What, if any, information did you have as to whether
18 anyone else was checking in with him at that time?

19 A He checked in alone.

20 Q Was there any other information at that stop in Casa
21 Grande, Arizona, that was of interest to you as an
22 investigator?

23 A Yes. The car listed for the occupant of that hotel
24 room was, I believe it said a 1989 brown Ford. And
25 Portia's vehicle that he was traveling in at the time was

1 a 2005 tan Ford Focus.

2 Q And then, I believe we talked about the car being
3 found in Seattle?

4 A Correct.

5 Q And that car, who processed that car?

6 A We actually sent SLED agents out to process that car.
7 It was being held by Seattle PD at the crime scene, and
8 they had a big storage warehouse, and then the two agents
9 flew out and processed that.

10 Q What, if anything, was of interest as they were
11 processing that car?

12 A The car had been wiped completely clean. There were
13 no papers, no items. It was completely clean of any
14 luggage. The car seat had been removed, no tag, nothing.

15 Q Anything in the glove box?

16 A Nothing.

17 Q This was, to your knowledge, a fairly new car?

18 A It was a 2005.

19 Q Any indication of where that car might have come
20 from?

21 A No. There was no tag on it, other than the VIN that
22 you could run, but there was no tag to identify it.

23 Q Now, when Mr. Lynch was stopped at the border and
24 that warrant was served, did you-all task another
25 sheriff's department out of state to serve that warrant?

1 A Yes.

2 Q Would that be the Whatcom County Sheriff's
3 Department?

4 A Yes.

5 Q When that was done, where was Kenneth Lynch taken?

6 A I believe it was the Whatcom County jail.

7 Q And on the 19th of June, was he interviewed?

8 A He was.

9 Q Is that the FBI agent that we talked to earlier in
10 this trial?

11 A Yes, Special Agent Davis.

12 Q And Glen Hutchings, who was a local officer?

13 A From Bellingham PD, yes.

14 Q Were you in communication with them to give them
15 information about the case we were looking into on Kenneth
16 Lynch?

17 A Yes.

18 Q Let me ask you this: There was mention of a Warner
19 or Werner Trucking School.

20 A Yes.

21 Q That came up in the --

22 MR. MCGUIRE: To protect the record, I think
23 we'd have to renew our objection to the interview of
24 Mr. Lynch after his lawyer, Mr. Rainy, indicated that he
25 was representing Mr. Lynch. It was an Edwards violation

1 objection and we'd renew it.

2 THE COURT: Your objection is noted and
3 overruled as previously regarding the interview of the FBI
4 and the Seattle police, I believe Detective Spigner, was
5 that his name?

6 MR. HUBBARD: Steiger, yes, sir.

7 BY MR. HUBBARD:

8 Q Detective Bayne, did you check into the existence of
9 a Warner Trucking School in Newberry or in South Carolina?

10 A I did. I actually received a signed affidavit
11 stating that they had never had any trucking school in
12 South Carolina.

13 Q Based on the information you were getting back from
14 these officers who were conducting the interview, were you
15 getting anything that gave you a direction to go in as far
16 as where Portia Washington might be or Angelica
17 Livingston?

18 A Very little. I think that Mr. Lynch had given a
19 phone number and maybe some names of possible family.

20 Q You-all were already getting that from the family,
21 were you not?

22 A Correct.

23 Q As far as their whereabouts and their well-being,
24 were you having -- were your concerns growing or were you
25 being satisfied that maybe you could find them at this

1 point?

2 A No, at this point they had been missing over a week,
3 eight days since the last contact with any family and
4 friends, and it wasn't -- it wasn't looking good.

5 Q Okay. Now, I believe your lieutenant, now major,
6 Matt Edwards was the one that went out to Washington and
7 brought Mr. Lynch back?

8 A He did.

9 Q And when he brought him back, he also brought back
10 those two black bags that we've talked about so much in
11 the courtroom?

12 A Yes, sir.

13 Q I want to talk about bank records of Kenneth Lynch.

14 You mentioned that when he was stopped -- or
15 when he stopped in Waskom, Texas, which is shown on
16 State's 25, a map of the United States, that he had
17 basically wiped out his accounts?

18 A He did.

19 Q What bank did he have an account with?

20 A He had previously had a bank account with BB&T, I did
21 a search warrant and I checked that, but that account had
22 been closed in April of 2006. So at that time, the only
23 account that we're aware of is his account that's already
24 been testified to.

25 Q The Wachovia account?

1 A Correct.

2 Q Which is now Wells Fargo?

3 A Wells Fargo, yes, sir.

4 Q Now, did you check Portia Washington's account as
5 well?

6 A I did.

7 Q Did she have money in her account?

8 A She had, I believe, 72 cents after a withdrawal
9 Saturday on June 10th inside the bank, and then I believe
10 she had around \$200 in another account, but both of those
11 are accounts with Bank of America.

12 Q When you-all checked with Bob Bennett Ford, is that
13 when you found out about the paychecks that weren't picked
14 up?

15 A Yes. They still had two paychecks that had not been
16 picked up, one for Kenneth Lynch and one for Portia
17 Washington.

18 Q As part of your investigation, did you check into
19 Angelica's school?

20 A I did.

21 Q And did you talk with the school officials and
22 teachers out there?

23 A Our agency did, yes.

24 Q What, if any, information did you have about
25 Angelica's school records?

1 A There was no request for school records, which would
2 be typical if a child is switching schools or moving.
3 Generally the new school will request records from the
4 previous schools, and none had been made.

5 Q Did you do medical checks on Portia Washington and
6 Cassandra L. [REDACTED]

7 A I did.

8 Q What, if any, information did you have from those
9 checks and in dealing with her family and friends, what,
10 if any, information did you have about Portia Washington
11 being a diabetic?

12 A None.

13 Q No information whatsoever as to her suffering from
14 diabetes?

15 A None.

16 Q Were you made aware of other conditions that she had
17 such as sleep apnea?

18 A Yes.

19 Q I want to go to the apartment, June 20th, 2006. Was
20 a search warrant executed that day?

21 A Yes.

22 Q Who was in charge of the processing of that
23 apartment?

24 A Essentially SLED. We called them in.

25 Again, this was a big case for us, and we were

1 just out resourced. We wanted local experts to come in
2 because they had much more experience than we did to
3 handle it.

4 Q I want to talk about that apartment. Who did you
5 have, based on your investigation, as being the occupants
6 or residents of that apartment?

7 A Kenneth Lynch, Portia Washington, and Cassandra L.
8 [REDACTED]

9 Q We've heard talk about DNA. Who is Theresa Brown?

10 A Theresa Brown is the mother of Cassandra L. [REDACTED]

11 Q Is Theresa Brown still alive?

12 A Yes.

13 Q Have you interviewed her during the course of your
14 investigation?

15 A Yes, we had to notify her that things weren't looking
16 good during the investigation. She came down to the
17 police department. We had several long talks with her.

18 Q Does Theresa Brown have other children?

19 A Yes.

20 Q At the time of this incident in 2006, did she have
21 any other female children, any daughters?

22 A None.

23 Q Just Angelica?

24 A Correct.

25 Q Did you have any information during the course of

1 your investigation of any other children, female children,
2 living in that apartment?

3 A None.

4 Q Did you have any information on any other children
5 being injured in that apartment?

6 A No.

7 Q No complaints from parents or strangers who said, "My
8 child was injured in M-7 at Park Place Apartments"?

9 A None.

10 Q There was talk of, from June 20th to about October,
11 you-all basically were keeping the apartment complex at
12 bay as far as re-renting; is that correct?

13 A Yes.

14 Q Now, were you getting calls from the apartment
15 complex as to when can we go back in?

16 A I was. They were very anxious to rent the property
17 and start making money and collecting rent on that
18 apartment.

19 Q And was it October when they finally were able to do
20 that?

21 A I believe so.

22 Q At some point, were murder warrants sought against
23 Kenneth Lynch?

24 A Yes.

25 Q Involving Portia Washington and Cassandra L. [REDACTED]

1 A Yes.

2 Q Is that June of 2008?

3 A That sounds correct.

4 Q Let me ask you this, Detective: Was that your call?

5 A Absolutely not. On a case this large, it was
6 definitely a collaborative effort and definitely the
7 supervisors were involved and had to agree to any action
8 that was taken on behalf of the agency.

9 Q And was your agency in touch with my office?

10 A Absolutely.

11 Q In a case like this, did the passage of time hurt
12 your case, help your case, or have no effect on your case?

13 A We did not want to rush to any kind of judgments. We
14 wanted to give some time on this case to see if there had
15 been any more activity on the Social Security -- you know,
16 we wanted to make sure they weren't hiding or traveling
17 or, for whatever reason, didn't pop up within the next two
18 years or if any family or friends or co-workers came to us
19 and said, you know, Portia had contacted me or Angelica
20 had contacted me. So we wanted to be very cautious before
21 issuing warrants for murder.

22 Q But as an investigator and knowing all the facts you
23 knew, even in 2006, did you ever expect to get those phone
24 calls?

25 A No.

1 Q And was there any talk within your office or
2 expectation of your supervisors that, you know, they were
3 just going to come walking through the door someday?

4 A No.

5 MR. MCGUIRE: Objection, relevance, speculation.

6 MR. HUBBARD: I'm asking what happened in her
7 own office.

8 THE COURT: She answered as to her expectation.
9 I'll sustain the objection as to the others.

10 MR. HUBBARD: Yes, sir.

11 BY MR. HUBBARD:

12 Q Detective Bayne, as the person who was tasked with
13 the lead on this case, were you having to reach out to not
14 only co-workers and so many other employees? What, if
15 anything, did you have to do to stay focused on this case?
16 Because I'm sure you had a lot of information coming in.

17 A I did. It was constant information. And, you know,
18 as time grew, I got assigned many other cases that needed
19 my attention.

20 But this case in particular for me being the
21 largest case I think I'd ever worked, it was never far off
22 of my mind. And at the end of the day, still six years
23 later, no matter what happened, there's a seven-year-old
24 little girl who never got to go to prom or graduate --

25 MR. MCGUIRE: Objection.

1 THE WITNESS: -- and has never been seen (sic)
2 from again.

3 MR. HUBBARD: Detective, answer any questions
4 the defense might have.

5 THE COURT: Sustained.

6 CROSS-EXAMINATION

7 BY MR. MCGUIRE:

8 Q Ms. Bayne, I want to take you to the search of the
9 apartment on June 20th.

10 A Yes, sir.

11 Q And it appears from looking at your notes that you
12 and your agency decided on a theory that whoever cleaned
13 up the blood evidence, such that it is, was probably your
14 suspect; is that true?

15 A I don't believe there's a theory written down in my
16 notes.

17 Q Well, you were tasking Officer Hamrick to apparently
18 visit numerous retail outlets to find Rug Doctor cleaning
19 machines and who rented them; is that true?

20 A Correct. Captain Owens tasked him with following up
21 and to see if there's any rental -- I guess you'd call
22 them Rug Doctors, but typically the ones you rent from
23 like Bi-Lo or Wal-Mart.

24 Q Sure. And Officer Hamrick went to numerous retail
25 locations --

1 A Yes, he did.

2 Q -- to try to determine who might have rented one of
3 those during this time frame?

4 A He did.

5 Q And he had various lists of the people who did rent
6 them?

7 A He did.

8 Q And, again, this is consistent with your agency and
9 you trying to find out who may have cleaned up that room?

10 A Correct.

11 Q Because that was important?

12 A Correct.

13 Q And it was important because it might lead you to a
14 suspect?

15 A Correct.

16 Q Now, we've seen the pictures many, many, many times
17 in that room in M-7 where there was the LCV revealing
18 blood evidence on the carpet. There was a large yellow
19 vacuum cleaner, correct?

20 A Correct.

21 Q Did you -- did you task anybody to print that
22 machine?

23 A No.

24 Q Or take it into evidence?

25 A No.

1 Q Or retrieve its contents?

2 A No.

3 Q There was a bucket, a cleaning bucket, a galvanized
4 cleaning bucket in the kitchen that actually tested
5 positive for blood with the use of LCV?

6 A Correct.

7 Q Did anybody print that bucket?

8 A They didn't print it. I believe they took swabs from
9 it, but I don't believe they took prints off of it.

10 Q Okay. Would you be surprised to learn that one of
11 the SLED agents there actually told me the reason they
12 didn't take the prints from the bucket --

13 MR. HUBBARD: Your Honor, I object unless he's a
14 witness or he wants to call that SLED agent in.
15 Otherwise, he's making himself a witness. I think that's
16 absolutely improper.

17 MR. MCGUIRE: I'll rephrase it.

18 THE COURT: Rephrase it. The objection's
19 sustained.

20 BY MR. MCGUIRE:

21 Q When it came to taking and printing the bucket, did
22 you actually inform somebody, "No need to do that because
23 Kenneth Lynch lives here, we'll just get his prints"?

24 A I don't recall saying that.

25 Q Okay. But at any rate, the bucket wasn't seized?

1 A No, it was not seized.

2 Q Not taken into evidence?

3 A No.

4 Q And not printed?

5 A No.

6 Q Your search warrant indicated that you were looking
7 for cleaning utensils or cleaning supplies that could be
8 used to clean up an incident location, correct?

9 A Correct.

10 Q We saw a photograph of a -- what appeared to be a
11 kitchen cabinet with the doors open. Have you ever seen
12 that photograph?

13 A I don't remember off the top of my head.

14 Q We'll find it.

15 A Okay. I'm sure there were hundreds of photographs
16 taken, so I don't doubt that one of those might have been
17 that location.

18 Q Are you aware of any carpet cleaner can being taken
19 into evidence?

20 A Not to my knowledge, no.

21 Q Or printed? And when I say "printed," I'm talking
22 about dusting for fingerprints.

23 A Not to my knowledge, no.

24 Q Okay. Were you aware of this can's existence?

25 A Not off the -- I don't remember one. But, again, at

1 the time of that search, we were instructed to stay back
2 and let the experts do their thing, so to speak.

3 Q Rod Green seems to indicate that they were there for
4 a limited purpose of assisting you, but you guys were in
5 charge of the investigation.

6 A Correct. We were in charge of the investigation. We
7 called them out because I certainly don't have the
8 expertise in crime scene, and so we wanted SLED to come
9 out and handle that.

10 Q Okay. But you knew the facts of the case and what
11 would be important to look for?

12 A Correct.

13 Q And that would be cleaning supplies?

14 A Correct.

15 Q Like the carpet cleaning can?

16 A Correct.

17 Q Okay. They would rely on you for instruction as to
18 what to seize, what to print, that sort of thing?

19 A They would rely on me for background information on
20 the case. I would rely on them for their expertise on
21 what needs to be processed. Again, I'm not a CSI expert,
22 so I don't --

23 Q Okay. Let's slow down here. It sounds like you're
24 throwing Rod under the bus a little bit, so let's take
25 this real slow.

1 MR. HUBBARD: Your Honor, I object to that
2 characterization.

3 MR. MCGUIRE: I'll withdraw --

4 MR. HUBBARD: She's made it clear what her role
5 is and what his role was.

6 THE COURT: All right.

7 MR. MCGUIRE: I'll withdraw it.

8 THE COURT: Mr. McGuire, I'll let you rephrase
9 your question. Be careful how you characterize your
10 questions.

11 Sustain the objection.

12 MR. MCGUIRE: Yes, sir.

13 BY MR. MCGUIRE:

14 Q You were the lead investigator in this case?

15 A I was.

16 Q You're the investigator directing the investigation?

17 A I was the lead investigator. All directions came
18 down from Tony Owens, he oversaw the entire thing, but I
19 was the lead investigator, yes.

20 Q And you're the one in charge of logistics?

21 A I had no rank at that time, so I could suggest things
22 as a lead investigator, but, ultimately, if anything was
23 enforced or done, it had to be cleared with Captain Owens.

24 Q Okay. Well, without regard to rank, you are the
25 human being where all the information is going through?

1 A Correct.

2 Q All the lead intake sheets are going to you?

3 A Correct. After they're approved by Captain Owens, he
4 would turn them over to me.

5 Q All the information that's being gathered by your
6 fellow investigators, again, goes to you?

7 A Correct.

8 Q You take that information and compile a search
9 warrant for the apartment?

10 A Correct.

11 Q And you're the one that did that?

12 A Correct.

13 Q Drafted the affidavit?

14 A Correct.

15 Q And you were on-site for the execution of the warrant
16 at the apartment?

17 A Correct.

18 Q And you were on scene physically when SLED was there
19 to help you?

20 A Yes.

21 Q Now, is it your testimony that your call to SLED to
22 have them assist meant that you were supposed to just
23 stand by and let them take total control of the crime
24 scene and decide what was relevant and what to take?

25 A It was my testimony that Captain Owens specifically

1 instructed us, myself and other investigators, "Stay out
2 of their way, they're the experts. That's why we're
3 having them do the search warrant." But, yes, I was on
4 scene and could -- and could easily provide feedback to
5 the SLED crime agents, crime scene agents.

6 Q For instance, you could say, "I'd like this vacuum
7 cleaner printed because we're developing a theory here
8 that the suspect might be the cleaner. The cleaner might
9 be the killer," right?

10 A I could have asked for it to be printed, yes.

11 Q And you didn't?

12 A I did not.

13 Q And you didn't ask for the handheld Dust Buster to be
14 printed?

15 A No, I did not.

16 Q And you didn't ask for the bucket to be printed?

17 A No, I did not.

18 Q And you didn't request anybody print or seize carpet
19 cleaning fluids?

20 A No, I did not.

21 Q I want to take you now to your field investigation.

22 Do you know -- you're aware of a lead that came
23 in from a Daddy-O's ice cream parlor?

24 A Yes.

25 Q And that was back in 2006?

1 A I believe so. I believe it came to Matt Edwards.

2 Q And it was in July of 2006?

3 A I believe so.

4 Q And the lead came from a woman named Barbara
5 Williams?

6 A I believe so. I don't have the lead sheet in front
7 of me, but that sounds correct.

8 (WHEREUPON, Defendant's Exhibit No. 79 was
9 marked for identification only.)

10 THE COURT: You're marking that as Defense 79?

11 MR. HUBBARD: What was that? Is he putting that
12 in evidence?

13 THE COURT: He marked it --

14 MR. MCGUIRE: For ID.

15 THE COURT: -- for ID. It's Defense 79.

16 BY MR. MCGUIRE:

17 Q Ms. Bayne, I hand you what has been marked as Defense
18 79 for ID purposes.

19 A Yes, sir.

20 Q This is what you and your department refer to as a
21 lead intake sheet, correct?

22 A Correct. At the time, every -- because we had so
23 many investigators working on this case, each investigator
24 was assigned a value. I would be A,
25 Investigator So-and-So would be B, and any time they did

1 something, they were told to do a lead sheet on it so that
2 it was easy to track what information was coming from what
3 investigator. So this would be B14 from Major Edwards.

4 Q Right. And, again, these are the lead intake sheets
5 that are being generated as information comes in, reviewed
6 by your supervisor. And they're obviously made available
7 to you?

8 A Correct.

9 Q So that you are the person with the corporate
10 knowledge of everything that's going on, correct?

11 A Yes, sir.

12 Q And then you can take all this information and
13 suggest or direct investigators to follow up?

14 A Yes.

15 Q Okay. And with regard to the lead from the Daddy-O's
16 ice cream parlor -- and, again, you can take a look at it
17 if you want to.

18 A Sure.

19 Q That was July 01 of '06?

20 A Uh-huh.

21 Q Is that right?

22 A Either it's July 01 or -- July 1 of 2006.

23 Q Yeah. The date's a little confusing because it's got
24 a date on top that might be incorrect.

25 A It looks like he's tried to write ten, but he

1 scratched out the zero to make it July 1, 2006.

2 Q And Officer Edwards indicates that the lead --

3 MR. HUBBARD: I object to any hearsay, Your
4 Honor. If we -- we do have Mr. Edwards if he needs him up
5 there on the stand. If he's the one that took the lead,
6 he'd be the appropriate one to direct questions to.

7 THE COURT: All right. Rephrase your question
8 correctly without the benefit of soliciting hearsay
9 testimony.

10 MR. MCGUIRE: And, actually, Judge, all of this
11 information is not offered for the truth of the matter
12 asserted. It's information that the lead investigator had
13 notice of, and it's to impeach the integrity of the
14 investigation, pursuant to Kyles v Whitley.

15 THE COURT: Let's hear your question.

16 BY MR. MCGUIRE:

17 Q So the lead comes from a patron at the ice cream
18 store?

19 A Yes, Barbara Williams.

20 Q And the patron, Ms. Williams, indicates that she's --

21 MR. HUBBARD: I object to hearsay. And, again,
22 I would say that I don't mind him going into this with the
23 right witness; he doesn't have the right witness up there.

24 MR. MCGUIRE: And, Judge, just for the record,
25 again, it's not offered for the truth of the matter

1 asserted; it's information that's transmitted to the lead
2 investigator in the case. It's offered to show what
3 effect it had on her and the lack of follow-up regarding
4 this lead. So it's not the truth of the matter asserted;
5 it's to impeach a less than thorough follow-up
6 investigation.

7 MR. HUBBARD: Your Honor, my counter to that
8 would be that obviously he's going into the truth of the
9 matter asserted, and that's why he's saying he's
10 impeaching her for not following up. It was truthful
11 information. It is hearsay. He's not falling within an
12 exception. He has the wrong witness. I object.

13 THE COURT: All right. The lead sheet came from
14 another investigator but was handed up to lead
15 Investigator Bayne.

16 MR. MCGUIRE: Yes, sir.

17 THE COURT: Is your question, what is she doing
18 with the information as a result of the lead?

19 MR. MCGUIRE: Yes, sir.

20 THE COURT: I understand the objection. I
21 believe you're allowed that question.

22 MR. HUBBARD: Your Honor, may I ask this, just
23 for clarification.

24 I won't have an objection if he doesn't get into
25 the content of what it says. If he just says, were you

1 made aware of a lead on this date at this place and time,
2 what, if anything, did you do, I'm fine with that. But if
3 he's getting into the details, I think there's a problem.

4 THE COURT: Let's hear your question.

5 MR. MCGUIRE: Thank you, Your Honor.

6 BY MR. MCGUIRE:

7 Q Now, the lead that's recorded on this lead intake
8 sheet, lead intake sheet B14, I believe, which was
9 generated by one of your fellow investigators, Matt
10 Edwards.

11 A My lieutenant at the time, yes.

12 Q And he -- this is one of the lead sheets that's
13 generated and provided to you?

14 A Yes.

15 Q And it's provided to you because you are the lead
16 investigator?

17 A Correct.

18 Q And need to have all the information regarding the
19 case?

20 A Correct.

21 Q So that you can carve out a course of action with
22 regard to some of these leads?

23 A Correct.

24 Q And you would be the person in charge or would have a
25 lot of input into the follow-up?

1 A Yes, I would certainly have input.

2 Q Okay. Now, the lead from the Daddy-O's ice cream
3 parlor comes from Ms. Barbara Williams?

4 A Correct.

5 Q She indicated that she was a patron in the ice cream
6 parlor?

7 MR. HUBBARD: Your Honor, I object. I'm not
8 sure where your ruling drew the line, and I don't want to
9 test Your Honor's ruling, I just want to object to make
10 sure I'm clear where your ruling is.

11 THE COURT: All right. The fact was testified
12 that she indicates she's a patron. I don't find that to
13 be hearsay.

14 MR. HUBBARD: Yes, sir.

15 THE COURT: That's just factual, background
16 facts. It's not a statement made by her --

17 MR. HUBBARD: Yes, sir.

18 THE COURT: -- per se. So I'll allow that
19 question as information.

20 Your objection's noted, but I'm going to
21 overrule it as to that question.

22 MR. HUBBARD: Your Honor, if it comes into
23 statements, though, I -- that's why I don't want to be
24 stepping across a ruling you've already made.

25 THE COURT: I understand. And I haven't heard a

1 question to that effect yet.

2 MR. HUBBARD: Yes, sir.

3 THE COURT: If he gets there, object and we'll
4 rule on it then, but the --

5 MR. HUBBARD: Yes, sir. Thank you.

6 THE COURT: -- but the background facts as to
7 she being a patron, I overrule it.

8 So go ahead, Mr. McGuire.

9 BY MR. MCGUIRE:

10 Q The status of Ms. Barbara Williams was that of a
11 patron of the Daddy-O's ice cream parlor?

12 A I'm sorry, can you ask that again?

13 Q Sure.

14 A I'm trying to read and listen to you at the same
15 time.

16 Q Sure, sure, sure. She did not indicate that she was
17 the owner of the ice cream parlor?

18 A No.

19 Q She was a customer?

20 A Correct.

21 Q And she saw other customers in the store?

22 A Correct.

23 Q And she identifies two of the customers being Portia
24 Washington --

25 MR. HUBBARD: Objection, Your Honor. First off,

1 that's not in this report. Second of all, Judge, it's
2 hearsay. I object.

3 And, Your Honor -- if Your Honor wants to look
4 at what he's got, it doesn't say identify, it says matched
5 the description with no names.

6 I object to this line of questioning.

7 MR. MCGUIRE: And, Judge, I tell you what, just
8 to kind of get to the end of this here, I want to move
9 that into evidence right now.

10 MR. HUBBARD: I clearly object to that. Wrong
11 witness and it's hearsay.

12 THE COURT: Mr. McGuire, I believe the -- unless
13 you've got a different reason, that this exhibit would
14 have to come in through the author, which he's available
15 and is he here?

16 MR. MCGUIRE: I mean, we've got him under
17 subpoena, we can bring him back.

18 THE COURT: Okay.

19 MR. MCGUIRE: But, Judge, just by way of
20 argument, this would be akin to, let's say, on some other
21 case, a homicide case, and from another -- from Lasky
22 (phonetic), and an investigator's working the case and is
23 in charge of all the information and a letter comes from
24 an inmate at a correctional facility and it say, "John
25 Doe, who you have charged with this, did not commit that

1 homicide; I did," and they don't follow up, and I want to
2 introduce that document, not for the truth of the matter
3 asserted, but that there's no follow-up. This is exactly
4 on force with that situation.

5 MR. HUBBARD: And, Your Honor, I don't have an
6 objection to that, but he doesn't have to go into the
7 statement. He can just say, "You've got a lead on this
8 date. Did you follow up? No, I didn't," or "Yes, I did."
9 I'm fine with that. He wants to get into the substance of
10 what some person said to another person and that person
11 related to an officer and put it on paper, and now he's
12 trying to ask this officer on the stand who wasn't there.
13 I mean, it --

14 THE COURT: It would seem to me that he'd be
15 allowed to ask the detective, "You got a lead which
16 reported that a black female little girl that matched the
17 description of the missing persons, what did you do?" I
18 think that's proper.

19 MR. HUBBARD: I'm fine with that. He just --

20 THE COURT: All right.

21 MR. HUBBARD: He kept phrasing it as identify
22 and they said A, B, C.

23 THE COURT: I understand.

24 As to his last question, your objection's
25 sustained. Subject to my instructions and guidance, I

1 think he can rephrase his question.

2 Let's take a break real quick.

3 (A break was taken.)

4 THE COURT: All right.

5 Go ahead, Mr. McGuire. I'm sorry.

6 MR. MCGUIRE: Thank you, Your Honor.

7 BY MR. MCGUIRE:

8 Q I think I had kind of jumped the gun a little bit and
9 made kind of a sweeping statement or a conclusory
10 statement. I just want to be real specific about this
11 lead. I don't want to misspeak.

12 The lead was that a patron, Ms. Williams, at
13 Daddy-O's ice cream parlor on July 01, '06, saw a black
14 female and a little girl that matched the
15 description/pictures of missing persons.

16 Is that the lead that came in?

17 A Correct. That's the -- I don't have it in front of
18 me, but that sounds correct.

19 Q Okay. Now, when somebody like Matt Edwards transmits
20 a lead like that to you, does he have the authority or the
21 ability to just follow up on his own or does he need to
22 get some dispensation from you to do that?

23 A No. He -- in fact, he outranked me at the time, so
24 he certainly had the authority to follow up on that if he
25 wished.

1 Q Okay. And you're aware that he did follow up to some
2 extent, he went to the ice cream parlor itself?

3 A Correct.

4 Q And he made the inquiry as to was there video
5 surveillance at the store?

6 A Excuse me. Correct.

7 Q Obviously, if there was a videotape of Cassandra
8 Livingston or Ms. Washington, that would be very important
9 and he'd ask for it?

10 A Correct.

11 Q But, unfortunately in this case, there was no video
12 surveillance?

13 A Correct.

14 Q And he made some inquiries as to who might have been,
15 I think, on duty at the time?

16 A I believe so.

17 Q I'm assuming for the purpose of following up, maybe
18 talking to them?

19 A I would assume so, yes.

20 Q Okay. But that never happened?

21 A No.

22 Q And nobody followed up and spoke to Ms. Williams?

23 A Not at that time, no.

24 Q Not until six years later?

25 A Correct. I think it was recently that they were able

1 to track her down and talk with her.

2 Q Okay. And was that information also relayed to you
3 as the lead investigator on the case still? Even in your
4 new position with the prosecutor's office, did they tell
5 you what they did?

6 A Some of it. I haven't gotten all of it, but I'm
7 aware that they followed up on it. I'm aware that, I
8 believe, an Investigator Page Moore might have met with
9 her, but beyond that, I'm not really up to all the details
10 on it.

11 Q Okay. Now, there was another lead that came in
12 from --

13 MR. MCGUIRE: Oh, Judge, I want to move the lead
14 intake sheet into evidence.

15 MR. HUBBARD: Object to that because it has
16 hearsay information on it. I object to it. He's got the
17 testimony in. I think we can move on.

18 If he wants to make it a Court's exhibit, or
19 something, that's fine.

20 THE COURT: I'm going to allow it in. It's
21 consistent with her testimony, it's part of her file. I
22 understand your objection to it, but --

23 MR. HUBBARD: Your Honor, is it just the one
24 page there?

25 THE COURT: It's Defense Exhibit 79, one page --

1 MR. HUBBARD: Yes, sir. Okay.

2 THE COURT: -- and it's dated -- well, there's
3 numerous dates, but it's --

4 MR. HUBBARD: Yes, sir, Your Honor, I'm good
5 with that.

6 THE COURT: It starts out with lead number B14
7 and has several different dates on the top as if they were
8 either faxed or it was Bates stamped or some sort, but if
9 you want to come see what I've got in my hand as 79,
10 you're more than happy to look at it.

11 MR. HUBBARD: There's another page he gave me.
12 That's why I was wondering if it was just that one page or
13 not, Your Honor.

14 THE COURT: It will be admitted as Defense
15 Exhibit 79, subject to your objection.

16 MR. MCGUIRE: Can I have that marked for ID?

17 (WHEREUPON, Defendant's Exhibits Nos. 80-81 were
18 marked for identification only.)

19 BY MR. MCGUIRE:

20 Q Ms. Bayne, I'm going to hand you what's been marked
21 as Defense 80 for ID. If you'll look at that, if you
22 would, and just tell me if you recognize it.

23 A That's a lead sheet, F as in Frank, 24. The assigned
24 agent on that is going to be Britt Dove.

25 Q Okay. Just for the record, that's another -- that's

1 one of those lead intake sheets you guys have where it
2 records the information coming in in your investigation?

3 A Yes, sir.

4 Q And, specifically, that lead intake sheet is No. F24,
5 I believe?

6 A Yes, that's correct.

7 Q That was from Officer Britt Dove?

8 A Investigator Britt Dove, yes, sir.

9 Q And, again, this is information that's transferred to
10 you as the lead investigator in the case?

11 A It is.

12 Q Regarding information, leads that are coming in?

13 A Yes, sir.

14 Q And that particular lead intake sheet, F24 -- I want
15 to make sure I handed you F24. I did. Excellent.

16 That's a -- that's a telephone call -- oh, no,
17 it references a meeting between Investigator Dove and a
18 Mr. Simmons?

19 A That's correct.

20 Q And Mr. Don Simmons, specifically?

21 A Correct.

22 Q Mr. Simmons was one -- was a teacher?

23 A Yes, he was a P.E. teacher.

24 Q At Claude A. Taylor?

25 A Correct.

1 Q Which is where Ms. Livingston went to school?

2 A Yes.

3 Q And in this lead intake sheet, the information that
4 is being provided to you as lead investigator, it
5 references a conversation that Mr. Simmons, the teacher,
6 had with Ms. Livingston?

7 A Correct.

8 Q And it regards travel plans?

9 A Yes.

10 Q To Texas?

11 A Yes.

12 Q Now, this conversation -- the lead intake, just the
13 information that's on the lead intake sheet, indicates
14 that Ms. Livingston relays to this teacher --

15 MR. HUBBARD: Objection to hearsay, Your Honor.
16 If it's information relayed to another individual, he can
17 call that individual. This is not the witness for this.

18 THE COURT: Rephrase your question. I'll
19 sustain his objection.

20 BY MR. MCGUIRE:

21 Q What I'm going to do, Ms. Bayne, is ask you about
22 your follow-up, obviously, on this information.

23 The information that you learned from this lead
24 intake sheet being transmitted to you is that
25 Ms. Livingston had announced travel --

1 MR. HUBBARD: Objection, Your Honor. I object
2 to the hearsay because it is made to a P.E. teacher who
3 gives it to an officer who gives it to April Bayne. There
4 is the source out there, Mr. Don Simmons. That's who
5 needs to be on the stand if he wants to get the statement
6 in. Otherwise, he can just say on this lead, did you
7 follow up this lead?

8 MR. MCGUIRE: And, Judge, just a couple of
9 things.

10 First of all, in Ms. Bayne's direct testimony, I
11 believe this door was kicked wide open by questions: How
12 many people did you talk to? Did you talk to employees?
13 Yes. Did you talk to friends? Yes. Family, friends?
14 Yes. Did you learn of any travel plans whatsoever to go
15 to Texas, California, any other place? This is in
16 response to that, directly in response to it.

17 It's inconsistent with those statements in her
18 direct testimony. It's not offered for the truth of the
19 matter asserted. It's inconsistent with what she's
20 already stated.

21 Further, it impeaches the investigation with
22 regard to follow-up, not just with this man but other
23 witnesses that claimed that -- stated that they believe
24 they saw Ms. Washington west of Texas.

25 MR. HUBBARD: My objection stands, though, Your

1 Honor, because the questions I asked were not improper.
2 This question is.

3 He can rephrase his question and get the
4 information, but he wants to get the statement in because
5 he is offering it for the truth of the matter asserted.

6 If he wants to call Don Simmons in and we go
7 through that, it may still be hearsay there, but at least
8 he's got a witness that he can work this information
9 through. He skipping all of that and going right to April
10 Bayne. This is improper.

11 There's another way he can accomplish everything
12 he just said, he just isn't bothering to do it. And every
13 question I asked was permissible.

14 THE COURT: All right. Hang on.

15 Isn't the tip in and of itself not offered for
16 the truth, but it's offered as a tip, and whether it was
17 followed up or not, I think the proper way to allow this
18 type of question, you received a tip and the tip was thus
19 and so, what did you do as a result of that tip. I mean,
20 if it's a tip, it's inherently not a statement offered for
21 the truth, it's a tip, isn't it? I mean, am I --

22 MR. HUBBARD: I agree with that, Your Honor. I
23 think, though, he's getting into the details of it.

24 If he said, Did you-all get a tip about travel
25 plans involving **Cassandra L. [REDACTED]** from Don Simmons, he

1 could ask that. She could say yes. Did you follow it up?
2 No. We move on. Otherwise, if he wants to get into
3 everything, he's got the wrong witness.

4 And if he's trying to impeach this officer, he's
5 really got the wrong officer. If he's asking, What was
6 the effect of what was told to you or relayed to you,
7 that's Britt Dove. He brought that out. I think that's
8 what he's got to do. He can't be going into didn't they
9 say this, didn't they say that.

10 There's a proper way to do it, Judge. I don't
11 mind him crossing this witness, there's just a proper way
12 to do it.

13 MR. MCGUIRE: And, Judge, just by way of
14 analogy, sometimes when you make the situation kind of the
15 most extreme as it could be, it illustrates the point a
16 little bit better.

17 For instance, let's say -- let's say a teacher
18 came in and said, I found -- I found a journal, a note
19 that Ms. Livingston had in her locker and it says, I'm
20 going to take a rafting trip down the Colorado leaving
21 from this town in Arizona and I'll be going with so-and-so
22 who lives at this address and here's the telephone number,
23 and that tip is relayed to West Columbia Police
24 Department, I'd be able to go into every detail of that.
25 And, of course, that would be Ms. Livingston's statement,

1 never be able to get her here as a witness, and every
2 single detail would be, obviously, allowed into evidence
3 to show, Well, was there a phone call to that residence.
4 Did anybody -- were local officers dispatched? Was
5 there -- did anybody go down there in person? Did anybody
6 check with rafting companies? All of that's relevant,
7 it's all effect on the hearer, lack of follow-up.

8 And it's not Officer Dove who's actually
9 relevant because all of the information is being
10 transmitted to the lead investigator where the decision
11 making lies. It's the effect on the lead investigator.

12 MR. HUBBARD: Your Honor, the thing that's wrong
13 with his example is we would have the journal and he would
14 be able to establish this is her journal. And he's right,
15 he would be going into all that stuff, and he would have
16 done it properly if he did it that way. But he wouldn't
17 just be able to come in here and say, Didn't you get a
18 journal, let's go into it. He keeps taking these
19 shortcuts, Judge.

20 I don't have a problem with him impeaching
21 witnesses, asking questions, but I do have a problem with
22 the method he's using, and he is outside the bounds of the
23 Rules of Evidence.

24 THE COURT: All right. I think he's allowed to
25 utilize the information provided in the tip. What was the

1 follow-up done as a result of that or what did the lead
2 investigator direct to be done as a result of that? I
3 think that's proper.

4 MR. MCGUIRE: Yes, sir.

5 THE COURT: Other more acute details are not
6 allowed, but I mean, I get the idea of exactly -- and he's
7 allowed to cross-examine the lead investigator on those
8 points of failure to follow up. I mean, hopefully, the
9 Court sitting as the fact finder's a little more
10 sophisticated than an average juror.

11 Go ahead. Subject to my guidance.

12 MR. MCGUIRE: Thank you, Your Honor.

13 BY MR. MCGUIRE:

14 Q There was a tip from Mr. Don Simmons?

15 A Yes, sir.

16 Q On lead intake sheet No. F24?

17 A Yes, sir.

18 Q The tip is that Ms. Livingston was going on vacation
19 in Texas, correct?

20 A I believe that's correct.

21 Q And that the conversation where Mr. Simmons learned
22 this happened about two weeks before school was out?

23 A Yes.

24 Q This is -- school lets out around May in South
25 Carolina?

1 A I believe so.

2 Q He indicated the conversation was about two weeks
3 before school let out?

4 A Correct.

5 MR. MCGUIRE: Judge, I'd move Lead Intake Sheet
6 No. 24 into evidence. I think it's been ID'd as Defense
7 Exhibit 80 for ID. Yes, sir, 80.

8 MR. HUBBARD: Judge, I just have an objection to
9 that as well. I don't think it's proper to put these in.
10 She admitting it, she's not denying it. I don't know why
11 he's putting it in.

12 He's saying this is a lead intake, she's not
13 denying there's a lead intake. And inside each of these,
14 there is -- there's statements.

15 I don't mind the substance of the questioning if
16 it's done right, but I object to these intakes going in.

17 And I know Your Honor's the fact finder, and I
18 don't mean to insult Your Honor, but I just think I've got
19 to make an objection. It's just improper.

20 THE COURT: Hasn't she testified to the
21 substance of the sheet? Has she not done that?

22 MR. HUBBARD: I believe he did in his question.

23 THE COURT: I mean, he did.

24 MR. HUBBARD: The bottom portion hasn't been
25 testified to and wouldn't be relevant, either.

1 I mean, that's my problem; there's just more on
2 these pages than what he's going into.

3 I didn't object to that last question. And I
4 guess -- I know if I sit here and don't object, I know
5 that door's going to be opened and he's going to start --
6 he's got a lot of these leads he wants to go through.

7 And, Judge, I just want to set the ground -- the
8 framework of how it's going to be done early on. Because
9 I don't mind him questioning this witness, I certainly
10 don't, but I'm just afraid that if I don't object and we
11 get some ground rules, he's going to go wild on me.

12 THE COURT: All right. What's the basis -- you
13 want the lead intake. What's the exception to the
14 statements which are hearsay on these sheets? What rule
15 do you represent to the Court is the reason for their
16 admittance?

17 MR. MCGUIRE: Well, it's -- the two main reasons
18 would be, first off, it's not for truth of the matter
19 asserted. That takes me out of hearsay completely and
20 entirely. It's information that is prior, and it was --
21 well, it's information that is inconsistent with
22 Ms. Bayne's testimony to this Court in her direct about
23 she painted a picture of a net of investigators speaking
24 to friends, employees, family to -- where they thoroughly
25 swept everyone's minds for information regarding travel

1 plans and any intention to go to Texas or to Arizona or
2 California. She added that Ms. Washington didn't even
3 like to travel at all, she was a homebody, didn't drive,
4 and yet here we have something directly inconsistent with
5 that, which is Ms. Livingston herself indicating that the
6 family is going to take a vacation to Texas when school
7 lets out. It's completely inconsistent and contradicts
8 her earlier testimony to Your Honor. So, therefore, it's
9 impeachment value and because it's offered for
10 impeachment, it's not offered for the truth of the matter
11 asserted, which gets me out completely from hearsay.

12 Further --

13 MR. HUBBARD: Your Honor --

14 MR. MCGUIRE: Further, the lead intake sheet in
15 its physical form is what's transmitted to Ms. Bayne.
16 This is how the information would be related to her. This
17 is how she would compile it and keep it in her case file.
18 And this is what she would review and consider in crafting
19 a course of action and what to follow up on.

20 So it's not just, did you get a lead, what's the
21 information in it? I think it's important for the fact
22 finder to see that this is an official West Columbia
23 Police document. This is on their form. This is their
24 document. This is how they record information. It's
25 important enough to make it onto this form. It's

1 important enough to be transmitted and relayed to a lead
2 investigator in this case so that she can review it, take
3 it into context with all the other information she has and
4 carve out a course of action of follow-up and to deem how
5 to take appropriate action.

6 Now, the actual follow-up on Mr. Simmons, I'll
7 just tell the Court for the Court's information, is
8 probably sufficient. They brought him in, they took a
9 written statement from him. He recounts the conversation
10 with Ms. Livingston. That's about it. But it comes into
11 play later when another witness comes to West Columbia who
12 has an actual -- he believes that he actually had a
13 conversation with Ms. Washington at a truck stop west of
14 Texas. So at this point --

15 MR. HUBBARD: Your Honor, at this point I think
16 he's testifying.

17 THE COURT: I want him to answer my question.

18 So -- all right. You heard -- he is arguing
19 that these intake sheets are not hearsay and therefore,
20 just accepted as relevant evidence, a part of the case
21 file for the lead investigator.

22 MR. HUBBARD: I think they're irrelevant and
23 here's why: He's asked the question. He asked the
24 impeachment question, she admitted it, he got the answer
25 he wanted. The only way he could get something in is if

1 she answered to the contrary. She admitted it. It's not
2 admissible. He's got what he wanted, he's got to move on.

3 THE COURT: I mean, I tend to agree with his
4 thinking. I mean, you're getting the testimony -- or
5 paper in. If she denies it, then impeachment value then,
6 but then -- I mean, I guess my question is: The intake
7 sheet will not make your questions more believable or her
8 answers more believable. I mean, I hear your question, I
9 hear her answer. If she denies something factually, I
10 think then you're allowed to use the document as an
11 impeachment document against her testimony at that time.

12 I understand this is what you contend is the
13 course of action which is in contrast to her exhaustive
14 investigation. I understand your point you're making or
15 attempting to make.

16 So I'll allow you to continue, but I don't want
17 to get into an argument over whether every single one of
18 these intake sheets is hearsay or not. I mean, I'm
19 listening, I'm taking notes, I think I understand what
20 she's done, and now I'm hearing from you through
21 cross-examination of some things she didn't do.

22 So go ahead, utilize the intake sheets, but I
23 don't think we need to admit them unless they're going to
24 be used for impeachment of an answer she's giving to one
25 of your questions.

1 MR. MCGUIRE: Yes, sir.

2 BY MR. MCGUIRE:

3 Q And, Ms. Bayne, to go straight to the follow-up on
4 the lead intake sheet, Investigator -- well, I'll just ask
5 you what's -- let me show you what's been marked as No. 81
6 for ID purposes. That statement actually is the
7 follow-up, I guess, conducted by Britt Drove; is that
8 right?

9 A I believe that's his signature, yes. But this is a
10 signed statement from Don Simmons.

11 Q Sure. I cannot read you-all's signatures at all.
12 I'm not sure if that's Britt Drove or not. Are you?

13 A I believe it's Britt Dove. I can't speak 100
14 percent.

15 Q Okay. But --

16 A I would assume it's him since he's the one who did
17 the original lead.

18 Q Sure. That was my assumption as well.

19 And just to be clear, this lead was followed up
20 on with Mr. Simmons, he came in and gave a voluntary
21 statement?

22 A Mr. Simmons gave a statement, yes.

23 Q And the information is pretty much consistent with
24 the lead intake sheet, correct?

25 A I would have to see the entire statement to review

1 it.

2 Q Didn't I give it to you? I will -- you've got it.

3 A Is that -- is that the full statement?

4 Q It's all I've got.

5 A Yes, that's consistent with the lead cover sheet.

6 Q Okay. And I think the only information that was
7 added -- the only information that was added is his reason
8 why it stuck out in his mind, correct?

9 A That, and he wasn't able to talk to her anymore
10 beyond that passing comment she stated to him.

11 Q Right. But it stuck out in his mind because it
12 wasn't a typical, Hey, we're going to the beach or
13 Carowinds or Six Flags, that it was something kind of
14 unique in his mind?

15 A Correct.

16 Q And I think you also just stated a second ago that he
17 remembers that before they could go into detail about the
18 conversation, they were interrupted and the conversation
19 ended?

20 A Correct.

21 Q Okay. Now, there's another lead that you received
22 from a truck driver; is that true, Vernon Mullins?

23 A Yes. I believe Glen Frick originally got that from a
24 truck driver by the name of Vernon Mullins, and then Britt
25 Dove did a follow-up on that.

1 MR. MCGUIRE: Okay. I'll have this marked just
2 as one exhibit. It's two pages.

3 (WHEREUPON, Defendant's Exhibit No. 82 was
4 marked for identification only.)

5 BY MR. MCGUIRE:

6 Q And, Ms. Bayne, before I get into what the
7 long-distance trucker, Mr. Mullins, told you guys, do you
8 remember information from another citizen named Laura
9 Beaver?

10 A I remember vaguely a little bit about her.

11 Q Okay. Are you also aware that she's also indicated
12 that Ms. Livingston told her that she was going to Texas,
13 too?

14 A I don't remember exactly what she reported. I
15 remember something about maybe seeing her in a white van
16 traveling down the road a week or two later after they
17 disappeared, if that's the one I'm thinking about. I
18 don't have the sheet in front of me.

19 Q Okay. Well, that is what I'm talking about. She
20 also gives that information. But you don't remember her
21 specifically relaying to you or one of your other officers
22 that Ms. Livingston said she was going to Texas?

23 A Not off the top of my head.

24 (WHEREUPON, Defendant's Exhibit No. 83 was
25 marked for identification only.)

1 BY MR. MCGUIRE:

2 Q Ms. Bayne, I want to show you what's been marked
3 Defense No. 83 for ID. If you could just look that over,
4 just tell me if you've ever had the opportunity to see it
5 or have any input with regard to its creation.

6 A I've never seen that before.

7 Q Does it purport to be a letter from Shawn Graham to
8 defense counsel and Kenneth Lynch?

9 A Yes, it does.

10 Q See if -- review the information regarding Laura
11 Beaver, if you would.

12 A Do you want me to read it out loud or review it to
13 myself?

14 Q I'm happy to have you read it out loud, but I think
15 they'll object to it.

16 THE COURT: Just read it to yourself.

17 MR. HUBBARD: I would, and properly so.

18 BY MR. MCGUIRE:

19 Q So read it to yourself.

20 THE COURT: She can review it.

21 THE WITNESS: Okay. Just the part about Laura
22 Beaver?

23 BY MR. MCGUIRE:

24 Q Yes, ma'am.

25 A Yes, sir. I've read that.

1 Q Without going into exactly what it says, does that --
2 are you aware of that information?

3 A I am aware of that information, yes.

4 Q Okay. So as the lead investigator, former lead
5 investigator when you were with West Columbia, and then in
6 your position with the prosecutor's office as an
7 investigator, this is information you would have been made
8 aware of?

9 A That particular part was, yes.

10 Q Okay. And that would be that Ms. Beaver reported
11 that Ms. Livingston said they were going to Texas?

12 A I believe that's correct, yes.

13 Q Okay. I'm now going to show you what's been marked
14 as Defense No. 82 for ID. Is that a lead intake sheet
15 generated by Officer Frick?

16 A It is. It's Lead Intake Sheet E, as in echo, 20, and
17 it is -- the assigned investigator is Glen Frick.

18 Q Okay. And, again, that's one of those lead intake
19 sheets that would be relayed to you, transmitted to you as
20 lead investigator?

21 A Correct.

22 Q And this regards a lead, I guess we can refer to it
23 as a possible sighting of one of the victims, and in this
24 case, the sighting or the tip would be regarding
25 Ms. Washington; is that correct?

1 A He said it was a black female, possibly 50/50 of that
2 being the missing person, and it was an adult, so Portia
3 Washington, yes, sir.

4 Q Okay. Now -- okay. I'm just going to stand up here
5 with you and ask you some questions.

6 Now, regarding the information on this lead
7 intake sheet, in addition to Mr. Mullins, the concerned
8 citizen that came to your police department, in addition
9 to this --

10 A Actually -- I'm sorry. It states he called the
11 police department initially, but I believe eventually he
12 did come in and give a written statement.

13 Q Right, right, right, right.

14 A Yes, sir.

15 Q We'll get to his written statement in just a second.

16 A Yes, sir.

17 Q This is Mr. Mullins calling and saying that he has
18 information and the call was fielded by
19 Investigator Frick?

20 A Correct.

21 Q And in addition -- and let's -- I'll just be very
22 candid with the Court here. I mean, he said it's a
23 possible 50/50 that he saw the person in question?

24 A Correct.

25 Q And that person being Ms. Washington?

1 A Correct. He said a black female that looked like the
2 missing person 50/50.

3 MR. HUBBARD: Your Honor, I object to him
4 stating it was Portia Washington. That's nowhere in the
5 lead sheet, nowhere.

6 THE COURT: I think he qualified the question as
7 50/50 and I don't -- I'm not reading along with him, so I
8 don't know what it says.

9 MR. HUBBARD: He said it was 50/50 that it's
10 Portia Washington. That's not in the lead sheet.

11 MR. MCGUIRE: Judge, putting Mr. Hubbard at
12 ease, I'll move it into evidence and you'll know exactly
13 what's on it.

14 MR. HUBBARD: I've got it in front of me and I'm
15 objecting to it. I don't need it in evidence, I'm
16 objecting. Read it right, I don't have an objection.

17 MR. MCGUIRE: Well, I tell you -- well, read it.

18 BY MR. MCGUIRE:

19 Q Is it true that Investigator Frick indicates on his
20 lead intake sheet E20 regarding information received from
21 Mr. Vernon Mullins on 7-10-06 at 2115, that Investigator
22 Frick received a phone call from above informant stating
23 that he is a truck driver.

24 MR. HUBBARD: Your Honor, if he'd just state the
25 substance, that's what I've been trying to get at, Judge.

1 I'm sorry to keep jumping up.

2 THE COURT: I understand. And you-all are
3 arguing semantics. And no stranger is going to know
4 Ms. Washington by name as the missing person, and I
5 understand that. So I don't really think that's going to
6 create a big weight question as to whether that sheet says
7 missing person or Portia Washington. And I'd like to get
8 through this and so I'm not letting the sheets in. The
9 substance he can ask questions about, but y'all are really
10 splitting some fine hairs with the exact wording in these
11 documents.

12 So ask your question, and let's hear the answer.

13 The objection's noted, but I'm going to allow
14 him to ask his question, but I don't need the whole
15 statement read.

16 BY MR. MCGUIRE:

17 Q And just to clear up, now, Mr. Mullins didn't come in
18 and say he had a relationship with Ms. Washington or knew
19 her by sight and name, correct?

20 A Correct.

21 Q I mean, he's reporting a stranger sighting?

22 A Yes.

23 Q A person that he thinks matches missing persons
24 flyers?

25 A Correct.

1 Q And that the information that was reported to you,
2 the substance of the information reported to you on Lead
3 Intake E20, is that his sighting took place at a truck
4 stop, correct?

5 A Correct.

6 Q And he believed it was close to El Paso, Texas?

7 A Correct.

8 Q He also said that it was a Pilot truck stop station?

9 A Correct.

10 Q And that in addition to just having a sighting, does
11 he indicate that he gave this person a video coupon so she
12 could get some food?

13 A I believe there was something about the black female,
14 she's hungry, she was diabetic, and so he gave her video
15 coupons so that she could exchange those for food within
16 that -- I believe it was a Pilot station, but within
17 there -- yes, within the Pilot station.

18 Q Okay. And let's, you know, get this out there.

19 He said possible 50/50 that it's the missing
20 person?

21 A Correct.

22 Q And this was an adult he was talking about?

23 A Correct.

24 Q And that would lead you to believe he would be
25 referring to Ms. Washington?

1 A Correct.

2 Q And Investigator Frick indicates that Mr. Mullins
3 would come in and give a written statement?

4 A Correct.

5 Q But that he had to do it later because he was leaving
6 town to go on a long-distance truck run?

7 A Due to leaving tomorrow, yes, sir.

8 Q Okay. And I think it says on a run?

9 A Where do you see that? "Due to leaving town
10 tomorrow." I thought that's what -- it could be. I can't
11 read it, but that's very possible. He's a truck driver,
12 yes, sir.

13 Q We can agree 50/50, it's either tomorrow or on a run?

14 A That's correct.

15 Q All right. And he adds -- sure.

16 A I'm sorry.

17 Q So it's a little hard to read. I want to take the
18 paper clip off so you can see it.

19 Now, he also reports that he saw no child or
20 baggage?

21 A Correct.

22 Q But that the person that he saw indicated that her
23 boyfriend had left her at the truck stop?

24 A Correct.

25 Q He indicates that he doesn't have a recollection of

1 her saying where she was from?

2 A She never said where she was from.

3 Q But he seems to indicate that the person he talked to
4 indicated that she was diabetic?

5 A She did state that she was diabetic.

6 Q And said God bless you when he gave her the -- it
7 says money, but he gave her coupons, right?

8 A It said when he gave her the money --

9 Q Okay.

10 A -- on the back page. And on the front, it says he
11 gave her video coupons.

12 MR. MCGUIRE: Okay. I know you're not going to
13 let it in, Judge, but to preserve the record, I've got to
14 try and offer it into evidence.

15 THE COURT: All right. And subject to the
16 objection, I'm going to not allow it in. It's not
17 impeachment evidence, but it's -- the substance of the
18 statement was testified to.

19 That's 82, we just ruled on, Exhibit 82?

20 MR. MCGUIRE: It is, Your Honor.

21 THE COURT: All right.

22 MR. MCGUIRE: I'll get that marked if I could.

23 (WHEREUPON, Defendant's Exhibit No. 84 was
24 marked for identification only.)

25 BY MR. MCGUIRE:

1 Q Ms. Bayne, I'll show you what's been marked as
2 Defense Exhibit No. 84 for ID purposes only. This is the
3 voluntary written statement from Mr. Vernon Mullins, the
4 truck driver we were just talking about.

5 A Yes, sir.

6 Q The truck driver who reported to Investigator Frick
7 that he believes there was a chance he saw Ms. Washington
8 at a truck stop around El Paso?

9 A Yes, sir.

10 Q Okay. Now -- and, obviously, when an investigator
11 follows up on a lead intake, a lead tip or sighting, and
12 they generate more information, they secure video, take a
13 written statement, something like that, again, that's
14 going to be transmitted to you in your capacity as lead
15 investigator?

16 A Yes, sir.

17 Q And you're going to have the opportunity to review
18 that type of information again in your capacity as lead
19 investigator?

20 A Yes, sir.

21 Q Again, you have all the corporate knowledge of the
22 case as a central person --

23 A Yes, sir.

24 Q -- to collect all the information and make decisions
25 regarding it?

1 A Yes, sir.

2 Q And a voluntary written statement like the one I've
3 just handed to you from Mr. Vernon Ray Mullins, the
4 long-distance truck driver, that would be information that
5 would be transmitted to you?

6 A Correct.

7 Q And so that you can have it and make decisions
8 regarding follow-up?

9 A Yes, sir.

10 Q Okay. Now, in Mr. Mullins' statement, he does
11 indicate that regarding this potential sighting of
12 Ms. Washington, he indicates that he's acting in his
13 capacity as a truck driver?

14 A I believe he states he's just traveling through, but
15 from the original lead sheet, we know he's a truck driver.

16 Q Right. He indicates that the timing of this
17 potential sighting is somewhere between June 17 and
18 June 25?

19 A Correct.

20 Q Of 2006?

21 A Correct.

22 Q And he's a little squishy about the geography, but he
23 says he's traveling on the interstate through Texas?

24 A Correct.

25 Q He indicates he met a lady at a Pilot fuel stop?

1 A Correct, at a Pilot fuel stop. He's not sure which
2 one.

3 Q He describes the person he saw as a black lady,
4 50-plus years of age?

5 A Correct.

6 Q And that the reason he has interaction with her is
7 because she asked if he would buy her something to eat?

8 A Correct.

9 Q And the reason -- he indicates that the reason she
10 needs money is because her boyfriend had dropped her off?

11 MR. HUBBARD: Judge, I'm going to object at this
12 point. He's going way beyond where you ruled. I know
13 you're the juror and we trust you on that, but, Judge, I
14 think we're going to just -- he's already going further
15 and further down that road, and that's why I've got to
16 keep standing up and objecting, to draw the lines.

17 MR. MCGUIRE: And, Judge, just so the Court
18 understands where we're going with this, the -- I can tell
19 you, there's going to be no follow-up on this one.

20 THE COURT: I think that's where you were going
21 with that.

22 MR. MCGUIRE: And I think that my client has an
23 absolute right to have me bring out the strength of the
24 lead to impeach the integrity of the investigation
25 pursuant to Kyles. If it was just, you know, I think I

1 saw her in a parking lot, best I can do, fellows, that
2 would be one thing. But when you have it -- what's going
3 to come out is he has a conversation with the person, he
4 gives information very consistent --

5 MR. HUBBARD: I object to his testifying in his
6 statement of the facts, Judge.

7 If he wants Vernon Mullins, he can get him and
8 put him on the stand, and ask him, Vernon, what did you
9 see? Did you talk to law enforcement? That's not
10 hearsay. He can do that. I don't object to that.

11 I object to him saying Vernon Mullins said blah,
12 blah, blah. Vernon Mullins said blah, blah, blah. That's
13 improper. He's cutting corners. And if I let it go now,
14 Judge, it's going to go way beyond where we are right now.
15 He's already gone beyond where you initially ruled.

16 MR. MCGUIRE: Well, Judge, I've got to respond
17 to that.

18 First off, I don't believe I've gone a step over
19 your ruling. These are leads generated by investigators.

20 MR. HUBBARD: It's a statement. He's gone
21 beyond the lead. That's a written statement from this
22 man.

23 MR. MCGUIRE: You-all got a problem with
24 interrupting. You-all need to stop it. I'll have you --

25 MR. HUBBARD: I'll direct the Court --

1 THE COURT: Hang on, hang on. You-all stop now.
2 Let's -- let's go eat lunch. And we'll be back
3 at 2 o'clock because I'm hungry, and I think that's the
4 best thing to do, and I'll rule on the motions then.

5 MR. MCGUIRE: Thank you, Judge.

6 (A lunch break was taken.)

7 MR. MCGUIRE: Judge, I want to apologize for
8 yelling in your courtroom. There's no excuse for it.
9 It's disrespectful to the Court, and I apologize.

10 THE COURT: All right.

11 MR. HUBBARD: Same here, Your Honor.

12 THE COURT: It's been a long ten days that we've
13 been together and we're going to get through this.

14 So -- all right. Let's continue.

15 And, Mr. McGuire, you understand my confining
16 the summary of the lead sheets as best you can without --
17 I don't think they need to be published fully through your
18 question, but I'm getting the idea, and I'll let you
19 continue cross-examination.

20 And I understand Mr. Hubbard's objection to
21 specific statements made by people because of that person
22 not being here, but these are lead sheets, they're being
23 transmitted through the chain of police officers from
24 laypeople to the lead investigator, and they're offered
25 for that purpose, as I understand it, for leads not fully

1 followed or leads not checked out.

2 I understand the purpose for the questioning,
3 and I'll allow it, but I don't want to get too far afield
4 from that purpose. So I think we all understand each
5 side's respective viewpoints.

6 Let's get this done, and you may continue your
7 examination.

8 MR. MCGUIRE: Thank you, Your Honor.

9 But to be fair to the Court and give you a
10 heads-up, I am going to go into some pretty detailed stuff
11 about Mr. Mullins' handwritten statement. It's in
12 addition to the lead intake sheet. He actually comes in
13 to West Columbia Police Department.

14 THE COURT: That was Defendant's ID 84?

15 MR. MCGUIRE: Yes, I believe so.

16 THE COURT: That's what my notes indicate.

17 MR. MCGUIRE: I just don't want to deliberately
18 overstep your ruling.

19 MR. HUBBARD: And, Your Honor, on that,
20 obviously if it's a statement, now that's something
21 totally different. He needs the person who made the
22 statement. And Mr. Mullins lives locally.

23 THE COURT: Mullins lives in the South Carolina
24 area?

25 MR. MCGUIRE: Yes, sir.

1 MR. HUBBARD: Yes, sir. He's a long-distance
2 truck driver out of South Carolina, and he came in and
3 talked to us.

4 THE COURT: After the call? After the phone
5 call?

6 MR. HUBBARD: Yes. But he came in and talked to
7 us when we were preparing for trial. Yes, sir. He's
8 local. He's retired now.

9 THE COURT: I'm trying to fashion a way we can
10 get this done without too much trouble.

11 (Pause.)

12 THE COURT: Let's try to do it, but I don't --
13 "I'm going to allow you a full opportunity at
14 cross-examination. I guess my hope was as fact finder and
15 as the judge of the law that I would be able to
16 distinguish between the facts and hearsay and whatnot. I
17 just -- I don't know that I find it necessary to hear
18 every single detail he gave. I understand it was specific
19 detail.

20 Let's try to get it done. I understand the
21 hearsay objection. I understand your need to get a full
22 cross-examination, but understand, I get where you-all
23 both are coming from, but let's move forward with this
24 thing.

25 I don't want a -- I mean, the only way I'm going

1 to start ruling on the hearsay fully is we're going to
2 have to mark everything for identification and I'm going
3 to have to have an in camera hearing and I'm going to read
4 the statement in full and make determinations of what
5 portions of it are hearsay, what portions aren't hearsay,
6 and all that sort of thing, and, then, as the legal judge,
7 I'm going to have to make a determination of what's facts
8 that I can consider as the fact finder and what facts I'm
9 not going to utilize as fact finder. And the law assumes
10 I can do that, and the case law assumes I can do that, and
11 I hope I can do that.

12 I mean, understanding that, I mean, let's move
13 forward. We'll do it the hard way or we can just get it
14 done, so --

15 MR. HUBBARD: Yes, Your Honor.

16 THE COURT: Without reading the statements
17 verbatim, can you ask the questions and get the specific
18 facts you're looking for, Mr. McGuire? I think you can.
19 I'm going to let you try.

20 MR. MCGUIRE: I'm going to give it the best
21 college try that I can, Judge.

22 THE COURT: Okay.

23 BY MR. MCGUIRE:

24 Q Ms. Bayne, I want to -- we're going to leave
25 Mr. Vernon Mullins for a little while here. Okay?

1 I'm going to ask you some questions about some
2 follow-up investigation you did regarding a bank, and I
3 believe it's Waskom, Texas?

4 A Okay.

5 Q You -- as part of this investigation, you got
6 Mr. Lynch's banking records?

7 A Correct.

8 Q And you were able to see where he was engaging in
9 bank transactions?

10 A Correct.

11 Q And because he made some transactions in Texas at a
12 Wachovia Bank, you were able to, obviously, find out the
13 location of that bank?

14 A It was -- I believe it was actually a national bank,
15 I don't believe it was a Wachovia Bank, but he accessed
16 his Wachovia account through that bank, yes, sir.

17 Q Okay. That would be like going to a bank, using
18 their ATM, it's not your bank, but you're using the ATM
19 from your bank so it hits ATM withdrawal at that location?

20 A Correct. That's the way I understood it.

21 Q Okay. And you had a conversation with the manager at
22 that bank, the local bank in Texas?

23 A Mr. Waldrop, I believe.

24 Q Okay.

25 A Yes, sir.

1 Q And when you had your conversation with him, you were
2 interested in video surveillance?

3 A Correct.

4 Q You were interested to know if Mr. Lynch may have had
5 a conversation with anybody?

6 A Yes.

7 Q Who might have been with him?

8 A Yes.

9 Q Mr. Lynch?

10 You were interested in not just for video
11 surveillance, but what other people may have seen?

12 A Yes.

13 Q Employees at the bank?

14 A I believe I asked if he came inside the bank and if
15 he spoke with any of the bank officials there, yes.

16 Q Okay. And I think you were able to eventually figure
17 out that he walked across the street to Jim's Barbecue?

18 A I think the manager -- if I'm remembering correctly,
19 the manager told me that someone in the bank might have
20 mentioned to him that Mr. Lynch walked across the street
21 to get food, but he wasn't sure.

22 Q Okay. And the restaurant across the street is Jim's
23 Barbecue and Catfish, or something like that?

24 A I can't remember. I remember it was something --
25 some kind of food establishment across the street.

1 Q Okay. And I think you eventually emailed some
2 photographs to the bank manager?

3 A I can't remember if I did or not. It's possible that
4 I did.

5 Q Okay. Do you remember -- do you remember a
6 conversation with him where he actually said he would take
7 the picture across the street to Jim's?

8 A I think he said he was -- he would check into that
9 and see if maybe they had video surveillance as well. If
10 I remember correctly, they didn't. And I don't think
11 anybody recognized him over there, if I'm -- if my memory
12 serves correct.

13 Q Okay. And to the best of your recollection, do you
14 remember him reporting that he passed Mr. Lynch's
15 photographs, the photographs that you had emailed him, to
16 the tellers, and that's how he got the information about
17 Mr. Lynch going across the street?

18 A That sounds probable.

19 Q Okay.

20 A Without seeing my notes, I can't be for sure, but
21 that sounds probable.

22 Q All right. Now, we're going to return to Mr. Mullins
23 here, and I'm going to pass up what's been marked
24 Defense 84 for ID.

25 A Yes, sir.

1 Q Now -- and the reason I'm going to ask you these
2 questions is because it's similar to the bank.

3 Did Mr. Mullins -- you had information -- you
4 had information after Mr. Mullins came in and gave a
5 statement that he gave the woman he believed matched the
6 pictures, or a 50/50 shot matched the pictures, he gave
7 this person some coupons?

8 A Correct.

9 Q Because he won on the video machine?

10 A Correct.

11 Q And he indicated that the Pilot truck stop, when you
12 turn these coupons in, you have to sign them?

13 A Yes.

14 Q And I think he misspells the word "usually" in his
15 statement, but he says at Pilot you usually have to sign
16 the coupons?

17 A Yes, sir.

18 Q Okay. And he also indicated that he made sure that
19 the store clerk would assist this woman he was giving the
20 coupons to?

21 A He did.

22 Q And he indicated this was at a Pilot truck stop?

23 A Yes. He was not sure which one, only that it was
24 between -- he was traveling on I-20 through Texas.

25 Q And this was all information contained in

1 Mr. Mullins' voluntary statement that he gave at your
2 police department?

3 A Correct.

4 Q And this voluntary statement was provided to you?

5 A Yes.

6 Q In your capacity as lead investigator?

7 A Yes, sir.

8 Q And did any -- did anybody contact -- well, let me
9 ask you this: Did you ask Mr. Mullins if he could be more
10 specific in helping you find out what Pilot station?

11 A I did not, no.

12 Q Anybody ask him for his gas receipts?

13 A I did not, no.

14 Q Or any log he might keep in his truck?

15 A I did not, no.

16 Q Or any paperwork he's required to keep for the
17 federal government regarding his travels and how far he's
18 traveling?

19 A No.

20 Q Are you aware that eventually he did provide those
21 receipts?

22 A I'm not aware of that.

23 Q Well, six years later -- you're not aware of six
24 years later anybody going back and getting his receipts
25 from him?

1 A I'm not aware of that.

2 Q And when I say, "somebody," I'm referring to the
3 prosecutor's office. You're not aware that the
4 prosecutor's office has that information now?

5 A I'm not aware of that.

6 Q Okay. You're not aware that he was able to narrow it
7 down to two stations?

8 A I know that they met with him, but I'm not aware of
9 any -- of any receipts that he may have turned over. That
10 usually would get turned over to Ms. Grigsby, who would
11 then, in turn, turn it over to you for discovery.

12 Q Okay. Let's assume for argument that six years ago
13 you-all narrowed it down to two Pilot stations, you could
14 have sent somebody down there?

15 A I could have, yes.

16 Q You could have called local law enforcement and had
17 them do some work for you?

18 A I could have, yes.

19 Q In fact, you did that in this case with Vicksburg,
20 Mississippi?

21 A Yes.

22 Q With Elroy, Arizona?

23 A Eloy, Arizona, yes, sir.

24 Q With Seattle, Washington?

25 A Yes, sir.

1 Q And with the border and in Blaine, Washington?

2 A Yes, sir.

3 Q These are all law enforcement officers that don't
4 work for you directly?

5 A Correct.

6 Q But they assisted you?

7 A Correct.

8 Q And at times, they assisted you specifically at your
9 request?

10 A Correct.

11 Q For instance, you've had local law enforcement go to
12 Motel 6 in Vicksburg, Mississippi?

13 A Correct.

14 Q Look for individual surveillance?

15 A Correct.

16 Q Try to verify what the clerk may have seen?

17 A Correct.

18 Q Take a statement from the clerk if the clerk had
19 valuable information?

20 A I believe they attempted that.

21 Q Okay. Got documents and paperwork, a receipt from
22 the Vicksburg Motel 6?

23 A Yes.

24 Q Nobody was dispatched to the Pilot to try to secure
25 video?

1 A No.

2 Q Nobody was dispatched to a Pilot to see if these
3 coupons that may have been signed were still in existence?

4 A No.

5 Q Nobody attempted to interview the store clerk that
6 Mr. Mullins said assisted the woman he saw?

7 A No.

8 Q And back in 2006, nobody even got Mr. Mullins'
9 receipts to try to figure out where he was?

10 A No.

11 MR. MCGUIRE: I'd like to have all these marked.
12 They're just paper clipped, just separately.

13 (WHEREUPON, Defendant's Exhibits Nos. 85-90 were
14 marked for identification only.)

15 MR. MCGUIRE: And, Judge, I can anticipate your
16 ruling on this, but I'd move Mr. Vernon Ray Mullins'
17 statement into evidence, No. 84 for ID at this time.

18 THE COURT: And subject to the objection made by
19 the State, consistent with my ruling I'm going to not
20 allow it, but I have allowed the substance that you've
21 cross-examined with. So it's not allowed, but it's marked
22 as Defense Exhibit 84 for identification purposes.

23 MR. MCGUIRE: Yes, sir, Your Honor. And if I
24 can just incorporate my previous comments regarding the
25 argument regarding that.

1 THE COURT: And your argument consistent with
2 the initial argument on Document 80 for ID purposes and
3 subsequent to that are all re-proffered on each and every
4 document as if set forth fully.

5 MR. MCGUIRE: Thank you, Your Honor.

6 BY MR. MCGUIRE:

7 Q April, I want to pass you up what's been marked for
8 ID No. 85, 86, 87, 88, 89, and 90. If you could just look
9 at those and tell us if you recognize them.

10 A These appear to be lead reports from the National
11 Center for Missing and Exploited Children. They're lead
12 reports that are generated from -- usually from phone
13 calls coming into the hotline for the National Center for
14 Missing and Exploited Children.

15 Q And just so we're clear, the way this works is when
16 you engage this organization to be part of your case, they
17 will devote resources that you don't have to get the word
18 out with posters, maybe a commercial, TV show, even direct
19 mailings, mass mailings, that sort of thing?

20 A Correct.

21 Q And this organization did generate some leads for you
22 guys?

23 A They did, yes.

24 Q And with regard to -- and obviously some leads are
25 better than others?

1 A Some of them were psychic visions, dreams, sightings
2 of Kenneth Lynch after we knew he was detained, all sorts
3 of things, yes.

4 Q I'll tell you what. You just mentioned psychic
5 visions.

6 Did you-all follow up on a psychic vision on
7 this case?

8 A I did not.

9 Q Did you receive a lead intake sheet regarding a
10 psychic vision?

11 A I believe Investigator Hamrick did while I was out of
12 the office, and when I came back in Monday morning --
13 correct me if I'm wrong, I think I know which one you're
14 talking about -- the mother to Angelica, Theresa Brown,
15 who's also the daughter of Portia, recently after this
16 incident she was distraught, as any family member would
17 be, and she either called West Columbia while I was gone
18 or she may have called Springdale and said that she had a
19 family member that was a three- or four-year-old that was
20 having some sort of visions.

21 She was distraught, and it was my understanding
22 that the police, to appease her, went out and drove by
23 some area of concern that this child may have had a vision
24 on, and so they did a lead sheet on it and they came to me
25 and explained why they did what they did.

1 Q Okay. You can understand how that looks a little
2 peculiar when I get these documents in discovery that
3 you-all followed up on a vision?

4 A Well, it looked peculiar to me, and it wasn't
5 anything that I necessarily would have followed up, but if
6 an investigator wants to give a distraught mother some
7 sort of peace, then that, you know, that was their call to
8 do so.

9 Q Okay. Regarding what's been marked 89 for ID, is
10 this one of the leads that came in through the National
11 Center for Missing and Exploited Children?

12 A It is. And at the top, I handwrote when I would
13 receive these in the mail. So it looks like I received it
14 August 25th of 2008.

15 Q Okay. And, again, some of these leads are better
16 than others and some of them are more specific than
17 others. What's the lead in this one?

18 A The lead in this one -- let's see. Let me look at
19 the dates.

20 It looks like a day ago -- so there's one day
21 before they call it in and then there's another five, six
22 days before I receive it in the mail -- the caller states
23 that she saw the child and companion at the listed grocery
24 store. And the caller also stated that the listed
25 companion works as a janitor at Ralph's Adult Book Store,

1 which is located on the Western and 248 in Harbor City,
2 California. The companion uses the alias name listed.
3 And it has Angelica to possibly be 11, which was
4 inconsistent with what we knew, and then it has that
5 Portia, who they thought was Portia Washington, was using
6 the alias of Veronica Washington.

7 Q And you said that they had Angelica listed as 11, and
8 she would have been nine?

9 A Correct. Well, she would have been nine, yes.

10 Q And I want to hand you what's been marked -- oh, and
11 what was the geographic location?

12 A Torrance, California.

13 Q Okay. I'm going to hand you what's been marked No.
14 86 for ID. Is that another one of those leads from the
15 National Center for Missing and Exploited Children?

16 A That is. It looks like I received this one on
17 9-11-2008. It looks like this one is out of East Palo
18 Alto, California. It's got Portia listed as being five
19 four and 170 pounds, which is short and underweight, and
20 then it doesn't list Angelica.

21 And then the caller states that she believes
22 she's seen the companion, referring to -- and the
23 companion is listed out as Portia Washington. The
24 companion comes into the caller's store asking for money.
25 The child was not with the companion. The caller

1 recognized the companion from a poster she received in the
2 mail.

3 Q Okay. I'm going to hand you what's been marked No.
4 85 for ID. Is that a similar lead?

5 A That is a lead from August 23rd -- excuse me --
6 2008. That is from Vacaville, California.

7 Q Uh-huh.

8 A It's got an unknown race. It just says a female.
9 And it says the caller received the ADVO card in the mail
10 and she thought the people on the card looked familiar
11 from the area. The caller could not recall where she may
12 have seen them or when. The caller could not give any
13 other descriptive information other than they look
14 familiar, and the only thing under the description is that
15 it's a female. There's no height, weight, race, eye
16 color, hair color, anything of that nature.

17 Q I'll hand you what's been marked Defense No. 90. And
18 what geographic -- Vacaville, California?

19 A I believe so. Let's see. Vacaville, California.

20 Q And you've got what's been marked No. 90 for ID. Is
21 that a similar lead?

22 A Correct. This is August 19th, 2008. It's got Portia
23 Washington listed as being around 60 to 69 years of age,
24 listed as a black female out of East Palo Alto,
25 California, and the lead states that the abductor has gone

1 to the caller's residence twice to ask for money. She
2 first went to the caller's residence about a week ago.
3 She looks like she may be using drugs. The caller
4 believes the abductor may live in the area.

5 And when they're saying "abductor," I'm assuming
6 they're referring to the companion, Portia Washington.

7 Q And I assume that, too.

8 I want to hand you what's been marked No. 88 for
9 ID. Similar lead?

10 A This one is from August 18th, 2008. It's got
11 Angelica listed as a black female, seven years of age;
12 Portia Washington, black female, 50 years of age. And it
13 comes out of San Francisco, California.

14 And the narrative is that the caller believes
15 she saw the child and companion at the listed hospital.
16 The caller stated that the companion appeared to have a
17 learning disability and was walking around with one
18 crutch.

19 Q I'm going to hand you what's been marked No. 87.
20 Similar lead?

21 A This one I received October 15th, 2008. The call
22 came in October 6, 2008. And they said they actually saw
23 them two years ago in 2006.

24 So the caller stated that the child and
25 companion were on an Amtrak train traveling from Seattle,

1 Washington, to Portland, Oregon. The child's age is
2 listed as being 21 years old. And the companion, who
3 would be Portia Washington, is a black female who is five
4 six and 150 pounds, between the ages of 50 and 60. And
5 the last time they were seen was December of 2006.

6 Q Was there any follow-up on those leads with regard to
7 calling -- like, say, one of the leads mentions that she's
8 working at a store and gives the name. Anybody call the
9 store?

10 A No. What we generally did was run a Social Security
11 number along with her date of birth, and any time you're
12 getting a job or wages, that would generally pop up as
13 some sort of activity associated with your Social Security
14 number and your date of birth, and nothing was popping up
15 under Portia.

16 Q So you guys were relying on entering their known
17 Socials, their known dates of birth in a national service
18 to pick up if they were actually going on the grid
19 somehow?

20 A Through SLED and Secret Service and a few other
21 agencies that were pulling that information for us, yes.

22 Q Okay. But, now, one of your leads mentions an alias.
23 This is -- it looks like somebody's trying to go off the
24 grid. In that situation, would you call the store?

25 A No, I did not call the store.

1 Q Okay. And aside from your entering the information
2 in a national data service, there's no specific follow-up
3 to any of these leads?

4 A No.

5 MR. MCGUIRE: That's all I have for you. Thank
6 you, ma'am.

7 THE WITNESS: Thank you.

8 REDIRECT EXAMINATION

9 BY MR. HUBBARD:

10 Q One quick follow-up.

11 As to the individuals and all of these leads who
12 are described to be Portia Washington or Angelica
13 Livingston, did any of your callers ever give you any real
14 discernable information so you'd know where to track these
15 individuals down?

16 A Not that I felt, no.

17 Q And you-all did follow up on some of the people
18 making the calls in, correct?

19 A We did.

20 Q But you didn't have any way to find out who they were
21 actually talking about, did you?

22 A Well, no. Some of it was vague, some of it we knew
23 immediately was not consistent with what we knew. In
24 other words, Portia was not a diabetic, so that was one of
25 the leads that came in. Portia was not a diabetic.

1 We also knew from Portia that she was never --
2 if she had access to a phone or access to being around
3 people to call home, from what our understanding of what
4 type of person she was and the life she led, she would
5 have called home, she would have called somebody.

6 Additionally, nobody's ever said that she had
7 walked with a crutch or had a learning disability.

8 Again, with the Social Security number and the
9 date of birth, we tracked things that way, but nothing was
10 ever consistent with the people who knew her and what we
11 had been told about her life.

12 MR. HUBBARD: Thank you.

13 THE COURT: Recross?

14 MR. MCGUIRE: Nothing further.

15 THE COURT: You may step down, Ms. Bayne.

16 MR. MCGUIRE: Judge, I can anticipate your
17 ruling, I think, but I'm going to offer those five leads I
18 marked for ID into evidence.

19 MR. HUBBARD: Same objection from the State.

20 THE COURT: Same ruling. And all of your
21 arguments are proffered for purposes of the record on all
22 the ones since 80. It's 80 through 89?

23 MR. MCGUIRE: Yes, sir.

24 THE COURT: They're all three the same, the
25 ruling's the same, the objection's the same, and the

1 proffer would be the same.

2 MR. MCGUIRE: Thank you, Your Honor.

3 THE COURT REPORTER: And, Judge, it's through
4 90.

5 THE COURT: Through 90, I'm sorry.

6 MR. MYERS: The State would call Tonya Oree.

7 TONYA OREE, after being duly sworn, testified as
8 follows:

9 THE CLERK: Have a seat, please, ma'am.

10 Once you're seated, I need you to speak up loud
11 and clear, stating your full name and spelling your last,
12 please.

13 THE WITNESS: Okay. Tonya Oree, O-R-E-E.

14 THE COURT: What's your name one more time,
15 ma'am? Tonya what?

16 THE WITNESS: Oree, O-R-E-E.

17 DIRECT EXAMINATION

18 BY MR. MYERS:

19 Q Ms. Oree, Sallie Jones testified last week, I guess.
20 Who is Sallie Jones?

21 A My aunt.

22 Q Okay. And who is Portia Washington?

23 A My cousin.

24 Q She's your cousin?

25 A Uh-huh.

1 Q Were you-all close or not?

2 A Yes.

3 Q How close were you?

4 A Real close.

5 Q Did you know that Portia had a daughter named
6 Theresa?

7 A Yes.

8 Q And did you know Theresa had a daughter in 2006?

9 A Yes.

10 Q What was her name?

11 A Angelica.

12 Q Angelica was her only daughter in 2006?

13 A Yes.

14 Q You said that you and Portia were close. How often
15 would you-all communicate with each other?

16 A Three, four times a week.

17 Q Did you see her in person or would it be on the
18 phone, how would that be?

19 A I would see her in person. I go to her job. We'll
20 call each other on the phone.

21 Q Where -- what job did you go see her?

22 A Bob Bennett Ford.

23 Q Did you ever know the defendant Kenneth Lynch?

24 A No.

25 Q Okay. Did you ever see him?

- 1 A He used to come to the house, but I never seen him.
- 2 Q Had you ever gone to where Portia was living?
- 3 A Yes.
- 4 Q Did you ever see him there?
- 5 A No, he would stay in the room.
- 6 Q What do you mean "he would stay in the room"?
- 7 A When I'd come over, he would never come out.
- 8 Q Talking about Portia a little bit, what kind of
- 9 person was she? Would she do things just at the spur of
- 10 moment or would she plan things out? Give me an idea what
- 11 kind of person she was.
- 12 A She'd plan things out.
- 13 Q She would organize things?
- 14 A Yes.
- 15 Q You said you went to her job, so you knew she worked
- 16 at Bob Bennett Ford?
- 17 A Yes.
- 18 Q Did you know what she thought about her job at Bob
- 19 Bennett Ford?
- 20 A She loved her job.
- 21 Q Did you know anything about her getting a car from
- 22 Bob Bennett Ford?
- 23 A Yes.
- 24 Q And what was her feelings towards her car?
- 25 A She loved that car.

1 Q What do you mean "she loved that car"?

2 A She loved it. It was the first new car she ever had.

3 Q Did she like to cook any?

4 A She loved cooking.

5 Q Did she ever like to be around any family members?

6 A Yes.

7 Q What do you mean, she liked to be around family
8 members?

9 A She'll cook and call you over.

10 Q Did she have any grandchildren?

11 A Yes.

12 Q What did she think about her grandchildren?

13 A She loved those grandkids.

14 Q What do you mean she loved them?

15 A She'd do anything for them. She talked about them
16 all the time.

17 Q She had a son named Sam. Do you know Sam?

18 A Yes.

19 Q And in January of 2006, Sam had a son?

20 A Yes.

21 Q Did you know Sam's son?

22 A Mason.

23 Q And what did Portia think about her grandson, Mason?

24 A She would talk about Mason all the time.

25 Q Did she ever get things for him?

- 1 A Yes.
- 2 Q Like what? ,
- 3 A Clothes.
- 4 Q Anything else?
- 5 A Toys.
- 6 Q What would Portia's Saturdays be like, what was her
7 normal routine on Saturdays?
- 8 A She'd go get her hair done. She liked to go to flea
9 markets, yard sales, go to the grocery store.
- 10 Q Would she make any plans on Saturday for the next
11 day, Sunday?
- 12 A Yes. She'd plan on what she was going -- she was
13 going -- she'll cook Saturday for Sunday, she'll lay out
14 clothes, she'll iron for the week.
- 15 Q And what would Sundays be like?
- 16 A Eat and resting.
- 17 Q Going to church?
- 18 A Going to church.
- 19 Q Now, you said that Angelica was Theresa's only
20 daughter in '06?
- 21 A Yes.
- 22 Q And what was Portia's relationship with Angelica?
- 23 A She loved Angelica with all her heart.
- 24 Q What do you mean by that?
- 25 A She would do anything for Angelica.

1 Q Did you ever have any relationship with Angelica?

2 A Yes.

3 Q How?

4 A She used to come over to my house. I'd take her to
5 the doctor. She used to call me.

6 Q You would take Angelica to the doctor?

7 A Yes.

8 Q Where would that be, do you remember?

9 A Yeah, Eau Claire Pediatrics on Monticello Road.

10 Q And you said you kept her. Why would you be keeping
11 Angelica?

12 A Portia would just drop her off, and she used to like
13 to play with my kids. They were older, but she still
14 would play with them.

15 Q About a week or two before Angelica became missing,
16 did you take her anywhere?

17 A Yeah, I took her to my girlfriend's house for a
18 birthday party.

19 Q Do you remember that?

20 A Yes.

21 Q Angelica, was she looking forward to the summer?

22 A Yeah.

23 Q How was she looking forward to it?

24 A She wanted to go to day camp, wanted to go to camp,
25 play, swim.

1 Q Was Portia making plans for her to go to camp during
2 the summer?

3 A Yes.

4 Q Now, when Angelica would come over and stay with
5 you --

6 A Uh-huh.

7 Q -- did she stay overnight sometimes?

8 A Sometimes.

9 Q Would she bring anything with her?

10 A She'd bring her bear.

11 Q A what?

12 A A bear.

13 Q And that teddy, can you kind of describe it?

14 A It's a brown bear with patches on it.

15 Q She was attached to that bear?

16 A Yes.

17 Q Did you help clean out the apartment later on when
18 the apartment people said they had to get the apartment
19 cleaned out?

20 A Yes.

21 Q Did you take anything from that apartment?

22 A Yes.

23 Q What did you take?

24 A Her brown bear.

25 Q Is this it right here?

1 A Yes.

2 Q Is that the one that she was attached to that she
3 would take with her?

4 A Yes.

5 Q But that was in the apartment when you-all cleaned it
6 out?

7 A Yes.

8 MR. MYERS: We offer this into evidence, Your
9 Honor.

10 MR. MCGUIRE: No objection.

11 THE COURT: State's 201, without objection.

12 (WHEREUPON, STATE'S Exhibit No. 201 was marked
13 for identification and received into evidence.)

14 BY MR. MYERS:

15 Q 201, that meant enough to you to take it from that
16 apartment as a keepsake remembering Angelica?

17 A Yes.

18 Q Now, the apartment in West Columbia over by the
19 Brooklyn Baptist Church, do you know anything about that
20 apartment?

21 A Yes.

22 Q What do you know about it?

23 A I picked it out for her.

24 Q You picked that apartment out for her?

25 A Yes.

1 Q And why did she want to move to another apartment?

2 MR. MCGUIRE: Objection, hearsay, Your Honor.

3 BY MR. MYERS:

4 Q Why did she want to move to another apartment? What
5 was her state of mind for moving to that other apartment?
6 Not the reasons. Why did she want to move there?

7 A She wanted --

8 THE COURT: I'm going to -- I understand your
9 objection. I'll allow her to answer the specific question
10 asked by the Solicitor, but not the reason behind it.
11 That's consistent with my other rulings.

12 BY MR. MYERS:

13 Q Go ahead.

14 A She wanted to be by herself.

15 Q She wanted to be by herself?

16 A Uh-huh.

17 Q Now, that lease with the apartment, were you to have
18 anything to do with that lease?

19 A I was supposed to fill it out.

20 Q And why were you going to fill it out?

21 A Because she couldn't read that good.

22 Q She couldn't read that good?

23 A Unh-unh.

24 Q She wanted you to fill it out?

25 A Yes.

1 Q Did you fill that lease out?

2 A No.

3 Q Who filled it out?

4 A Kenny.

5 Q Kenny. Was he supposed to move into that apartment?

6 A No.

7 Q How did he get the lease?

8 A He found out and filled it out.

9 MR. MCGUIRE: Objection. Her information comes
10 from hearsay.

11 MR. MYERS: We think it's admissible, Your
12 Honor.

13 THE COURT: I don't think she said what anyone
14 said. Her answer was "He found out." You need to
15 rephrase your question from that point, but I think the
16 statement -- or the answer to the question as given is not
17 hearsay, that he found out.

18 BY MR. MYERS:

19 Q And he filled out the lease?

20 A Yes.

21 Q Not Portia?

22 A No.

23 Q Now, the week -- let me ask you this: You and Portia
24 talk on the phone a good bit?

25 A Yeah.

1 Q When she would call you during this time, would she
2 be calm or would she be upset or what?

3 A Upset.

4 Q And upset, how?

5 A She was just upset.

6 Q Would she be laughing, talking or what?

7 A Crying.

8 THE COURT: I think that is as far as she can
9 answer that question. Mr. McGuire is about to jump up and
10 object on the same basis.

11 BY MR. MYERS:

12 Q She'd be crying?

13 A Yes.

14 Q Who would she be upset with?

15 A Kenny.

16 MR. MCGUIRE: Objection.

17 THE COURT: That's going beyond, I believe.

18 MR. MYERS: That's state of mind, Your Honor.

19 THE COURT: No, sir, that's not consistent with
20 the Weston case.

21 BY MR. MYERS:

22 Q Let me ask you this: Was she happy with Kenny?

23 A No.

24 MR. MCGUIRE: Objection.

25 THE COURT: The same --

1 MR. MYERS: State versus Weston is clear on
2 that. State versus Weston, that's the exact point.

3 THE COURT: I don't think so.

4 MR. MYERS: Yes, it is.

5 THE COURT: It says that they could name the
6 state of mind, but couldn't say why. I mean --

7 MR. MYERS: No, I'm not saying why. But in
8 Weston, they could say how it was. I can show you that
9 part. Where it said that she was afraid, I can show you
10 that.

11 The first issue, where the daughter testified
12 about her mother's demeanor about her son, Mr. Weston, she
13 was unhappy and afraid, that was admissible, but she
14 couldn't say why she was unhappy and afraid.

15 THE COURT: And I think that she's upset and
16 crying, and she's answered that, so that's where it stops.
17 I mean, I just don't think we need to try to elicit --

18 MR. MYERS: That's okay. I can move on.

19 THE COURT: -- and getting further than that. I
20 understand the question and the answer, but --

21 MR. MYERS: I can move on, Your Honor.

22 THE COURT: Okay.

23 BY MR. MYERS:

24 Q When she would be talking with you on the phone and
25 crying sometimes, would Kenny be with her at her house?

- 1 A Yes.
- 2 Q How do you know that?
- 3 A I'd hear him in the background.
- 4 Q You could hear who in the background?
- 5 A Kenny.
- 6 Q Was there ever some times when you were talking with
- 7 Portia that she would put the phone down and let you
- 8 listen to what Kenny was saying?
- 9 A Yes.
- 10 Q What would Kenny be saying that you could hear?
- 11 A Fussing about her car, he wanted her car, she would
- 12 tell him no.
- 13 Q What do you mean fussing with her?
- 14 A He wanted the car. He wanted to drive the car.
- 15 Q Any profanity used by him?
- 16 A Yes.
- 17 Q Cussing her?
- 18 A Yes.
- 19 Q About wanting to use the car?
- 20 A Yes.
- 21 Q Did she want him to use the car?
- 22 A No.
- 23 Q And you heard that?
- 24 A Yes.
- 25 Q The week before Portia came missing or that week, did

1 you talk with her?

2 A Yes.

3 Q Did you see her face-to-face?

4 A Yes.

5 Q What, if anything, did you get from her?

6 A Forty dollars.

7 Q She loaned you \$40?

8 A Yes.

9 Q And what were you to do later on concerning that \$40?

10 A Pay her back.

11 Q And you were going to pay her back?

12 A Yes.

13 Q And did you ever get to pay her back?

14 A No.

15 Q Now, during that week when you got the \$40 and during
16 this time, what was her state of mind about the defendant
17 Kenny Lynch?

18 A She didn't like him.

19 Q She didn't like him?

20 A No.

21 Q What was her state of mind about being with him?

22 A She didn't want to be with him.

23 Q What about her car?

24 A She didn't want him to drive it.

25 Q What about the future?

1 A She was happy.

2 Q Pardon?

3 A She was happy.

4 Q She was happy about the future?

5 A Yes.

6 Q How was she happy about the future?

7 A In June or July, he was supposed to move out and buy
8 his own car.

9 Q In June or July, the defendant was supposed to move
10 out and get his own car?

11 A Yes.

12 MR. MYERS: Thank you, Ms. Oree.

13 Answer any questions they have.

14 MR. MCGUIRE: No questions. Thank you.

15 MR. MYERS: The State calls Sam Brown, Jr.

16 SAMUEL LEE BROWN, JR., after being duly sworn,
17 testified as follows:

18 THE CLERK: Have a seat please, sir.

19 Once you're seated, state your full name,
20 spelling your last on the record.

21 THE WITNESS: Samuel Lee Brown, Jr., B-R-O-W-N.

22 DIRECT EXAMINATION

23 BY MR. MYERS:

24 Q Sam, where are you employed?

25 A At Faurecia Automotive.

1 Q Where is that?

2 A That's in -- it's actually in Fountain Inn, South
3 Carolina.

4 Q Upper part of the state?

5 A Upper state.

6 Q Did you ever go to college?

7 A Yes, I did.

8 Q Where did you go?

9 A I went to Wilkes Community College and Appalachian
10 State University.

11 Q Did you graduate from Appalachian State?

12 A Yes, I did.

13 Q What does your wife do?

14 A She's a teacher for the Greenville County School
15 District.

16 Q And what grade does she teach?

17 A Seventh grade, seventh and eighth grades.

18 Q Who was Portia Washington, Sam?

19 A That was my mother.

20 Q Who is Theresa Brown?

21 A My sister.

22 Q In 2006, did Theresa, your sister, did she have any
23 daughters?

24 A Yes, just one.

25 Q Name?

- 1 A [REDACTED]
- 2 Q Your niece?
- 3 A My niece.
- 4 Q Now, your father's name?
- 5 A Is Samuel Brown.
- 6 Q Senior?
- 7 A Senior.
- 8 Q He and your mother were married?
- 9 A Yes, they were.
- 10 Q And what was his occupation?
- 11 A He was in the military, United States Air Force.
- 12 Q Was he in there just for a short period of time?
- 13 A No, he retired.
- 14 Q Approximately how many years?
- 15 A Twenty-three to 25 years.
- 16 Q Did he and your mother get a divorce?
- 17 A Yes, they did.
- 18 Q Do you know why?
- 19 A Because my mom was -- she was -- she wanted to be
- 20 with her family. She didn't like traveling.
- 21 Q She didn't like traveling?
- 22 A She didn't like traveling.
- 23 Q And what family did she want to be with, where, what
- 24 location?
- 25 A She wanted to be here in Columbia with her mom.

1 Q And her other relatives?

2 A And her other relatives, yes, sir.

3 Q After they divorced, did they ever communicate or
4 what was the --

5 A Oh, yes, sir. They was very good friends. It was
6 not a bad breakup. They were good friends. As a matter
7 of fact, they occasionally saw each other, so --

8 Q Even after the divorce, they saw each other?

9 A Even after the divorce.

10 Q Other than her not wanting to travel, they remained
11 good friends?

12 A Yes, sir.

13 Q Sam, do you know anything about that West Columbia
14 apartment that your mom lived in?

15 A Yes, sir. I did stay there a few times.

16 Q You stayed there a few times?

17 A Yes, when I would come down on weekends.

18 Q You saw your mom a good bit?

19 A Yes, I did.

20 Q Communicated with her a lot?

21 A Yes, I did.

22 Q Of all the family members, who stayed with her more
23 than anybody else?

24 A I did.

25 Q Did you know Kenneth Lynch?

1 A Yes, I met him.

2 Q Would he be there?

3 A Yes, he was.

4 Q And what kind of a relationship did you have with
5 him?

6 A None whatsoever.

7 Q What do you mean?

8 A We never -- we really didn't talk any, just hey, how
9 you doing, and he would go back in the room.

10 Q What room?

11 A In his room.

12 Q Tell me, Sam, if you could, your mother's outlook on
13 life before being with the defendant and her demeanor and
14 outlook on life after being with him. Did she change any?

15 A Yes, she did. Before my mom was very happy. She
16 liked playing softball, she liked being around family.
17 And any time my or my dad's family would have anything,
18 she would always come, even with my step-mom being there,
19 she would always -- was always invited. They treated her
20 just like their daughter even though her and my father had
21 had a divorce.

22 Q What about afterwards?

23 A Afterwards, she was kind of adamant. She stayed home
24 a lot. She didn't really want to go anywhere.

25 Q What about her demeanor, her outlook, her happiness

1 on life?

2 A She wasn't as happy. I mean, knowing my mom, I've
3 known her basically all my life, and she was always fun,
4 always joking, and then she got to a point where it wasn't
5 like that. She was, you know, Sam, you know, okay this,
6 okay that and wouldn't really -- she wasn't really
7 energetic.

8 Q Did you know where she was working during this time?

9 A Yes, sir.

10 Q Where was that?

11 A Bob Bennett Ford.

12 Q Was she planning on leaving Bob Bennett Ford?

13 A Oh, no. She loved her job. I went by there several
14 times and got the chance to meet some of the people that
15 worked there, and they were very fond of her and she was
16 very fond of them.

17 Q The car she had, you ever been in that car?

18 A Yes, sir.

19 Q Was she a little possessive about that car?

20 A She was very possessive about that car.

21 Q Did you ever notice a child's seat in the backseat of
22 that car?

23 A Yes, I did.

24 Q Did you ever see her keys?

25 A Yes, I did.

1 Q Her car keys?

2 A Yes, I did.

3 Q I want to hand you what's been marked State's Exhibit
4 No. 22, keys that were taken from the defendant at the
5 Canadian border. Do you recognize these keys?

6 A Yes, sir.

7 Q How?

8 A They had a lot of these, you know, grocery store
9 cards.

10 Q How many grocery store cards are on that?

11 A Five.

12 Q What kind are they?

13 A They have one from CVS, Bi-Lo, Winn-Dixie, Kroger,
14 and Food Lion.

15 Q Those were on there when you saw her with that car?

16 A Yes, sir.

17 Q How else can you recognize the keys?

18 A Well, this little thingamajig was on there.

19 Q What do you call that thingamajig?

20 A Key ring. Key ring. And, you know, this is actually
21 the car key.

22 Q You recognize that as being her car key?

23 A Yes, I do.

24 Q Now, about that car, do you know what kind of driver
25 your mom was, Sam?

1 A She wasn't -- she wasn't a very good driver. As a
2 matter of fact, my aunt and one of my uncles taught her
3 how to drive.

4 She wasn't -- she wasn't a very good driver.
5 She didn't like driving on the interstate or anything.
6 She was -- did not like driving. If she drove, it was
7 because she had to.

8 Q What's the farthest you know of her driving?

9 A The only place that I know her driving was she drove
10 to -- was my wedding, which is in Bowman, South Carolina,
11 which is probably about 50 miles. That's it. And my
12 grandmother was with her at the time.

13 Q That would be Sallie?

14 A Yes, sir.

15 Q Sallie Jones?

16 A Yes, sir.

17 Q And she drove that 40, 50 miles to come to your
18 wedding?

19 A Yes, sir.

20 Q Now, what about her relationship with Angelica?

21 A She was very, very particular of Angelica. Angelica
22 was her granddaughter, and she took care of Angelica, and
23 she was very fond of her. She didn't want anybody to mess
24 with her. And she loved Angelica to death.

25 Q And what was her relationship with all her family

1 members?

2 A Oh, she loved her family. She loved her -- of course
3 she loved my grandmother. She loved her Aunt Vernelle.
4 All of her aunts, she loved them all.

5 Q You and your wife, now you-all are living in the
6 upper part of the state?

7 A Yes, sir.

8 Q Would you and your wife talk with your mom Portia
9 from time to time?

10 A Yes, we would talk. You know, because after I --
11 after we would visit, we could tell that she wasn't happy,
12 and a few times I talked to my wife about, you know,
13 that -- asking her to move in with us in the upstate.

14 Q Did you tell your mom that?

15 A Yes, I did.

16 Q Did you offer to let her come stay with you?

17 A Oh, yes, I did.

18 Q What about Angelica?

19 A Yeah. Oh, and at one time we even considered taking
20 Angelica and moving her with us because during the time
21 Angelica was having some issues in school. And my wife
22 would go by the school pretty often and check on her.
23 And, you know, being a schoolteacher, my wife basically
24 said that she just needs some attention, somebody to
25 really actually take some time with her and actually teach

1 her some things.

2 Q And also, would you-all talk with your mom about
3 Angelica?

4 A Yes. Yes, sir. She would -- she would talk with my
5 mom about the situation that was with Angelica and why she
6 thought, you know, Angelica was in the situation that she
7 was in.

8 Q Giving advice?

9 A Giving advice, yes, sir.

10 Q What about Angelica's medication?

11 A She knew -- she talked to my mom about the
12 medication. Being that she was a schoolteacher, she
13 understood that that would, you know, sometimes help
14 with -- calm some of the kids down so they can actually be
15 able to learn.

16 Q Now, there came a time when you had a son?

17 A Yes, sir.

18 Q What's his name?

19 A Excuse me. Mason Ziare Brown.

20 Q He was born in January of '06?

21 A Yes, sir.

22 Q Where was he born?

23 A He was actually -- well, we were actually on our way
24 from Bowman, and my wife said, "You know, Sam, I think we
25 need to stop at the hospital."

1 Q Where?

2 A It was -- we was in Orangeburg -- through Orangeburg
3 at that time. And I said, "You want me to stop now?" and
4 she said, "No, I think I can make it to Columbia." And we
5 made it to Baptist Hospital and that's where she --
6 actually she was in -- she was having really bad
7 contractions and she hadn't, you know, dilated enough. So
8 a friend of mine who was actually her doctor, Dr. Aaron
9 Smythe, him and his son -- him -- me and his son, we
10 wrestled in a lot of the camps during the summer together.
11 And I called him, and he came over, and he said that --
12 asked if they wanted to send her home, to send her to
13 Greenville --

14 Q To Greenville?

15 A -- and he said, "No, we're not going to send her to
16 Greenville, we're going -- she's going to have the baby
17 here one way or the other."

18 So he gave her something to actually finish, you
19 know, her labor, and she actually had the baby in --
20 actually at Baptist Hospital.

21 Q So were the plans for the baby to be born in Columbia
22 or was --

23 A Actually, no, the plan was for the baby to be born
24 actually in Greenville, but we didn't make it to
25 Greenville.

1 Q You-all didn't make it to Greenville?

2 A We didn't make it to Greenville.

3 Q Did your mom find out about that?

4 A Yes. I called her as soon as I -- as we got to the
5 hospital.

6 Q What did she do?

7 A Well, she -- once my wife had the baby, she was
8 working at Bank of America.

9 Q That was a second job?

10 A I think that was a second job at night. And as soon
11 as my wife had the baby, she came over.

12 Q What was her feelings about your son?

13 A If you could see the picture of her holding my son
14 for the first time, she was -- she was -- she was really
15 excited because she never thought that I -- I always told
16 her that I never was going to have kids, I never was going
17 to get married, and she thought that was the funniest
18 thing to her.

19 Q How about after Mason was born, your momma's
20 relationship with your son?

21 A After Mason was born, occasionally she would come
22 down -- well, occasionally we would bring him down and she
23 would keep him. And she was so fussy, she always bought
24 him things.

25 Q What kind of things did she buy him?

1 A She'd buy him clothes.

2 Actually, she -- there was this crib that we
3 really wanted him to have, and it was kind of expensive,
4 and she wanted him to have -- we wanted the crib, and once
5 we showed it to her, she wanted him to have it, and we had
6 decided not to get that one, to get another one, and she
7 really wanted him to have that one. So she gave us the
8 money to buy his crib, and she always bought him clothes.

9 Q At that time, now, the grandchildren, which one was
10 the smallest grandchild?

11 A Mason was the youngest and smallest grandchild at the
12 time.

13 Q Was he the only one to wear those small clothes,
14 onesies and things?

15 A Yes, sir.

16 Q Now, this has been talked about several times. I
17 don't know whether it's been offered into evidence or not,
18 it's a photograph from the house with onesies. Is that
19 the kind of clothes she'd buy?

20 A Yes, sir.

21 MR. MYERS: We'd offer this into evidence, Your
22 Honor. I don't know whether it's in or not, I couldn't
23 find it.

24 MR. MCGUIRE: No objection.

25 THE COURT: I thought it was in, but if it's

1 not, it's in now. 202, if it's not already been
2 previously marked.

3 (WHEREUPON, STATE'S Exhibit No. 202 was marked
4 for identification and received into evidence.)

5 BY MR. MYERS:

6 Q And this would be the type of clothes she would buy?

7 A Yes, sir.

8 Q And she'd give you-all money for it?

9 A Yes, sir. She gave money that we actually have in
10 his account right now for his college fund.

11 Q What about her wanting to spend time with Mason?

12 A Well, the week prior to her missing -- well, the
13 weekend prior to her missing, Mason was with her. I came
14 down --

15 Q What do you mean "Mason was with her"?

16 A My son, my -- she kept him that weekend. I came
17 down, and I think I stayed one night, and one night I was
18 hanging out with some friends, but she kept him that
19 weekend.

20 Q Was she excited about it?

21 A Yes, sir, she was always excited about her
22 grandbabies.

23 Q So you saw her up until the weekend before she
24 disappeared?

25 A Yes, sir. But I talked to her several times, I

1 think, during that week.

2 My wife and I, we had -- we had an issue the
3 week coming to her missing.

4 Q What was that issue?

5 A My wife's sister was getting married, and I had a
6 Masonic meeting that weekend because I was a potentate at
7 the time over at my Shrine temple. And I couldn't keep
8 him, so my wife wanted my mom to keep him, and I asked her
9 why because she just had him the week before. And when my
10 mom found out that I didn't want to bring Mason to him
11 (sic), she was very upset. And she called my wife and
12 told him -- told her to bring him. It doesn't matter,
13 that's her grand and would always keep him.

14 Q Okay. That was the Saturday, June 10th?

15 A Yes. She -- we -- she was supposed to bring him that
16 Saturday, that Saturday morning.

17 Q Did she bring him that Saturday, June the 10th?

18 A No, sir.

19 Q What happened?

20 A Thank God, that she for some reason just decided not
21 to bring him and kept going to Bowman.

22 Q So rather than dropping him off here in Lexington
23 County with your momma --

24 A Yes, sir.

25 Q -- on June 10th, that Saturday, for her to keep him

1 that weekend?

2 A Yes, sir.

3 Q Your wife, at the last minute, decided to take the
4 baby with her; is that right?

5 A Yes, sir.

6 Q Now, talking with your mom and being close and
7 everything, what was her state of mind about that car
8 during that time?

9 A She was -- she was happy about that car. That was
10 her first car. She used to keep it clean. Even if I got
11 in it, she'd make sure my feet was clean. She didn't want
12 anybody driving that car.

13 Q What about the defendant?

14 A She definitely didn't want Mr. Lynch to drive her
15 car.

16 Q What about being with him, what was her state of mind
17 about being with him?

18 A Well, you know, we -- she really didn't -- she wanted
19 out. She really didn't want to be with him.

20 Q She wanted what?

21 A She wanted out.

22 Q What --

23 A She really didn't ---she really didn't want to be
24 with him anymore.

25 Q Sam, do you ever think about dropping your son off on

1 that June day?

2 A Yes, sir. I don't know what I would have -- would
3 have done. That was -- that's my only son, and if he
4 would have been with her, he probably would have been
5 gone. And I know for a fact that my mom wouldn't have
6 never left here and left my son or her family. There's no
7 way she would have left this state.

8 MR. MYERS: Thank you, Sam.

9 Answer any questions the defense has.

10 MR. MCGUIRE: Judge, I've got no questions for
11 Mr. Brown. I move to strike the last part of his
12 testimony.

13 MR. MYERS: It's relevant.

14 THE COURT: I'll allow it.

15 You may step down.

16 MR. MYERS: Your Honor, the last thing that we
17 have, there's been some summary charts that we've used in
18 the last two weeks. Those charts are based on actual
19 witness testimony, cross-examination. Based on the length
20 of the trial, we've been here two weeks, we've put up, I
21 guess, well over 60 witnesses have testified. The State
22 alone has had over 200 exhibits, and it's plainly
23 admissible under Rule 611(A), it's admissible under United
24 States versus Scales, 594 F.2d 558. It's admissible under
25 United States versus Pinto, P-I-N-T-O, 850 F.2d 927. It's

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1 admissible under United States versus Johnson, 54 F.3d
2 1150, a Fourth Circuit Court of Appeals case. It's also
3 admissible under United States versus Loayza, L-O-A-Y-Z-A,
4 107 F.3d 257, a Fourth Circuit Court of Appeals case. And
5 United States versus Harris, 39 F.3d 1262, a Fourth
6 Circuit Court of Appeals case.

7 All of these say that when you have a complex
8 case, you have a number of witnesses -- and we have -- the
9 length of the trial -- and we've been here now for two
10 weeks -- you have a number of exhibits, you have a number
11 of witnesses. In that manner, summary charts are most
12 appropriate in seeking the truth and they are admissible
13 in evidence, and I hand you up a memo.

14 THE COURT: Yes, sir.

15 Mr. McGuire, I'll hear you on that.

16 MR. MCGUIRE: Judge, the rule cited, I think, is
17 Rule 611.

18 MR. MYERS: 611(A) is one, 1006 is another one
19 with voluminous records that is also cited in the cases.
20 And also State versus Hess is a South Carolina case, which
21 we tried, they also allowed summary charts. State versus
22 Arthur Hess, 301 S.E.2d 547.

23 MR. MCGUIRE: Judge, I'm not exactly sure what
24 he's offering. Is it the map or is it his --

25 MR. MYERS: We're offering everything that has

1 not been offered into evidence. I think the map's in
2 evidence and the summary charts with the notations on them
3 as the witnesses testified and was subject to
4 cross-examination.

5 MR. MCGUIRE: Judge, I would object to the
6 charts -- the charts with people's words going back in as
7 an exhibit or a piece of evidence. It's their testimony,
8 the Court's kept careful notes. If this was a complex
9 white collar crime with thousands of receipts or something
10 like that, a summary would be appropriate. If it was a
11 civil case and it was a summary of medical damages or
12 costs regarding complicated medical issues, I'd have no
13 objection. But basically just taking people's words and
14 putting them in black and white to just reemphasize their
15 testimony, I think that's pretty clearly objectionable.

16 MR. MYERS: The cases I've handed up have all
17 been criminal cases. They have not been civil cases.
18 They're not medical cases, they're criminal cases
19 involving drugs, involving all kind of crimes.

20 And State versus Johnson 54 F.3d 1150, a Fourth
21 Circuit Court of Appeals, 1995, cert denied by the Supreme
22 Court, at 116 Supreme Court 266, 1995, it says when you
23 have a case, summary charts are admissible. The court
24 must look at the length of the trial, the complexity of
25 the case, the number of witnesses, the number of exhibits,

1 to help the fact finder sift through all of that
2 testimony. It is a proper aid to assist in finding the
3 truth, and also that it is admissible to help in finding
4 the truth, particularly when it's based on witnesses who
5 have been cross-examined, available for cross-examination.

6 That chart is based on testimony and proper
7 cross-examination by the defense.

8 MR. MCGUIRE: Judge, this is more akin to, let's
9 just have the court reporter read back some testimony, get
10 a little snippet, highlight it, and send it all back with
11 you. And it's just taking exact words and putting it in
12 an exhibit where overemphasis can be placed -- and,
13 obviously, if this was a jury trial, I have no doubt in my
14 mind, the Court wouldn't even contemplate this.

15 And the fact is, it's just -- again, it's just
16 like taking someone's testimony, having the court reporter
17 print out a sheet, highlight it, send it back to you, just
18 saying we're highlighting our witness' testimony. It's an
19 improper exhibit.

20 I can't respond to Mr. Myers' cases because they
21 pass up cases to you, they don't give them to us, so I
22 can't actually read it and respond. But, yeah, I think
23 it's completely improper.

24 MR. MYERS: Yes, sir. What's on there is
25 absolutely word-for-word and accurate. If it weren't, it

1 wouldn't be admissible.

2 And also, Your Honor, we had to call a number of
3 witnesses out of order for scheduling purposes. This even
4 more justifies the orderly presentation of events that
5 occurred in this case.

6 It evolved in South Carolina down through the
7 southern part of the United States all the way to
8 California, up to the Canadian border on the West Coast
9 with all the exhibits and witnesses and other matters
10 related to the case.

11 THE COURT: As I understand the charts, the
12 charts are more or less a timeline. And
13 cross-examination's been allowed.

14 Anyway, considering it's a long timeline, nearly
15 six years ago, I think the charts would be admissible --
16 just understanding that if they were given to a jury, if
17 they're allowed on those premises -- you know, charts are
18 only as good as the underlying evidence. And so the Court
19 took many notes as well. I think I'm on my fourth pad of
20 fact notes, and I've got a pad of legal arguments that
21 I've considered as we're going through. I think they
22 would assist the Court in understanding the sequence of
23 events that occurred in this case.

24 And I don't believe they were -- I can't name
25 one because they're not before me right now -- but there

1 weren't any opinions placed on them. It's a timeline more
2 or less, and so for that reason, we'll admit them, they'll
3 be considered.

4 MR. MYERS: Thank you, Your Honor.

5 THE COURT: But no more so than the notes. The
6 same instruction would go to a jury, the jurors' notes are
7 jurors' notes, and apparently my notes are going to be
8 what I go by because I listened just as much as anyone
9 else in the courtroom to everything that was said.

10 I understand your objection, but I think they
11 would assist the Court --

12 MR. MYERS: Thank you, sir.

13 THE COURT: -- in accommodating the timeline.

14 MR. MCGUIRE: Then, Judge, what I would ask the
15 Court to do is, my understanding is that Mr. Myers wants
16 to put the map and the chart --

17 MR. MYERS: I think the map's already in
18 evidence, Your Honor.

19 THE COURT: I think the map and the comments.
20 The comments were subject to the same argument we just
21 heard, and so I'm going to allow it under the same
22 argument. I'm not certain the map is in. The map may
23 have been, but the comments came in under the premise we
24 would argue them now, and so I think I've ruled upon it
25 now also. The comments are placed upon the map. But the

1 map itself, I think, was coming in. The comments would be
2 the arguable part.

3 MR. MYERS: Thank you, Your Honor.

4 MR. MCGUIRE: So, Judge, I'm sorry. With regard
5 to the map, I'd ask you to hold a -- admitting all the
6 comments and everything into evidence.

7 My understanding is once something's admitted as
8 an exhibit into evidence, you can't alter it or change it.
9 And my understanding -- well, we might want to put some
10 information on that map. So if you could just hold that
11 in abeyance until the end of our case.

12 MR. MYERS: We have no objection if they put
13 something on there, too, if it's relevant.

14 THE COURT: Yeah. I mean, I think what's good
15 for the goose.

16 MR. MCGUIRE: Then we're fine.

17 THE COURT: Absolutely.

18 MR. MCGUIRE: We'll continue the objection.

19 THE COURT: The map, again, is a timeline, and I
20 don't think -- I'm uncertain as to whether you're going
21 challenge certain events happened and the time sequence
22 they did because it's more or less been receipts,
23 observations, and there's interaction with other people.
24 There's no -- these are circumstances along a timeline,
25 not testimony as to -- I'm going to leave it at that.

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1 I'll going to let them in. You-all can add
2 comments to them.

3 MR. MCGUIRE: Yes, sir. Thank you.

4 THE COURT: And they'll be marked as 203, 204,
5 and 205, the three you've got there. And the map's
6 already marked as 25. So now 25's in, 3, 4, 5 -- 203,
7 204, and 205.

8 (WHEREUPON, STATE'S Exhibit No. 25, having been
9 previously marked for identification, was received
10 into evidence.)

11 (WHEREUPON, STATE'S Exhibits Nos. 203-205 were
12 marked for identification and received into
13 evidence.)

14 MR. MYERS: Your Honor, may I?

15 THE COURT: Yes, sir.

16 MR. MYERS: With that, Your Honor, the State
17 would rest its case in chief at this time.

18 THE COURT: All right. Let's take a few
19 minutes' break. I think we can all use a few minutes. We
20 started a few minutes after 2 and it's shortly after 3:30
21 now. So how about 15 minutes and we'll be back out.

22 (A break was taken.)

23 THE COURT: All right. The State having rested,
24 Mr. McGuire, we'll hear from you.

25 MR. MCGUIRE: Yes, sir, Your Honor..

1 I'm passing a couple of cases over to the
2 prosecutor and if I could approach and give the Court two
3 cases that we will rely on.

4 And the first case I will go through is State
5 versus Arnold. This is a case of wholly circumstantial
6 evidence. There is no direct evidence in this case. The
7 standard would be that the State has to show substantial
8 circumstantial evidence to survive a directed verdict
9 motion. And there has to be substantial circumstantial
10 evidence that reasonably tends to prove the guilt of the
11 accused from which his guilt may be fairly and logically
12 deduced.

13 The case of State versus Arnold is instructive.
14 It involves a psychologist from Savannah, Georgia, who
15 borrowed a car to go to the dentist. He calls his
16 secretary around midday, cancels his appointments for the
17 remainder of the day, and then goes missing for three
18 days. His body's recovered in Colleton County, South
19 Carolina.

20 Now, the evidence in that case starts with the
21 doctor's -- the psychologist's secretary going into his
22 office and getting on his computer, finds some information
23 marked "personal," and gives it over to law enforcement.

24 And sometimes truth being stranger than fiction,
25 it's revealed very quickly that he was leading a bit of a

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1 double life in that the man was homosexual. Despite being
2 married and living in Savannah, he was homosexual and
3 engaging in sex acts with truckers.

4 He met a man and had engaged in oral sex with
5 him at a rest area on I-95. That man, when he realized
6 that Dr. Cox apparently enjoyed having sex with truckers,
7 introduced him to another man at his house. Dr. Cox spent
8 some time at Mr. Ware's house. Mr. Ware knew Dr. Cox as
9 Jay. He introduces Jay, who is really Dr. Cox, to a
10 fellow who turns out to be the respondent in this case,
11 Mr. Eddie Lee Arnold.

12 The car that Dr. Cox borrows to go to the
13 dentist -- his car was in the shop. He borrows a car from
14 a colleague at his office to go to the dentist. Of course
15 he never -- he called at midday and canceled the rest of
16 his appointments. When he goes missing for three days,
17 eventually his car is located in Tennessee, Johnson,
18 Tennessee.

19 Ware, the man who introduced Dr. Cox to the
20 respondent, Mr. Arnold, indicates that he received
21 telephone calls from the defendant in that case from
22 Tennessee and contacted him at a number in Tennessee,
23 later determined to be the respondent's father's phone
24 number. The car, the abandoned car, was found ten miles
25 away from the defendant's dad's house in Tennessee.

1 So you have Dr. Cox, the child psychologist,
2 leaving his office in Savannah, canceling his day's
3 appointments, possibly hooks up with the defendant, and he
4 goes missing for three days. The car is found in
5 Tennessee ten miles away from the defendant's house.

6 Now, in the car was a coffee cup lid with the
7 defendant's fingerprint on it. So we have a child
8 psychologist, leads a double life, borrows a car to go to
9 the dentist, goes missing for three days, the evidence of
10 his double life comes out. The Mr. Ware, the man that he
11 had some homosexual sex with both at a rest area and at
12 his house, testifies that the defendant's contacting him
13 from Tennessee numbers, his dad lives ten miles from the
14 car in Tennessee and the coffee cup lid with the
15 defendant's print on it is found in the car. Mr. Ware
16 also testified that the defendant had a gun, and in this
17 case, the victim was shot.

18 Despite evidence linking Mr. Cox to the
19 defendant, both by Mr. Ware's testimony that they had met,
20 engaged in sex at Mr. Ware's house earlier, despite the
21 fact that the defendant's fingerprint's found inside the
22 car on a coffee cup lid, despite the car being found ten
23 miles away from the defendant's father's house, despite
24 the fact that a witness was getting phone calls from the
25 defendant from a Tennessee number, all of that was

1 considered insufficient evidence to survive a directed
2 verdict motion. It merely raised the suspicion of guilt.
3 And the South Carolina Supreme Court actually refers to it
4 as the trial court's duty to direct a verdict in cases
5 where there's a lack of substantial circumstantial
6 evidence and where there's only a mere suspicion of guilt.

7 Now, the next case that we rely on is State
8 versus Bostick, 392 S.C. 134. Now, the facts of that case
9 involves a woman who, based on her position at her church,
10 would carry a briefcase home on Sunday with money in it,
11 where she would normally deposit the money on Monday. Her
12 house was burned, not to the ground, but it was burned.
13 Her body was recovered in the kitchen area of the house,
14 she was bludgeoned and there was blood spatter evidence,
15 although the cause of death was carbon monoxide poisoning
16 from the fire.

17 Not even a quarter of a mile down the road lived
18 the defendant. He had a burn pile in his backyard. In
19 the burn pile, the victim's car keys, her calculator, and
20 other items from her home were found in Bostick's burn
21 pile right behind his house. It's actually his mom's
22 house.

23 The fire in the burn pile with the victim's
24 items was set using an accelerant based on what the arson
25 team discovered. The house, the victim's house, the fire

1 originated with the use of an accelerant. The defendant's
2 shoes had a pattern that matched gasoline, and gasoline
3 was the accelerant used for the house fire. That alone
4 sounds pretty strong.

5 But on the defendant's jeans that he was wearing
6 that day that he turned over to law enforcement
7 voluntarily was blood. DNA analysis determined that
8 99 percent of the population could be excluded as the
9 contributor of that blood apart from the victim.
10 Ninety-nine percent of the population could be excluded
11 with regard to the blood being that of the victim.

12 In that case, the judge let the case survive
13 directed verdict. The South Carolina Supreme Court said
14 no. Despite that evidence, despite the victim's car keys
15 being in the burn pile, her calculator, other items from
16 her house, the burn pile was used -- was started using an
17 accelerant, the defendant's shoes had a gasoline pattern
18 on them. Gasoline was used to set the house fire. And
19 blood was found on his jeans he was wearing that day, and
20 it was the victim's blood to a 99 percent certainty.
21 That, those pieces of circumstantial evidence, were not
22 sufficient to allow the State to survive a directed
23 verdict motion.

24 Now, in this case with Mr. Lynch, we have what
25 might be termed as flight. We all learned in law school

1 when the facts are on your side, you pound on the facts.
2 When the law is on your side, you pound on the law. When
3 nothing's on your side, you pound on the table. Well, all
4 he's got is flight, and that's why we have these charts
5 with everybody's words on them to emphasize them as if
6 this is so important. That's all they've got. Of course
7 they're going to emphasize it.

8 There's some blood evidence in the apartment. I
9 haven't heard testimony that Mr. Lynch was at that
10 apartment that day. I heard he was at a Bi-Lo, I heard he
11 was out running some errands and making some cash
12 transactions or using his debit card, but I haven't heard
13 that he was at the apartment.

14 I heard that at 9:30 at night, Ms. Portia
15 Washington's having a very happy conversation with
16 Ms. Lela Green, very happy. I even described the house as
17 a happy home and she agreed with me, everything was
18 positive.

19 The DNA analyst told you that the blood is
20 consistent with that of an offspring from Theresa Brown.
21 Another way to say that is, they cannot exclude her as a
22 contributor.

23 SLED will go as low as even saying, and I think
24 in this case they testified, that there was a DNA profile
25 recovered from, I think, the hallway sink, but the profile

1 was incomplete and they could only say that the odds were
2 that Mr. Lynch was the contributor was 1 in 3. And
3 they'll go down pretty low on excluding portions of the
4 population.

5 You'll recall, they didn't exclude any part of
6 the population with regard to the blood being that of
7 Ms. Livingston, and they can't. They have half her DNA,
8 basically. I mean, you can't -- you can say it's
9 consistent, but really the more accurate way is there's
10 just nothing there that you can say you can exclude her.

11 Now, whatever happened at M-7 at Commanchee
12 Trail, it started as a mystery and it's ended as a
13 mystery. And we have circumstantial evidence that, at
14 best, raises a mere suspicion of guilt with regard to
15 Mr. Lynch.

16 His guilt cannot be fairly and logically deduced
17 from what the State has to enforce so, so strenuously,
18 which is his trip away from South Carolina. If I concede
19 that that is flight, that puts me in Arnold, flight to
20 Tennessee. The car recovered in Tennessee, ten miles from
21 the boy's house. His print on the coffee lid in the car,
22 has the car, you could say there's flight. No better
23 here, no better here.

24 And this is -- I want to save most of this for
25 closing argument if we get there -- but even if I concede

1 that's flight, and there's some untruthful statements
2 perhaps to law enforcement about how Mr. Lynch decided to
3 get to Seattle or Blaine, Washington, if I just say, okay,
4 that's flight, that doesn't get them past Arnold. Then,
5 what else is there?

6 In Arnold, there was a body recovered, we know
7 that somebody died. At least -- at least in Arnold, they
8 do have that. But the flight in the statements doesn't
9 even get you past Arnold.

10 In Bostick, in Bostick, with all the personal
11 items of a victim found just yards from your back door in
12 a burn pile, and you've got gas on your shoes, and there's
13 gas in the burn pile, and there's gas used to put the
14 house on fire, and to 99 percent certainty, the victim's
15 blood is on your pants, that doesn't do it, we're not
16 even -- the evidence here is far below that.

17 And, Judge, they do describe it as a court's
18 duty, and I don't envy your position. And I guess what I
19 should add is, you know, sometimes when you don't have the
20 facts, you know, maybe you pound on emotion a little bit,
21 too.

22 MR. MYERS: Your Honor, starting off with State
23 versus Owens, 352 S.E.2d 474, a 1987 case, this is a
24 kidnapping case. They tried the defendant, Owens, in the
25 kidnapping of Mr. Vereen when Mr. Vereen's body was never

1 found. So the motion for directed verdict was because
2 they said the State couldn't prove the corpus delicti of
3 kidnapping.

4 The court said the trial judge must submit a
5 case to the jury if there is any evidence, direct or
6 circumstantial, which reasonably tends to prove the guilt
7 of the accused or from which guilt may be fairly and
8 logically deduced. And they talk about circumstantial
9 evidence. And the court finally says the term "corpus
10 delicti" when referring to any particular offense, means
11 that the specific crime has been committed.

12 The corpus delicti of kidnapping in this case
13 was established circumstantially by the evidence of a
14 struggle in the Vereen home and the fact that Mr. Vereen
15 remains missing at the time of trial. The court upheld
16 the denial of the directed verdict motion on the
17 kidnapping charge.

18 Thereafter, they prosecuted Mr. Owens for
19 murder, sought and received the death penalty, and that's
20 at 359 S.E.2d 275. For the murder case, again, the
21 defendant made a motion for directed verdict because the
22 body wasn't found and no proof of corpus delicti. The
23 court said this: "The corpus delicti may be proved by
24 circumstantial evidence."

25 Other courts considering no-body murder cases

1 have allowed evidence of the victim's personal habits and
2 relationships as circumstantial evidence from which an
3 inference could be drawn that the victim's sudden
4 disappearance was the result of death by a criminal act.

5 It says here that circumstantial evidence
6 surrounding Mr. Vereen's sudden disappearance, considered
7 with the unlikelihood of his voluntary departure as shown
8 by his personal habits and relationships, is sufficient to
9 establish the corpus delicti of murder or that the victim
10 is dead by the criminal act of another. They cited the
11 Vereen kidnapping case as authority and they cited other
12 states' no-body cases as authority to override a directed
13 verdict motion.

14 And then lastly, Your Honor, in State versus
15 Weston, that's found at 625 S.E.2d 641, another no-body
16 case. A directed verdict motion was made, it was denied
17 and the Supreme Court upheld it.

18 The Supreme Court said when ruling on a motion
19 for a directed verdict, the trial court's concerned with
20 the existence or nonexistence of evidence, not its weight.
21 A defendant is entitled to a directed verdict when the
22 State fails to prove and produce evidence of the offense
23 charged. When reviewing a denial of the directed verdict,
24 this court used the evidence and all the reasonable
25 inferences in the light most favorable to the State. If

1 there is any direct or circumstantial evidence reasonably
2 tending to prove the guilt of the accused, the court must
3 find the case was properly submitted to the jury.

4 In a murder case, the corpus delicti consists of
5 two elements: The death of a human being, and the
6 criminal act of another in causing that death. They cited
7 State versus Martin, a 1896 case, and they cited State
8 versus Owens, the original no-body death penalty case.

9 This court held that circumstantial evidence
10 surrounding the victim's sudden disappearance, considered
11 with the unlikelihood of his voluntary departure as shown
12 by his personal habits and relationship, was sufficient to
13 establish the corpus delicti of murder or that the victim
14 is dead by the criminal act of another.

15 In this case, the victim here, Ms. Franchey, had
16 an active social life, was active with friends, regularly
17 kept in touch with the apartment managers, her sister, and
18 her friends. She was last seen on August the 6th of 1998.
19 She has not been seen or heard from since.

20 Under Owens, the State's presentation of the
21 victim's habits, coupled with her mysterious disappearance
22 and the fact that she has not been seen or heard from
23 since August of 1998, are sufficient to establish the
24 corpus delicti of murder.

25 Our Supreme Court has ruled on this issue at

1 least three times. On all three times, they have upheld
2 the denial of a directed verdict.

3 Based on those authorities, which are no-body
4 death penalty cases, we submit to you that their motion
5 for directed verdict should be denied.

6 MR. MCGUIRE: Just very briefly.

7 The no-body issue of corpus delicti is not what
8 I'm standing on.

9 THE COURT: I didn't hear you argue corpus
10 delicti.

11 MR. MCGUIRE: I can concede it, and they can't
12 get past Arnold. It's sort of a siren song and a red
13 herring. That's not the issue.

14 What we have, the only evidence, such that it
15 is, is what could be construed as flight and some
16 untruthful statements to law enforcement regarding
17 transportation issues. And that is Arnold.

18 In Bostick, of course, you had a much more
19 direct link to the defendant and the victim, including DNA
20 evidence with 99 percent certainty of the victim's blood
21 on the defendant. That didn't do it. We are so far away
22 from the level of proof necessary that I believe that
23 directed verdict is the only option available to this
24 Court.

25 And, again, I say that I didn't envy the Court's

1 position because in cases like this -- and I'm a Catholic
2 boy from New Orleans and I acknowledge the family's pain
3 and difficulty and emotions are powerful, but we have an
4 obligation to follow the principles of law. And it is
5 described as your duty to not let a case survive directed
6 verdict and put Mr. Lynch in jeopardy of having to be
7 convicted. I mean, the evidence isn't there. This is the
8 critical point for the Court.

9 And, Judge, I want to very respectfully ask if
10 we could -- if we do get past directed verdict and we have
11 to start putting up a case, I'm going to ask if we can do
12 it Monday. We're close to 5, and we've been pretty
13 accommodating with their schedule of witnesses. And I
14 think it would be -- there's no reason that you have rule
15 right now. We could hear your ruling on Monday and
16 proceed if we have to.

17 MR. MYERS: No matter which theory he goes on,
18 Owens -- the two Owens cases, Weston, they all say that
19 when you have the personal habits of a victim with a very
20 active life and stayed in touch with family and friends,
21 had a routine, that they would not leave those family and
22 friends and would not disappear off the face of the earth,
23 and you present all that evidence, and they have not been
24 heard from since -- in this case six years -- it's
25 properly submitted to the jury, and we ask for you to

1 rule, Your Honor.

2 THE COURT: All right. I want to read the cases
3 that have been presented. I read Owens and Weston this
4 morning, but I would like to read them again, as well as
5 Bostick and Arnold.

6 Now, how much of an inconvenience is it, if we
7 do what Mr. McGuire suggested and wait until Monday
8 morning, on the State if we defer ruling until Monday
9 morning?

10 MR. MYERS: No inconvenience.

11 THE COURT: All right. That's what we're going
12 to do. I'm going to take it under advisement until first
13 thing Monday morning. We'll stand in recess until that
14 time.

15 MR. MYERS: Your Honor, for clarification, if
16 you grant the motion, of course we walk out. But if you
17 deny the motion, are we to be prepared to start on Monday?

18 THE COURT: Absolutely.

19 MR. MCGUIRE: Yes, sir.

20 THE COURT: Absolutely. See you-all Monday
21 morning.

22 (The proceedings were concluded for the day to
23 be reconvened on April 30, 2012.)

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

25 VOLUME 9 OF 10

1 THE COURT: All right. Gentlemen, are we ready
2 to go?

3 All right. I considered the directed verdict
4 motion, and as required by law I'm looking for existence
5 of facts and in the light most favorable to the State, and
6 I note for the record that I'm not certain every fact
7 presented was circumstantial, but a large majority was
8 circumstantial. And so understanding that, considering
9 the case law presented by both sides, respectfully, I'm
10 going to decline the directed verdict motion.

11 I have outlined in my notes the circumstantial
12 facts regarding the relationship among the two victims,
13 the extended testimony regarding their personal habits,
14 routines, work area, their hair appointments, all that
15 sort of thing, and then as pursuant to the Supreme Court
16 directives, I guess, under Weston and Owens, the
17 mysterious disappearance coupled with no more word, phone
18 call communication, sighting of the victim since that time
19 is sufficient when considering a directed verdict motion
20 in a case such as this.

21 So, that being my ruling, are we ready to go
22 forward?

23 MR. STITELY: Yes, sir.

24 THE COURT: All right.

25 MR. STITELY: The defense calls Page Moore.

1 THE COURT: Ms. Moore.

2 (Pause.)

3 MR. STITELY: Well, Judge, I don't know. The
4 witness, one of the West Columbia officers, we had her
5 under subpoena, we spoke to her Friday afternoon and told
6 her she'd be first up this morning, but they're telling me
7 she's not here yet, so we may have to call and get her
8 here. I apologize.

9 THE COURT: That's all right. That's her fault.
10 If you've got her under subpoena, and you told her she's
11 first up, we'll get her here.

12 I can show you-all prom pictures while we wait.
13 This is going to be off the record.

14 (A discussion was held off the record.)

15 MR. DRYLIE: The defense calls Rebecca Kilbride.

16 THE COURT: Rebecca Kilbride.

17 REBECCA KILBRIDE, after being duly sworn,
18 testified as follows:

19 THE CLERK: Have a seat, please, ma'am.

20 Once you're seated, speak up loud and clear,
21 stating your full name, spelling your last for the record,
22 please.

23 THE WITNESS: Rebecca Kilbride, K-I-L-B-R-I-D-E.

24 DIRECT EXAMINATION

25 BY MR. DRYLIE:

1 Q Hi, Miss Kilbride. My name is Eric Drylie, and I
2 just have a couple of questions for you this morning.

3 A Yes, sir.

4 Q Where are you currently employed?

5 A Claude A. Taylor Elementary School.

6 Q And in 2006, where were you employed?

7 A The same school, Claude A. Taylor Elementary.

8 Q And what is the address of the school?

9 A 103 Ann Lane, Cayce, South Carolina 29033.

10 Q And in 2006, did you have an after-school program
11 there?

12 A Yes, sir.

13 Q And was there a child by the name of Cassandra L.

14 [REDACTED] in this program?

15 A Yes, sir.

16 Q Now, have you ever seen Mr. Lynch before?

17 A Yes, sir.

18 Q Could you point him out to me?

19 A Right there. (Witness indicating.)

20 Q And how did you know Mr. Lynch?

21 A He would come and pick up Cassandra.

22 Q And about how many times per week would he do that?

23 A Two or three times a week.

24 Q And was he by himself when he did this?

25 A Yes, sir.

1 Q And he would take him (sic) by himself, right?

2 A Yes.

3 MR. DRYLIE: All right. I have no further
4 questions.

5 If you'd just answer any questions they have for
6 you.

7 MR. HUBBARD: No questions.

8 THE COURT: Thank you, ma'am.

9 MR. DRYLIE: Your Honor, may she be excused?

10 THE COURT: She may.

11 Any objection from the State? I'm sorry, I
12 didn't ask.

13 MR. HUBBARD: No, sir.

14 THE COURT: All right.

15 MR. DRYLIE: The defense calls George Mook.

16 THE COURT: Mr. Mook.

17 GEORGE EDWARD MOOK, SR., after being duly sworn,
18 testified as follows:

19 THE CLERK: Have a seat right up there, please,
20 sir.

21 Once you're seated, speak up loud and clear,
22 stating your full name, spelling your last on the record,
23 please.

24 THE WITNESS: My name is George Edward Mook, Sr.

25 DIRECT EXAMINATION

1 BY MR. DRYLIE:

2 Q Would you please spell your last name?

3 A M-O-O-K.

4 Q Thank you, Mr. Mook. My name is Eric Drylie, and I
5 just have a couple of questions for you this morning.

6 Mr. Mook, where are you currently employed?

7 A Classic Ford.

8 Q And this was formerly Bob Bennett Ford?

9 A Yes, sir.

10 Q And were you acquainted with Mr. Lynch?

11 A Yes, sir. We worked together.

12 Q And how about Ms. Washington?

13 A She was the cleanup lady.

14 Q And are you familiar with the car she was driving in
15 2006?

16 A It was a -- I believe it was a Ford Focus.

17 MR. DRYLIE: Permission to approach, Your Honor.

18 THE COURT: Yes, sir.

19 BY MR. DRYLIE:

20 Q Now, I'm going to show you what's been marked State's
21 Exhibit 36. Do you recognize this car?

22 A Yes, sir.

23 Q And was this the car that Ms. Washington was driving?

24 A It looks like it, yes.

25 Q Now, have you ever seen Mr. Lynch drive this car?

1 A Once in awhile.

2 Q Now, before Ms. Washington had this car, did she have
3 another car?

4 A I believe it was a Ford Escort. It might have been a
5 Focus, too.

6 Q So the new car, it wasn't her first car?

7 A No, sir.

8 Q And her old car, was it clean?

9 A Yes, sir.

10 Q And she kept up with it?

11 A She had it serviced there at the company.

12 Q And did you see her drive it often?

13 A When she'd come to work every day.

14 MR. DRYLIE: Thank you. I have no further
15 questions for you.

16 Please answer any questions these gentlemen may
17 have.

18 CROSS-EXAMINATION

19 BY MR. MYERS:

20 Q The Ford Focus was a new car, right?

21 A Yes.

22 Q The other car was an older car?

23 A Yes, sir.

24 Q You don't know how much trouble she had with that, do
25 you?

1 A None that I know of.

2 MR. MYERS: Thank you so much.

3 THE COURT: All right. You may step down.

4 THE WITNESS: Thank you, sir.

5 MR. DRYLIE: Your Honor, I ask he be excused.

6 THE COURT: He may.

7 MR. MYERS: No objection.

8 THE COURT: No objection. You're excused from
9 your subpoena.

10 MR. STITELY: Your Honor, we understand
11 Ms. Moore is on the way from West Columbia, so she'll be
12 here in a matter of minutes.

13 THE COURT: Okay. We'll just stand at ease.

14 (A break was taken.)

15 THE COURT: All right. Come back to order.

16 MR. STITELY: The defense would call Page Moore.

17 PAGE MOORE, after being duly sworn, testified as
18 follows:

19 THE CLERK: Have a seat.

20 Once you're seated, state your full name,
21 spelling your last.

22 THE WITNESS: My name is Page, P-A-G-E, Moore,
23 M-O-O-R-E.

24 DIRECT EXAMINATION

25 BY MR. STITELY:

1 Q Hey, Miss Moore.

2 A Good morning.

3 Q Just a couple of questions actually.

4 How are you today?

5 A Good.

6 Q On February 29th of this year, did you have the
7 occasion to do a follow-up with a Barbara Williams, do you
8 recall?

9 A Yes, sir, I did.

10 Q Okay. And we talked a little bit about some other
11 stuff in this case, so sorry to just jump you right into
12 something specific, but do you recall that meeting?

13 A Yes, I have my notes.

14 Q You have your notes in front of you?

15 A Yes.

16 Q Could you go ahead and make sure -- I don't want to
17 put you at a disadvantage. I'm looking at a Page Moore's
18 handwritten notes on 2/20 --

19 A No, I don't have those with me. These are my
20 investigative notes.

21 Q Would you be okay with what you have in front of you?

22 A Sure.

23 Q Okay.

24 A Either one.

25 Q And you actually caught up with Ms. Williams on the

1 29th of February this year, correct?

2 A Yes, sir.

3 Q And for the Court's edification, Ms. Williams was the
4 lady who was at Daddy-O's ice cream shop back in 2006,
5 correct?

6 A That's correct. It's located in South Congaree.

7 Q Okay. And back in 2006, there was a call into West
8 Columbia that there was a spotting, for all intents and
9 purposes, of a woman who matched the description and a
10 little girl that matched the description of Portia and
11 Angelica, correct?

12 A Yes.

13 Q And at that time when West Columbia responded out,
14 Ms. Williams was no longer in the store because she was a
15 customer?

16 A Right.

17 MR. GRAHAM: Objection, Your Honor. There's not
18 really any questions in anything he's said yet. I think
19 he's testifying.

20 THE COURT: Is that the tip that we admitted --

21 MR. STITELY: Yes, sir.

22 THE COURT: -- was either 79 or 179, it was the
23 one before all the others.

24 MR. STITELY: It was the very first one, Judge.

25 THE COURT: Very first one.

1 You can show her the exhibit also if you like
2 because it's in evidence.

3 Whatever the tip was is what the tip is, and so
4 we want to stay as factually specific on it.

5 MR. STITELY: I can be more questioning instead
6 of statement, if that makes him more comfortable. I don't
7 mind.

8 THE COURT: Okay.

9 BY MR. STITELY:

10 Q And it's true, did West Columbia get a call about a
11 possible sighting?

12 A To my knowledge, yes.

13 Q Okay. It wasn't yours at that time, though?

14 A No.

15 Q It was a Detective -- well, now Major Edwards who
16 went out?

17 A Yes.

18 Q Okay. But you had been aware of that when you were
19 going back out in February, correct?

20 A Yes.

21 Q Okay. And when you went out in February, that was
22 the first time that West Columbia had any actual contact
23 with Ms. Williams; isn't that true?

24 A That's the first contact with her, yes. We did go to
25 the store when the tip came in.

1 Q Okay. And isn't it true that in y'all's meeting, she
2 was disappointed that the police didn't contact her
3 earlier?

4 MR. GRAHAM: Objection, Your Honor. All these
5 questions have been leading.

6 THE COURT: Rephrase your question.

7 BY MR. STITELY:

8 Q What was her reaction to talking to you that day?

9 A That she did not know exactly which police station to
10 call that day, that's why she didn't call and she waited
11 nine days to call it in.

12 Q Okay. Did she express any opinions on how her
13 recollection would have been if they would have came and
14 contacted her back in 2006?

15 A I think she just stated that she felt like if she
16 could have made contact with the local police department
17 there in, I think that's Pine Ridge, that she felt like
18 they could have at least talked to these two ladies.

19 Q Okay. And, once again, your interview with her
20 happened five years and eight months after the fact,
21 correct?

22 A Yes.

23 Q And to your knowledge, no one from West Columbia
24 during any point in this investigation talked to her
25 before that?

1 A Before that, no.

2 MR. STITELY: No further questions.

3 CROSS-EXAMINATION

4 BY MR. GRAHAM:

5 Q Detective Moore, you spoke with Ms. Williams
6 February 29th of 2012, this year, right?

7 A Yes, sir.

8 Q You went to her house?}

9 A Yes, sir.

10 Q Do you know of any reason why she isn't here in this
11 courtroom today?

12 A No, sir.

13 MR. GRAHAM: Thank you.

14 MR. STITELY: One just quick follow-up.

15 REDIRECT EXAMINATION

16 BY MR. STITELY:

17 Q Was it hard to locate her?

18 A No.

19 Q Did she indicate that she's a sitter for a
20 101-year-old woman?

21 MR. GRAHAM: Objection, Your Honor. That's
22 beyond the scope of redirect.

23 MR. STITELY: He asked why she's not here.

24 THE COURT: I think that's within the scope, so
25 I'll allow that question.

1 THE WITNESS: I don't know she said that she was
2 a sitter. I know that she said her mother is 101 years
3 old today or at this date.

4 BY MR. STITELY:

5 Q And she told you that she took care of her momma?

6 MR. GRAHAM: Objection, leading.

7 THE WITNESS: I don't know what -- is it in my
8 notes?

9 BY MR. STITELY:

10 Q Yes, it is.

11 A Can you point it out to where it is? I'll be glad to
12 read it.

13 THE COURT: I'll sustain the objection.

14 You can rephrase it.

15 BY MR. STITELY:

16 Q What, if anything, did she tell you about her mother?

17 MR. GRAHAM: Objection, hearsay.

18 MR. STITELY: That's fine, Judge. I'll just let
19 it go.

20 THE COURT: All right. Fair enough. Thank you.
21 Anything else?

22 MR. STITELY: No, sir, not for her, no.

23 THE COURT: All right. You may step down.

24 THE WITNESS: Thank you.

25 MR. STITELY: Your Honor, we call Matt Martin to

1 the stand.

2 THE COURT: Martin?

3 THE CLERK: Is she released from her subpoena?

4 MR. STITELY: Yes. Thank you.

5 MATT MARTIN, after being duly sworn, testified
6 as follows:

7 THE CLERK: Have a seat, please, sir.

8 Once you're seated, state your full name,
9 spelling your last.

10 THE WITNESS: My name is Matt Martin,
11 M-A-R-T-I-N.

12 DIRECT EXAMINATION

13 BY MR. STITELY:

14 Q Mr. Martin, where are you currently employed?

15 A I work for the 11th Circuit Solicitor's Office in
16 Lexington.

17 Q And in what capacity?

18 A I am the chief investigator.

19 Q Okay. So you've had some involvement with this case
20 that we're here for today?

21 A Yes, sir.

22 Q I just want to ask you one specific little thing.

23 At some point in March of 2009 -- or 2012,
24 specifically March 9th, did you receive correspondence
25 from TransUnion Credit?

1 A Our office.

2 Q I'll show it -- I'll show it to you. It's the March
3 16th discovery, page 42.

4 Do you recall getting a letter addressed to
5 Chief Investigator Matt Martin in response to a subpoena,
6 in theory, for TransUnion Credit?

7 A Yes, sir, that looks like the letter I got.

8 Q And we actually heard from the gentleman from
9 TransUnion come and testify about Ms. Washington's credit
10 during this trial, correct?

11 A Steve Newnom, yes, sir.

12 Q Okay. Now, were you in the courtroom when we had
13 asked the Court for an order regarding the credit record
14 on Ms. Livingston?

15 A I vaguely remember that, yes, sir.

16 MR. STITELY: Would you mark this as a Court's
17 exhibit -- or a defense exhibit at this time. It's the
18 actual order.

19 Your Honor, we'd offer, just for the record's
20 sake, Defense Exhibit 91. It's the order for credit
21 reports on Ms. Livingston that was signed, dated
22 April 20th of 2012. No. 91.

23 THE COURT: Any objection to that subpoena?

24 MR. GRAHAM: No objection.

25 THE COURT: All right. This is part of the

1 General Sessions file for this case anyway, isn't it?

2 MR. STITELY: Yes, sir.

3 THE COURT: Okay.

4 (WHEREUPON, DEFENDANT'S Exhibit No. 91 was
5 marked for identification and received into
6 evidence.)

7 MR. STITELY: I'm going to mark these real
8 quick. I'll mark all three of these as one.

9 (WHEREUPON, Defendant's Exhibit No. 92 was
10 marked for identification only.)

11 BY MR. STITELY:

12 Q First of all, I'm going to show you a response letter
13 that we got from TransUnion Credit. Have you seen a
14 letter like this in the past? And I'll show you the one
15 you received back on March 9th.

16 THE WITNESS: Your Honor, can I get my reading
17 glasses from the table?

18 THE COURT: Absolutely. Come and get his
19 reading glasses for him.

20 I find that request to be very reasonable.

21 THE WITNESS: Thank you.

22 BY MR. STITELY:

23 Q Do you want to look at the original letter to kind of
24 see -- this is how it came to you, right?

25 A It looks to be an identical letter, just addressed to

1 your paralegal.

2 Q Like a form letter in response to a subpoena?

3 A Correct.

4 Q The second document included, which actually appears
5 to be the Consumer Credit Report, identical in nature to
6 the kind you received regarding Ms. Washington or Portia
7 Bracey as it was stated on hers?

8 A Without looking through it completely, yeah, it looks
9 like the same document.

10 Q All right. And the same from TransUnion.

11 And the last one, a sworn affidavit from the
12 letter addressed by Ms. -- Mr. Christopher Hatalla, just
13 saying that he's their evidence custodian or their records
14 custodian?

15 A One of their keeper of the records.

16 MR. STITELY: Your Honor, at this time, we'd
17 offer Defense Exhibit No. 92 into evidence.

18 THE COURT: The credit report.

19 MR. GRAHAM: No objection, Your Honor.

20 THE COURT: All right. Without objection.

21 (WHEREUPON, DEFENDANT'S Exhibit No. 92, having
22 previously been marked, was admitted into evidence.)

23 THE COURT: That's two pages?

24 MR. STITELY: It's three, Your Honor. It's the
25 actual -- just the cover letter, the actual report, and

1 the affidavit.

2 BY MR. STITELY:

3 Q I'm going to show you the actual credit report that
4 we received. And just for the record, what date was this
5 correspondence delivered to us?

6 A What date did you get it?

7 Q Yeah.

8 A It looks like it was written on April the 23rd of
9 this year.

10 Q Okay. And it indicates it came by fax?

11 A It doesn't indicate that, but there's some faxed
12 letter at the time.

13 Q Looking at the actual credit report, who -- what
14 Social Security number was ran in this case?

15 A For this?

16 Q For the -- yeah, the one we requested and got on
17 Friday.

18 A For the one you requested, it looks to be

19 [REDACTED]

20 Q Are you familiar with Ms. Cassandra or Cassandra L.

21 [REDACTED] Social Security number?

22 A I am.

23 Q Is that it?

24 A That is her.

25 Q And looking at this record, what this appears to

1 be -- and correct me if I'm wrong -- is this some kind of
2 a collection report where a creditor, specifically a
3 Design REC, was seeking an unpaid credit balance?

4 A It does. If I can explain a little bit more of what
5 I know. I've done a lot of research on this.

6 Q Okay.

7 A This is a Sandra Livingston.

8 Q Right.

9 A And I did some research, and there's a Sandra
10 Livingston with a different date of birth than our victim
11 in this case. Her date of birth is actually 7 of '60.

12 Q Uh-huh.

13 A And -- but this Social is married up to her.

14 Q Okay. But you're not -- you would agree that that is
15 Cassandra's Social?

16 A That's her Social, but that's not her name.

17 Q Okay. But it says Sandra Livingston?

18 A It does.

19 Q Okay.

20 A And you're correct, there is a credit hit.

21 Q For a medical bill in California in October of 2008,
22 correct?

23 A It looks like it could be a credit report -- I mean,
24 a credit hit for -- it says health, it looks like health
25 up here.

1 Q Okay. And what is the location on it?

2 A It says 1 Center Point Drive, La Palma, California --

3 Q Okay. And what --

4 A -- 90623.

5 Q And what is the date that this credit account was
6 placed in an open status?

7 A The open status was 10 of '08.

8 MR. STITELY: Okay. I have no further questions
9 to ask you.

10 THE COURT: All right, sir.

11 MR. STITELY: Your Honor, I'd publish this up to
12 the Court.

13 CROSS-EXAMINATION

14 BY MR. GRAHAM:

15 Q Good morning, Mr. Martin.

16 A Good morning, Mr. Graham.

17 Q You said that you had done some work on this issue.
18 Can you tell me a little bit about what you found out?

19 A I do actually have a folder on this issue back there.

20 I ran a driver's license. I heard Mr. Stitely
21 talking about this issue, and one of the jobs that I do at
22 the Solicitor's office is try to locate people, and so I
23 use Socials and date of births and things like that. And
24 I often see this over-marriage, as I call it, of Socials
25 and DOBs and things like that. And so it concerned me,

1 obviously, that Mr. Stitely was talking about that.

2 And I found a Sandra Livingston, who is related
3 down the line to Cassandra L. [REDACTED] and that she does
4 have a driver's license in this state, that she was born
5 in 1960, that she has somewhat of an extensive criminal
6 history, and that she's used several Social Security
7 numbers throughout her criminal past.

8 Q Do you have her rap sheet there with you?

9 A I do.

10 Q How many different aliases showed up on Miss Sandra
11 Livingston?

12 And how old is she, you said she was 60?

13 A She was born in 1960.

14 Q So she's 61 or 62 right now?

15 A Correct.

16 THE COURT: No, no, no. Fifty-one, 52. You're
17 getting close to home.

18 THE WITNESS: Yeah, 52.

19 BY MR. GRAHAM:

20 Q Okay.

21 A She has nine different aliases on her rap sheet.

22 Q And how many different Social Security numbers has
23 she used?

24 A Four different Social Security numbers.

25 Q Does she have any convictions involving dishonesty?

1 A She does. I think she's got some breach of trust
2 issues, some bad checks, shoplifting.

3 Q Does she have a problem taking things that aren't
4 hers?

5 A It appears that way from her rap sheet.

6 Q On her DMV motor vehicle, were you able to determine
7 any of her previous addresses?

8 A She's got a Bradberry Drive address listed currently.
9 I'm not sure how current that is. And then she's got a
10 Willow Street address in Columbia as well.

11 Q That's the same thing that's showing up on the
12 TransUnion credit report, too?

13 A I'm not sure what that -- if there was an address
14 that was affiliated with that.

15 Q Do you have -- do you still have that document?

16 A I don't have it.

17 MR. STITELY: I gave it to the judge.

18 MR. GRAHAM: Oh, the judge has it?

19 THE WITNESS: Thank you, sir.

20 BY MR. GRAHAM:

21 Q Looking at that defense exhibit.

22 A Yes, sir. I can answer that question.

23 Her address on this TransUnion report is 529
24 Bradberry Drive, which is the same as her driver's
25 license.

1 Q And then the previous address that's listed on the
2 TransUnion report, is that also the Willow Street address
3 that you found with the DMV?

4 A It looks like it's got a -- it's one number
5 different. On the TransUnion credit report, it says,
6 [REDACTED] -- and, I'm sorry, it's two numbers
7 off -- on her change of address on her driver's record, it
8 has [REDACTED] Willow Street. So similar but several numbers
9 off.

10 Q The address for the hit on the TransUnion report was
11 in California, I think, as Mr. Stitely pointed out?

12 A Yes, sir. La Palma, California.

13 Q And you'd agree with me by the time something shows
14 up that's placed for collection, it's probably sent to a
15 credit agency, a credit collection agency, isn't it?

16 A True.

17 Q And regardless, a 13- or 14-year-old little girl is
18 not going to have any credit in her name, is she?

19 A No, sir. And that -- to follow up, that's why I run
20 credit reports on minors, they don't have credit so you
21 wouldn't expect anything to show up.

22 Q So knowing all this, what, if any, opinion do you
23 have about the Social Security?

24 MR. STITELY: I'll object. He's not qualified
25 as an expert to offer an opinion.

1 THE COURT: Sustained.

2 MR. GRAHAM: Thank you, Mr. Martin.

3 THE WITNESS: Sure.

4 REDIRECT EXAMINATION

5 BY MR. STITELY:

6 Q Just very specific, the Social Security number that
7 does appear on this credit report is that of Miss
8 Cassandra L. [REDACTED] correct?

9 A That is correct.

10 Q And regardless of when it showed up, it shows up from
11 California in 2008, correct?

12 A Yes, sir, you are exactly right.

13 Q One month after the five sightings in California?

14 A I'm not --

15 Q Okay.

16 A You can show me that.

17 Q May I look at the driving history and the records?

18 A Sure can.

19 Q Thank you. There's nothing in either of these to
20 indicate that this woman lived in California back in the
21 summer of 2008, is there? I'm sorry, Matt, I didn't mean
22 to --

23 A No, that's fine.

24 No, it doesn't. If I could follow up on that,
25 though.

1 Q I'm all right at this point.

2 A I'm sure.

3 Q Do you know who a Matthew Livingston is?

4 A Doesn't ring a bell. I know there's a lot of
5 Livingstons that I -- I haven't researched the family tree
6 very well.

7 MR. STITELY: Thank you very much.

8 RECROSS-EXAMINATION

9 BY MR. GRAHAM:

10 Q Mr. Martin, what did you want to follow up on?

11 A I wanted to follow up on the fact that if I get a
12 bill in Lexington, South Carolina, at a local hospital,
13 that a collection agency may be in Taiwan or California or
14 Blaine, Washington. That's the collection agency. That's
15 not where the bill -- that's not where you got your
16 services or where it came. This is from a collection
17 agency that could very well be anywhere in the United
18 States, other than where the actual person is.

19 MR. GRAHAM: Thank you, Mr. Martin.

20 MR. STITELY: No further questions, Your Honor.

21 THE COURT: You may step down.

22 MR. STITELY: The defense would call April
23 Bayne.

24 APRIL BAYNE, after being duly sworn, testified
25 as follows:

1 THE CLERK: Have a seat, please.

2 Once you're seated, state your full name,
3 spelling your last, please.

4 THE WITNESS: Last name is B as in boy A-Y-N-E.

5 DIRECT EXAMINATION

6 BY MR. STITELY:

7 Q Just a couple quick questions.

8 You were just sitting here, and you said one of
9 the things you did was you ran Social Security numbers
10 whenever a lead came up to determine whether or not you
11 wanted to follow up on that, that's what you said on
12 Friday on cross; is that correct?

13 A I said we ran Social Security numbers periodically
14 throughout the investigation.

15 Q Is it fair to say that no one from West Columbia ever
16 followed up on that hit from October of 2008?

17 A Which hit are you talking about?

18 Q The one for Miss Cassandra L. [REDACTED] Social
19 Security number back in 2008, October of 2008.

20 A That hit did not come up, no.

21 Q Okay. Do you know who Matthew Livingston is?

22 A I do not.

23 Q On Friday, you were talking about one of the things
24 you did is you actually went out to the Rug Doctor stores
25 to see if there was anyone who got cleaning supplies,

1 correct?

2 A I did not do that, correct.

3 Q But you're aware it was done?

4 A I was aware it was done. Captain Owens had wanted an
5 investigator to do that. I believe it was Chuck Hamrick.

6 Q Okay. Are you aware that a Matthew Livingston showed
7 up as renting a Rug Doctor during that time frame?

8 A Not off the top of my head. I don't have any of my
9 notes or any of his up here.

10 Q Would it surprise you if a Matthew Livingston had
11 checked out a Rug Doctor on June 12th and returned it on
12 June 13th?

13 MR. GRAHAM: Your Honor, if I could object.
14 These are questions that he could have asked when she was
15 up earlier. These are questions that are not relevant,
16 and these are all questions that are leading. The State
17 would object to this.

18 THE COURT: I'm going to --

19 MR. STITELY: It's our case.

20 THE COURT: -- sustain your objection as
21 leading, but I'm going to allow these questions. He just
22 has to rephrase it.

23 MR. STITELY: Yes, sir.

24 BY MR. STITELY:

25 Q Did you follow up with the individuals who rented Rug

1 Doctors?

2 A I did not.

3 Q Did you follow up specifically with a Matthew
4 Livingston?

5 A Again, I don't have the -- that officer's notes in
6 front of me, so I'm not sure off the top of my head.

7 Q As the lead case agent, all of West Columbia's
8 investigations, was the fact that another Livingston
9 checked out a Rug Doctor followed up?

10 MR. GRAHAM: Objection, Your Honor. This is, I
11 guess, an attempt at third-party guilt, and it's not
12 legal. This is not the way you do it. He doesn't have --
13 all he's doing is casting suspicion on people, and this is
14 improper.

15 THE COURT: Well, there's a good-faith basis.

16 MR. STITELY: Well, Mr. Martin just brought up
17 all these criminal records of people with the same last
18 name as having honesty and lying problems. They testified
19 in direct that that was one of the things they looked
20 into.

21 Her name, it's already been put into evidence
22 that the mother had some involvement with a criminal past
23 as well as the fact that the girl's father, a Livingston,
24 was killed in a criminal act.

25 They went specifically looking for people who

1 checked out a Rug Doctor. The name shows up. I'll just
2 ask if they followed up.

3 THE COURT: I think I'll allow you to ask that
4 question, but I don't need an expose of all the facts.

5 BY MR. STITELY:

6 Q They didn't follow --

7 MR. GRAHAM: Your Honor, if I may, I'm sorry,
8 he's -- I thought we were still arguing.

9 You can't just cast stones at people. You can't
10 just say, couldn't somebody else have done it. You have
11 to have more than that. And that's all he's doing.

12 They've done this the whole time and we haven't objected,
13 but this is -- this is way out of bounds. If you want
14 case law, I can find it. It's improper.

15 You can't just imply that anybody else could
16 have done it. There has to be more than that. It doesn't
17 matter that he has a good-faith basis to ask the question.
18 It's improper.

19 THE COURT: I thought he was limited to the
20 question of following up the lead on the renting of the
21 rug cleaning machines. That's it.

22 MR. GRAHAM: Then it's not relevant. Unless
23 he's trying to say that somebody else did the crime, and
24 they went to go rent a Rug Doctor to clean the carpet,
25 it's not relevant.

1 MR. STITELY: Your Honor, we're impeaching the
2 investigation. They said that they did all this stuff.
3 They went so far as to go check on people checking out Rug
4 Doctors. I'm just asking if they followed up when they
5 had a name --

6 THE COURT: Then she's answered it.

7 MR. STITELY: Okay.

8 THE COURT: It's good enough. Leave it alone.

9 MR. STITELY: That's fine.

10 That's all we have for Ms. Bayne.

11 Thank you, Judge.

12 MR. GRAHAM: No questions. Thank you, Ms.

13 Bayne.

14 MR. STITELY: That's the defense's case, Your
15 Honor.

16 THE COURT: That's your case?

17 MR. STITELY: Yes, sir.

18 MR. MYERS: At this time, Your Honor, we would
19 ask before they rest if you'd fully advise the defendant
20 about his right to testify.

21 THE COURT: I think that's a nice suggestion. A
22 very proper one, I believe, considering.

23 MR. STITELY: Your Honor, one other thing on
24 that note. We meant to do it, and I don't know what the
25 appropriate timing is.

1 We'll have, of course, more motions. Before
2 those motions, we would be asking to move in Mr. Screen's
3 testimony as well as Ms. Moore's testimony, that previous
4 hearing regarding witnesses. And then we have a couple of
5 motions. But with the timing being the way it is, we're
6 not sure how you want to do that. We have some motions
7 regarding extrajudicial statements.

8 THE COURT: All right. Tell you what let's do.
9 Let's take a break because I can -- and I want before
10 you've fully rested because I think we need to -- the
11 Court needs to address with Mr. Lynch his right to testify
12 if he wishes to. And then I would encourage the attorneys...
13 to make certain that we've proffered, because of the bench
14 trial method we've gone through, all the appropriate
15 testimony that needs to be put into the record, either by
16 agreement or -- you-all can agree to it or not, but, I
17 mean, I understand you've got some motions pretrial and
18 you want the record protected on those.

19 Also, I want to make certain that the exhibits,
20 which have been introduced, you-all just make a
21 determination while we're on break as to exactly which
22 motions we need -- or you need to have anything proffered.
23 Likewise, the State would have an opportunity for any
24 rebuttal they wish, if any, and the same proffering if
25 they would like anything proffered, but I doubt they

1 would, but that's their decision.

2 So we'll take a break. I'll be back in
3 15 minutes and then we will --

4 MR. STITELY: Yes, sir.

5 THE COURT: -- move forward.

6 (A break was taken.)

7 THE COURT: All right. Mr. McGuire, just prior
8 to the break -- I don't know if you or Mr. Stitely
9 indicated you-all -- the defense did not intend to call
10 any more witnesses; is that correct?

11 MR. MCGUIRE: That's correct, Your Honor,
12 Mr. Stitely's got this.

13 THE COURT: All right. Mr. Stitely, it would be
14 you then.

15 All right -- let's -- I will need to make a
16 determination with Mr. Lynch.

17 So, Ms. Frick, if you'll place him under oath
18 for the purposes of this.

19 KENNETH LYNCH, after being duly sworn, testified
20 as follows:

21 THE COURT: All right. Mr. Lynch, you've been
22 placed under oath. So at this time I'm going to explain
23 to you certain rights that you have under our
24 constitution.

25 If you do not understand anything I say, let me

1 know. And if you want me to explain something further in
2 more detail, let me know also. Okay?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, we've reached the stage of the
5 trial where your attorneys have presented several
6 witnesses in your defense.

7 Now, you have the right to claim protections
8 given to you by our Fifth Amendment in the United States
9 Constitution as well as in the Constitution of the state
10 of South Carolina.

11 An appropriate portion of the Fifth Amendment
12 states, and I quote: "No person shall be compelled in any
13 criminal case to be called a witness against himself."
14 This means that you cannot be required to testify in this
15 case, but you have the right to testify on your own
16 behalf. No one can make you testify. This is a personal
17 right and no one can waive this right except you.

18 Now, I must advise you that if you decide to
19 testify, you'll be subject to the same rules that govern
20 the other witnesses which have testified already. You may
21 be examined and cross-examined on any relevant issue in
22 this case.

23 Additionally, if you have any convictions
24 involving dishonesty or false statements for crimes
25 punishable by imprisonment for more than a year and I

1 determine that the probative value of admitting this
2 evidence outweighs its prejudicial effect to you, then the
3 Solicitor or the State will be allowed to introduce your
4 record to attack your credibility.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Also, if you decide to testify, and
8 this decision is your decision, it must be freely,
9 voluntarily, and intelligently made with the knowledge of
10 the protections given to you by the Fifth Amendment as
11 well as the consequences of your decision to either
12 testify or not to testify.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Also, if you choose or decide to not
16 testify, the law requires that the Court or the fact
17 finder not take into consideration and have absolutely no
18 prejudice to you because you did not testify. I instruct
19 you that it's left entirely up to you whether to testify
20 or to not testify.

21 Now, would you like to discuss your decision to
22 testify or not with your attorneys Mr. McGuire or
23 Mr. Stitely at this time?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you had an opportunity to

1 discuss this decision with them prior to this hearing
2 we're in at this moment?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, have you been allowed to have
5 discussions with any immediate family members or your
6 pastor or close friends regarding this decision?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you need to discuss this
9 decision with anyone before we go forward?

10 THE DEFENDANT: No, sir.

11 THE COURT: And do you understand the rights and
12 law which I've explained to you regarding your decision to
13 testify or not to testify?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you have any questions about what
16 I've explained to you?

17 THE DEFENDANT: No, sir.

18 THE COURT: Now, your attorneys told me that it
19 was your decision to not testify; is that correct?

20 THE DEFENDANT: That's correct.

21 THE COURT: Is that still your decision?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Mr. Stitely and Mr.
24 McGuire, would y'all represent to the Court whether y'all
25 discussed this decision with him and have been given an

1 appropriate time, a reasonable amount of time, and that
2 this decision is made -- would y'all please apprise the
3 Court, have y'all had an opportunity to discuss your
4 client's decision to testify or not testify?

5 MR. STITELY: Your Honor, we have in the past,
6 and then Mr. McGuire went over it with him again at the
7 break we just took, Your Honor.

8 THE COURT: Now, is it your understanding that
9 he understands these rights which I've explained to him?

10 MR. STITELY: He does, Your Honor.

11 MR. MCGUIRE: He does, Your Honor.

12 THE COURT: Do you believe you need any further
13 time to discuss this right with him?

14 MR. STITELY: No, sir, Your Honor.

15 MR. MCGUIRE: No, sir.

16 THE COURT: Is it your impression that he is
17 knowingly and intelligently and voluntarily making this
18 decision?

19 MR. STITELY: He is, Your Honor.

20 THE COURT: Y'all have not been advised that
21 anyone's trying to influence that decision beyond his
22 legal team?

23 MR. STITELY: No, sir.

24 MR. MCGUIRE: No, sir.

25 THE COURT: All right. Mr. Graham, any

1 questions from the State?

2 MR. GRAHAM: Your Honor, the only --

3 THE COURT: I want to make certain -- I think
4 I've gone over the rights, but for the -- protecting the
5 record.

6 MR. GRAHAM: Yes, sir. Just for the record,
7 Your Honor, the State wanted to make clear that the
8 defendant has no impeachable offenses that he would be
9 crossed on if he testified at this time.

10 THE COURT: All right. Now, does that -- I'm
11 certain that the defense team knew that. The Court was
12 not aware of that, or I'd forgotten it amidst the other --

13 MR. MCGUIRE: To just kind of cut to the chase,
14 I specifically discussed that issue with Mr. Lynch, both
15 in the past and approximately 20 minutes ago, and I
16 informed him that in my view he had no impeachable
17 offense. So his decision would have been made already
18 knowing that information.

19 THE COURT: Very well.

20 All right. Anything further on this issue from
21 the State? I don't think --

22 MR. GRAHAM: No, Your Honor.

23 THE COURT: Very well. All right. Thank you
24 much. Y'all may sit down.

25 All right. Now, while we were on break and

1 denied.

2 MR. STITELY: I think, Judge, that's the end of
3 the motions we have out there. We'd, of course, renew any
4 previous motions at this time and as to incorporate any of
5 the outstanding rulings and our objections through our
6 case in chief.

7 The only thing as I speak to Mr. Graham during
8 the break is I think we're coming towards that time when
9 closing arguments may be appropriate. Before that, we'd
10 re-up our directed verdict motion at this time now that
11 all the evidence is into the record, all of the facts are
12 now in, that we're still at that lack of substantial
13 circumstantial evidence to send the case forward to the
14 jury.

15 Beyond that, we were discussing potential
16 charges. We didn't know if Your Honor had a printout of
17 what you'd envision, even though you would read the charge
18 necessarily to yourself, just so we know where we need to
19 be for our argument or if we're going to make any
20 objections or suggestions regarding a charge, we could
21 maybe take a look at that.

22 THE COURT: All right. Considering your
23 directed verdict motion, having considered it over the
24 weekend, and I poured through my notepad looking for the
25 evidence to submit, that decision hasn't changed. There

1 is the existence of evidence considered in the light most
2 favorable to the State that would permit the case being
3 provided to the fact finder and/or the jury. And, so,
4 respectfully, I'll decline the directed verdict motion at
5 this time.

6 All right. Now, tell me again about the charge.
7 I hadn't planned on preparing a jury charge to read to
8 myself.

9 MR. MYERS: Just for the record, too, now, the
10 defense has officially rested?

11 THE COURT: Yes, sir. They made a directed
12 verdict motion that has been denied.

13 MR. MYERS: And the State rests also without any
14 reply.

15 THE COURT: All right. Now, we're discussing
16 logistics now.

17 MR. STITELY: Yeah. Mr. Graham brought that up,
18 and I didn't even think about it, but I guess we would
19 need to know what Your Honor intends to consider as the
20 law in this case.

21 We would offer the circumstantial evidence
22 charge that's found in State v. Grippon. It's something
23 we can take up later. I can hand up the case, Your Honor.
24 It's actually a -- the charges mentioned in the dissent by
25 Chief Justice Toal, now Chief Justice Toal, talking about

1 where the charge of circumstantial evidence should be.

2 I guess we just kind of wanted to see what you
3 envision being your complete charge as we're making
4 arguments on the law or if we're going to offer any
5 objections to any portion of what the law to be considered
6 by the Court in this case is.

7 THE COURT: What's you-all's posture on the -- I
8 guess, I mean -- correct me if I'm wrong -- the
9 circumstantial evidence instruction that would be given to
10 the jury, if a jury were here, would be the issue we're
11 discussing right now, what will you be telling the jury
12 when we start the instructions after our closings.

13 Does the State agree that the charge on
14 circumstantial evidence as outlined by Grippon is
15 consistent with the appropriate law, Mr. Myers?

16 MR. MYERS: We'd be comfortable with any
17 standard you so use, Your Honor, whether your regular
18 charge on circumstantial evidence or whatever you so
19 choose is fine with us.

20 MR. STITELY: And, Your Honor, for clarity sake,
21 we're talking about the old Edwards charge. Grippon says
22 that, you know, we wish the old Edwards standard was still
23 in play. It pretty much says that in a circumstantial
24 evidence case, if the fact finder was to view any story
25 that was plausible without the absence of direct evidence,

1 they should find him not guilty. Circumstantial evidence
2 has to be complete. And in that Andrew Grippon ruling,
3 Chief Justice Toal says we should still be at that
4 circumstantial charge. She said it in her dissent.

5 THE COURT: And she said that in her dissent?

6 MR. STITELY: Yes, sir.

7 MR. MYERS: We would ask you take the
8 circumstantial evidence law as has been decided by the
9 South Carolina Supreme Court and not dissents.

10 THE COURT: I think I'm required to take it as
11 handed down by the Supreme Court. I don't think there's a
12 choice on this.

13 Let me read Grippon real quick.

14 (Pause.)

15 THE COURT: I'll tell you what. Why don't we --
16 is it not easier to do it this way? I'm required to apply
17 the law as it's handed down by the Supreme Court, and I
18 make every attempt to do so. And I'm not allowed to
19 apply -- that methodology is not allowed by the Supreme
20 Court if the instruction's improper.

21 Now, why can't y'all just argue without -- with
22 the understanding that I understand the law? I mean,
23 you're not -- I guess you're at a little bit of a
24 disadvantage. You're not really talking to a jury and
25 trying to help educate 12 members who are not within

1 the -- don't understand the law, so there's -- why can't
2 you just argue it, and if you mischaracterize the law, I
3 don't mind either way. I mean, the law is the law, and if
4 you want to point out certain aspects of it, it's like
5 handing the cases up as you did last week. Y'all handed
6 up two, they handed up two, I read them and applied them
7 as appropriately as I could.

8 I'm not going to charge something that is not
9 the law, though. I understand the Grippon dissent, but
10 I'm not going to go there.

11 And I would rather not have to prepare a jury
12 instruction and hand it to you to show you what I'm --
13 what I would read to the jury if I did -- if I did
14 actually instruct a jury.

15 Now, if you believe I should because of the
16 record in this case, because of the unusual nature of this
17 case, then we'll just take the time to do it. It'll just
18 take a good while to do.

19 MR. STITELY: Your Honor, we're okay without the
20 written copy. I just want to make sure I'm clear on the
21 record. The reason we would ask -- and I keep saying
22 dissent. It's a concurring opinion where she just
23 disagrees with how they reach it.

24 It's just never been asked for before in a
25 capital case where we do have the heightened standard

1 under the Eighth Amendment. We would just ask to reflect
2 that the evidence has to be greater because you have that
3 heightened reliability standard in a capital case. If
4 this was a regular involuntary manslaughter case, like we
5 said, it would not be appropriate.

6 We just want to put on the record to make sure
7 in a capital case we think it's appropriate when the
8 evidence is solely circumstantial, we revert back to the
9 old Edwards standard, which is any exception that would
10 tend to disprove the case is sufficient to defeat the
11 case.

12 THE COURT: Okay. Understanding your request is
13 respectfully declined, but it is noted on the record, so
14 you have protected the record to that extent on the law as
15 applicable to circumstantial evidence.

16 MR. STITELY: Thank you, Your Honor.

17 THE COURT: All right. What else?

18 How long are you-all going to take?

19 MR. MYERS: I have two things, Your Honor.

20 THE COURT: All right. Go ahead.

21 MR. MYERS: Number one, as to the form of
22 verdict, what's the defendant's position as to the form of
23 the verdict?

24 MR. MCGUIRE: I'm not sure I understand.

25 MR. MYERS: We have murder, murder, grand

1 larceny of a vehicle. So the forms of the verdict would
2 be those three, guilty or not guilty.

3 THE COURT: That's how I would be. There'd be
4 three charges and two results per charge that are mutually
5 exclusive.

6 MR. MYERS: Yes, sir, that would be our
7 position. We just wanted to get the defendant's position
8 on the record.

9 THE COURT: All right.

10 MR. MCGUIRE: I don't think there's evidence
11 from which I could argue otherwise.

12 THE COURT: All right.

13 MR. MYERS: And then the final thing is, before
14 closing arguments, we request that you advise the
15 defendant that he, too, has the right to make a closing
16 argument.

17 THE COURT: He has that right also in the guilt
18 phase as well as the sentencing phase.

19 MR. MCGUIRE: Yes, sir.

20 MR. MYERS: Yes, sir.

21 THE COURT: Seems like I remember learning that
22 as a law clerk.

23 All right. Mr. Lynch, one more time, for
24 purposes of this record, your attorneys are about to make
25 closing arguments, I don't know if it's in the next few

1 minutes or the next little bit, but sometime today, one of
2 them or both of them, I'm not sure which, regarding their
3 beliefs on what the facts in evidence have shown and what
4 the fact finder can do and how to evaluate the facts.
5 They're allowed to make that on your behalf.

6 Likewise, you, individually, may also make a
7 closing statement or argument to the Court and to the fact
8 finder. In this case, it's one and the same. I stand as
9 the fact finder from this point forward.

10 Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you need to decide whether or
13 not you would like to make a closing summary or a closing
14 argument to the fact finder. If you decided -- have you
15 discussed that issue with your attorneys?

16 THE DEFENDANT: No, sir.

17 MR. MCGUIRE: Actually, Judge, if I could have
18 one second.

19 THE COURT: Take the time you need.

20 (Pause.)

21 MR. STITELY: Okay. We've discussed it.

22 THE COURT: All right. Mr. Lynch, would you
23 like to make a closing statement to the Court at the
24 appropriate time?

25 THE DEFENDANT: Your Honor, I respectfully

1 decline.

2 THE COURT: Very well. I most likely will ask
3 you again at the appropriate time. All right?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Very well.

6 All right. Solicitor, thank you for that
7 suggestion.

8 Now, it's a few minutes to noon. Would it be
9 appropriate to take an earlier lunch break and come back?

10 MR. STITELY: I would like that, Your Honor.

11 THE COURT: I think I'd like that. I would like
12 to get something to eat.

13 How long -- can y'all give me an estimate or
14 you-all want to wait and give me an estimate then?
15 Because if we take a break now, I'm going to suggest we
16 come back at 1:15. It would be an hour and a half. Is
17 that enough time for you-all to get your thoughts
18 together?

19 MR. STITELY: Yes, sir.

20 THE COURT: All right. It doesn't matter how
21 long you're going to be. Take as long as you like. We'll
22 see y'all at 1:15.

23 MR. STITELY: Thank you, Your Honor.

24 (A lunch break was taken.)

25 THE COURT: Are we ready to go?

1 MR. HUBBARD: The State's ready.

2 MR. MCGUIRE: The defense is ready.

3 THE COURT: All right. Just so we don't create
4 any unusual distractions, Lieutenant Bethel and I talked
5 earlier, and I like to keep the courtroom door shut so
6 that I'm not distracted. I want to hear what y'all got to
7 say, and so I'm going to be attentively listening, and
8 other than that pendulum back there on the clock, I don't
9 want see any movement back behind the jury room proper.

10 All right. Solicitor.

11 MR. HUBBARD: Thank you, Your Honor.

12 Your Honor, Portia Washington had every

13 intention of making M-7, her apartment at Park Place
14 Apartments, a home. Every intention. She furnished it
15 and she brought personal items, items that you would see
16 in any place that you would consider a warm home. Items
17 that gave you a glimpse at who she was. She collected
18 clocks. She had family photos.

19 Portia Washington was all about family, but her
20 most cherished possession was **Cassandra L.** Some
21 people called her Cassandra. She always called her
22 Angelica. That was her little angel, Angelica. She did
23 everything for Angelica, not only giving her this home,
24 she was a grandmother. For all practical purposes, she
25 was the mother of Angelica. Judge, she was more. She was

1 a caretaker, a guardian, a protector.

2 Angelica never, ever went without. No one has
3 come into this courtroom and said, Angelica didn't eat,
4 that Angelica didn't have clothes, that Angelica missed
5 school.

6 Oh, we've heard that Angelica had some issues at
7 school. And I'm sure school was tough for Portia
8 Washington because she was poorly educated herself, but
9 she sought help, she took her to the doctor, got
10 medication for her to help her. She sought help from
11 Sam's wife who's a schoolteacher, "Can you help me?"

12 Judge, she loved this child. And when you look
13 at this little girl's room, you see that love.

14 These photos, Judge, this little girl had
15 everything. She had a nice bed, all those stuffed
16 animals. The head of that bed, she had all those Barbie
17 dolls. You can look in that room and say, you know what?
18 That's a lucky little girl. What little girl wouldn't
19 walk into that room and go, my gosh, look at this.

20 Portia wasn't a person of means, but she cared
21 for Angelica. You notice that dress on that bed, those
22 shoes. That room shows something about Portia Washington
23 as well. That room speaks to the love she had for that
24 child.

25 And she didn't just spoil her, Judge. That

1 dress on that bed, that was for church. And these little
2 shoes, which I'm sure Angelica would love to wear, these
3 little sparkly shoes, what little girl doesn't like
4 sparkly shoes? Those shoes were for church because that
5 was also something Portia Washington was doing for that
6 child. She wasn't just spoiling her, she was raising her
7 and raising her to be a good person, the best way she knew
8 how.

9 It's interesting, Judge, when you look at those
10 photos and then look at Portia's room, a bare, Spartan
11 room, box springs on the floor, no metal frame, no
12 headboard, very utilitarian, her breathing machine.
13 Everything that she needed, it was just utilitarian.
14 Nothing beautiful or pretty about it. Everything pretty
15 much went to Angelica's room. Her money went to the
16 child.

17 You can't separate Portia and Angelica, Judge.
18 There was a bond there that goes beyond just a typical
19 parent's bond. Angelica's bedroom was the way it was
20 because Portia was who she was. And Portia's room was the
21 way it was because Angelica lived with her. Angelica
22 lived in Portia's world. Angelica was Portia's world.
23 Life without the other would be unimaginable. Portia was
24 her provider, her protector. Angelica was Portia's life.

25 But, Judge, trouble seeped into that apartment

1 complex. It followed them from Cayce to West Columbia and
2 it followed them in the form of Kenneth Lynch. You heard
3 Tonya Oree, sitting out there with that wonderful family.
4 She got up here and said, "Judge, he wasn't even supposed
5 to move into that apartment." She was going to fill out
6 the application. He ended up filling that application
7 out.

8 He moved into that apartment, and the tension
9 that was in their relationship and in that home became
10 evident to all her family, her work friends. More than
11 one person said, "Just move in with us. You and Angelica
12 just leave him, leave that apartment, move in with us,"
13 Because they could see the tension.

14 And you heard, Judge, the first witness talked
15 about how Portia just dreaded going home. What should
16 have been a beautiful home had become a hellhole. It
17 wasn't anything Portia did or Angelica did. It was that
18 man right there.

19 But she saw light at the end of the tunnel. She
20 waved her family off, waved her friends off, and said,
21 "He's going to be moving out soon. He's going to get his
22 own car, his own apartment," and she bought that lie. And
23 it was one of many lies, Judge, one of many you've heard
24 in this trial.

25 In the late hours of June 10th, maybe early

1 morning hours of June 11th, 2006, all of Portia
2 Washington's dreams, her hopes, her plans died. They died
3 with her and that precious little girl, Angelica
4 Livingston. Kenneth Lynch murdered both of them with
5 malice.

6 And, Judge, malice doesn't even begin to touch
7 what's got to go through a man's veins, his heart, his
8 soul to kill a seven-year-old little girl. What does that
9 take, Judge? That's not just malice. That is just raw,
10 wicked, evil behavior. And it's not something that just
11 springs up. It flows in his veins. It is who he is, a
12 wicked, evil man. No one could lift a hand to a little
13 girl like Angelica without feeling that hatred, that evil.

14 Kenneth Lynch might lie, but blood doesn't.
15 Blood doesn't lie at all.

16 You've heard a lot about this green chair, and
17 that's how law enforcement found it when they walked into
18 that apartment, slightly moved. And if you just walked by
19 it, you wouldn't notice anything because there was
20 something hidden. You had to look under that chair to see
21 blood, to see a head swipe or a hair swipe, and it just
22 happens to be on the broken part of that frame.

23 Judge, did that small child's head break that
24 frame? You can consider that.

25 One thing you know, though, it was no accident.

1 It was not by natural causes. That is not a nosebleed,
2 and, Dear Lord, it's not from a menstrual cycle. That is
3 an act of violence. And no one's coming here saying she
4 bled out, but, Dear Lord, a seven-year-old, you can snap
5 her neck, she doesn't have to bleed out to die. Nor did
6 Portia Washington. What that shows is raw, brutal, wicked
7 behavior.

8 That carpet. You heard Steve Derrick talk about
9 the beating of the child in the chair. That child was
10 held above the chair, that's where that spatter went, but
11 at some point, that child was on the floor, Judge. That
12 purple marking, there's two spots there. It's where her
13 blood was pooling.

14 And he talked about all those items including
15 that blue container, how blood spatter got on them. He
16 said that came from blunt force. It's either a fist or a
17 blunt object. If that's not malice, then that word just
18 needs to be eradicated, but it doesn't really fit just how
19 wicked that act was.

20 And, Judge, if he's going to kill Angelica,
21 there is no way Portia Washington, no way she would have
22 allowed that. He had to go through her first. She's
23 either incapacitated or already dead. He knew if he
24 killed one, he'd have to kill them both. My gosh, you're
25 a little child, and you know your grandmomma is your

1 protector, and she's down, and you're in this little
2 apartment with him, he just took out your grandmother and
3 now no one to protect you. You're on your own, against
4 him. My God, what fear. And that horrible, horrible
5 beating.

6 Judge, it's a double murder. It's not an
7 accident and, oh, my gosh, I got to kill the child. That
8 is raw rage and evil.

9 The sink where he was cleaning it up to hide
10 what he had done, it's a master bedroom sink. He cleaned
11 up his crime so that if you walked in there, you'd see a
12 clean floor. The chair was over the immediate crime area.
13 The chair was now upright, you couldn't see what he had
14 done. The rest of the apartment had been cleaned. He hid
15 it just like he hid Portia and Angelica. To this day, we
16 have no idea where they are.

17 To see what he had done, you have to look
18 closely. You've got to look under that chair. That's
19 what cues you in on what transpired in that room.

20 And, Judge, who was the last person in that
21 room? Who was the last person in that master bathroom
22 cleaning up? Well, we know there were three occupants,
23 but I guarantee you, there ain't a woman in the world or a
24 little girl that's going to leave a lid up after they use
25 the bathroom. And there's a world of men that might, but

1 only one man lived in that apartment, that's Kenneth
2 Lynch. He was the last one to leave because he was the
3 only one alive.

4 Now, Judge, he claims that he left Friday,
5 June 9th. We know that's a lie. Even his attorney last
6 Friday said, "Judge, I don't know if there's really any
7 evidence showing he was there that weekend." There was an
8 abundance of it.

9 Portia Washington went to her hairdresser with
10 Angelica Saturday. What did she drive if he left on
11 Friday taking her car? She had her keys then, her car
12 key. And, Judge, when she comes home, how is she going to
13 get in the house without her house key if he's gone?
14 Because we know these keys, these very keys were in his
15 possession when he fled. How's she going to get her mail,
16 pay the bills? You know he was home Saturday. Leaving
17 Friday is a lie. He didn't need those keys. He had his
18 own house key, his own mail key. He didn't need two sets.
19 When he took those keys, the owner of those keys wasn't
20 going to protest because she was dead.

21 Lela Green talked to Portia Washington
22 throughout the day about errands she was going to run.
23 She was running them in that car, in and out of that
24 apartment with those keys. And Carla Perry, the next-door
25 neighbor, the woman who had a party that night and thought

1 she might be getting too loud, she saw Portia and Angelica
2 unloading that car Saturday, her car.

3 This Ford Focus that you've heard so much about,
4 that brand-new car, she saw her unloading that car with
5 Angelica. And who did she say was there? Kenneth Lynch.
6 He wasn't helping, but he was there. We got it on the
7 board, Judge. Carla Perry said it.

8 We also know the defendant went to the bank
9 Saturday. He went to Dutch Square, right in Columbia. He
10 was still here. He withdrew \$20 three times from the same
11 ATM. Sunday, he withdrew \$20 and then \$200 from his
12 savings account. All he had left in his savings was
13 \$2.23, and he did that in Cayce right next to West
14 Columbia. He was still in town. He was still alive, and
15 they were gone. He didn't leave Friday. That was a
16 bald-faced lie.

17 And he never claimed someone stole his car and
18 used it without his permission. He had it with him.
19 Those lies continued as he fled. And, Judge, he did flee.

20 You heard about a case last week about a fellow
21 who was charged with murder and went to Tennessee. Well,
22 that's where that fellow lived. Kenneth Lynch fled from
23 his home. He had no relatives out west. He fled. He
24 went to Mississippi.

25 And, Judge, June 12th, before anybody's looking

1 for him, before this family has notified law enforcement,
2 June 12th he lies when he checks into Motel 6. He gives
3 a bogus address. He says he's from the state of Florida.
4 Why? Why is he fleeing and why is he lying?

5 He shows up in east Texas. He wipes out his
6 checking account at that point leaving eight cents. This
7 is a man who is on the run. He still has a paycheck back
8 at Bob Bennett Ford, but he has wiped out his account.
9 And he buys toiletries because he didn't have time to
10 pack. And you heard later, he admitted to driving almost
11 a week wearing the same clothes.

12 He wasn't on a holiday or a traveling trip. He
13 was running for his life because he had just taken two
14 other lives.

15 West Texas, outside of El Paso, he is stopped
16 and he lies. And he is stopped in Portia's car, and it
17 looks like he's been living in it, smoking cigarettes,
18 food wrappers everywhere, unkempt, and a car seat in the
19 back. And he says he's going to go meet his wife in
20 Arizona.

21 Now, first of all, Portia's not his wife. How
22 would she have gotten out west? He lies.

23 He goes to Arizona, stops at a Motel 6, and he
24 lies again. What kind of car do you have? An '89 Ford
25 Tempo. You heard him talk about that car today. Portia

1 Washington never had a real car, a new car, until this
2 Ford Focus came into her life. All she had were
3 hand-me-down rags, and that's what he -- and that's where
4 he got that car, that '89 Ford Tempo. He wasn't creative
5 enough to come up with his own. He knew what she used to
6 have, and he lied.

7 He gets to Seattle, strips that car clean, takes
8 the tags off, puts it in a metered parking and abandons
9 it. And later, he says it was in Seattle he learned that
10 you just can't see the wilderness and the big bears in
11 Vancouver, and yet he goes anyway on a one-way ticket.
12 He's not coming back. He has no money now. The jewelry
13 he had was junk except for some ring with some other man's
14 name on it. His only other banking account, BB&T, had
15 been closed in April. He had nothing. He wasn't coming
16 home.

17 He gets stopped at the border. They find those
18 bags. His world, his life, was in those bags. A birth
19 certificate, he had his family photos, his paperwork for
20 his accounts, and that's it. And when law enforcement
21 talks to him, when he is served with a grand larceny
22 warrant by Deputy Polinder, he goes, "I just don't know
23 whose car I could be charged with stealing. I just don't
24 know about this, this is shocking." Another lie.

25 And he tells Deputy Polinder that he left South

1 Carolina with a friend and he had just decided that they
2 were going to see Canada. Well, what a route to take,
3 going through Mississippi, Texas, Arizona and swinging on
4 up the West Coast. Another lie. Wouldn't tell who his
5 friend is, but mentioned he was driving a newer white
6 Cadillac.

7 He left his paycheck at Bob Bennett Ford.
8 Judge, when they caught him and served that warrant on
9 him, you heard the two officers that interviewed him, FBI
10 Agent Brenda Davis and a detective, a veteran detective,
11 Glen Hutchings. And Glen made it clear, I wanted to get
12 kind of a -- set the bar just to see kind of a truth
13 pattern here. If he can tell the truth in something
14 small, he'll tell the truth on something big, but if he'll
15 lie on something small, he will lie on the big questions.
16 Kenneth Lynch lied right out of the gate.

17 He talked about quitting his job, going to start
18 a new career, going to take some time off, go see Canada,
19 see those big bears, that he had ridden with friends. And
20 when he went home, wherever that was, he was going to go
21 to that trucking school in Newberry, Warner Trucking
22 School. And at 15 days, why, he would be driving big rigs
23 for them. That's a lie. That trucking company's not
24 there, it's not in South Carolina. No school is going to
25 teach someone in 15 days how to drive an 18-wheeler. It

1 was a lie, and he was never coming home.

2 He denied knowing whose car he could possibly
3 have stolen. He denied driving Portia Washington's car
4 out of South Carolina, he denied driving it out west.
5 When he was finally confronted with that lie, saying,
6 Fellow, listen, we know you were stopped in Texas. He
7 didn't miss a beat. She didn't want it anyway.

8 The next thing he does is throw Portia
9 Washington under the bus. She was under pressure at work,
10 everybody was on her back, she was going to lose her job,
11 she couldn't afford the car. She didn't want it. I
12 helped her by taking it off her hands. A lie. He finally
13 admits he didn't have permission, Judge. It took him
14 awhile.

15 And when Glen Hutchings finally leaned forward
16 and said, "I don't believe you," and confronted him with
17 what happened at that apartment, he said, "Maybe there was
18 an accident, maybe Portia fell, maybe that little girl got
19 hurt." The first thing out of his mouth, "Has law
20 enforcement been in that apartment? Has law enforcement
21 been in that apartment?"

22 Judge, he was on the run. He took everything
23 Portia would need if she were alive. He took her car,
24 Angelica's car seat, her car keys, her house keys, her
25 mail keys, her bonus cards. They weren't going to protest

1 because they're dead, Judge. They were dead when he took
2 those keys.

3 And if anyone can seriously say Portia and
4 Angelica just picked up and ran off, look what they left
5 behind: Unfinished plans. Portia Washington's birthday
6 was coming up. She knew a party was going to be held for
7 her at Bob Bennett Ford.

8 Look at the things she had been doing in her
9 life, paying her bills. No bounced bills, Judge. No
10 delinquent bills. She paid for her car. She paid for her
11 apartment. She paid her power. She paid her phone. No
12 one came into this courtroom and said she couldn't keep up
13 with her bills.

14 She had her routines: Putting those plants out
15 in the early morning hours, pulling them back in in the
16 evening. You saw those plants still left by the door.
17 She didn't abandon those plants. She's dead.

18 And who else did she leave behind? This family.
19 Judge, what an incredible family. She gave up her first
20 husband for those folks. He was in the military, the Air
21 Force. She didn't want to travel, he understood that. He
22 told her to go home, and home was with those folks right
23 there. Home is where she always wanted to be. And there
24 was no bad blood between her and Sam, Sr.

25 And she gave up her new grandson, Mason. If

1 she -- if they say that she just picked up and ran, did
2 she abandon that little boy, Judge? There's absolutely no
3 way, no way, Judge.

4 Already, Portia Washington was thinking of that
5 child. Right there, Judge, clothes for Mason. She was
6 already spending money on him. And this woman who slept
7 on box springs on the floor made sure that her son and
8 daughter-in-law had money for a crib for that child. And
9 she was upset, upset with Sam. The week before she was
10 murdered, she'd kept her grandson. And they had talked
11 about dropping Mason off June 10th for her to keep him,
12 and for some reason, Sam's wife said, "No, I'm just going
13 to hang to him. We're going to my sister's wedding."
14 Thank God.

15 They left behind their belongings, family
16 photos, all of their possessions. Left behind their
17 necessities, Judge: A breathing machine, a paycheck,
18 money in her account, medication for both her and
19 Angelica.

20 And, Judge, they left behind possessions,
21 Angelica's possessions. All these dolls, all of these
22 stuffed toys. And you heard, Judge, there was one little
23 toy she always traveled with, right there. If she's going
24 to go see a family member, she would take this teddy bear.
25 She always went with the bear.

1 Angelica's not alive, Judge. Portia
2 Washington's not alive. Even Kenneth Lynch when he was
3 interviewed said it would be out of character for Portia
4 Washington to miss church or just disappear. They're dead
5 and he hid them like he's hidden everything else. It was
6 part of the cleanup.

7 He stole everything from her. He stole her
8 happiness in that home, her security, her car, he stole
9 her life, but more importantly to Portia Washington, he
10 stole the life of Cassandra L. [REDACTED] And he stole from
11 this family, too. They can't bury their loved ones now,
12 they can't say goodbye to Portia or Angelica.

13 So who and what is Kenneth Lynch? He's a liar,
14 he's a thief, he's a murderer. One dies, both have to
15 die. His heart is cold, it's malignant, it's like a
16 cancer, Judge. But this kind reaches out and hurts
17 others. Malice is in his core. He swam in a sea of it,
18 and he swam all the way to the Canadian border. It's who
19 he is.

20 Judge, if you have any doubt about who Kenneth
21 Lynch is, any doubt about what he's done, just look under
22 that chair.

23 Thank you.

24 THE COURT: Mr. McGuire, Mr. Stitely?

25 MR. STITELY: Yes, sir. May it please the

1 Court.

2 THE COURT: Yes, sir.

3 MR. STITELY: Your Honor, sometimes it gets lost
4 in these cases that we represent Mr. Lynch. We're
5 appointed to do so. Fortunately in this case, Mr. McGuire
6 and I had a chance to have contact with some of the
7 family. We don't discount what they had to go through,
8 what they maintain that they still are going through.
9 It's a loss, I understand that. We understand that, and
10 we're sympathetic to that. But the emotion of their loss
11 does not change this case.

12 As the State's presented their testimony over
13 the past two and a half weeks, it's relied very simply on
14 one idea: Mr. Lynch did it. Why? Not one thing has come
15 forward to say why.

16 Mr. Hubbard points to him and says that he's a
17 horrible person, the worst. They went through
18 excruciating detail creating these charts. What do they
19 show us about what happened on June 10th? Nothing on
20 this one. Nothing on this one. Nothing on this one.

21 They maintain that there were problems at home.
22 Okay, they had a rocky relationship. I think the
23 testimony has been fair, it said that. But you've also
24 heard testimony it was Mr. Lynch who would pick Angelica
25 up from school and drive her home. He's the one who went

1 and got a library card. You didn't hear anyone come up
2 and say, he did these horrible things that we saw.

3 Mr. Hubbard said three times it was an
4 incredibly unhappy home. Lela Green, when asked directly
5 how would you describe the home at that phone call at
6 9:30 on the 10th, and she said, a happy home.

7 What proof do they offer to say why Mr. Lynch
8 would do this? It's actually clear through the evidence
9 that he had a relationship with the little girl that was
10 positive in nature. The schoolteacher knew him to be the
11 one to pick her up from school. He took her to get a
12 library card. She brought library books with her when he
13 would bring her over to Ms. Jones' house.

14 We don't know what happened. They haven't
15 established why. Why would Kenny want to do something?
16 Their evidence has said that they may have been on the
17 outs and he was going to move out. Does that mean he was
18 going to kill them? There's been nothing to say that.
19 Two of her co-workers said she seemed very happy on
20 Friday.

21 This case is based solely on circumstantial
22 evidence. They show you a picture of a home with a couple
23 problems. They show you a picture where something may
24 have gone wrong. Does that mean that Mr. Lynch did it?
25 Why? Out of the 80 people we heard from, not one said,

1 why would he do something like that?

2 And, again, she had a great relationship with
3 her family, Ms. Washington did. We don't doubt that. But
4 it's also clear that she didn't tell them everything. The
5 majority of the people didn't know where she lived,
6 couldn't even tell you her address. When asked, they
7 didn't know that she had been going to the doctor every
8 other month about a sleeping condition. Two of them
9 didn't even know Mr. Lynch's name.

10 It's not that they can prove anything, but they
11 want you to feel that something bad has happened, and it
12 must have been Kenny because as Mr. Hubbard said, who was
13 the last one in the apartment? Judge, that is a good
14 question, and we don't know the answer to that question.

15 Try to imply that it was some force that broke
16 the chair. We asked Mr. Derrick that directly and
17 Mr. Derrick said, "I can't say that. I can say the chair
18 was broken when I saw it." Look at the pictures. There
19 was no sign of a struggle that night. The cologne
20 bottles, the perfume bottles, there's a mirror right
21 behind the chair, all intact. As you walk down the hall,
22 there's pictures on a glass table, all intact. There's a
23 collection of clocks, all intact. Nothing wrong with the
24 apartment.

25 Ms. Wooten was asked if she ever had any

1 problems with these apartments. She said sure. I said,
2 "How would you describe these apartments and your ability
3 to hear something if something went wrong?" She used the
4 words "paper thin."

5 Mr. Hubbard said this event must have gone down
6 in the late hours before 10:30 on June 10th of 2006.
7 Ms. Carla Perry was outside in the breezeway with six of
8 her friends smoking cigarettes, worried that they were
9 being too loud. They didn't hear anything.

10 Three separate experts came up and said, "We
11 can't tell you what exactly happened." Dr. Collins said
12 it, Rod Green said it, and Mr. Derrick said it. They
13 can't tell you if it happened six months earlier, six days
14 earlier. They can't tell you that definitively this was
15 some horrible act that led to a death. They can't say
16 anything more than there was blood there, but we can't
17 tell you when it got there, how it got there, or most
18 importantly, that Mr. Lynch had anything to do with it
19 getting there.

20 Looking at June 10th, I think is very important
21 in this case. Start out in the morning hours. No one
22 tells where Mr. Lynch was that morning. We do know that
23 Angelica was left unsupervised at the hairdresser.
24 Ms. Harris told you that. And we know Ms. Washington went
25 to an ATM and then drove up to northeast Richland County

1 to give Ms. Bellamy money. That afternoon we know
2 Angelica was at the poolside area and in the home of Carla
3 Perry. She seemed lovely. On supervised release after
4 doing 71 months for heroin distribution. Where was Portia
5 at that time? Ms. Bellamy said she was back at her house
6 up in the northeast, firmed it up, sometime between 2 and
7 3:30 must have been when she came back up because that's
8 when we got back from Sumter. Asked Ms. Perry, "When was
9 Angelica at your house?" That afternoon between 2 and 4,
10 had been at the pool.

11 We know Mr. Lynch was at an ATM in Columbia.
12 That's proven by the records. Not at the apartment.

13 That evening, we know Mr. Lynch was at a Bi-Lo
14 at 6 o'clock. There was a phone call at 6:30 from Lela
15 Green to Portia. Happy home. Mr. McGuire asked her three
16 times. "Happy home" was her response.

17 That evening, Ms. Perry's at home, five to six
18 of her friends, they were smoking in the breezeway, heard
19 nothing, thought anything was out of the ordinary. She
20 said the car was probably there at 9 or she would have
21 remembered it, but the car was gone at 10:30. Paper thin
22 walls, six people in the hallway, no neighbors called to
23 complain, no reports were filed with the police, and the
24 six people standing outside heard and saw nothing.

25 9:30, Lela Green talked to Portia and she was

1 fine, happy home.

2 No one put Mr. Lynch there that evening. If
3 something went on, you can't just jump to the conclusion
4 it was Mr. Lynch. Have they shown anything to prove he
5 had a reason? But it's not there.

6 And I guess that comes to our second part of
7 this case, Judge, and that's what has the State showed you
8 and what have they tried to avoid showing you?

9 Ms. Bayne got up here on Friday afternoon, and
10 she said they were extraordinarily thorough. They went to
11 school, talked to teachers. They went to work, talked to
12 co-workers. They went to family, and what did she say?
13 All of those people, nobody said a thing about travel.

14 We know for a fact through the tip sheets that
15 they received and did not even follow up on them, Don
16 Simmons, Cassandra's teacher, said two weeks earlier Miss
17 Livingston said she was going on a family vacation to
18 Texas. Two weeks earlier. Did they follow up on that
19 tip?

20 Another independent witness, a Ms. Beaver, said,
21 "The little girl told me they were going to Texas." The
22 police had that. Ms. Bayne knew that in part of her
23 report, yet she told the Court, no travel plans. This
24 isn't a teacher, isn't a friend, a random person,
25 "Cassandra told me they were going to Texas."

1 And we could let it sit with that. But a couple
2 of weeks later, a nice man comes into West Columbia and
3 says -- first he calls and then he follows it up. His
4 name was Vernon Mullins. And he said, "I'm not sure, but
5 I may have seen the woman matching your description in
6 Texas. We had a long talk about what's a good tip, what's
7 a bad tip."

8 I'm not saying that we can believe what
9 Mr. Mullins says, but it went a little further in what he
10 told West Columbia. He said, "It was at a Pilot gas
11 station. I know that to be true because I only go to
12 Pilot gas stations because I like their coffee."

13 And it went a step further: "I gave her my
14 tickets for food that I won on the video machines because
15 her boyfriend left her at a truck stop in Texas."

16 Went further saying, "I can get you my
17 receipts." Did they follow up with Mr. Mullins?

18 MR. HUBBARD: Judge, I'm going to object to him
19 tacking anything else on evidence that we put in through
20 witnesses, and he's putting it up himself. We haven't
21 read what he's got. It hasn't come in through the trial.
22 He can't testify. I ask that those items be taken off.

23 THE COURT: You can argue the facts which are in
24 evidence.

25 MR. HUBBARD: Your Honor, I object to him

1 tacking stuff that's not facts in evidence on a board that
2 is in evidence through witnesses.

3 MR. STITELY: Your Honor, I'm allowed to use the
4 evidence that's in --

5 MR. HUBBARD: He's adding it to evidence.

6 THE COURT: All right.

7 MR. HUBBARD: And we haven't seen that stuff.
8 No witness has said, "This comports with my testimony." I
9 haven't seen -- I don't want to see it now; it's closing.

10 MR. STITELY: Your Honor --

11 MR. HUBBARD: It's not evidence.

12 MR. STITELY: It came in through Ms. Bayne that
13 these are tips they received and did not follow up on.

14 MR. HUBBARD: He did not present it to
15 Ms. Bayne.

16 THE COURT: I took pretty specific notes of all
17 the witnesses. And I understand this is closing. And the
18 general instructions to jurors is lawyers can comment on
19 what they believe the testimony was. And you-all may
20 comment on what you believe the testimony was, but that's
21 how it works.

22 Now, I think that your tacking on the board, my
23 finding at this point it probably is not proper. I'll
24 consider the comments, but I don't think that would be
25 proper, so I'll sustain your adding to his demonstrative

1 exhibit.

2 MR. STITELY: Your Honor, I will remove them
3 when they go back into evidence. It's no different than
4 me having an assistant hold things up as I'm speaking to
5 them. I will remove them after I'm done.

6 THE COURT: All right. So be it.

7 MR. STITELY: But it didn't just stop there.
8 And the reason it's really interesting with that
9 particular tip is you've heard testimony as to what they
10 did at the Motel 6. It was worthy at that time to call
11 and have a team of local officers go out, interview
12 people, ask for surveillance cameras, canvas the area,
13 collect receipts, but did West Columbia authorize one
14 phone call to Pilot to ask if they had surveillance
15 cameras? Did they do one thing to follow up on these
16 other leads? They didn't because they didn't fit what
17 they wanted their theory to be.

18 It went a step further. There's a long
19 discussion from Ms. Bayne about what she did initially in
20 the case. She said, "Well, we put it out there to all
21 these other agencies, SLED, FBI, Secret Service, the
22 National Center for Missing and Exploited Children because
23 we needed their resources." And what happened when those
24 resources came to fruition? There were a number of them,
25 but we went through five specific tips that weren't

1 followed up.

2 8-18, there was a possible sighting of the
3 individuals in a San Francisco hospital. 8-18-2008.

4 8-19-2008, a woman matching Ms. Washington's
5 description asking to borrow money twice at a college
6 dorm. They said she was possibly on drugs. But the
7 date's 8-19-2008, East Palo Alto, California.

8 Also, 8-19-2008, both individuals sighted at a
9 Food 4 Less grocery store, and the woman working as a
10 janitor in a local bookstore, Torrance, California.
11 8-19-2008.

12 8-23-2008, both individuals spotted, not sure
13 when or where, not a good tip, but the fact that it was in
14 Vacaville, California, that same week didn't warrant a
15 follow-up.

16 September 5th, 2008, a woman matching the
17 description of the older woman came to the apartment
18 asking for money, East Palo Alto, California.

19 When asked, "What did you do with these five
20 tips all occurring in the exact same geographic location?
21 Did you follow up on them?

22 "No, all we do is we run Social Security
23 numbers."

24 Five tips in the California coast within a
25 two-week span, what do we do? We verify it by looking at

1 Social Security numbers.

2 Ms. Livingston's Social Security number is

3 [REDACTED] In direct response to that, we went ahead
4 and ran it. What came up? A California hospital bill
5 matching her Social Security number that went as a credit
6 not paid, October of 2008. Was it followed up? No.

7 Your Honor, we find ourselves in a difficult
8 place. Is it possible that something happened to
9 Ms. Washington, Ms. Livingston? It's possible. Is there
10 any way to tell that Mr. Lynch did it? No. You can pound
11 on the law, if you have good law. You can pound on the
12 facts, if you have good facts. Or you can simply try for
13 emotion.

14 Again, the family has gone through something
15 terrible. We don't deny them that. But there's been
16 nothing in this case to say Mr. Lynch is the one who's
17 responsible for it.

18 Maybe they had a reason to get out of town.
19 Maybe when they were in Texas, maybe he wasn't a good guy
20 and left them at a truck station. We don't know. That
21 lead wasn't followed up on.

22 They made a big deal about the cleaner, cleaning
23 up this mess, must be the killer. They didn't even check
24 the cleaning supplies. When asked, Did you check the mop
25 bucket? No. Did you check the carpet cleaner can? You

1 clearly took a picture of it because you thought it was
2 good enough to take a picture of. Did you check to see if
3 that was him? Or the dirty rag next to it? No. What
4 about the yellow gloves, the wash gloves sitting right
5 there? We didn't check that either.

6 They went to the Rug Doctor. Mr. Lynch didn't
7 show up, but a name we have run into showed up. Did they
8 look into that? No.

9 Mr. Martin got up here and he said that the
10 Livingstons, that's a bad, you know, bad record, they do
11 bad things. That's what he said about that one woman. I
12 don't know her. But when that name popped up, they didn't
13 look into it.

14 There was no reason for Kenneth Lynch to hurt
15 that little girl. The only evidence you've heard about
16 their relationship, Judge, was that he was the one who
17 picked her up from school, he occasionally brought her to
18 her grandmother's house, he got library books with her.

19 No neighbors heard a fight. The apartment
20 showed no struggle of a fight that night. The experts
21 can't say it was that night or what even happened. And
22 the time they say it had to have happened, that Mr. Lynch
23 must have done it, there were five to six people out in
24 the breezeway right outside that apartment and nothing
25 happened. And the car when it was tested came back with

1 no blood.

2 At best, they can yell and scream and say that
3 Kenneth Lynch is a horrible person. But that's not
4 enough. The standard in this case, like any other case,
5 is beyond a reasonable doubt. It's tricky to ask you to
6 think about that, but you have to think about exactly
7 that.

8 We are here staking a man's life on what? The
9 fact that some family member said that he had a bad
10 relationship with his girlfriend? Jumping from a bad
11 relationship to a cold-blooded murder is more of a stretch
12 than I can even imagine. And to have the opportunity to
13 look into things in this case and deliberately not doing
14 them, that's another thing.

15 Your Honor, we ask you to consider the facts.
16 Consider the lack of facts. Consider what was presented
17 to you and consider the case, how it was presented and
18 what was not presented to you. There's no question
19 there's doubt.

20 Thank you, Your Honor.

21 I'll remove the tags.

22 THE COURT: Again, Mr. Lynch, would you like to
23 make any closing summary to the Court, because you have
24 that right?

25 THE DEFENDANT: No, sir.

1 THE COURT: Very well.

2 Anything else?

3 MR. MYERS: Nothing from the State.

4 THE COURT: All right. Anticipating the
5 deliberations that I need to make, and I don't have any
6 time frame, I believe it would be most convenient for all
7 involved if we recess and I'll deliberate here in chambers
8 since the jury room is occupied.

9 And if it's agreeable with everyone, we'll have
10 Ms. Frick collect notification phone numbers, cell phone,
11 office number, whatever it is, mode of communication, and
12 after a decision is reached, we'll notify everybody and
13 give some reasonable time.

14 And I don't know what a reasonable time is. If
15 I'm going to reach a decision and it's this afternoon,
16 late, a reasonable time to me would be tomorrow morning.
17 If it's -- I've not reached a decision by this afternoon,
18 late, and I remove myself from deliberations -- now, let
19 me ask you that: Is that an issue for the parties, of me
20 removing myself from deliberations and returning home and
21 leaving the evidence in the room, my chambers here,
22 retiring home to deal with my family issues and then
23 coming back and resuming deliberations first thing in the
24 morning?

25 MR. MCGUIRE: Not at all.

1 MR. MYERS: None, Your Honor.

2 THE COURT: All right. Now, assuming we do
3 that, I think what we'll do is once a decision is reached,
4 we'll notify everyone to return to the courtroom.

5 Is that appropriate and agreeable with everyone?

6 MR. MCGUIRE: Yes, sir.

7 MR. MYERS: Your Honor, we have no objection if
8 you want to just come back in the morning, even if you
9 reach a verdict this afternoon.

10 THE COURT: All right. Well, understanding how
11 many exhibits we have, I'm quite comfortable in telling
12 you, I won't reach a verdict this afternoon. I just want
13 to go through everything. You-all put nearly 300 exhibits
14 before the Court, and I don't think I can go through them
15 that rapidly by myself.

16 MR. MYERS: Yes, sir. and we have no objection
17 if everybody would just leave and come back in the
18 morning, which will give you more time.

19 MR. MCGUIRE: We wouldn't have any objection to
20 that, either.

21 THE COURT: All right. Let's do this: We'll
22 stand at ease. I'm going to go into a period of
23 deliberation, and so if you-all want to, as we customarily
24 do before the jury gets the exhibits, if you-all have
25 inventoried the exhibits and make certain they're all here

1 with the court reporter's and my law clerk's list of
2 exhibits to be assured what you want me to consider is
3 here.

4 I think that my law clerk's kept an accurate
5 listing of every exhibit admitted. I'm confident it
6 matches the court reporter's. If you-all want to examine
7 all that before I move that to the chambers, let's do
8 that. And at the same time, Ms. Frick will retrieve the
9 contact information from you-all so that we can get
10 everyone back convened.

11 I'm not going to -- I'll tell you what I don't
12 want to do. I don't want to have a decision made and
13 reconvene in a very short amount of time and not everyone
14 have a reasonable opportunity to get here because I don't
15 expect you-all to sit outside the courtroom this afternoon
16 waiting.

17 So, that being the case, I don't want to give
18 anybody an idea that I'm going to reach a decision this
19 afternoon, tomorrow morning, or any time. I'm going to
20 reach a decision when I reach a decision. I'm going to do
21 it as diligently as I can.

22 All right. Y'all inventory the exhibits, place
23 the contact numbers.

24 Now, if you-all have any questions or
25 communications, you-all put them in writing to one another

1 and give them -- somehow give them to my law clerk and me,
2 and if I need to respond during deliberations to anything
3 as a part of the Court and not the fact finder, kind of
4 the roles in reverse, if you-all have any questions,
5 you-all can put it in writing and let me see it. Until
6 then, I really don't want to talk to you again. All
7 right? Fair enough?

8 MR. MCGUIRE: Yes, sir.

9 MR. MYERS: Yes, sir.

10 THE COURT: All right.

11 (WHEREUPON, STATE'S Exhibit No. 201, the teddy
12 bear, was substituted with a photograph.)

13 (WHEREUPON, the Court Reporter and Attorneys
14 inventory exhibits.)

15 MR. STITELY: We're good with the exhibits.

16 MR. GRAHAM: The State is good with the exhibits
17 that are going back.

18 (WHEREUPON, the judge began deliberations at
19 approximately 3:30 p.m. until 5:00 p.m.)

20 (The proceedings were concluded for the day, to
21 be reconvened on May 1, 2012.)

22 (WHEREUPON, May 1, 2012, the judge resumed
23 deliberations at approximately 9:00 a.m. until 4:38
24 p.m.)

25

24 Indictment 2008-GS-32-2652, the State versus
25 Kenneth Andrew Lynch, indicted for murder, verdict guilty.

1 Indictment 2008-GS-32-2653, the State versus
2 Kenneth Andrew Lynch, indicted for murder, verdict is
3 guilty.

4 And they are all so signed May 22nd, 2012.

5 THE COURT: May 2nd.

6 THE CLERK: I apologize. May 2nd, 2012.

7 THE COURT: All right. Now, understanding the
8 procedure we're to follow, would the defense like to make
9 any motions at this time, Mr. McGuire?

10 MR. MCGUIRE: Yes, sir, Your Honor. We'd like
11 to move for a new trial based on our previous motions, our
12 directed verdict motions, and the evidence received by the
13 Court.

14 THE COURT: And understanding -- I'm certain you
15 understand, but I want Mr. Lynch to understand, I'm
16 standing in the posture as the legal -- determiner of
17 legal issues as well as the fact finder, and respectfully
18 I made a decision yesterday afternoon, I went home and
19 slept on it, and I respectfully decline to grant you a new
20 trial, but your record is protected on all the issues
21 pretrial, during the case-in-chief itself, and at this
22 point, so respectfully those are declined.

23 MR. MCGUIRE: Yes, sir.

24 THE COURT: All right. Now, understanding the
25 statute as it's written, how do y'all wish to proceed from

State of South Carolina

Court of General Sessions

County of Lexington

State

v.

Kenneth Andrew Lynch

Defendant.)

Transcript of Record

07-GS-32-525

08-GS-32-2652

08-GS-32-2653

May 7 - 8, 2012

Lexington, South Carolina

B E F O R E:

The Honorable Eugene C. Griffith Jr., Judge.

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

Donald V. Myers, Solicitor

David Shawn Graham, Deputy Solicitor

Samuel R. Hubbard, III, Deputy Solicitor

Attorneys for the State

Benjamin Allen Stitely, Esquire

William Sean McGuire, Esquire

Attorneys for the Defendant

Stacy L. Sheppard, RPR

Circuit Court Reporter

1 check the exhibits, gentlemen?

2 **MR. MYERS:** No, sir.

3 **THE COURT:** Very well. And likewise, I'm going
4 to review the evidence here in chambers. If y'all
5 need to contact me, I should be here in the
6 courthouse the rest of the afternoon.

7 All right. We'll stand at ease. I will
8 contact you as I did before.

9 (Whereupon, there was a recess at 4:30 p.m.,
10 and the proceedings were concluded for May 7, 2012,
11 at 6:00 p.m.)

12 (Court commenced on May 8, 2012, at 9:30
13 a.m., and the following proceedings occurred at
14 12:22 p.m.)

15 **THE COURT:** Is everyone ready, Solicitor?

16 **MR. MYERS:** The State's ready, Your Honor.

17 **THE COURT:** Mr. McGuire?

18 **MR. MCGUIRE:** Yes, sir.

19 **THE COURT:** As I did earlier in the trial, I
20 remind everyone, all parties in the courtroom, that
21 this is a trial, it's difficult on all parties and
22 so, please, try to contain your emotion. If you
23 can't do so, you need to step out now. I think I
24 characterized it earlier, there are no winners and
25 there are not. So if anyone would like not to

1 remain here that does not think they can control
2 their emotions, please give us that courtesy.

3 I have prepared a written order which I believe
4 is easier for me to deliver. So I will read that if
5 the parties do not mind.

6 **MR. MCGUIRE:** No objection, Judge.

7 **MR. MYERS:** No objection.

8 SENTENCE OF THE COURT

9 **THE COURT:** Appropriately captioned, the body
10 of the order reads: The Lexington County Grand Jury
11 indicted the defendant on charges of murder, two
12 counts, and grand larceny.

13 Pursuant to South Carolina Code Section
14 16-3-26, the State timely notified the defendant
15 that it intended to seek the death penalty for the
16 murder charges.

17 On February 2nd, 2012, this Court conducted a
18 hearing whereby the defendant waived his right to
19 have a jury trial in these matters.

20 Commencing April 16th, 2012 through May 7th,
21 2012, this Court conducted a bench trial during
22 which testimony was heard from more than 50
23 witnesses and evidence was presented and over 300
24 exhibits. Prior to the bench trial, the defendant
25 again waived his right to have a trial by jury.

1 South Carolina Code Section 16-3-20 provides in
2 part that a person who is convicted of or pleads
3 guilty to murder must be punished by death, by
4 imprisonment for life or by a mandatory minimum term
5 of imprisonment for 30 years. For purpose of this
6 statute, life imprisonment means until death of the
7 offender without the possibility of parole. No
8 person sentenced to life in prison pursuant to the
9 statute is eligible for parole, community
10 supervision or an early release program nor is the
11 person eligible to receive any work credits,
12 education credits or good conduct credits or any
13 credits that will reduce the mandatory life
14 imprisonment.

15 When the State seeks the death penalty, upon
16 conviction or adjudication of guilt of a defendant
17 of murder, the Court is required to conduct a
18 separate sentencing proceeding, which this Court
19 conducted this past week. In such a proceeding, if
20 a statutory aggravating circumstance is found, the
21 defendant must be sentenced to either death or life
22 imprisonment. If no statutory aggravating
23 circumstance is found, the defendant must be
24 sentenced to either life imprisonment or a mandatory
25 minimum term of imprisonment for 30 years.

1 In cases like this where the defendant waives
2 his right to a trial by jury and is found guilty,
3 the sentencing proceeding must be conducted before a
4 judge. Pursuant to the statute in this sentencing
5 proceeding, the judge hears additional evidence in
6 extenuation, mitigation or aggravation of the
7 punishment.

8 In such a case, the law requires the judge to
9 consider mitigating circumstances otherwise
10 authorized or allowed by law, as well as certain
11 enumerated statutory aggravating and mitigating
12 circumstances which may be supported by the
13 evidence. The judge must make the designation of a
14 statutory aggravating circumstance or circumstances.
15 At least -- unless at least one statutory
16 circumstance enumerated in this section is found,
17 the death penalty must not be imposed.

18 Pursuant to South Carolina Code Section
19 16-3-20, I have carefully considered the evidence
20 presented during the sentencing phase and make the
21 following findings concerning the existence of
22 statutory aggravating circumstances: I find the
23 State has proven beyond a reasonable doubt that the
24 defendant, Kenneth Andrew Lynch, committed the
25 murders of Portia Washington and Cassandra Angelica

1 Livingston by one scheme or course of conduct, and
2 that one of the murders was that of a child less
3 than 11 years of age.

4 Having proven the existence of two statutory
5 aggravating circumstances, the State is entitled to
6 seek the death penalty for the defendant.

7 I was assigned this case by the Chief Justice
8 some months ago. This case is unusual in that it is
9 the only nonjury capital case of which I'm aware
10 that the judge has assumed the role of the fact
11 finder in both the guilt and sentencing phases of
12 the trial. This trial has been conducted from
13 beginning to end through both the guilt phase and
14 the sentencing phase to a singular judge.

15 When the defendant was found guilty by me as a
16 finder of fact, it then became my duty to listen
17 dispassionately to the testimony and evidence of
18 aggravating circumstances. I'm also required to
19 consider evidence of mitigating or extenuating
20 circumstances presented by the defense.

21 It is possible that another judge or a jury
22 would have viewed the same evidence and found a
23 different verdict or impose a different sentence;
24 however, in this case, all the decisions have been
25 mine to make.

1 I have very diligently and deliberately
2 reviewed and evaluated all of the testimony and
3 evidence presented by the State and by the defense.
4 Considering all the evidence presented in this case
5 and weighing it within the bounds of the laws, I
6 find that the convictions to the two murder
7 indictments warrant the imposition of a sentence of
8 life in prison without the possibility of parole.

9 The Bible teaches us to treat our fellow man
10 like we would like to be treated and to judge in a
11 manner we hope to be judged.

12 To the defendant, Kenneth Andrew Lynch, I tell
13 you that in time you will come to realize in full
14 the consequences of your actions. In the coming
15 weeks months and years, you will fully realize what
16 the rest of your days on this earth will be like and
17 that your actions are the cause of your fate. You
18 may decide to reveal what you have not yet revealed;
19 however, you will not walk free amongst us again and
20 some day you will die in prison. May God have mercy
21 upon your soul.

22 Therefore, it is ordered, adjudged and decreed
23 that for the indictment 2007-GS-32-525, grand
24 larceny 5,000 or more, Portia Washington's 2005 Ford
25 Focus, you're committed to the department of

1 corrections for a determinant term of ten years.

2 For the indictment 2008-GS-32-2652, murder for
3 Cassandra **Cassandra L.** you're committed to
4 the department of corrections for the remainder of
5 your natural life without the possibility of parole.

6 For the indictment 2008-GS-32-2653, murder of
7 Portia Washington, you are committed to the
8 department of corrections for the remainder of your
9 natural life without the possibility of parole. It
10 is so ordered.

11 Anything else?

12 **MR. MYERS:** Nothing further from the State,
13 Your Honor.

14 **MR. MCGUIRE:** Judge, if you could give us ten
15 days to consider what, if any, post-trial motions we
16 might file.

17 **THE COURT:** You are granted such leave.

18

19 END OF PROCEEDINGS

20

21

22

23

24

25

Rush to: Church of God Youth Camp
P.O. Box 309, Mauldin, SC 29662

PLEASE PRINT NEATLY OR TYPE

Postmarked _____
Camp Fee \$ _____
Amt. Enclosed \$ _____
Balance Due \$ _____
Computer # _____
Camp Choice _____
Assigned To _____
Confirmation _____

Camp Fees

Option A: \$75.00

(Total fee/postmarked by May 2)

Option B: \$85.00

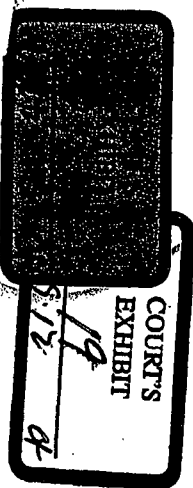
(\$20.00 deposit/postmarked by
May 2 \$65.00 due at camp)

Option C: Walk-In \$95.00

1. Last Name Livingson 2. First Name CASSANDRA
3. Check one: ☐ Boy ☒ Girl 4. Date of birth [redacted] 5. Age 7
6. Phone # ([redacted]) 7. Date of last Tetanus Shot / /
8. Mailing Address [redacted]
9. City WEST COLA 10. State SC 11. Zip 29169
12. List all pre-existing medical conditions and medications you must take. There must be a pharmacy label and directions on the prescribed medication. ADT
Concerta 27 MG TAKE 1 TABLET ONCE A DAY
13. Medical Problems/Allergies or Handicaps. N/A
14. Church City of Hope 15. Pastor JOE RICE
16. Room mate preference YES
17. This is my 1 year at camp. I understand that camp maintains a Christian standard for conduct, dress, and sign my name hereby promising to abide by all rules and policies and submit to those in authority during my stay.
18. Camper's Signature X 19. Pastor's Signature X
20. Check The Camp You Will Attend - Take Note of New Camps * Use Caution - Errors Occur Frequently!
- | Mauldin Camps | Pee Dee Camps |
|--|---|
| ☐ Senior (Ages 15-18) June 19-23 | ☐ Teen (Ages 14-18) June 19-23 |
| ☐ Young-Teen (Ages 13-14) June 26-30 | ☐ Junior (Ages 10-13) June 26-30 |
| ☐ Pre-Teen (Ages 11-12) July 10-14 | ☐ Mini (Ages 6-9) July 4-7 |
| ☐ Junior (Ages 9-10) July 3-7 | |
| ☒ Mini (Ages 6-8) July 17-20 | |
- Mauldin Mini camp begins on Monday at 3:00 p.m. and ends on Thursday at 9:00 a.m. Pee Dee Mini begins on Tuesday at 3:00 p.m. and ends on Friday at 9:00 a.m.
21. Camp Tuition - I have enclosed \$ 75.00 (Make check payable to: Youth Camp)
- Deposits are non-refundable nor transferable.

22-30 PARENT/GUARDIAN MUST COMPLETE BEFORE APPLICATION WILL BE ACCEPTED!

22. I hereby give my permission for my child to participate in any and all activities of the Church of God Youth Camp, and waive all claims to injury or loss of property arising out of the activities against the leaders of this camp, the other participants, and the Church of God Executive Offices of South Carolina and/or International. **Parent/Guardian Initial Here** PN
23. I understand that the Camp Insurance Policy provides secondary coverage, and I provide primary coverage for my child. I accept financial responsibility for medical costs beyond limits of camp policy stated here: Medical & Hospital \$2500, Dental \$300, eyeglasses are not covered if damaged or lost. **Parent/Guardian Initial Here** PN
24. If I cannot be reached in an emergency situation, you have my permission for qualified medical professionals to treat my child.
Parent/Guardian Initial Here PN
25. Portia Washington
Parent/Guardian Signature Required
26. Today's Date 4-25-06
27. Parent/Guardian Name Portia Washington
28. Day Phone # [REDACTED] # [REDACTED]
29. Insurance Company Name Medicaid
30. Policy # 0630278848



GREYHOUND PACKAGE EXPRESS

Ship your packages by GREYHOUND PACKAGE EXPRESS and receive 25% off Express charges by presenting this coupon at time of shipping.

Coupon must be presented at the time of shipment processing and is not valid on collect or commercial charge account shipments. Coupon must be redeemed no later than 120 days from date of issuance. Coupon is not valid in conjunction with any other promotion or discount. Coupon valid only in the Continental United States. Other restrictions may apply.

Greyhound Package Express...
Your Shipment Is Our Priority

Issued on 17Jun06 01:02p

NBIA 0043

GREYHOUND LINES, INC.

R E C E I P T & I T I N E R A R Y ** NOT GOOD FOR TRAVEL **

FROM: SEATTLE
TO: VANCOUVERWA DEPART: Sat 17Jun06
BC LYNCH KENNETHCONF#: 9776298401
ONE WAY/ADULT

*** CITY ***

ARRIVAL

LAYOVER

DEPARTURE

SCHEDULE

SEATTLE WA
VANCOUVER BC

10:25p 17Jun06

06:15p 17Jun06

GLI 6522
GLI 6522

ADVANCE PURCHASE SUBJECT TO A \$10 CHANGE OF ITINERARY FEE

FARE PAID: \$26.50
TAX: .XX
INSURANCE: \$0.00
EXCESS BAG: \$0.00
EXCESS VAL: \$0.00CASH
CA/CA
DOC #:07885 SEATTLE WA
17Jun06 01:02p 4917
SEAT002

001 00 29 90749764 2

** VOID IF DETACHED **

Headquarters use only - Réservé à l'administration centrale

BB114 791 644

PAGE: 1

REPORT UNDER SUBSECTION 44(1)
OF THE IMMIGRATION AND REFUGEE PROTECTION ACTDOCUMENT NO: N907993225
CLIENT ID : 5695-8654

OFF FILE NO.:

TO: THE MINISTER OF CITIZENSHIP AND IMMIGRATION
FROM: 1995IN ACCORDANCE WITH SUBSECTION 44(1) OF THE IMMIGRATION AND REFUGEE PROTECTION
ACT, I HEREBY REPORT THAT:

KENNETH LYNCH BORN 09 FEB 1960 IN U.S.A.

IS A PERSON WHO IS:

A FOREIGN NATIONAL WHO HAS NOT BEEN AUTHORIZED TO ENTER CANADA

AND WHO, IN MY OPINION, IS INADMISSIBLE PURSUANT TO:

PARAGRAPH 36(1)(B)

PARAGRAPH 36(1)(B) IN THAT THERE ARE REASONABLE GROUNDS TO BELIEVE IS
A PERMANENT RESIDENT OR A FOREIGN NATIONAL WHO IS INADMISSIBLE ON
GROUNDS OF SERIOUS CRIMINALITY FOR HAVING BEEN CONVICTED OF AN
OFFENCE OUTSIDE CANADA THAT, IF COMMITTED IN CANADA, WOULD CONSTITUTE
AN OFFENCE UNDER AN ACT OF PARLIAMENT PUNISHABLE BY A MAXIMUM TERM OF
IMPRISONMENT OF AT LEAST 10 YEARS.

THIS REPORT IS BASED ON THE FOLLOWING INFORMATION:

THAT KENNETH LYNCH

- IS NOT A CANADIAN CITIZEN OR PERMANENT RESIDENT OF CANADA
- TRAVELLING ON GREYHOUND BUS TO VANCOUVER, BRITISH COLUMBIA
TO VACATION
- CONVICTED ON THE 22ND MAY 1981 OF BURGLARY OF A BUILDING
IN JERSEY CITY NEW JERSEY. THIS OFFENCE EQUATES TO
SECTION 343 OF THE CANADIAN CRIMINAL CODE FOR WHICH A
MAXIMUM SENTENCE OF LIFE MAY BE IMPOSED..
- CONVICTED OF ASSAULT W/INTENT TO CAUSE SERIOUS INJURY IN

COURT'S
EXHIBIT

18

4-19-12

E

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION - THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA
FORMULAIRE ÉTABLI PAR LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION - LE PRÉSENT DOCUMENT EST LA PROPRIÉTÉ DU GOUVERNEMENT DU CANADA



GREYHOUND PACKAGE EXPRESS

Ship your packages by GREYHOUND PACKAGE EXPRESS and receive 25% off Express charges by presenting this coupon at time of shipping.

Coupon must be presented at the time of shipment processing and is not valid on collect or commercial charge account shipments. Coupon must be redeemed no later than 120 days from date of issuance. Coupon is not valid in conjunction with any other promotion or discount. Coupon valid only in the Continental United States. Other restrictions may apply.

Greyhound Package Express...
Your Shipment Is Our Priority

Issued on 17Jun06 01:02p

NBTA 0043

GREYHOUND LINES, INC.

R E C E I P T & I T I N E R A R Y ** NOT GOOD FOR TRAVEL **

FROM: SEATTLE
TO: VANCOUVERWA DEPART: Sat 17Jun06
BC LYNCH KENNETHCONF#: 9776298401
ONE WAY/ADULT

***	CITY	***	ARRIVAL	LAYOVER	DEPARTURE	SCHEDULE
	SEATTLE	WA			06:15p 17Jun06	GLI 6522
	VANCOUVER	BC	10:25p 17Jun06			GLI 6522

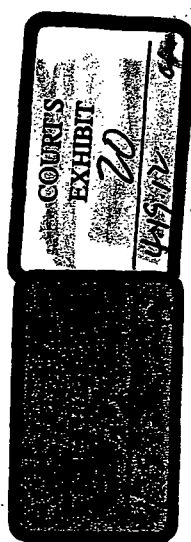
ADVANCE PURCHASE SUBJECT TO A \$10 CHANGE OF ITINERARY FEE

FARE PAID: \$26.50
TAX: XX
INSURANCE: \$0.00
EXCESS BAG: \$0.00
EXCESS VAL: \$0.00CASH
CA/CA
DOC #:

001 00 29 90749764 2

07885 SEATTLE WA
17Jun06 01:02p 4917
SEAT002

** VOID IF DETACHED **





MOTEL 6

122454375

LYNCH		KENNETH	208	220064	1/0
Last		First	Room #	Folio #	Adult/Child
Company/Group			06/14/06	06/15/06	RACK
Check-out Time			Arrive	Depart	Rate/Type
			Rate/Night	Tax/Night	Total Est. Charge

Date	Room	Description	Charges	Credits
06/14/06	208	CASH	45.43	45.43

FOR RESERVATIONS NATIONWIDE, CALL 1-800-4-MOTEL 6

NOTICE TO GUEST:

This property is privately owned. Management reserves the right to refuse service to anyone and will not be responsible for the loss of money, jewelry or valuables of any kind.

RATES ARE SUBJECT TO APPLICABLE TAXES AND MAY CHANGE WITHOUT ADVANCE NOTICE.





120929658

Last		First	Room #	Folio #	Adult/Child
Company/Group			Arrive	Depart	Rate/Type
Check-out Time			Rate/Night	Tax/Night	Total Est. Charge
<u>Date</u>	<u>Room</u>	<u>Description</u>	<u>Charges</u>		<u>Credits</u>

FOR RESERVATIONS NATIONWIDE, CALL 1-800-4-MOTEL 6

NOTICE TO GUEST:

This property is privately owned. Management reserves the right to refuse service to anyone and will not be responsible for the loss of money, jewelry or valuables of any kind.

RATES ARE SUBJECT TO APPLICABLE TAXES AND MAY CHANGE WITHOUT ADVANCE NOTICE.

Judge 8/6/06
on 18

Type and Amount: Pretrial

Name of Surety: BOND DEWEY

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

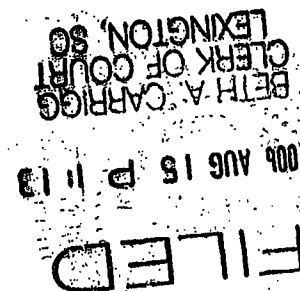
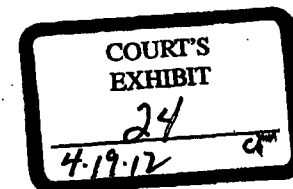
Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS



ARREST WARRANT

J-030721

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

THE STATE

against

LYNCH, KENNETH ANDREW

Address: [REDACTED] 7

WEST COLUMBIA SC 29169

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 601 Weight: 220

DL State: SC DL#: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0320500

Prosecuting Agency: WCPD

Prosecuting Officer: MATT EDWARDS

Offense: GRAND LARCENY \$5,000 OR MORE -

Offense Code: [REDACTED]

Code/Ordinance Sec. 16-13-30 (B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☒ County/ ☐ Municipality of

LEXINGTON

The Accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Kenneth Andrew Lynch

on 06-04-06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

A TRUE COPY

JUDGE

200 N 12TH STREET Lex. Co. C.C.C.P., G.S. & F.C.
WEST COLUMBIA SC 29169

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant EDWARDS, W M who
being duly sworn deposes and says that defendant LYNCH, KENNETH ANDREW
did within this county and state on 06/10/2006 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of WEST COLUMBIA)
in the following particulars:

DESCRIPTION OF OFFENSE:

GRAND LARCENY \$5,000 OR MORE - 16-13-30 (B)(2)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
IN THAT ON OR ABOUT JUNE 14TH, 2006, AT 200 N. 12TH STREET, IN THE CITY OF WEST COLUMBIA, COUNTY AND STATE AFORESAID, PORTIA WASHINGTON AND [REDACTED] WERE REPORTED MISSING TO THE WEST COLUMBIA POLICE DEPARTMENT. THEY HAD NOT BEEN SEEN BY ANYONE SINCE JUNE 10TH, 2006. ON JUNE 14TH, 2006 KENNETH ANDREW LYNCH, WAS TICKETED IN EL PASO, TEXAS, WHILE DRIVING ALONE IN A 2005 FORD FOCUS (VIN NUMBER 1FAPP34N25W228072) VALUED AT \$12,000.00 WHICH IS REGISTERED TO PORTIA WASHINGTON. ON JUNE 18TH, 2006 KENNETH ANDREW LYNCH WAS STOPPED WHILE TRYING TO CROSS THE USA / CANADIAN BORDER ON A BUS. THE WHEREABOUTS OF THE VEHICLE ARE UNKNOWN. INVESTIGATORS WITH THE WEST COLUMBIA POLICE DEPARTMENT BELIEVE THAT KENNETH ANDREW LYNCH DID TAKE, STEAL, AND CARRY AWAY THE VEHICLE DEPRIVING THE OWNER OF ITS USE AND VALUE. ALL OF WHICH CONSTITUTES THE CRIME OF GRAND LARCENY MORE THAN \$5000.00 AND IS IN VIOLATION OF THE SOUTH CAROLINA CODE OF LAWS OF 1976 AS AMENDED.

CASE NUMBER 0612335

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

Affiant's Address 200 N 12TH ST

WEST COLUMBIA SC 29169

Affiant's Telephone 803-794-0721

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 06/10/2006 defendant LYNCH, KENNETH ANDREW

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of WEST COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE:

GRAND LARCENY \$5,000 OR MORE - 16-13-30 (B)(2)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 6-18-06_____
(L.S.)

Signature of Issuing Judge

Judge Code: 000059

Judge's Address 200 N 12TH STREET

WEST COLUMBIA SC 29169

Judge's Telephone 803-794-0721

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR WHATCOM COUNTY

THE STATE OF WASHINGTON, Petitioner/Plaintiff, vs KENNETH ANDREW LYNCH Respondent/Defendant.	No. 06-1-00847-5 CLERK'S CERTIFICATION OF FILE

I, David L. Reynolds, County Clerk of Whatcom County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of Whatcom, do hereby certify that the foregoing instruments are a true and correct copy of the originals, consisting of 27 pages now on file in my office, and that the undersigned has the custody thereof.

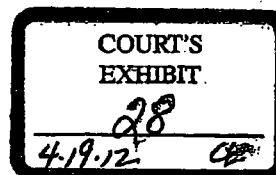
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office at Bellingham, WA, this 10th day of April, 2012

DAVID L REYNOLDS, COUNTY CLERK

by

Marlene S. Peterson

Deputy Clerk



FILED
 COUNTY CLERK
 05 JUN 15 AM 11:24
 WHATCOM COUNTY
 WASHINGTON
 BY E

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
 FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,

Plaintiff.

vs.

KENNETH ANDREW LYNCH,

Defendant.

No.: 06-1-00847-5

FUGITIVE COMPLAINT

STATE OF WASHINGTON)
) ss.
 COUNTY OF WHATCOM)

I, David S. McEachran, Prosecuting Attorney in and for the County of Whatcom, State of Washington, come now here in the name and by the authority of the State of Washington, and by this complaint do accuse KENNETH ANDREW LYNCH of being a fugitive from the State of SOUTH CAROLINA to-wit:

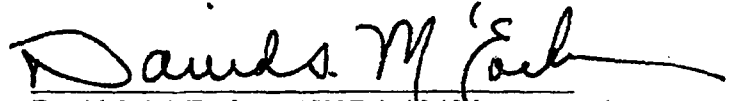
That on the 18th day of June, 2006, WHATCOM COUNTY SHERIFF'S OFFICE received a teletype message/warrant from the WEST COLUMBIA POLICE DEPARTMENT, located in the City of WEST COLUMBIA, County of LEXINGTON, State of SOUTH CAROLINA, stating that the above-named defendant, KENNETH ANDREW LYNCH, is wanted in said county and state for the commission of a felony, to-wit: GRAND LARCENY \$5000 OR MORE, and that Warrant No. J-030721 was issued on JUNE 18, 2006 by MUNICIPAL for the State of SOUTH CAROLINA for his apprehension; that bail has been set in the amount of \$ NO BAIL ; that a photocopy of the teletype message/warrant is attached hereto and is incorporated by reference as if set out in full herein.

FUGITIVE COMPLAINT

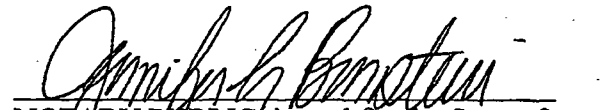
-1-

Whatcom County Prosecuting Attorney
 311 Grand Avenue, Suite #201
 Bellingham, WA 98225
 (360) 676-6784
 (360) 738-2532 Fax

1 DATED THIS 19th day of June, 2006, having sworn on oath that the allegations herein
3 are true as I verily believe.

5 
7 David S. McEachran, WSBA #2496
9 Prosecuting Attorney

11 SUBSCRIBED AND SWORN TO before me this 19th day of June, 2006.

13 
15 NOTARY PUBLIC, in and for the State of
17 Washington. My commission expires: June 29,
19 2010
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ARREST WARRANT

J-030721

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

THE STATE

against

LYNCH, KENNETH ANDREW

Address: WEST COLUMBIA SC 29169Phone: SSN: Sex: M Race: B Height: 601 Weight: 220DL State: SC DL#: DOB: Agency ORI #: SC0320500Prosecuting Agency: WCPDProsecuting Officer: MATT EDWARDSOffense: GRAND LARCENY \$5,000 OR MORE -Offense Code: Code/Ordinance Sec. 16-13-30 (B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☒ County/ ☐ Municipality of

LEXINGTON

The Accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JUDGE

200 N 12TH STREET

WEST COLUMBIA SC 29169

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

AFFIDAVIT

1818

Personally appeared before me the affiant EDWARDS, W M
being duly sworn deposes and says that defendant LYNCH, KENNETH AN
did within this county and state on 06/10/2006

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of
in the following particulars:

DESCRIPTION OF OFFENSE:

GRAND LARCENY \$5,000 OR MORE - 16-13-30 (B)(2)

I further state that there is probable cause to believe that the defend
the crime set forth and that probable cause is based on the following facts:
IN THAT ON OR ABOUT JUNE 14TH, 2006, AT 200 N. 12TH STREET, IN THE CITY OF
STATE AFORESAID, PORTIA WASHINGTON AND LIVINGSTON WERE REI
COLUMBIA POLICE DEPARTMENT. THEY HAD NOT BEEN SEEN BY ANYONE SINCE
2006 KENNETH ANDREW LYNCH, WAS TICKETED IN EL PASO, TEXAS, WHILE DRIV
(VIN NUMBER 1FAPP34N25W228072) VALUED AT \$12,000.00 WHICH IS REGISTERE
JUNE 16TH, 2006 KENNETH ANDREW LYNCH WAS STOPPED WHILE TRYING TO CR
ON A BUS. THE WHEREABOUTS OF THE VEHICLE ARE UNKNOWN. INVESTIGATOR
POLICE DEPARTMENT BELIEVE THAT KENNETH ANDREW LYNCH DID TAKE, STEAL
DEPRIVING THE OWNER OF ITS USE AND VALUE. ALL OF WHICH CONSTITUTES TI
MORE THAN \$5000.00 AND IS IN VIOLATION OF THE SOUTH CAROLINA CODE OF LI

CASE NUMBER 0612335

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA
Affiant's Address 200 N 12TH ST

WEST COLUMBIA

Affiant's Telephone 803-794-0721

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY

it appearing from the above affidavit that there are reason
on 06/10/2006 defendant LYNCH, KENNETH AND

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of WEST COLUMBIA) as set i

DESCRIPTION OF OFFENSE:

GRAND LARCENY \$5,000 OR MORE - 16-13-30 (B)(2)

Having found probable cause and the above affiant having sworn before me, you are emp
defendant and bring him or her before me forthwith to be dealt with according to law. A cop
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 6-13-06

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Judge Code: 800 059Judge's Address 200 N 12TH ST

WEST COLUMBIA

Judge's Telephone 803-794-0721Issuing Court: ☐ Magist

ORIGINAL

WHATCOM COUNTY SHERIFF'S OFFICE
BELLINGHAM POLICE DEPARTMENT

CASE SUMMARY/PROBABLE CAUSE

PAGE 1 OF 1819

OFFENSE/EVENT DESCRIPTION: WARRANT ARREST (OUT OF STATE) DATE: 6-18-06 EVENT NUMBER: 06A12108

COURT: ☐ District ☒ Superior ☐ Juvenile ☐ Municipal

SUSPECT ADMITTED OFFENSE: ☐ CRIME PARTNER ADMITTED OFFENSE: ☐ CRIME PARTNER ADMITTED AND NAMED SUSPECT AS PARTICIPANT: ☐

INJURIES RECEIVED BY VICTIM:

N/A

MEDICAL ATTENTION REQUIRED? ☐ YES ☒ NO ☐ AT SCENE ☐ AT HOSPITAL LOCATION: DATE AND TIME OF ARREST: 6-18-06 / 0400

NARRATIVE: A-1: LYNCH, KENNETH ANDREW. DOB: 2-9-60. APACHE ROAD #7M (PARK PLACE APTS.) WEST CACEY, SC 29033. (803) 665-4636. B/m, 6-01, 225

ON 6-18-06, AT ABOUT 0330 HOURS, I RESPONDED TO THE TRUCK CROSSING BORDER CROSSING IN BLAINE FOR A WARRANT ARREST. U.S. CUSTOMS HAD (A-1) KENNETH LYNCH DETAINED ON AN EXTRAJURIS FELONY WARRANT (#030721) OUT OF SOUTH CAROLINA. THE WARRANT IS FOR URGENT, WITH NO BAIL.

I ARRIVED AND CONTACTED LYNCH, WHO WAS IN A HOLDING CELL. I IDENTIFIED LYNCH BY HIS SOUTH CAROLINA DRIVER'S LICENSE, ALONG WITH HIM VEBALLY TELLING ME HIS INFORMATION. LYNCH'S WARRANT WAS CONFIRMED BY WHATCOM.

I ARRESTED LYNCH AND READ HIM HIS RIGHTS PER MIRANDA. LYNCH SAID HE KNEW NOTHING ABOUT A STOLEN VEHICLE AND THAT HE WAS "SHOCKED."

LYNCH WAS BOOKED INTO THE WCSO JAIL WITHIN 5 MINUTES. HIS PERSONAL BELONGINGS WERE BOOKED INTO WCSO EVIDENCE.

THESE EVENTS OCCURRED IN WHATCOM COUNTY, WASHINGTON
REPORTING OFFICER: C. POLINOGR (WA161) REVIEWING OFFICER: 06A12108

SCANNED ²FILED IN OPEN COURT
6-19 2006
WHATCOM COUNTY CLERKBy [Signature]
Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,

Plaintiff.

vs.

KENNETH ANDREW LYNCH

Defendant.

No.: 06 1 00847 5

ORDER AND WARRANT OF ARREST
AND DETENTION ON FUGITIVE
COMPLAINT

THE STATE OF WASHINGTON,

TO THE SHERIFF OF SAID WHATCOM COUNTY, GREETINGS:

WHEREAS, In the Superior Court for said County, held at Bellingham, Washington, the Prosecuting Attorney for said Whatcom County, did present and file a Fugitive Complaint on the part of the State of Washington, charging the above-named KENNETH ANDREW LYNCH with being a fugitive from the State of SOUTH CAROLINA, committed as follows:

That on the 18th day of June, 2006, WHATCOM COUNTY SHERIFF'S OFFICE received a teletype message/warrant from the WEST COLUMBIA POLICE DEPARTMENT, located in the City of WEST COLUMBIA, County of LEXINGTON, State of SOUTH CAROLINA, stating that the above-named defendant, KENNETH ANDREW LYNCH, is wanted in said county and state for the commission of a felony, to-wit: GRAND LARCENY \$5000 OR MORE, and that Warrant No. J-030721 was issued on JUNE 18, 2006 by MUNICIPAL for the State of SOUTH CAROLINA for his apprehension; that bail has been set in the amount of \$ NO BAIL; that a photocopy of the teletype message/warrant is attached hereto and is incorporated by reference as if set out in full herein.

ORDER AND WARRANT OF ARREST AND
DETENTION ON FUGITIVE COMPLAINT

-1-

Whatcom County Prosecuting Attorney
311 Grand Avenue, Suite #201
Bellingham, WA 98225
(360) 676-6784
(360) 738-2532 Fax

2

WHEREAS said defendant, KENNETH ANDREW LYNCH, has made his first appearance before the above-entitled Court on the June 19, 2006 and was advised of his right to counsel and Public Defender was appointed to represent him (or, he waived his right to counsel) and the court finding that the defendant is the person described in the Fugitive complaint and that he is a fugitive from the State of SOUTH CAROLINA.

The State of SOUTH CAROLINA has THIRTY (30) days from the date of current date, to secure and perfect an arrest under the Governor's Warrant of Extradition.

NOW, THEREFORE, IN THE NAME OF THE STATE OF WASHINGTON, you are commanded forthwith to apprehend, arrest and detain the said KENNETH ANDREW LYNCH and bring him before this court to answer said charge, and aide such further order as the court may make in the premises; PROVIDED THAT, if the Governor's Warrant is served upon the defendant within the above-mentioned THIRTY (30) day period, he shall be released to the custody of the agent from the demanding state; if the Governor's Warrant has not arrived within THIRTY (30) days, he shall forthwith be produced in court for further proceedings, upon expiration of said THIRTY (30) days.

IT IS FURTHER ORDERED that you may accept bail in the sum of \$ 500,000- upon the condition that the defendant remain available at a Whatcom County address and that he shall report to the court on 7-20-06 8¹⁵ if not sooner surrendered to the agents of the demanding State.

\$ 500,000-

[Signature]
JUDGE/COMMISSIONER

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

I, N.F. JACKSON, County Clerk of Whatcom County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of Whatcom, do hereby certify that the foregoing instrument is a true and correct copy of the original, consisting of _____ pages on file in my office, and that the undersigned has the custody thereof.

N.F. JACKSON, Clerk

Deputy

SCANNED 1

DOCKETED

SCOMIS CODES:

HSTKIC ☐
PLMHRG ☐HCNTSTP ☐
ARRAIGN ☒HCNTPA ☐
SCVHRG ☐HCNTDA ☐
MTHRG ☒
NGPH ☐

(Other)

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR WHATCOM COUNTY

STATE OF WASHINGTON, Plaintiff,
vs.
LYNCH, KENNETH ANDREW, DefendantNo. 06-1-00847-5
JUDGE/COMM VERGE
REPORTER/TAPE 06-116
CLERK GIBSON
DATE 6/19/2006 @ 3:00This matter comes on for ARRAIGNMENT / CASE SCHEDULING ☐ BAIL REVIEW ☐ ENTRY OF NCO ☐
FIRST APPEARANCE ☐ PRELIMINARY APPEARANCE ☐ PROBATION VIOLATION ☐ ENTRY ORDER ☐

OTHER: FUGITIVE WARRANT CC Interpreter appeared

State represented by Kaholokula DOC represented by

Defendant appeared: yes ☒ no ☐; in custody: yes ☒ no ☐; Represented by RaneyDefendant answers to true name as charged ☒ D.O.B. 2/9/1960Defendant acknowledged viewing/understanding advice of rights ☐Defendant acknowledged he/she was advised of basic civil & constitutional rights ☐ and penalty ☐

The following are called, sworn & testified on behalf of State:

Court finds probable cause ☐ Court finds violation ☐Defendant is served with a true copy of the Information ☐ Read ☐ Waived ☐Defendant requested counsel ☐ Referred to Assigned Counsel Office ☐ Court appoints PD ☐State makes recomm. re release ☒ requests bail of \$ 1,000,000.00 Defense counsel responds ☒COURT SETS BAIL AT \$ 500,000- Court releases defendant on PR ☐State Requests Bench Warrant ☐ Court authorizes issuance of Bench Warrant ☐ or Quashes BW ☐*defense claims law enforcement violated depts. rights by contacting interviewing him after counsel was appointed*PLEA: NOT GUILTY ☐ Arraign/Trial Setting/Omnibus Hearing set for

Violation/Fugitive Return Date 7/20/2006 @ 8:30

Set for Trial: / / 06 and/or STATUS / / 06

PREPARED ORDERS SIGNED: ORDER FOR BENCH WARRANT ☐ ORDER QUASHING BENCH WARRANT ☐DEFT'S ACK/ADVICE OF RIGHTS ☐ORDER/WARRANT RE FUGITIVE COMPLAINT ☒ORDER ON FIRST APPEARANCE OF DEFT ☐WAIVER OF EXTRADITION ☐ (4: Jail = 2, PA = 1, CRT = 1)ORDER FOR PRE-TRIAL RELEASE ☐STIPULATION RE VIOLATION OF J & S ☐NO CONTACT ORDER ☐AGREED ORDER SETTING TRIAL DATE ☐ORDER TO RELEASE ☐ORDER OF CONTINUANCE ☐ORDER: QUASH WARRANT ☐ TERMINATING SUPERVISION ☐ TRANSFER CASE TO COLLECTIONS ☐STRICKEN BY CONTINUED BY COURT ☐ PLTF ☐ DEFT ☐ TO FOR

DATE: 6/19/2006

3

DAVID S. McLEACHMAN
PROSECUTING ATTORNEY

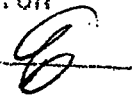
SCANNED 2

06 JUN 20 PM 3:43

FILED
COUNTY CLERK

06 JUN 20 PM 4:02

WHATCOM COUNTY
WASHINGTON

BY 

IN THE SUPERIOR COURT OF WASHINGTON FOR WHATCOM COUNTY

STATE OF WASHINGTON,

Plaintiff,

NO. 06-1-00847-5

v.

KENNETH A. LYNCH

Defendant.

FUGITIVE

NOTICE OF APPEARANCE AND
DEMAND FOR DISCOVERY

NOTICE IS HEREBY GIVEN that the Whatcom County Public Defender appears on behalf of the above-named Defendant, and pursuant to CrR 4.7, demands that the following be furnished to the Defendant:

1. Photocopies of: all police reports concerning the incident; statements of witnesses, Defendant and co-defendants; reports of any tests or evaluations, including breathalyzers, fingerprint tests and blood tests.
2. The Prosecutor's Affidavit of Probable Cause, and a list of all persons known to Plaintiff having knowledge or information concerning the incident(s) resulting in the above-stated cause of action.
3. All search warrants, supporting affidavits, and returns of warrants.
4. The names and addresses of persons Plaintiff intends to call as witnesses at hearing or trial, any written or recorded statements, notes of interviews with such witnesses, and the substance of any oral statements of such witnesses.
5. Any record of prior criminal convictions known to Plaintiff of Defendant and of persons Plaintiff intends to call as witnesses at any hearing or trial of Defendant.
6. Any books, papers, documents, photographs, video or sound tapes, breathalyzer logs, BAC Datamaster data base, certifications and maintenance forms, operator and maintenance operator certifications, tangible objects, and any physical or documentary evidence.
7. Any information which might lead to the discovery of admissible evidence.

PURSUANT TO CrR 4.7, the Plaintiff has the duty to disclose to the Defendant:

1. Any electronic surveillance, including wiretapping, of Defendant's premises, or conversations to which the Defendant was a party, and any record thereof.
2. Any expert witness Plaintiff will call at hearing/trial, their qualifications, the subject of their testimony, the basis of any opinion they may have regarding this case, and any reports they have submitted to Plaintiff.
3. Any information Plaintiff has indicating entrapment of Defendant.
4. Any information which Plaintiff has which tends to exculpate the Defendant.

THE DEFENDANT FURTHER DEMANDS:

1. That Defendant be given notice before any evidence or potential evidence relating to the above cause of action is released or destroyed by Plaintiff, or before any testing of said evidence occurs; and
2. That no law enforcement officials contact or question Defendant without the undersigned attorney being present.

PURSUANT TO CrR 4.7, The Plaintiff has the continuing duty to promptly disclose any additional material or information discovered following the filing of this Notice of Appearance.

The Defendant herein reserves all objections to process, service of process, the assertion of personal jurisdiction over the Defendant, and by this appearance does not waive said objection.

DATED this 20 June 2006.

WHATCOM COUNTY PUBLIC DEFENDER



For: JON M. RANEY

ATTORNEY FOR DEFENDANT, WSBA # 91001

SCANNED

1825

DOCKETED
Tape/CD #

SCOMIS CODES:

MTHRG ☒ HCNTSTP ☐ STAHRG ☐
 HSTKIC ☐ SCVHRG ☐ EVIHRG ☐
 ARRAIGN ☐ DSMHRG ☐ HSTKSTP ☐ (Other)

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR WHATCOM COUNTY

STATE OF WASHINGTON, Plaintiff,
 vs.
 LYNCH, KENNETH ANDREW, Defendant

No. 06-1-00847-5
 JUDGE MURA
 REPORTER QUINN
 CLERK GIBSON
 DATE 7/20/2006 @ 8:30

This matter comes on for FUGITIVE HEARING
 HEARING RE VIOLATION OF J&S ☐ PROBATION REVIEW ☐ SUPPRESSION/CONFESSION HEARING ☐
 STATUS HEARING ☐ (other)

State represented by DAVID MCEACHRAN/Richey
 Department of Corrections represented by

Defendant appeared: yes ☒ no ☐; in custody: yes ☒ no ☐; Represented by JON M. RANEY

State requests BW ☐ Court authorizes issuance of Bench Warrant ☐ Bail set at \$

Defendant is served with true copy of Information ☐ Read ☐ Waived ☐ PLEA: NOT GUILTY ☐

Defendant advised of rights re confession/suppression hearing ☐ or speedy trial ☐

Deft agrees to waive speedy trial rights ☐ Waiver of Speedy Trial: FILED ☐ TO BE FILED ☐

Continued to: Thursday Calendar for plea ☐ Friday Calendar for new trial date ☐

Next Status Calendar ☐ Court 5 day bump ☐ Strike Jury ☐ Strike Trial Date ☐ Maintain Trial Date ☐

THE DEFENSE: moved to dismiss and release defendant

THE STATE: moved for additional 30-days to obtain Governor's warrant.

THE COURT: GRANTED / DENIED / SIGNED THE STATE'S / DEFENSE'S MOTION / ORDER

PREPARED ORDERS SIGNED:

AMENDED / ORDER FOR PRE-TRIAL RELEASE ☐ PROBATION AGREEMENT ☐ COLLECTION AGREEMENT ☐
 ORDER RE VIOLATION OF JUDGMENT & SENTENCE ☐
 ORDER FOR BENCH WARRANT ☐ ORDER QUASHING BENCH WARRANT ☐
 ORDER: QUASH WARRANT ☐ TERMINATING SUPERVISION ☐ TRANSFER CASE TO COLLECTIONS ☐

STRICKEN BY

CONTINUED BY COURT ☒ TO

17
 8-24-06 FOR fugitive Return

DATE: 7/20/2006

SCANNED

FILED
COUNTY CLERK

JUL 27 2006 11:10

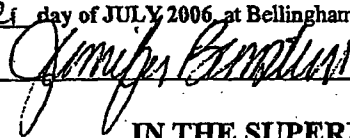
BY  COUNTY CLERK
WASHINGTON

DECLARATION OF MAILING/DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the below date, a true copy of the foregoing was mailed or caused to be delivered, to:

BOB BAIRD-LEVINE

at the regular office or residence or pick up box in the Prosecutor's Office. DATED this 21 day of JULY 2006, at Bellingham, Washington.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

THE STATE OF WASHINGTON,

Plaintiff.

vs.

KENNETH ANDREW LYNCH,

Defendant.

No.: 06-1-00847-5

NOTE FOR DOCKET

NOTE FOR MOTION DOCKET

Date of Hearing: JULY 27, 2006

Please take note that the issue of law in this matter will be heard on the date set out in the margin and the Clerk is requested to note the same on the motion docket for that day.

Time of Hearing: 08:30 a.m.

Nature of Motion:

FUGITIVE HEARING

TO THE CLERK OF THE COURT;
and the Defendant's counsel of record:

Counsel for Plaintiff:

BOB BAIRD-LEVINE
Attorney for Defendant

DAVID S. MCEACHRAN
Prosecuting Attorney

NOTE FOR DOCKET - 1

Whatcom County Prosecuting Attorney
311 Grand Avenue, Suite #201
Bellingham, WA 98225
(360) 676-6784
(360) 738-2532 Fax

DOCKETED
Tape/CD #

SCOMIS CODES:

MTHRG ☒HCNTSTP ☐STAHRG ☐HSTKIC ☐SCVHRG ☐EVIHRG ☐ARRAIGN ☐DSMHRG ☐HSTKSTP ☐

(Other)

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR WHATCOM COUNTY

STATE OF WASHINGTON, Plaintiff,
vs.
LYNCH, KENNETH ANDREW, Defendant

No. 06-1-00847-5
JUDGE UHRIG
REPORTER PORTER
CLERK GIBSON
DATE 7/27/2006 @ 8:30

This matter comes on for **FUGITIVE HEARING**

HEARING RE VIOLATION OF J&S ☐, PROBATION REVIEW ☐, SUPPRESSION/CONFESSION HEARING ☐

STATUS HEARING ☐ (other)

State represented by **DAVID MCEACHRAN / Richey**

Department of Corrections represented by

Defendant appeared: yes ☒ no ☐; in custody: yes ☒ no ☐; Represented by **BOB BAIRD-LEVINE**

State requests BW ☐ Court authorizes issuance of Bench Warrant ☐ Bail set at \$

Defendant is served with true copy of Information ☐ Read ☐ Waived ☐ PLEA: NOT GUILTY ☐

Defendant advised of rights re confession/suppression hearing ☐ or speedy trial ☐

Def't agrees to waive speedy trial rights ☐ Waiver of Speedy Trial: FILED ☐ TO BE FILED ☐

Continued to: Thursday Calendar for plea ☐ Friday Calendar for new trial date ☐

Next Status Calendar ☐ Court 5 day bump ☐ Strike Jury ☐ Strike Trial Date ☐ Maintain Trial Date ☐

THE DEFENSE: *accepts warrant at this time*

THE STATE: *Served Governor's warrant on defendant.*

THE COURT: GRANTED / DENIED / SIGNED THE STATE'S / DEFENSE'S MOTION / ORDER

received a copy - filed.

PREPARED ORDERS SIGNED:

AMENDED / ORDER FOR PRE-TRIAL RELEASE ☐ PROBATION AGREEMENT ☐ COLLECTION AGREEMENT ☐

ORDER RE VIOLATION OF JUDGMENT & SENTENCE ☐

ORDER FOR BENCH WARRANT ☐ ORDER QUASHING BENCH WARRANT ☐

ORDER: QUASH WARRANT ☐ TERMINATING SUPERVISION ☐ TRANSFER CASE TO COLLECTIONS ☐

STRICKEN BY CONTINUED BY COURT ☐ TO FOR

DATE: 7/27/2006

SCANNED

15



Christine O. Gregoire
Governor
State of Washington

06-1-00871-3

Lynch, Kenneth A 1828

FILED IN OPEN COURT
7-27-20-06
WHATCOM COUNTY CLERK

GOVERNOR'S WARRANT OF ARREST
AND EXTRADITION

By Deputy

To Any Sheriff or Other Peace Officer of the State of Washington, Greetings:

It has been represented to me in documents duly authenticated by the Governor of the State of South Carolina that **Kenneth Andrew Lynch** stands charged in that state with the crime of **Grand Larceny, \$5,000 or more**, committed in the County of **Lexington** and is a fugitive from justice and has taken refuge in the State of Washington, or has committed an act intentionally resulting in the crime in the demanding state and is now in Washington.

The Governor of the demanding state has, pursuant to the Constitution and Laws of the United States, demanded of me that I cause the fugitive to be arrested and delivered to **Chief of Police Dennis Tyndall or Designee**, agent authorized to receive him into custody and return him to the demanding state.

I hereby authorize and command, in the name of the State of Washington, that you forthwith take into your custody under this warrant the said fugitive and that you command the aid of all peace officers in the execution of this warrant, and that you deliver the fugitive to the above named agent for the purpose of returning him to the above demanding state.

I have executed this Governor's Warrant and caused the seal of the State of Washington to be affixed at Olympia, this 19th day of July 2006.



Chris Gregoire
Governor of Washington

BY THE GOVERNOR

Don Reed
Secretary of State

8



State of South Carolina

Office of the Governor

Mark Sanford
Governor

Post Office Box 12267
Columbia SC 29211

Extradition Office:

803-734-5283 (Ofc)
803-734-6453 (Fax)

July 10, 2006

The Honorable Christine Gregoire
Governor, State of Washington
Office of the Governor
416 14th Avenue SW
Olympia, Washington 98504

Attention: Melynda Campbell, Legal Affairs Coordinator/Executive Assistant

**RE: State of South Carolina v. Kenneth Andrew Lynch: male / black / 6'1" / 220 /
DOB 02-09-1960 / SSN 157-56-7930 / SCDL 100752941.
Extradition.**

Dear Governor Gregoire:

At the request of Governor Sanford, I am enclosing an extradition requisition for the return of **Kenneth Andrew Lynch** to the State of South Carolina.

If this requisition is honored, please forward the necessary papers and the agent's appointment to the appropriate authorities in Whatcom County, Washington requesting that Dennis Tyndall, Chief of Police, West Columbia (SC) Police Department, 200 N. 12th Street, West Columbia, South Carolina 29169, telephone 803-794-0721, fax 803-739-2662 be notified when this subject is available for release to South Carolina authorities. It is my information that the subject is in custody at the Whatcom County Jail, 311 Grand Avenue, Bellingham, Washington 98225. Our contact person in Washington is Jennifer Bonstein, Whatcom County Prosecutor's Office, Courthouse Suite 201, 311 Grand Avenue, Bellingham, Washington 98225, telephone 360-676-6784, TDD 360-738-4555. I am informed that Mr. Lynch is opposing extradition. I am further informed that fingerprints and a photograph of Mr. Lynch are not available.

Your cooperation and consideration in this matter is much appreciated.

Sincerely,

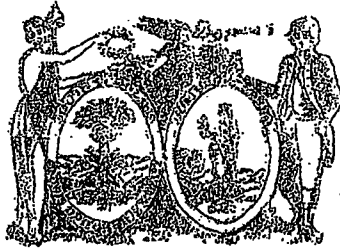
A handwritten signature in black ink, appearing to read "Joe Borton".

Joe Borton,
Extradition Coordinator

Enclosures

cc: Ms. Jane Caughman, Solicitor's Office, Eleventh Judicial Circuit
Dennis K. Tyndall, Chief of Police, West Columbia Police Department

Executive Department



State of South Carolina

To His Excellency the Governor of

WASHINGTON

It appears from the attached documents, which are hereby certified to be authentic, that **KENNETH ANDREW LYNCH** stands charged with the crime of **GRAND LARCENY \$5000.00 OR MORE** committed in Lexington County, State of South Carolina, on or about the 10th day of June, 2006. It has been represented to me further that such fugitive was present in this State at the time of the commission of such crimes.

It has been represented to me further that such Fugitive has fled from the justice of this State and has taken refuge in the State of Washington.

Therefore, pursuant to the Constitution and Laws of the United States in such cases, I request that you cause **KENNETH ANDREW LYNCH** to be apprehended and delivered to **Chief of Police Dennis Tyndall, West Columbia (SC) Police Department**, or his lawful designee, who is hereby authorized to receive and convey him to the State of South Carolina, there to be dealt with according to law.

Witness my hand and the seal of the Executive Department of South Carolina, affixed at Columbia, this 10th day of July in the year of our Lord Two Thousand Six and in the Independence of the United States of America the Two Hundred Thirtieth year.



[Signature]

Governor of South Carolina

[Signature]
By the Governor's Legal Counsel

NOTICE OF COMPLETED EXTRADITION**STATE OF SOUTH CAROLINA****County of** _____

I hereby certify that I have executed the commission of the Governor of South Carolina by going after and taking custody of the fugitive _____ from the proper authorities of the State of _____ and returning the fugitive to South Carolina and delivering him or her to the proper authorities at

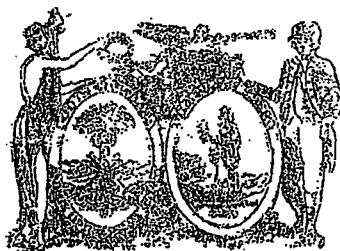
_____ as
authorized and empowered therein, this _____ Day of _____, 20 _____.

Agent of the State of South Carolina

Upon completion of the extradition of a fugitive to South Carolina, notify the Governor's office of the closing of this matter by completing and returning the original of this certificate to:

Joe Dorton, Extradition Coordinator
Office of the Governor
P. O. Box 12267
Columbia, S.C. 29211-2267
803-734-5283 (Office)
803-734-6453 (Fax)

Executive Department



State of South Carolina

To All To Whom These Presents Shall Come, Greetings:

Know Ye, That I, **Mark Sanford**, Governor of the State of South Carolina, by virtue of the authority in me vested by the Constitution and Laws of the United States, and the Constitution and Laws of South Carolina passed in pursuance thereof, do hereby authorize and appoint **Chief of Police Dennis Tyndall, West Columbia (SC) Police Department**, or his lawful designee to convey **Kenneth Andrew Lynch**, fugitive from justice from the said State of South Carolina, to Lexington County, South Carolina, therein to be dealt with according to law.

In Witness Whereof, I have hereunto signed my name and affixed the Seal of the Executive Department of South Carolina, at the Capitol in the City of Columbia, this 10th day of July in the year of our Lord Two Thousand Six and in the Two Hundred Thirtieth year of our American Independence.



Mark Sanford

Governor of South Carolina

Facal

By the Governor's Legal Counsel

State of South Carolina
Office of the Solicitor
Eleventh Judicial Circuit



COUNTIES
EDGEFIELD / LEXINGTON
McCORMICK / SALUDA
FAXES: (803) 785-8431 or (803) 785-8255

LEXINGTON COUNTY JUDICIAL CENTER
205 E. MAIN ST. • THIRD FLOOR
LEXINGTON, SOUTH CAROLINA 29072
TELEPHONE: (803) 785-8352

DONALD V. MYERS
Solicitor

June 30, 2006

Honorable Mark Sanford
Governor, State of South Carolina
State Capitol
Columbia, South Carolina

RE: Kenneth Andrew Lynch, Extradition

Dear Governor Sanford:

Enclosed are the necessary papers for the extradition of Kenneth Andrew Lynch charged in Lexington County with Grand Larceny \$5,000 or more. Mr. Lynch is presently being held in the Whatcom County Jail, 311 Grand Avenue, Bellingham, WA 98225. Contact person in Washington is Jennifer Bonstein, Whatcom County Prosecutor's Office, Courthouse Suite 201, 311 Grand Avenue, Bellingham, WA 98225; Phone 360-676-6784, TDD 360-738-4555. Mr. Lynch is opposing extradition.

Chief Dennis Tyndall, Phone 803-794-0721, Fax 803-739-2662, is the contact person for the West Columbia Police Department. Contact person for the Lexington County Solicitor's Office is Jane Caughman, Lexington County Judicial Center, Third Floor, 205 East Main Street, Lexington, SC 29072, Phone 803-785-8353, Fax 803-785-8255.

Thank you for your assistance in this matter.

Sincerely,

Donald V. Myers
Solicitor

/jc
Enclosures

cc: Dennis Tyndall, Chief of Police, West Columbia Police Department

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

THE STATE)

-vs-)

KENNETH ANDREW LYNCH,)
_____)REQUEST FOR
EXTRADITION
REQUISITION

NOW comes DONALD V. MYERS, SOLICITOR FOR THE ELEVENTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, and CERTIFIES:

A. That KENNETH ANDREW LYNCH is the name of the person for whom extradition is asked and that it is requested that Dennis K. Tyndall and/or Tony Owens be designated to act as agents for the State.

B. That in his opinion the ends of public justice require that KENNETH ANDREW LYNCH be brought to this State for trial, at public expense.

C. That he believes that he has sufficient evidence to secure the conviction of KENNETH ANDREW LYNCH.

D. That the persons named as Agents herein are proper persons, and that said Agents have no private interest in the arrest of the fugitive.

E. That there has been no former application for a requisition for the said fugitive growing out of this or any other transaction.

F. If the said fugitive is under either civil or criminal arrest in the State of Washington to which he has fled, the facts are unknown to the maker of this Certificate.

G. That this application is not made for the purpose of enforcing the collection of a debt, or for any private purpose whatsoever, and if the requisition herein applied for be granted, the criminal proceedings shall not be used for any of said objects.

H. If the person sought has escaped from confinement and was serving a sentence already imposed, this paragraph applies. Strike paragraphs "I" and "J."

The crime of which the said Fugitive stands convicted is contained or defined in Section _____, Code of Laws of South Carolina (1976), committed in Lexington County, South Carolina, on or about the _____ day of _____.

The said Fugitive has escaped from confinement and has fled from the justice of this State.

Attach to each copy of this certificate a copy of the indictment with sentence thereon, or copies of the indictment and sentence if on separate papers. Papers to support the identification are preferred.

I. If the person sought was free at the time of his escape on appeal bail, appeal bond, probation, parole, or pardon, and has breached conditions of any of them, this paragraph applies. Strike paragraphs "H" and "J."

The Crime of which the said Fugitive stands convicted or with which he is charged is _____ contained or defined in Section _____, Code of Laws of South Carolina (1976), committed in _____ County, South Carolina, on or about the _____ day of _____.

The said Fugitive has breached the conditions of his bond and has fled from the justice of this State.

Attach to each copy of this certificate a copy of the indictment with sentence thereon, copies of the indictment and sentence if on separate papers, or copies of the arrest warrant if no indictment has been returned.

J. If the person sought has not been convicted and was not on bond, this paragraph applies. Strike paragraphs "H" and "I."

The crime with which such Fugitive stands charged in this State is Grand Larceny \$5,000 or More, contained or defined in Section 16-13-30(B)(2) Code of Laws of South Carolina (1976). Such Fugitive has fled from the justice of this State.

Attach to each copy of this certificate a copy of the indictment, or, if no indictment has been returned, a copy of the arrest warrant. Be sure that the affidavit sets forth fully a crime against the laws of this State.

K. Such Fugitive has taken refuge in the State of Washington.

L. Such Fugitive was present in this State at the time such crime was committed.

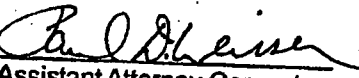
M. Given below is a brief statement of the circumstances of the crime committed by such Fugitive, the breach of conditions of his bail, bond, pardon, parole, or probation, or the circumstances of his escape if he did escape from confinement:

As to Warrant J030721, Kenneth Andrew Lynch did steal and carry away a 2005 Ford Focus vehicle belonging to Portia Washington, said vehicle being valued at \$12,000.00.

At Lexington, South Carolina in the County of Lexington and State of South Carolina, this the 30th day of June, 2006.

APPROVED AS TO FORM
Attorney General of the
State of Washington

JUL 17 2006

By 
Assistant Attorney General


DONALD V. MYERS, Solicitor
Eleventh Judicial Circuit

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

VERIFICATION

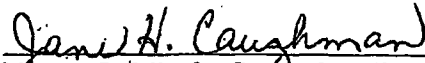
PERSONALLY appeared before me Donald V. Myers, who, first being duly sworn, deposes and says that he is the duly elected and qualified Solicitor of the Eleventh Judicial Circuit of South Carolina, and, as such, is entitled to make the foregoing certificate and this affidavit.

Deponent further states that all facts set forth in the foregoing certificate are true or that they have been represented to him to be true by persons known to him to be officers or officials of the County of Lexington or the City of Lexington, State of South Carolina, and that he believes them to be true.

Deponent further states that the attached documents are authentic.


 DONALD V. MYERS, SOLICITOR
 Eleventh Judicial Circuit of South Carolina

SWORN to and Subscribed Before
 Me this 30th day of June, 2006.


 Notary Public for South Carolina

My Commission Expires: 12-13-12

Submit this certificate to the Governor in triplicate (quadruplicate for North Carolina), and attached to each copy of the certificate one copy of the supporting affidavit and warrant, indictment, or indictment and sentence certified by the Clerk of Court, with the seal of the Court impressed thereon.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

CERTIFICATION

Warrant No. J030721
Kenneth Andrew Lynch

I, Beth A. Carrigg, Clerk of the Courts of Common Pleas and General Sessions for said County, the same being a Court of Record, having by law a seal, do hereby certify that GARY RINEHART before whom the foregoing acknowledgement was taken and who subscribed his name to the certificate of the proof of acknowledgement of the annexed instrument, was at the time of taking such proof, or acknowledgement, a Magistrate in and for the said County and residing therein, duly commissioned and sworn and authorized by the laws of said State to take and certify affidavits and the acknowledgement and proof of deeds and other written instruments to be recorded in said State; and further, that I am well acquainted with the handwriting of such GARY RINEHART and verily believe the signature to the said certificate of proof or acknowledgement is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Lexington, South Carolina, this 30th day of June, 2006.

Beth A. Carrigg
BETH A. CARRIGG
Clerk of Court

EXEMPLIFICATION COPY OF RECORD

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON) State vs. Kenneth Andrew Lynch
)
) Warrant No. J030721

I, Beth A. Carrigg, Clerk of the Courts of Common Pleas, General Sessions, and Family Courts, in and for the County of Lexington, State of South Carolina, having by law the custody of the seal and all the records, books, documents, and papers of, or appertaining to, said Courts, do hereby certify that the foregoing papers are true copies of papers appertaining to said Courts, and on file or of record in the office of said Courts, all of which we have caused by these presents to be exemplified, and the seal of our said Court to be hereunto affixed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Court, the 30th day of June, in the year of our Lord, two thousand six and in the two hundred and twenty-ninth year of the sovereignty and independence of the United States of America.

Beth A. Carrigg
 Clerk of the Courts of Common Pleas, General
 Sessions, and Family Courts for Lexington County,
 South Carolina

I, R. Knox McMahon, Judge of the General Sessions Court in the for the County of Lexington, State of South Carolina, do hereby certify that Beth A. Carrigg, whose signature is subscribed to the preceding exemplification, is the Clerk of said Courts of Common Pleas, General Sessions, and Family Courts of the County of Lexington, State of South Carolina, and that full faith and credit are due to her official acts. I further certify that the seal affixed to the exemplification is the seal of our said Courts, and that the attestation is in due form, and according to the form of attestation used in this State.

Dated at Lexington, South Carolina, this 30th day of July, A.D. 2006.

R. Knox McMahon
 Judge of the General Sessions Court for Lexington
 County, South Carolina

I, Beth A. Carrigg, Clerk of the Courts of Common Pleas, General Sessions, and Family Courts in and for the County of Lexington, State of South Carolina, do hereby certify that Judge R. KNOX MCMAHON whose name is subscribed to the preceding certificate, is the Presiding Judge of said Courts, duly elected, sworn and qualified, and that his signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court, this 5th day of ~~June~~ July, A. D. 2006.

Beth A. Carrigg
Clerk of the Courts of Common Pleas, General
Sessions, and Family Courts for Lexington
County, South Carolina

ARREST WARRANT

J-030721

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

THE STATE

against

LYNCH, KENNETH ANDREW

 Address: WEST COLUMBIA SC 29169

 Date of Birth: SSN:

 Sex: M Race: B Height: 601 Weight: 220

 State: SC DL#:

 DOB: Agency ORI #: SC0320500

 Prosecuting Agency: WCPD

 Prosecuting Officer: MATT EDWARDS

 Offense: GRAND LARCENY \$5,000 OR MORE -

 Offense Code:

 Ordinance Sec. 16-13-30 (B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

WEST COLUMBIA

 The Accused
to be arrested and brought before me to be
arrested with according to law.

Signature of Judge

(L.S.)

 Date:

RETURN

 A copy of this arrest warrant was delivered to
the defendant

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

DGE

200 N 12TH STREET

WEST COLUMBIA SC 29169

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA

1841

AFFIDAVIT

 Personally appeared before me the affiant EDWARDS, W M
being duly sworn deposes and says that defendant LYNCH, KENNETH
did within this county and state on 06/10/2006

 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality
in the following particulars:

DESCRIPTION OF OFFENSE:

GRAND LARCENY \$5,000 OR MORE - 16-13-30 (B)(2)

 I further state that there is probable cause to believe that the de
the crime set forth and that probable cause is based on the following f
IN THAT ON OR ABOUT JUNE 14TH, 2006, AT 200 N. 12TH STREET, IN THE CITY
STATE AFORESAID, PORTIA WASHINGTON AND ANGELICA LIVINGSTON WERE
COLUMBIA POLICE DEPARTMENT. THEY HAD NOT BEEN SEEN BY ANYONE SI
2006 KENNETH ANDREW LYNCH, WAS TICKETED IN EL PASO, TEXAS, WHILE C
(VIN NUMBER 1FAFP34N25W228072) VALUED AT \$12,000.00 WHICH IS REGISTE
JUNE 18TH, 2006 KENNETH ANDREW LYNCH WAS STOPPED WHILE TRYING TO
ON A BUS. THE WHEREABOUTS OF THE VEHICLE ARE UNKNOWN. INVESTIGA
POLICE DEPARTMENT BELIEVE THAT KENNETH ANDREW LYNCH DID TAKE, ST
DEPRIVING THE OWNER OF ITS USE AND VALUE. ALL OF WHICH CONSTITUTE
MORE THAN \$5000.00 AND IS IN VIOLATION OF THE SOUTH CAROLINA CODE C

CASE NUMBER 0612335

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WEST COLUMBIA
Affiant's Address 200 N 12TH STWEST COLUMBIAAffiant's Telephone 803-794-0721

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR

 It appearing from the above affidavit that there are re
on 06/10/2006 defendant LYNCH, KENNETH A

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of WEST COLUMBIA) as :

DESCRIPTION OF OFFENSE:

GRAND LARCENY \$5,000 OR MORE - 16-13-30 (B)(2)

 Having found probable cause and the above affiant having sworn before me, you are
defendant and bring him or her before me forthwith to be dealt with according to law. A
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 6-18-06

(L.S.)

Signature of Issuing Judge

Judge Code: 000059Judge's Address 200 N 12TH SWEST COLUMBIAJudge's Telephone 803-794-072Issuing Court: ☐ Mag

ORIGINAL

SECTION 16-13-30. Petit larceny; grand larceny.

(A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of one thousand dollars or less, is petit larceny, a misdemeanor, triable in the magistrate's court. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment by the grand jury.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of one thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

- (1) five years if the value of the personalty is more than one thousand dollars but less than five thousand dollars;
- (2) ten years if the value of the personalty is five thousand dollars or more.

06-200

SUPERIOR COURT FOR KING COUNTY

STATE OF WASHINGTON)

NO.

COUNTY OF KING)

SEARCH WARRANT

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

Upon the sworn complaint made before me, the affidavit for which is incorporated by reference herein, there is probable cause to believe that the crime(s) of MURDER has been committed and that evidence of that crime; or contraband, the fruits of crime, or things otherwise criminally possessed; or weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or a person for whose arrest there is probable cause, or who is unlawfully restrained is/are concealed in or on certain premises, vehicles or persons.

YOU ARE COMMANDED to:

1. Search within 10 days of this date, the premises vehicle or person described as follows:

A Tan, 2005 Ford Focus, VIN: 1FAFP34N25W228072, currently stored in the Seattle Police Department Vehicle processing facility.

2. Seize if located, the following property or persons:

Any and all materials that will aid investigators in the continuing investigation of the disappearance of Portia Washington and [REDACTED] Livingston, which includes but is not limited to any firearms, edged weapons, blunt instruments or any item that could be used as a weapon. This also includes any items that could be used to take human life or dispose of human remains or evidence including but not limited to sheets, pillows, bedding, clothing towels and rags. Any items containing DNA, including but not limited to bodily fluids or other things that may contain DNA evidence, and all hairs, fibers or other trace evidence and any and all latent print impressions inside or outside the vehicle.

3. Promptly return this warrant to me or the clerk of this court; the return must include an inventory of all property seized.

A copy of the warrant and a receipt for the property taken shall be given to the person from whom or from whose premises property is taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found

Date / Time:

6/20/06

11 15 AM

JUDGE

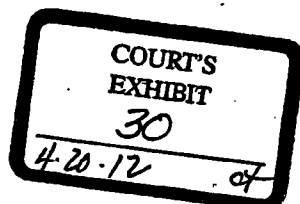
AUG. 22 2007 *

1300

Printed or Typed Name of Judge

JULIE SPECTOR

(continued next page)
Search Warrant
Page 1 of 2



Original: Court File
Copy: Police File
Copy: Judge's Copy
Copy: Left at premises searched

06-200

Search Warrant (continued)

☐ This warrant was issued by the above judge, pursuant to the telephonic warrant procedure authorized by JCrR 2.10 and CrR 2.3, on , 20 at

Printed or Typed Name of Peace Officer, Agency
and Personnel Number

Signature of Peace Officer Authorized to Affix
Judge's Signature to Warrant

Search Warrant

Page 2 of 2

AUG. 22. 2007*

1301

Original: Court File

Copy: Police File

Copy: Judge's Copy

Copy: Left at premises searched

STATE OF SOUTH CAROLINA

County of Lexington

Certified True Copy of Original Court Document

~~COURT REPRESENTATIVE~~

SEARCH WARRANT

Date 09/25/2006Officer BayneCOURT'S
EXHIBIT

32

4-23-12

08

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

SEARCH WARRANT

1846
Form App
S.C. Attorney
Section
March

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF West Columbia

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to search under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

Two black in color travel bags currently located in the West Columbia Police Department Evidence Room. These bags were found to be in the possession of Kenneth Andrew Lynch when he was detained by US Customs agents. These bags were maintained as evidence by law enforcement and ultimately transferred to the West Columbia Police Department.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Two black in color travel bags and their contents within. Any and all items that would help explain the disappearance of Portia Washington and/or [REDACTED]. This includes any item that could be used to inflict serious bodily injury or death, including but not limited to knives, scissors, sharp edged utensils or bottles or any item that can be used as a weapon. Also any item that could contain Deoxyribonucleic Acid (DNA), fingerprints, or shoe-prints, including but not limited to, papers, clothing, and any other items. Investigators also need to seize any phones, keys, papers, bills, identification documents, photographs, media, and any storage devices possibly containing data related to the above.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one April Bayne
 who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provis
 of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this Cou

DESCRIPTION OF PROPERTY SOUGHT

Attachment A

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

Two black in color travel bags currently located in the West Columbia Police Department Evidence Room. These bags
were found to be in the possession of Kenneth Andrew Lynch when he was detained by US Customs agents. These bags
were maintained as evidence by law enforcement and ultimately transferred to the West Columbia Police Department.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See Attachment B

Sworn to and Subscribed before me
 this 25 day of Sept, 19 06

Signature of Judge

(L.S.)

April Bayne
 Affiant

Address West Columbia Police Department200 North 12th St., West Columbia, SC 2916Phone 803-794-0721

ATTACHMENT A

Description of Property Sought

Two black in color travel bags and their contents within. Any and all items that would help explain the disappearance of Portia Washington and/or Angelica [REDACTED]. This includes any item that could be used to inflict serious bodily injury or death, including but not limited to knives, scissors, sharp edged utensils or bottles or any item that can be used as a weapon. Also any item that could contain Deoxyribonucleic Acid (DNA), fingerprints, or shoe-prints, including but not limited to, papers, clothing, and any other items. Investigators also need to seize any phones, keys, papers, bills, identification documents, photographs, media, and any storage devices possibly containing data related to the above.

9/25/06
AB

ATTACHMENT B

On June 14, 2006 the West Columbia police Department was notified by Sallie Jones that her daughter Portia Washington a fifty four years old black female and her great granddaughter [REDACTED] a seven year old female had been missing since June 10, 2006. Ms. Jones had last spoken with Ms. Washington by phone on June 10, 2006. Ms. Jones speaks with her daughter numerous times each day. It was very unusual behavior for her to have had no contact with her or knowledge of her whereabouts in four days. Kenneth Lynch, Ms. Washington's boyfriend also lives at that residence, 1035 Commanche Trail M7, West Columbia, SC 29169.

Ms. Washington's employer was very concerned because she never misses work without notifying them. In addition, the apartment manager told law enforcement that Ms. Washington normally notifies her when she will be out of town. Neither had received any notification that Ms. Washington would be gone.

Officers were given a key by the apartment manager, given the exigent circumstances to check on the health and safety of Ms. Washington and Ms. Livingston. Once inside the residence, neither Ms. Washington nor Ms. [REDACTED] were present in the apartment. This officer observed a child's dress laid out on the bed, toothbrushes and other toiletry items still out in the bathrooms in plain view, and prescribed medicine on the counter in the kitchen.

In addition, a neighbor spoke with Ms. Washington and Ms. [REDACTED] on the afternoon of June 10, 2006 as they were unloading groceries from Ms. Washington's car. The car is registered to Ms. Washington and is a tan in color 2005 Ford Focus with a SC registered tag 682 SEH. Around 10:00 pm the neighbor looked out in the parking lot and did not see the car. The neighbor specifically stated that Ms. Washington brings in her plants every night but that the plants were still outside the apartment.

Officers were unable to find family contacts for Kenneth Lynch. In addition, Mr. Lynch's employer stated that he had not been at work or had contact with Lynch since he worked June 09, 2006.

Ms. Washington, [REDACTED], and Kenneth Lynch were placed into NCIC as missing. Officers also entered Ms. Washington's vehicle into NCIC.

After pulling cell phone records the last phone call Ms. Washington made was to an old friend. The old friend stated that she had talked to her around 9:00 pm on June 10, 2006. Ms. Washington had told her that she was laying out clothes for church the next morning. Ms. Washington had also stated that she was feeling very blessed because God was giving her the opportunity to raise her grandchild.

B 9/25/06

Officers were notified that on June 14, 2006, a Highway Patrolman had stopped an individual who gave the identifiers of Mr. Lynch in El Paso, Texas. This traffic stop occurred directly near the United States and Mexico border. He was stopped in Ms. Washington's car, however neither Ms. Washington nor Ms. Livingston were in that vehicle. Mr. Lynch stated to the highway patrol that he was in route to pick up the registered owner, Ms. Washington in Arizona.

On June 18, 2006 West Columbia Police Department was notified by Customs agents that Mr. Lynch was attempting entry into Canada on a Greyhound bus. Ms. Washington nor Ms. Livingston were in his company. He was ultimately placed under arrest on a West Columbia Police Department warrant for Grand Larceny. Search incident to arrest officers found a bus ticket from Seattle, WA on his person. West Columbia asked Seattle Police Department to look for Ms. Washington's vehicle around the area of the bus station. The vehicle was located two blocks from the bus station without the license plate.

When Mr. Lynch was detained by US Customs Agents, all his belongings were placed into evidence by law enforcement. Those items consisted of two black in color travel bags and various papers. The custody of those items has been transferred to West Columbia Police Department Evidence. It is believed that those black travel bags and papers may contain evidence to provide further information or evidence explaining the disappearance of Washington and Livingston.

On June 20, 2006 pursuant to a search warrant the residence of Livingston, Washington, and Lynch was searched by SLED agents and officers of the West Columbia Police Department. A large blood stain was found on the carpet in the residence indicating a serious injury. It appears that there was an attempt to clean up the residence. DNA from the stain was collected, an analysis was performed by SLED, and results indicated the blood was that of Angelica Livingston. Additionally, other DNA was collected from the sink. The results on that indicated a mixed sample containing a combination of Livingston's DNA and that of a male.

9/25/06
AB

RETURN

I received the attached Search Warrant September 25, 19 2006, and have executed it as follows:

On October 03, 19 2006 at 9:05 o'clock A M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with _____

Evidence Items

Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: 1 letter from Rober Leas Attny
in Monroe, NC, 2 mailed letters from BB&T to Kenneth Lynch stating he is overdrawn
savings & checking acct, 1 Canadian Refusal to entry letter and passport papers, 1 motel Co
receipt, 1 Greyhound Bus ticket receipt, 1 Certificate of Title vehicle, 2004 W-2 and 2005
W-2 forms, from very back Zip pocket on outside back, 1 piece paper w/ phone
numbers on it, 1 Parking receipt, 1 Larry D. Lynch business card,

This inventory was made in the presence of Investigator Bramlett

AND Investigator Bayne

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 3
day of Oct, 19 06

Signature of Judge

(L. S.)

(Signature of Officer Executing Warrant)

RETURN

I received the attached Search Warrant September 25, 192006, and have executed it as follows:
 On October 03, 192006 at 9:05 o'clock A M, I searched
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Evidence Items
 Name of person searched or "at the place of search" with.
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 pair Night vision Black in color goggles taken from Black American Tourister bag
Taken from Black leather Travel bag's front right zip pocket - Public Storage Receipt, 2 BB3T
bank w/draw receipts, front right top zip pocket - 1 traffic citation from NC, from top horizontal
zip pocket 1 gold in color chain, 1 lottery ticket, 2 various pieces of paper w/ phone numbers
or sequence of numbers, taken from front compartment, 1 Certificate of birth (in a ziploc bag),
1 Black in color phone holder, 2 set of keys on a key chain, 1 Black in color MB wallet containing
1 BB3T card, 1 ACE cash express card, 1 Piece paper with phone number, 2 Wachovia w/draw
receipts, 1 Wachovia Check card register w/ Wachovia card inside, 1 piece paper w/ phone number
1 fallen oak hunt club ticket for drawing, Kenneth Lynch NJ ID card SS card Kenneth Lynch,
Kenneth Lynch The Howard Savings bank card, Kenneth Lynch Public Library Lexington Co. card,
from rear bag compartment, 1 Brown in color belt, 1 pair glasses, 1 BB3T check register, 1 Blue &
Grey Robin phone w/ wall charger, 1 gold in color Nationwide D.S.A ring w/ inside
inscription Mark Harley, 1 Family Dollar Receipt store # 5311 06/13/06, 2 packets of Sign up
papers for Wachovia, 1 note from Cayce PD, 1 motel receipt, 1 Greyhound Bus receipt, 1 Layaway ticket

This inventory was made in the presence of Investigator Bramlett
 AND Investigator Bryne

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 3
 day of Oct, 1906
 _____ (L.S.)
 Signature of Judge

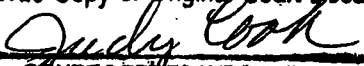
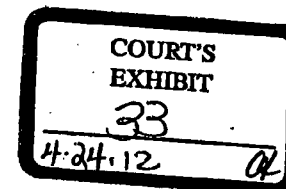
[Signature]
 (Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

County of Lexington

SEARCH WARRANT

Certified True Copy of Original Court Document


COURT REPRESENTATIVEDate 01/19/2007Officer Bayne

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

SEARCH WARRANT

1854
Form Appi
S.C. Attorney
Section 1
March

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPAL
OF West Columbia

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

Two black in color travel bags currently located in the West Columbia Police Department Evidence Room. These bags were found to be in the possession of Kenneth Andrew Lynch when he was detained by US Customs agents. These bags were maintained as evidence by law enforcement and ultimately transferred to the West Columbia Police Department.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Two black in color travel bags and their contents within. Investigators specifically need to search any clothing items and jewelry that could contain Deoxyribonucleic Acid (DNA). This includes but is not limited to shirts, pants, underwear, shoes, belts, rings, and watches.

Certified True Copy of Original Court Document
[Signature]
COURT REPRESENTATIVE

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Judge Whittle

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

CAYCE

, S. C.

1/19/07

, 19

STATE OF SOUTH CAROLINA

1855

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one Investigator April Bayne
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisi
of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this Cou

DESCRIPTION OF PROPERTY SOUGHT

Two black in color travel bags and their contents within. Investigators specifically need to search any clothing items and
jewelry that could contain Deoxyribonucleic Acid (DNA). This includes but is not limited to shirts, pants, underwear, shoe
belts, rings, and watches.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

Two black in color travel bags currently located in the West Columbia Police Department Evidence Room. These bags
were found to be in the possession of Kenneth Andrew Lynch when he was detained by US Customs agents. These bags
were maintained as evidence by law enforcement and ultimately transferred to the West Columbia Police Department.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See attachment A

Certified True Copy of Original Court Document

Court Representative

Sworn to and Subscribed before me

this 19 day of JAN, 1907

Signature of Judge

(L.S.)

Affiant

Address West Columbia Police Department

200 North 12th Street, West Columbia, SC 29169

Phone 803-794-0721

Certified True Copy of Original Court Document
[Signature]
 COURT REPRESENTATIVE

ATTACHMENT A

On June 14, 2006 the West Columbia police Department was notified by Sallie Jones that her daughter Portia Washington a fifty four years old black female and her great granddaughter [REDACTED] a seven year old female had been missing since June 10, 2006. Ms. Jones had last spoken with Ms. Washington by phone on June 10, 2006. Ms. Jones speaks with her daughter numerous times each day. It was very unusual behavior for her to have had no contact with her or knowledge of her whereabouts in four days. Kenneth Lynch, Ms. Washington's boyfriend also lives at that residence, 1035 Commanchee Trail M7, West Columbia, SC 29169.

Ms. Washington's employer was very concerned because she never misses work without notifying them. In addition, the apartment manager told law enforcement that Ms. Washington normally notifies her when she will be out of town. Neither had received any notification that Ms. Washington would be gone.

Officers were given a key by the apartment manager, given the exigent circumstances to check on the health and safety of Ms. Washington and Ms. [REDACTED]. Once inside the residence, neither Ms. Washington nor Ms. [REDACTED] were present in the apartment. This officer observed a child's dress laid out on the bed, toothbrushes and other toiletry items still out in the bathrooms in plain view, and prescribed medicine on the counter in the kitchen.

In addition, a neighbor spoke with Ms. Washington and Ms. [REDACTED] on the afternoon of June 10, 2006 as they were unloading groceries from Ms. Washington's car. The car is registered to Ms. Washington and is a tan in color 2005 Ford Focus with a SC registered tag 682 SEH. Around 10:00 pm the neighbor looked out in the parking lot and did not see the car. The neighbor specifically stated that Ms. Washington brings in her plants every night but that the plants were still outside the apartment.

Officers were unable to find family contacts for Kenneth Lynch. In addition, Mr. Lynch's employer stated that he had not been at work or had contact with Lynch since he worked June 09, 2006.

Ms. Washington, Ms. [REDACTED], and Kenneth Lynch were placed into NCIC as missing. Officers also entered Ms. Washington's vehicle into NCIC.

After pulling cell phone records the last phone call Ms. Washington made was to an old friend. The old friend stated that she had talked to her around 9:00 pm on June 10, 2006. Ms. Washington had told her that she was laying out clothes for church the next morning. Ms. Washington had also stated that she was feeling very blessed because God was giving her the opportunity to raise her grandchild.

11/19/07

Officers were notified that on June 14, 2006, a Highway Patrolman had stopped an individual who gave the identifiers of Mr. Lynch in El Paso, Texas. This traffic stop occurred directly near the United States and Mexico border. He was stopped in Ms. Washington's car, however neither Ms. Washington nor Ms. Livingston were in that vehicle. Mr. Lynch stated to the highway patrol that he was in route to pick up the registered owner, Ms. Washington in Arizona.

On June 18, 2006 West Columbia Police Department was notified by Customs agents that Mr. Lynch was attempting entry into Canada on a Greyhound bus. Ms. Washington nor Ms. Livingston were in his company. He was ultimately placed under arrest on a West Columbia Police Department warrant for Grand Larceny. Search incident to arrest officers found a bus ticket from Seattle, WA on his person. West Columbia asked Seattle Police Department to look for Ms. Washington's vehicle around the area of the bus station. The vehicle was located two blocks from the bus station without the license plate.

It was later learned that on June 12, 2006 before Mr. Lynch was even placed into NCIC as missing he checked into a Motel 6 in Mississippi using the correct street address on his driver's license, but giving another city, and using Florida as the state of residence.

On June 18, 2006 Mr. Lynch was interviewed by an Agent of the F.B.I. During that interview he was uncooperative and did not provide any information on the vehicle stating that friends had been driving him. He then changed his account to having driven the car but claimed he left on June 09, 2006 after Ms. Washington gave him permission to use the car. He stated that he always had wanted to go visit Canada to see the big wild bears. He was vague about his activities and whereabouts during this time period. This officer believes that the residence of Livingston, Washington, and Lynch may provide further information or evidence explaining the disappearance of Washington and Livingston.

Cayce Police Department has two prior police reports where they have responded to the prior residence of Ms. Washington and Mr. Lynch at 430 New State Road, Cayce, SC 29033. The first report was in 2005 when Mr. Lynch was requesting officer assistance to remove items from a residence where he claimed his girlfriend was evicting him. The second report was early in 2006 when Ms. Washington was allegedly physically assault by Mr. Lynch following her recent bout with cancer.

On June 20, 2006 pursuant to a search warrant the residence of [REDACTED] Washington, and Lynch was searched by SLED agents and officers of the West Columbia Police Department. During this search, officers discovered and collected numerous swabs of what appeared to be blood. Obvious attempts had been made to clean up several areas where some of the blood was discovered. The swabs were tested and it was determined that the blood collected was

Certified True Copy of Original Court Document
Judy [Signature]
 COURT REPRESENTATIVE

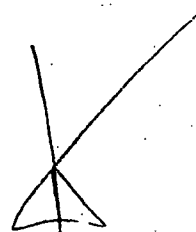
11/19/07
[Signature]

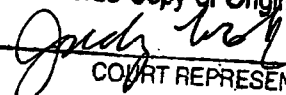
consistent with being from a daughter of Teresa Brown. Teresa Brown is the mother of Angelica Livingston.

On October 03, 2006 pursuant to a search warrant, the travel bags of Kenneth Lynch were searched. In those bags papers, identification documents, bank records, clothing, jewelry, and keys among many other items were found. It is believed that the clothing and jewelry items might contain trace amounts of DNA evidence and investigators believe this would provide additional information into the disappearance of both Portia Washington and Angelica Livingston.

As of this date, neither Washington or Livingston has been located. No evidence has been found to indicate that they are alive.

1/19/07



Certified True Copy of Original Court Document

COURT REPRESENTATIVE

RETURN

I received the attached Search Warrant 01/19, 19 2007, and have executed it as follow
 On 01/19, 19 2007 at 10:05 o'clock A M, I search
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Evidence
 Name of person searched or "at the place of search" with.
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 XL Family Value White T-Shirt inside front zipper Pocket of American Tourist Black Bag
 1 XXL Cub Scout Day camp Grey T-Shirt inside American Tourist Black Bag
 1 38 Cargo Pants Route 66 Khaki inside American Tourist Black Bag
 1 XL Family Value White T-Shirt inside American Tourist Black Bag
 1 Silver in color Quartz watch inside Back horizontal zip pocket in Black leather bag (Band is br
 1 Silver in color Chevrolet Watch inside Back zip pocket with 3 compartments in Black leather
 1 Gold in color watch face Rolex inside Back zip pocket with 3 compartments in Black leather b
 1 Gold in color watch band inside Back zip pocket with 3 compartments in Black leather Bag

This inventory was made in the presence of Investigator Chuck Brantlett
 AND Investigator April Bayne

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

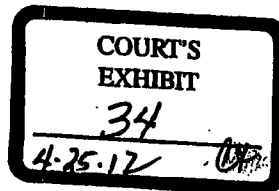
SWORN to before me this 19
 day of JAN 2007

Signature of Judge

(L. S.)

(Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

County of LEXINGTON~~Carried True Copy of Original Court Document~~~~COURT REPRESENTATIVE~~SEARCH WARRANTDate 06/20/2006Officer April Bayne

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF West Columbia

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

[REDACTED] in the city of West Columbia. The front of the brick apartment building is marked with the letter M 7 and 8 in a black lettering. The apartment itself is on the ground level and has a sliding glass door with blinds on the front side. The opposite side of the apartment has two windows surrounded by brick and faces Park Place Lane. The front door to the apartment is light in color with a red towel and multi colored mat in front of it.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

SEE ATTACHMENT A

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

JUDGE SCOTT WHITLE

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington,

, S.C.

20 JUNE

2006

, 19

Thoy M. Mahon

Signature of Judge

(L.S.)

Personally appeared before me, one _____ Investigator April Bayne
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

SEE ATTACHMENT A

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

_____ in the city of West Columbia. The front of the brick apartment building is
marked with the letter M 7 and 8 in a black lettering. The apartment itself is on the ground level and has a sliding glass
door with blinds on the front side. The opposite side of the apartment has two windows surrounded by brick and faces Park
Place Lane. The front door to the apartment is light in color with a red towel and multi colored mat in front of it.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

SEE ATTACHMENT B

Sworn to and Subscribed before me

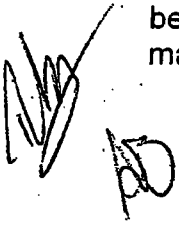
this 20th day of JUNE, 2006
[Signature] (L.S.)
Signature of Judge

Affiant

Address West Columbia Police Department200 North 12th St., West Columbia, SC 29169Phone 803-794-0721

ATTACHMENT A

Any and all documents or other evidence including but not limited to receipts, letter, bills, or other documents that would assist investigators in locating Ms. Washington and Ms. [REDACTED]. Investigators also need the serial number, make, and model from the home computer in order to obtain a subsequent search warrant for information contained on that computer. In addition, any clothing that would possibly belong to the residents. Also to be seized would be anything containing DNA including but not limited to blood, hair, or semen samples. In addition latent fingerprints and fibers will also be needed. Any possible weapons including but not limited to firearms, edged weapons, and blunt instruments. Also needed would be any cleaning supplies of utensils that would be used to clean up the apartment in an attempt to cover any type of crime that may have occurred.



ATTACHMENT B

On June 14, 2006 the West Columbia police Department was notified by Sallie Jones that her daughter Portia Washington a fifty four years old black female and her great granddaughter Angelica [REDACTED] a seven year old female had been missing since June 10, 2006. Ms. Jones had last spoken with Ms. Washington by phone on June 10, 2006. Ms. Jones speaks with her daughter numerous times each day. It was very unusual behavior for her to have had no contact with her or knowledge of her whereabouts in four days. Kenneth Lynch, Ms. Washington's boyfriend also lives at that residence, 1035 Commanchee Trail M7, West Columbia, SC 29169.

Ms. Washington's employer was very concerned because she never misses work without notifying them. In addition, the apartment manager told law enforcement that Ms. Washington normally notifies her when she will be out of town. Neither had received any notification that Ms. Washington would be gone.

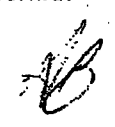
Officers were given a key by the apartment manager, given the exigent circumstances to check on the health and safety of Ms. Washington and Ms. [REDACTED]. Once inside the residence, neither Ms. Washington nor Ms. [REDACTED] were present in the apartment. This officer observed a child's dress laid out on the bed, toothbrushes and other toiletry items still out in the bathrooms in plain view, and prescribed medicine on the counter in the kitchen.

In addition, a neighbor spoke with Ms. Washington and Ms. [REDACTED] on the afternoon of June 10, 2006 as they were unloading groceries from Ms. Washington's car. The car is registered to Ms. Washington and is a tan in color 2005 Ford Focus with a SC registered tag 682 SEH. Around 10:00 pm the neighbor looked out in the parking lot and did not see the car. The neighbor specifically stated that Ms. Washington brings in her plants every night but that the plants were still outside the apartment.

Officers were unable to find family contacts for Kenneth Lynch. In addition, Mr. Lynch's employer stated that he had not been at work or had contact with Lynch since he worked June 09, 2006.

Ms. Washington, Ms. [REDACTED] and Kenneth Lynch were placed into NCIC as missing. Officers also entered Ms. Washington's vehicle into NCIC.

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Officers were notified that on June 14, 2006, a Highway Patrolman had stopped an individual who gave the identifiers of Mr. Lynch in El Paso, Texas. This traffic stop occurred directly near the United States and Mexico border. He was stopped in Ms. Washington's car, however neither Ms. Washington nor Ms. [REDACTED] were in that vehicle. Mr. Lynch stated to the highway patrol that he was in route to pick up the registered owner, Ms. Washington in Arizona.

On June 18, 2006 West Columbia Police Department was notified by Customs agents that Mr. Lynch was attempting entry into Canada on a Greyhound bus. Ms. Washington nor Ms. [REDACTED] were in his company. He was ultimately placed under arrest on a West Columbia Police Department warrant for Grand Larceny. Search incident to arrest officers found a bus ticket from Seattle, WA on his person. West Columbia asked Seattle Police Department to look for Ms. Washington's vehicle around the area of the bus station. The vehicle was located two blocks from the bus station without the license plate.

It was later learned that on June 12, 2006 before Mr. Lynch was even placed into NCIC as missing he checked into a Motel 6 in Missouri using the correct street address on his driver's license, but giving another city, and using Florida as the state of residence.

On June 18, 2006 Mr. Lynch was interviewed by an Agent of the F.B.I. During that interview he was uncooperative and did not provide any information on the vehicle stating that friends had been driving him. He then changed his account to having driven the car but claimed he left on June 09, 2006 after Ms. Washington gave him permission to use the car. He stated that he always had wanted to go visit Canada to see the big wild bears. He was vague about his activities and whereabouts during this time period. This officer believes that the residence of Livingston, Washington, and Lynch may provide further information or evidence explaining the disappearance of Washington and Livingston.

Cayce Police Department has two prior police reports where they have responded to the prior residence of Ms. Washington and Mr. Lynch at 430 New State Road, Cayce, SC 29033. The first report was in 2005 when Mr. Lynch was requesting officer assistance to remove items from a residence where he claimed his girlfriend was evicting him. The second report was early in 2006 when Ms. Washington was allegedly physically assaulted by Mr. Lynch following her recent bout with cancer.

#2
AB

RETURN

I received the attached Search Warrant June 20, 192006, and have executed it as follows:

On June 20, 192006 at 5:55 o'clock 2 M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Oliver Webster, Apartment Manager, 2006 1st St. NW
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 Micro Keyboard missing spacebar Serial # 014050382986
1 Compu Zone Hard Drive Serial # 002934
2 Button mouse Serial # 0326338
Bedding and Blankets from child's bedroom
5 swabs of blood
1 multi colored Sheet containing blood
Cutting from Master Bedroom carpet
Color photos of residence

This inventory was made in the presence of Inv. Rati Dove, Inv. Chuck Brantlett, SIA
AND SIA Green, SIA Kerley, SIA Seales

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 27

day of JUNE, 192006

Signature of Judge

(L. S.)

(Signature of Officer Executing Warrant)

RETURN

I received the attached Search Warrant June 20, 192006, and have executed it as follows:

On June 20, 192006 at 5:35 o'clock P M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Olyr Woster, Apartment Manager Fore 2nd floor
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 Micro Keyboard missing spacebar Serial # 014050382986
1 Compu Zone Hard Drive Serial # 002934
2 Button mouse Serial # 0326338
Bedding and Blankets from Childs bedroom
8 swabs of blood
1 multi colored Sheet containing blood
1 Cutting from Master Bedroom carpet
Color photos of residence

This inventory was made in the presence of Inv. Bobi Dove, Inv. Chuck Bramlett, S/A
AND S/A Green, S/A Kerley, S/A Seales

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 27

day of JUNE, 192006

Signature of Judge

(L. S.)

(Signature of Officer Executing Warrant)

Pleading # 115

DEATH PENALTY CASE

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

KENNETH ANDREW LYNCH,

Defendant.

Indictment No.s: 2008-GS-32-2652&265

MOTION FOR NEW TRIAL

Comes now, Kenneth Andrew Lynch, through undersigned counsel, and respectfully moves this Court for a new trial. The Defendant was sentenced on Tuesday, May 8th, 2012, and on that date was granted ten (10) days within which to file post trial motions.

The Defendant moves for a new trial based on the lack of substantial circumstantial evidence in the prosecution's case in chief at the guilt/innocence phase, and the totality of the evidence at the close of the Defendant's case in chief at the guilt/innocence phase of the Defendant's capital trial. Further, the Defendant bases his motion for a new trial on all objections and motions made *in limine*, and during the guilt/innocence phase of this death penalty trial.

☐ cc: Box

☐ cc: Mail

☒ cc: Person *AW*

FILED

2012 MAY 17 2 26

Ex Parte Pleading

DEATH PENALTY CASE

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

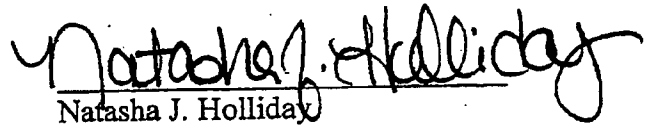
STATE OF SOUTH CAROLINA,
Plaintiff,
v.
KENNETH ANDREW LYNCH,
Defendant.

Indictment No.s: 2008-GS-32-2652&2653

CERTIFICATE OF SERVICE

I, Natasha J. Holliday, hereby certify that a copy of motion listed below has been hand delivered to The Office of the Solicitor for Lexington County, this 17th day of May, 2012.

Pleading Nos. 115


Natasha J. Holliday
Paralegal

FILED

2012 MAY 17 2:56

DEATH PENALTY CASE

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

KENNETH ANDREW LYNCH,

Defendant.

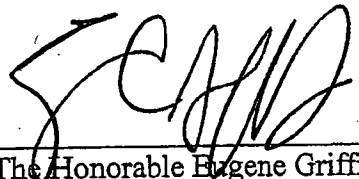
Indictment No.s: 2008-GS-32-2652&2653

ORDER DENYING DEFENDANT'S MOTION FOR NEW TRIAL

Kenneth Andrew Lynch, through undersigned counsel, respectfully moves this Court for a new trial and for a new sentencing proceeding. This motion is denied.

The Court has considered each ground offered by the Defendant and denies the Defendant's motion.¹

IT IS SO ORDERED!


The Honorable Eugene Griffith, Jr.
Circuit Court Judge

¹ This Court acknowledges that the Defense prepared its post trial motions without the benefit of the trial transcript. Failure to specifically argue an issue properly preserved at trial does not operate as a waiver of those issues.

1871

WITNESSES

West Columbia Police Department

April Bayne

Law Enforcement Case #:

DVM

ARREST WARRANT NUMBER

J032175

Arrested 9-25-08 Hqs. Link Sup. Hq.

ACTION OF GRAND JURY

FROM RIT

Donald L. Lophant
Foreperson of Grand Jury
Date: 8-11-08

VERDICT

Multh 5-2-12

SC DVM

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-03-02

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2008

THE STATE

vs.

KENNETH ANDREW LYNCH

CDR #: 0116

Indictment for

Murder

§ 16-03-0010; 16-03-0020

DONALD V. MYERS, SOLICITOR

MAJESTY
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Murder

§ 16-03-0010; 16-03-0020

At a Court of General Sessions, convened on August 14, 2008, the Grand Jurors of Lexington County present upon their oath:

That **KENNETH ANDREW LYNCH** did in Lexington County on or between June 10, 2006 and June 12, 2006, unlawfully, willfully, intentionally and feloniously kill one Portia Washington with malice aforethought, by unknown, violent means or instruments and the victim did die as a proximate result thereof, in violation of § 16-3-10, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

1873

WITNESSES

West Columbia Police Department

April Bayne

Law Enforcement Case #:

DVM

ARREST WARRANT NUMBER

J032176

Arrested on 9-23-08

Hope Frick Supervisor H&A

ACTION OF GRAND JURY

FROM BILL

Donald Leach

Foreperson of Grand Jury

Date: 8-11-08

VERDICT

Guilty

5-2-12

SEA/M

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2008

THE STATE

vs.

KENNETH ANDREW LYNCH

CDR #: 0116

Indictment for

Murder

§ 16-03-0010; 16-03-0020

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder

§ 16-03-0010; 16-03-0020

At a Court of General Sessions, convened on August 14, 2008, the Grand Jurors of Lexington County present upon their oath:

That **KENNETH ANDREW LYNCH** did in Lexington County on or between June 10, 2006 and June 12, 2006, unlawfully willfully, intentionally and feloniously kill one

Cassandra L. [REDACTED] with malice aforethought, by unknown, violent means or instruments and the victim did die as a proximate result thereof, in violation of § 16-3-10, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

David Shaun Graham
S. Asst. SOLICITOR

10-20-08

WITNESSES

WCPD
Edwards~~Edwards~~

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

February TERM 2007

THE STATE

vs.

KENNETH ANDREW LYNCH

A-2006-32-02002

2/2/2007 12:08 PM

ARREST WARRANT NUMBER

J030721

*Assigned 9-25-08
Hose Fish Sup. H.S.*

ACTION OF GRAND JURY

TRUE BILL*Ch. 2 R. 1*
Foreman

Foreperson of Grand Jury

Date: 2-5-07

VERDICT

Guilty 5-2-12*S. D. W.*

Foreperson of Petit Jury

Date:

CDR# 0479

Indictment for

Grand Larceny \$5000 or more

§16-13-30(B)(2)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

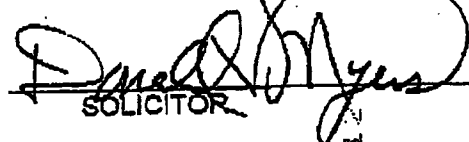
INDICTMENT FOR
Grand Larceny \$5000 or more

§16-13-30(B)(2)

At a Court of General Sessions, convened on February, 2007, the Grand Jurors of Lexington County present upon their oath:

That **KENNETH ANDREW LYNCH** did in Lexington County on or about June 14, 2006, knowingly, willfully and unlawfully take, steal or carry away goods, chattels, instruments or other property with the intent to permanently deprive the owner thereof, being the property of Portia Washington and described as a 2005 Ford Focus, VIN No. 1FAFP34N25W228072, such property having a value of five thousand (\$5,000) dollars or more, in violation of §16-13-30 (B) (2) of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

MAY 08 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	)	INDICTMENT NO. 2008-GS-32-2653
	)	INDICTMENT NO. 2008-GS-32-2652
STATE OF SOUTH CAROLINA	)	INDICTMENT NO. 2007-GS-32-525
	)	
vs.	)	SENTENCING ORDER
KENNETH ANDREW LYNCH	)	

BETH A. HOGG
CLERK OF COURT
LEXINGTON, SC

2012 MAY -8 PM 12:31

The Lexington County Grand Jury indicted the Defendant on charges of Murder (Two Counts) and Grand Larceny. Pursuant to S.C. Code § 16-3-26, the State timely notified the Defendant that it intended to seek the death penalty for the murder charges. On February 2, 2012, this Court conducted a hearing whereby the Defendant waived his right to have a jury trial in these matters. Commencing April 16, 2012 through May 7, 2012, this Court conducted a bench trial during which testimony was heard from more than 50 witnesses and evidence was presented in over 300 exhibits. Prior to the bench trial, the Defendant again waived his right to have a trial by jury.

Law

S.C. Code § 16-3-20 provides, in part, that a person who is convicted of or pleads guilty to murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years. For purposes of this statute, "life imprisonment" means until death of the offender without the possibility of parole. No person sentenced to life imprisonment pursuant to this statute is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education

credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment.

When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant of murder, the court is required to conduct a separate sentencing proceeding, which this court conducted this past week. In such a proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. If no statutory aggravating circumstance is found, the defendant must be sentenced to either life imprisonment or a mandatory minimum term of imprisonment for thirty years. In cases like this where the Defendant waives his right to a trial by jury and is found guilty, the sentencing proceeding must be conducted before a judge. Pursuant to the statute in the sentencing proceeding, the judge hears additional evidence in extenuation, mitigation, or aggravation of the punishment. In such a case the law requires the judge to consider mitigating circumstances otherwise authorized or allowed by law, as well as certain enumerated statutory aggravating and mitigating circumstances which may be supported by the evidence. The judge must make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

Finding and consideration of aggravating circumstances

Pursuant to S.C. Code § 16-3-20, I have carefully considered the evidence presented during the sentencing phase and make the following findings concerning the existence of statutory aggravating circumstances:

I find the State has proven beyond a reasonable doubt that the Defendant, Kenneth Andrew Lynch, committed the murders of Portia Washington and Cassandra L. [REDACTED]

Cassandra L. [REDACTED] by one scheme or course of conduct and that one of the murders was that of a child less than eleven years of age. Having proven the existence of two statutory aggravating circumstances, the State is entitled to seek the death penalty for the Defendant.

Finding

I was assigned this case by the Chief Justice some months ago. This case is unusual in that it is the only non-jury capital case of which I am aware, that the judge has assumed the role of the fact finder in both the guilt and sentencing phases of the trial. This trial has been conducted from beginning to end, through both guilt phase and sentencing phase, to a singular judge. When the Defendant was found guilty by me as the finder of fact, it then became my duty to listen dispassionately to the testimony and evidence of aggravating circumstances. I am also required to consider evidence of mitigating and extenuating circumstances presented by the defense. It is possible that another judge or a jury would have viewed the same evidence and found a different verdict or imposed a different sentence. However, in this case, all of the decisions have been mine to make.

I have very diligently and deliberately reviewed and evaluated all the testimony and evidence presented by the State and by the Defense. Considering all of the evidence presented in this case and weighing it within the bounds of the laws, I find that the convictions to the two murder indictments warrant the imposition of a sentence of life in prison without possibility of parole. The Bible teaches us to treat our fellow man like we would like to be treated, and to judge in a manner in which we hope to be judged.

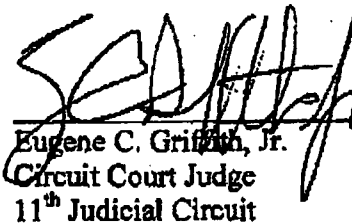
To the Defendant, Kenneth Andrew Lynch, I tell you that in time you will come to realize in full the consequences of your actions. In the coming weeks, months and years you will fully realize what the rest of your days on this Earth will be like, and that your actions are the cause of your fate. You may decide to reveal what you have not yet revealed. However, you will not walk free amongst us again, and some day you will die in prison.

May God have mercy on your soul.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That for Indictment 2007-GS-32-525, GRAND LARCENY \$5000 OR MORE of PORTIA WASHINGTON'S 2005 FORD FOCUS, you, Kenneth Andrew Lynch, are committed to the Department of Corrections for a determinate term of ten years; and,
2. That for Indictment 2008-GS-32-2652, MURDER of CASSANDRA ANGELICA LIVINGSTON, you, Kenneth Andrew Lynch, are committed to the Department of Corrections for the remainder of your natural life without the possibility of parole; to run consecutive to the sentence imposed above; and,
3. That for Indictment 2008-GS-32-2653, MURDER of PORTIA WASHINGTON, you, Kenneth Andrew Lynch, are committed to the Department of Corrections for the remainder of your natural life without the possibility of parole; to run consecutive to the sentences imposed above.

IT IS SO ORDERED.

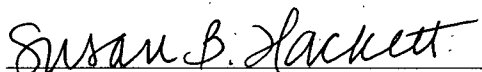

 Eugene C. Griffith, Jr.
 Circuit Court Judge
 11th Judicial Circuit

May 8th, 2012
 Lexington, South Carolina

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 4th, 2014

A handwritten signature in cursive script that reads "Susan B. Hackett". The signature is written in dark ink and is positioned above a horizontal line.

Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Eugene C. Griffith, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

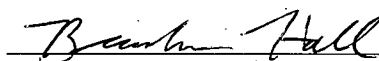
V.

KENNETH ANDREW LYNCH,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 4th day of June, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of June, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022

RECEIVED

JUN 04 2014

SC Court of Appeals