

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

Brooks P. Goldsmith, Circuit Court Judge

DOMINIC A. GALLMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001179

APPENDIX

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PAGES 1001-1500

RECEIVED
MAR 19 2019
S.C. SUPREME COURT

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1 (Pause)

2 **MR. STRICKLER:** No questions of this witness.

3 **MR. MILLING:** No questions, Your Honor.

4 **THE COURT:** Mr. Delgado?

5 **MR. DELGADO:** Your Honor, yes, sir, I do.

6 RE CROSS EXAMINATION

7 **BY MR. DELGADO**

8 **Q** Mr. Allen, relating to when you knew about different
9 guns, sir, you escorted your brother --

10 **MR. MEADORS:** Your Honor, this is not proper
11 re --

12 **MR. DELGADO:** Certainly it is.

13 **MR. MEADORS:** -- cross.

14 **THE COURT:** Overruled. Go ahead.

15 **MR. DELGADO:** Thank you, sir.

16 **Q** Again, sir, just so that I don't confuse you; you
17 took your brother to the City of Columbia Police
18 Department on Tuesday, the 13th. Correct, sir?

19 **A** Yes, sir.

20 **Q** You assisted him in turning himself in, correct?

21 **A** Yes, sir.

22 **Q** You met with certain members of the City of Columbia
23 Police Department at that time, did you not, sir?

24 **A** Yes, sir.

25 **Q** Do you remember a fellow by the name of Captain Steve

1 Conley? He's the head of their investigations
2 division at the City of Columbia.

3 A No, sir.

4 Q Do you remember meeting some investigators while you
5 were present at the City Columbia Police Department?

6 A Yes, sir.

7 Q You were there for a good hour, hour and a half
8 yourself, weren't you?

9 A I don't know how long. It must have been 45 minutes.

10 Q Sure. And we're not talking about being in the
11 lobby. We're talking about being in the back where
12 police officers operate. Correct, sir?

13 A I don't know what the facility is. I know I was in a
14 room with a table in it, you know.

15 Q Sure. A small, little room?

16 A A big room.

17 Q Various individuals who were known to you or
18 identified themselves to you as police officers came
19 in. Correct?

20 A No. It was only one lady, a black lady and a white
21 dude.

22 Q If I told you that white dude's name is Captain Steve
23 Conley, would you know that? Did he ever introduce
24 himself to you, if you recall?

25 A I mean, I'm sure he did, but I didn't know his name.

1 Q Would it be fair to say, sir, that during that whole
2 period of time you yourself, Ulicen Allen, were very
3 nervous? Correct, sir?

4 A Yeah.

5 Q Yeah. You talked to them about what you knew about
6 this case, correct?

7 A Yes, sir.

8 Q And they talked to you about what facts had been
9 revealed to them, correct?

10 A No, sir.

11 Q They never said anything to you about the killings,
12 did they?

13 A No. They -- I mean, just the murder in the paper.

14 Q Yeah. In fact, that newspaper talked about the
15 circumstances of the case, too, didn't it?

16 A Yes, sir.

17 Q And you had learned that back on either the 8th or
18 the 9th or the 10th, before the 13th and the 14th,
19 didn't you?

20 A Yes, sir.

21 Q Okay. That's all the questions I have. Thank you,
22 sir.

23 THE COURT: Mr. Allen, you may come down. Thank
24 you very much, sir. All right, ladies and gentlemen
25 of the jury, that will conclude the testimony for not

1 only today but for this week. Would it -- and I
2 certainly indicated to you early on that this case
3 would probably run over into next week. Let me ask
4 you this. Would it be too much of an imposition to
5 ask you to be here by on -- I'm seeing some heads
6 shake. You know, I don't know if you've got to take
7 the children to school and do other things in the
8 morning to get your chores done, whatever.

9 If it suits you, and I'm getting general
10 positive vibes over here that that would suit you,
11 let's try to get started at 9:00 or soon thereafter.
12 Let me just -- I always say this. Monday mornings
13 are sort of hectic around here, but we'll try to
14 get -- if you'll be here by 9, we'll try to get
15 started as soon thereafter as possible.

16 All right. Thank you very much. Again, have a
17 pleasant weekend. Do not discuss the case among
18 yourselves or with anyone else over the evening
19 hours. Again, if there are any press reports, I
20 don't know if there are any members of the press
21 here, I haven't seen them the last few days; but I
22 would ask you again or caution you against reading,
23 listening to television or anything that deals with
24 this case.

25 I think you know by now what I've been talking

1 about all week. You are the people here. You hear
2 all the evidence in the case, and whatever some
3 reporter says might not be at all what you have seen
4 and heard. And we'll continue the case Monday
5 morning. And so I hope you have a pleasant weekend.
6 Just hold on. Wait. Whoa, whoa, whoa. What?

7 (Whereupon, a bench conference is had between
8 the Court and a deputy)

9 **THE COURT:** I was going to have law enforcement
10 escort you to your cars. But I think it's still
11 daylight. So have a pleasant weekend. Thank you
12 very much.

13 (Jury out at 4:19 p.m.)

14 **MR. ROSS:** May I approach just briefly, Your
15 Honor?

16 **THE COURT:** Well, wait a minute. I think I --
17 will somebody see next week if you can get me some of
18 those metal balls that Captain Clee kept in his hands
19 so he could remain calm?

20 All right. Mr. Ross, you have something to say?

21 **MR. ROSS:** Yes, sir. There was an individual
22 somehow associated with the Gallman family who was
23 apparently flashing gang signs at Mike Allen while he
24 was testifying. He was removed from the courtroom.
25 I just want to bring it to your attention. He ought

1 to be held in contempt.

2 **THE COURT:** Well, I didn't see it.

3 **MR. ROSS:** But Mike Allen is the only one who
4 actually saw the gang signs. But he had his hands
5 over the rail with his little signs, flashing him
6 signs.

7 **THE COURT:** Well, Mr. Allen didn't seem too
8 distressed about it.

9 **MR. ROSS:** He was. He told the deputies about
10 it.

11 **THE COURT:** All right. It's on the record.

12 Now, at the beginning of the week we talked
13 briefly about -- well, we talked to some degree about
14 an arrest made by Mr. Abraham on the 24th of August.
15 And I indicated on Tuesday that I wasn't clear that
16 that was a 404(b) violation. After further
17 reflection I believe it is a 404 issue.

18 And I will -- if the State still plans to offer
19 that testimony, I want a brief, the case citations
20 Monday as to why that is -- why it should be
21 admissible as some, if any, exception to the 404(b)
22 restriction on prior bad acts. It has in my mind
23 some clear Lyle issues connected with it. And if you
24 plan to do that, get me the authority under which you
25 think that would be admissible.

1 Now, is there anything else that needs to be
2 brought to the attention of the Court before we
3 adjourn this afternoon?

4 **MR. MEADORS:** Not from the State.

5 **THE COURT:** 9:00 Monday morning.

6 **MR. MEADORS:** Judge, I would remind the Court we
7 may have the 9:00 with Mr. Nettles. He is going to
8 be here. So that may put off a little bit the jury.

9 (Whereupon, the proceedings are concluded for
10 the day, to be reconvened tomorrow morning)

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Monday, December 10, 2007

THE COURT: Anybody know where Mr. Milling is?

MR. DELGADO: Your Honor, I just saw him at the office. He was coming this way.

THE COURT: Oh. You saw him at what office?

MR. DELGADO: We share space.

THE COURT: Oh, you do? I wasn't aware of that.

(Pause)

MR. MILLING: Your Honor, I apologize. I've been downstairs for 15 minutes.

THE COURT: Why were you downstairs for 15 minutes?

(No response).

THE COURT: The State ready to proceed?

MR. MEADORS: Your Honor, the next witness is Ms. Renata Williams who was instructed by the Court to be here at 9:00 with her attorney, Mr. Bill Nettles. So we've gone outside to see where they are.

DEPUTY: She's outside and her attorney is not here. But she is outside.

THE COURT: Has anybody seen Bill Nettles? Where is she?

MR. MEADORS: She's outside and said she's waiting for Bill Nettles. She told Ms. Joanna.

1 **THE COURT:** So obviously it was not a good
2 idea -- do you plan to call her?

3 **MR. MEADORS:** Yes, sir. As we discussed Friday,
4 she was going to be our next witness.

5 **THE COURT:** She may invoke or not invoke.

6 **MR. MEADORS:** So, yes, sir. And then we're
7 prepared to go from there.

8 **THE COURT:** I understand.

9 (Pause)

10 **THE COURT:** Mr. Ross, do you have another
11 witness you can call?

12 **MR. ROSS:** No, sir. No, sir.

13 (Pause)

14 **MR. NETTLES:** Your Honor, I apologize for being
15 late. I had a client I had to sign up for role call
16 nextdoor. But we're here and my client is here.

17 **THE COURT:** Mr. Meadors just stepped out. I
18 think he went to call you.

19 **MR. NETTLES:** Excuse me?

20 **THE COURT:** I think Mr. Meadors went to call
21 you.

22 **MR. NETTLES:** Thank you.

23 **THE COURT:** Where is your client? Go ahead and
24 bring her on in.

25 **MR. NETTLES:** She is here. Hang on one second.

1 **THE COURT:** Bring her on in.

2 (Pause)

3 **THE COURT:** All right, Solicitor.

4 **MR. MEADORS:** Tatanisha Robinson.

5 **THE COURT:** Come around, Ms. Robinson.

6 TATANISHA ROBINSON, after being duly sworn,
7 testifies as follows:

8 **THE CLERK:** Thank you. Please have a seat in
9 the witness stand and state your full name for the
10 record.

11 **THE WITNESS:** My name is Tatanisha Robinson.

12 **COURT REPORTER:** Spell your first name, please.

13 **THE WITNESS:** T-A-T-A-N-I-S-H-A.

14 **COURT REPORTER:** Thank you.

15 **MR. MEADORS:** Your Honor, for the record, Ms.
16 Robinson gave a statement to Columbia Police
17 Department, specifically Mitch Wilkerson on
18 September 21st, 2005 at 12:05 p.m. at the Columbia
19 Police Department. I have met with Ms. Robinson once
20 or twice -- I'm not sure -- and have talked to her
21 and told her I'd like to discuss this case with her.

22 Initially we had a brief conversation not about
23 the case but just a -- and then after that I think my
24 second conversation with her she informed me that as
25 a result of talking to Mr. Delgado she had gotten

1 Mr. Nettles as an attorney and had requested that any
2 conversation we had go through Mr. Nettles. Of
3 course I complied with that. I think a week ago --
4 correct me if I'm wrong -- but she came maybe a week
5 ago, met with Mr. Nettles.

6 He called me that afternoon and informed me that
7 she might be taking the Fifth or would be taking the
8 Fifth. I told him she is under subpoena. If he
9 would please have her here every morning. She has
10 been here every morning. Your Honor's record will
11 reflect --

12 **MR. NETTLES:** Apparently she didn't turn her
13 phone off before she came.

14 **THE WITNESS:** I'm sorry.

15 **MR. MEADORS:** She was instructed to be here with
16 Mr. Nettles. We are prepared, Your Honor, to call
17 her to talk to her specifically primarily about the
18 statement she gave to law enforcement and the
19 incidences surrounding -- bless you -- this incident
20 and any conversation she had with all three of these
21 defendants. And we are prepared to call her.

22 **THE COURT:** All right.

23 **MR. MEADORS:** I would call her.

24 **THE COURT:** Well, ask her questions.

25 **MR. NETTLES:** Well, Your Honor, I think at this

1 point --

2 **MR. MEADORS:** I would out point --

3 **MR. NETTLES:** -- I have to inform the Court she
4 wishes to -- it's my understanding based on numerous
5 conversations with her that she wishes to assert her
6 Fifth Amendment right.

7 **THE COURT:** Why don't you inquire of her.

8 **MR. NETTLES:** Sir?

9 **THE COURT:** I want her to --

10 **MR. NETTLES:** That's fine. But, I mean, before
11 they ask the question I want to let the Court know
12 that and let her know that she still has the right to
13 do that as her lawyer. I mean, the mere fact that
14 she has been called to the stand --

15 **THE COURT:** I understand. But she needs to do
16 it if she's going to do it.

17 **THE WITNESS:** Well, yes. I would like to take
18 my Fifth.

19 **THE COURT:** Do you have any questions?

20 **MR. MEADORS:** Sure.

21 DIRECT EXAMINATION

22 **BY MR. MEADORS**

23 **Q** Do you remember giving a statement to Mitch
24 Wilkerson?

25 **MR. NETTLES:** And, Your Honor, I would object.

1 I'd ask the Court, or at least I'd like the
2 opportunity to inform her that she has the right to
3 assert her Fifth to each and every question that's
4 being asked of her.

5 **MR. MEADORS:** Your Honor, I don't think she
6 does. She can't assert her Fifth to her name.

7 **MR. NETTLES:** Well, she didn't. She's already
8 given her name. And that's why I -- she gave her
9 name.

10 **THE COURT:** Okay.

11 **Q** And where do you live?

12 **MR. NETTLES:** I would ask her to assert the
13 Fifth.

14 **MR. MEADORS:** Why? How does that incriminate
15 her in any way, Judge?

16 **THE COURT:** I certainly don't know. I mean, she
17 may live with one of the defendants.

18 **MR. MEADORS:** Your Honor, she's got to assert
19 it. He can't.

20 **THE COURT:** I'm trying to get her to do it. I'm
21 trying to get him to tell her to do it if she wants
22 to do it.

23 **A** Well, I would like to assert the Fifth.

24 **THE COURT:** It has to come from her. It has to
25 come from her.

1 Q On what? About where you live?

2 A Yes.

3 MR. NETTLES: I think she said she wants to
4 assert the Fifth. She doesn't have to answer any
5 more questions.

6 THE COURT: Well, I don't know. I think she has
7 to assert the Fifth at least to the point that it's
8 apparent that she is -- what is the purpose of her
9 invocation? The Fifth Amendment guarantees her the
10 right to remain silent, not to be called as a witness
11 against herself.

12 MR. MEADORS: Your Honor, let me do this. I
13 think I can get right to the heart of the matter.
14 Q Had you been with Stanley Oliver and Dominic Gallman
15 on three separate occasions prior to this when
16 they've done a lick? Did you put --

17 MR. NETTLES: I would instruct her that she has
18 the right to assert the Fifth on that question if she
19 chooses.

20 A And again I plead the Fifth.

21 MR. MEADORS: Your Honor, I'm going to give her
22 State's immunity on that. She would not be charged
23 with those instances. So she should have no Fifth
24 Amendment right. I've talked to U.S. Attorney Reggie
25 Lloyd just now and got off the phone with him. He

1 also gives federal immunity to that. So she's got a
2 complete immunity to those prior instances when she
3 says she was with them when they did a lick. So she
4 cannot assert the Fifth on that in the State's view.

5 **MR. NETTLES:** Here is the problem.

6 **THE COURT:** Was counsel aware of that? Were you
7 aware of that?

8 **MR. NETTLES:** No. I spoke with him on the
9 Thursday before this case --

10 **THE COURT:** With him?

11 **MR. NETTLES:** Excuse me?

12 **THE COURT:** Who is him?

13 **MR. NETTLES:** Mr. Meadors. I spoke with Mr.
14 Meadors the Thursday before this case came up. And I
15 told him unequivocally that Mrs. Robinson would be
16 taking the Fifth Amendment. I explained to her that
17 there was a possibility that they may offer immunity.
18 There was no discussions of any immunity then. At
19 the conclusion of our conversation I made it clear
20 that she was taking the Fifth Amendment. She's going
21 to assert her Fifth Amendment right to remain silent.

22 This is the first I've heard from anybody from
23 Mr. Lloyd. I have still not heard from anybody from
24 the Statewide Grand Jury. I believe -- and it's not
25 that I don't take Mr. Meadors' word, but there are

1 matters that -- this is more complicated. I mean, I
2 realize that in this court it appears that it's only
3 about a lick. But, see, there's also the situation
4 of this.

5 She gave -- or there was a statement that was
6 taken from her which is a statement I suppose is what
7 Mr. Meadors' question is attempting to question her
8 about now. Subsequent to that she used the mail to
9 provide an affidavit saying that the statement that
10 she had given before was not true. Okay. In its
11 most simple terms.

12 My problem is now this, is that I don't have any
13 assurances with the U.S. Attorneys Office that
14 there's not going to be mail fraud charges. I don't
15 have any assurances from the U.S. Attorneys Office
16 that there's not going to be some sort of charges
17 relating to a gang, you know, the gang laws in this.
18 I don't have any assurances that there is not going
19 to be any charges relating to guns or drugs.

20 I mean, I understand that Mr. Meadors may
21 have -- I understand that Mr. Meadors represents to
22 the Court that he talked to Mr. Lloyd today. And I
23 have no doubt that he did. My problem is is that I
24 don't as her lawyer feel that I have gotten something
25 sufficiently in writing that I can feel comfortable

1 telling her that all of the bases are covered.

2 **MR. MEADORS:** Judge, that Thursday when we
3 talked, I told him specifically I didn't think her
4 statement regarding the three, that she'd done licks
5 with these fellows prior, number one, was in and of
6 itself enough to charge her because it would just be
7 her confession. As Your Honor knows better than
8 anybody, corpus delicti; you need more than that to
9 charge someone.

10 I said be that as it may perhaps, you know, she
11 could potentially be given immunity, as we did not
12 give to it her then, but I told him that was one
13 possibility. And those were basically the extent of
14 our discussions.

15 Judge, he said don't talk to her unless he was
16 there, and certainly I respected that and would not
17 do otherwise. I can assure the Court that I talked
18 to U.S. Attorney Reggie Lloyd and he has said
19 transactional immunity, State v. Thrift. Anything
20 arising from her statement of these prior drugs will
21 not be prosecuted, state or federal. I think I can
22 actually tie the state prosecutors. I think there's
23 a case on it. If not, I'll be happy to get on the
24 phone with General Attorney Henry McMaster and get an
25 assurance from them.

1 But I don't know what else I can do on behalf of
2 the state, the government, granting federal and state
3 prosecution to her for her comments in here about
4 these three prior licks that she went on with these
5 individuals, she will not be charged by anybody, gun
6 related, gang related, anything.

7 I have -- Assistant Attorney General, U.S.
8 Attorney Reggie Lloyd said he is behind me one
9 hundred percent with this. He is going to try to
10 come over here in just a little bit actually, Judge.
11 He said, I'll try to come in the courtroom. So I
12 think we will speak for himself if Your Honor needs
13 that. But he has given me that assurance. I know
14 the Court, as Mr. Nettles, believes me on that.
15 Judge, but beyond that --

16 **MR. NETTLES:** What I believe him on, I believe
17 he talked to Reggie Lloyd. Let's be clear about
18 that. My concern is, and I don't it's for lack of
19 trying, but I do not have the sort of assurances that
20 I need that all of the exposure that she is
21 potentially facing is covered.

22 **THE COURT:** All right. Approach the bench.

23 (Whereupon, a bench conference is had)

24 **THE COURT:** All right. We'll stand at ease
25 until 10:00.

1 (Whereupon, a break is taken)

2 (Whereupon, a lunch break is taken)

3 **THE COURT:** Counsel, approach the bench, please.

4 (Whereupon, a bench conference is had)

5 **MR. STRICKLER:** Your Honor.

6 **THE COURT:** Yes, sir.

7 **MR. STRICKLER:** Regarding the note, and I guess
8 it's been marked as a Court's Exhibit at this point,
9 I've spoken with the individual in question. She
10 indicates she has had no verbal contact with any
11 jurors and wants to remain in the courtroom. I've
12 told her she's not to have so much as eye contact
13 with the jury and that Your Honor will probably make
14 a general statement to the jury.

15 **THE COURT:** I'm going to make a very specific
16 statement to the audience right now.

17 **MR. STRICKLER:** Yes, sir.

18 **THE COURT:** Ladies and gentlemen that are
19 observing this trial, we have had a -- I have
20 received a note from the Foreperson of the Jury
21 indicating that some members of this audience have
22 been attempting to speak with the jury or communicate
23 with the jury.

24 Let me just say right now that will not be
25 tolerated. That will result in criminal penalties.

1 Any individual trying to influence the jury or
2 interfere with the jury is subject to criminal
3 penalties and will be dealt with harshly by this
4 Court. I don't need to -- I shouldn't have to say
5 that more than once.

6 But a member of the audience has been identified
7 by the jury as attempting to speak with the jury.
8 And if I hear any more or anything similar to that
9 throughout the remainder of this trial, I will
10 implore the State to seek an arrest warrant, and as I
11 say, they will be dealt with harshly. That's not
12 going to be tolerated in this courtroom. Mark that.

13 (WHEREUPON, Court's Exhibit No. 10 is marked for
14 identification.)

15 **THE COURT:** Solicitor.

16 **MR. MEADORS:** Yes, sir.

17 **THE COURT:** Where do we stand with regard to
18 Tatanisha Robinson?

19 **MR. MEADORS:** Yes, sir. Tremendous progress. I
20 have talked with Nancy Wicker and informed first of
21 all Mr. Ross and Mr. Nettles and others outside the
22 solicitor's office. I think Mr. Nettles informed Mr.
23 Ross what he'd like in there. I have talked with
24 Ms. Wicker personally. I've talked with Mr. John
25 McIntosh, Chief Attorney General. They have the

1 documents. They are being faxed to us any time. I
2 don't know whether it has everything in there
3 Mr. Nettles wants. It has what I think is
4 sufficient. And we need Your Honor to rule on that
5 at the time. We are now prepared to go forward with
6 another witness, and those documents should be here
7 momentarily. We just ask that Ms. Robinson step
8 outside as there is a sequestration order in effect.

9 **THE COURT:** All right. Bring the jury.
10 Anything further before we bring the jury?

11 **MR. MEADORS:** Not from the State.

12 **MS. LAFAVE:** Your Honor, I guess we'd like to
13 know what witness is being called so as to make sure
14 that any rulings that have been held in abeyance by
15 Your Honor are addressed prior to the jury coming in.

16 **MR. ROSS:** Leticia Jones.

17 **MS. LAFAVE:** Thank you.

18 **THE COURT:** Anything from Mr. Gallman?

19 **MR. MILLING:** Your Honor, as to Ms. Jones, and
20 it's not an issue that we necessarily may have. We
21 know who this witness is. And I am wondering based
22 upon what Mr. Ross has indicated to me, first of all,
23 a written statement has been made in this case by
24 Ms. Jones.

25 **THE COURT:** Okay.

1 **MR. MILLING:** But it does not express any
2 knowledge about the case.

3 **THE COURT:** Okay.

4 **MR. MILLING:** Mr. Ross indicated to me I guess
5 it was on Friday of last week that she has now come
6 forward and made statements concerning my client and
7 Mr. Oliver. Whether or not that's something that Mr.
8 Oliver may have specifically told her or something
9 that allegedly my client told her about Mr. Oliver, I
10 just want to -- I don't know if that's something that
11 we may need to take up as a Bruton and/or Crawford
12 issue.

13 **THE COURT:** Well, I don't know. I don't even
14 know who she is. Are there any Crawford issues
15 associated with her testimony or Bruton issues?

16 **MR. ROSS:** There potentially could be. I have
17 instructed her -- the testimony that she is going to
18 give is information related to her by Mr. Gallman
19 about Mr. Gallman and Mr. Oliver. I've instructed
20 her not to refer to Mr. Oliver by name just like
21 we've had other witnesses say Mr. Gallman and someone
22 else.

23 **THE COURT:** All right. I assume Mr. Delgado or
24 Mr. Joy and Mr. Oliver have objections to that
25 procedure.

1 **MR. DELGADO:** Yes, sir.

2 **THE COURT:** As previously stated.

3 **MR. DELGADO:** Exactly.

4 **THE COURT:** All right. Is that correct for Mr.
5 Oliver?

6 **MS. LAFAVE:** Yes, Your Honor.

7 **THE COURT:** Okay.

8 **MS. LAFAVE:** Yes.

9 **THE COURT:** All right. Bring the jury, please.
10 (Jury in at 1:14 p.m.)

11 **THE BAILIFF:** Your Honor, the jury is present.

12 **THE COURT:** All right. Thank you very much.

13 Good afternoon, ladies and gentlemen. Let me first
14 apologize for the delay. Some things came up this
15 morning that I had to deal with in this case. And I
16 felt it was -- I probably shouldn't have even let you
17 sit around until 10:00. I probably should have
18 released you at 9:30 when I saw that it was going to
19 take some time. But we are moving right along.

20 Now, Mr. Foreman, I received your note regarding
21 some potential contact with the jury from members of
22 the public who may be present in the courtroom from
23 time to time. I have warned the members of the
24 public and sitting audience that that will not be
25 tolerated, that any attempt to contact the jury

1 either directly or through verbal or signals or
2 anything of that nature will be dealt with harshly
3 and will not be tolerated. I want you to please
4 report any further contact to the Court, and I will
5 assure you that I will deal with it and deal with it
6 severely. It's not proper in this courtroom and will
7 not be tolerated.

8 All right, Solicitor. Call your next witness.

9 **MR. ROSS:** Thank you, Your Honor. The State
10 calls Leticia Jones.

11 **LETICIA P. JONES,** after being duly sworn,
12 testifies as follows:

13 **THE CLERK:** Thank you. Take a seat in the
14 witness stand and state your full name for the
15 record.

16 **THE WITNESS:** I'm Leticia Patrice Jones.

17 **COURT REPORTER:** I'm sorry. Would you say that
18 again and speak up?

19 **THE WITNESS:** Leticia Patrice Jones.

20 **COURT REPORTER:** And would you spell your first
21 name, please, for me?

22 **THE WITNESS:** L-E-T-I-C-I-A.

23 DIRECT EXAMINATION

24 **BY MR. ROSS**

25 **Q** Good afternoon, Ms. Jones.

1 A Hi.

2 Q I'm going to ask that you speak up loudly enough so
3 the juror on the last row can hear. Okay?

4 A Okay.

5 Q Ms. Jones, where do you live?

6 A Here in Columbia.

7 Q And where are you from originally? Where did you
8 grow up?

9 A In Maryland.

10 Q Okay. Where were you born?

11 A Here in Columbia.

12 Q And when did your family move to Maryland?

13 A When I was four years old.

14 Q Okay. And did you graduate from high school in
15 Maryland?

16 A Yes, sir, I did.

17 Q Where did you go to high school?

18 A To Christ Orchard High School.

19 Q And did you go to college?

20 A Yes, sir, I did.

21 Q And where did you go to college?

22 A I went to junior college at Montgomery College, and
23 when I finished that I went to the University of
24 Phoenix.

25 Q Okay. And where was that college located?

1 A The last one?

2 Q No. The first one.

3 A In Maryland.

4 Q Okay. And the University of Phoenix, where is that?
5 What is that?

6 A It's in Arizona. In Phoenix, Arizona. I went as an
7 on-line student.

8 Q So you took on-line classes?

9 A Yes, sir.

10 Q And when did you move back to South Carolina?

11 A It was about five years ago.

12 Q Okay.

13 A 2003.

14 Q All right. And what type of employment have you had
15 over the past five years or so?

16 A When I first moved here I worked for the South
17 Carolina State Museum. And then I became -- I got a
18 job at the DMV, the Department of Motor Vehicles, and
19 worked there for two and a half years. Then --

20 Q Are you currently employed now?

21 A Yes, sir.

22 Q And what type of work do you do?

23 A I work on the 1-800 medicare line for Palmetto GBA.

24 Q I'm sorry. I didn't hear the last part.

25 A For Palmetto GBA.

1 Q Palmetto GBA?

2 A Yes, sir.

3 Q Okay. What type of work is that? What do you do for
4 them?

5 A Customer service.

6 Q Okay. All right. Do you know Dominic Gallman?

7 A Yes, sir.

8 Q And how long have you known him?

9 A For four years.

10 Q Do you remember when you all met?

11 A November of 2004.

12 Q Okay. And what type of relationship have you all had
13 ever since then?

14 A We were engaged for -- up until about six months ago.

15 Q Okay. Did you all live together?

16 A Yes, we did.

17 Q Okay. And where did you all live together at?

18 A We lived at my house downtown and then we moved to
19 our townhouse in Northeast Columbia.

20 Q Okay. And when did you move to the townhouse?

21 A In July of 2005.

22 Q Okay. And do you have any children?

23 A Yes, sir.

24 Q Okay. And how many children do you have?

25 A I have one.

1 Q And how old is he?

2 A He is nine.

3 Q Is Mr. Gallman the father or someone else?

4 A Someone else.

5 Q And do you know Stanley Oliver?

6 A Yes, sir.

7 Q And how long have you known Mr. Oliver?

8 A I met him through Dominic. So probably about a year
9 after Dominic and I met, I met him.

10 Q Okay. And do you know a Mr. Kenneth Joy?

11 A No, sir, I don't.

12 Q Do you know who he is?

13 A I've never met him. I just know that he was Solo's
14 cousin and that he was supposed to be giving Dominic
15 a job.

16 Q When you say Solo, who are you talking about?

17 A I'm sorry. Mr. Oliver's cousin.

18 Q So you know Mr. Joy but not personally. You know who
19 he is but you've never met him?

20 A No, sir, I have not.

21 Q Okay. Let me take you back to Labor Day weekend of
22 2005. Do you remember that weekend?

23 A Yes, sir.

24 Q I'm going to let you look at this calendar. Can you
25 see that?

1 A Yes, sir.

2 Q On this calendar Sunday is on the really on the wrong
3 end. But Sunday being the 4th, Labor Day being the
4 5th, during this week prior to Labor Day, were you
5 and Mr. Gallman, were you living together?

6 A No, sir, we were not.

7 Q Okay. What had happened between the two of you?

8 A We had gotten into an argument that resulted in a
9 physical confrontation. So he left.

10 Q And let's just use Sunday, the 4th, as a reference
11 point. When did that occur? When did Mr. Gallman
12 leave your house?

13 A The Friday before that weekend.

14 Q Okay. So the week prior, which would have been like
15 the very end of August, is that what you're talking
16 about?

17 A Yes, sir.

18 Q Okay.

19 A That is correct.

20 Q And did you see -- after Mr. Gallman left the house,
21 did you see him during that week leading up to Labor
22 Day weekend?

23 A No, sir, I did not.

24 Q Did you talk to him on the phone?

25 A A few times.

1 Q Okay. And when was the next time that you saw Mr.
2 Gallman?

3 A Sunday, Sunday morning before Labor Day.

4 Q Sunday, September the 4th?

5 A Yes.

6 Q And what time of morning was this?

7 A I'm not sure. It was -- it was daylight. I don't
8 know what time exactly it was.

9 Q Okay. Had you gotten up that day?

10 A No. I was in the bed.

11 Q Okay. And how did you know Mr. Gallman was there?
12 What happened?

13 A He came to the house.

14 Q Okay. Did he still have a key?

15 A Yes, he did.

16 Q Did he knock on the door or did he just come in?

17 A He kind of did both, knocked on the door, used his
18 key. Kind of both.

19 Q And were you awake at that time?

20 A No, I wasn't.

21 Q So did this wake you up?

22 A Yes, it did.

23 Q Speak up a little bit.

24 A Yes, sir, it did.

25 Q Okay. And what happened? What was going on with Mr.

1 Gallman?

2 A He was really upset, very distraught. He was just
3 upset, in tears, crying. He came in the house and he
4 just said I was right, that I was right.

5 Q Was anybody else in the house with you?

6 A My little boy.

7 Q Anybody else?

8 A No, sir.

9 Q Was he up or was he asleep?

10 A He was asleep.

11 Q Okay. So Mr. Gallman said that you were right. And
12 did you have a conversation with him?

13 A Yes, sir, we did.

14 Q And what did he tell you?

15 A That I was right about his friend, that he had gotten
16 him into trouble and that -- said, Leticia, listen to
17 me. He said that -- he said that he had gotten him
18 into trouble and that he made him do something that
19 he didn't want to do and that he didn't know what to
20 do. He couldn't -- he just was upset and that he
21 didn't know how to handle it.

22 He said that his -- his friend had -- had some
23 idea to make someone and that he didn't really know
24 what was involved but he went with him and it just
25 turned out to be not what he thought it was.

1 He said that they went to the house and that his
2 friend, that they knocked on the door and somebody
3 opened the door and his friend shot the guy that
4 opened the door. And then they -- that the guy he
5 was with shot the other guy that was in the house and
6 that then they were trying to rob the man and that
7 the man wouldn't tell him where his -- his money was.
8 And so the guy he was with just flipped out and got
9 really mad and angry and just shot the man. There
10 was a lady there. I don't know if she was there or
11 if she showed up later on.

12 **MR. STRICKLER:** All right. I object. I object.
13 Crawford, pure and simple. Pure and simple. All
14 statements related by Mr. Gallman to her. I can't
15 cross examine Mr. Gallman.

16 **THE COURT:** I understand that.

17 **MR. STRICKLER:** It's Crawford. The whole
18 testimony is Crawford.

19 **THE COURT:** Overruled.

20 **Q** You were saying there was a lady at the house?

21 **A** Yeah. I'm not sure if she was there already or if
22 she showed up. But that she got involved and that
23 the person that he was with --

24 **MR. STRICKLER:** I object. Crawford.

25 **THE COURT:** Yes, sir.

1 **MR. STRICKLER:** Well, Your Honor, I don't want
2 to be deemed to waive it as to any additional
3 responses she makes, Your Honor.

4 **THE COURT:** I mean, it's a continuing objection.
5 I understand that.

6 **MR. STRICKLER:** As long as I am protected on the
7 record.

8 **THE COURT:** Yes, sir.

9 **MR. STRICKLER:** I don't want to interrupt.

10 **THE COURT:** Yes, sir. I understand that. And
11 I'll allow it as an ongoing objection for that line
12 of testimony.

13 **MR. STRICKLER:** Thank you, sir.

14 **THE COURT:** Go ahead.

15 **Q** Okay. Go on.

16 **A** The person that he was with said that they had to
17 take her because she probably knew where -- where the
18 money was. And so he put her in the car and they
19 drove with the lady. And I don't -- I don't know
20 what happened. But that the person that he was with
21 told him that he had gotten his hands dirty and he
22 had to do the same thing and that he was like crazy
23 and he tried to hurt the lady and that Dominic had to
24 stop him from him -- from attacking the lady, from
25 like raping her and stuff. But that he put the gun

1 to his head and told him that if he didn't shoot the
2 lady that he would shoot him. So Dominic said he
3 didn't know what to do. And he had just closed his
4 eyes and pulled the trigger. And that was it.

5 Q He told you that he shot the lady?

6 A Yes, sir.

7 Q And he told you all this that early Sunday morning?

8 A Yes, sir.

9 Q Did you do anything that morning with this
10 information?

11 A No, sir.

12 Q Did Mr. Gallman stay at the house with you or did he
13 leave?

14 A He left.

15 Q Do you know how he left? Did he have a car?

16 A No, he didn't.

17 Q Did you see him any more on Sunday?

18 A No, sir.

19 Q Did you talk to him on the phone on Sunday?

20 A No.

21 Q And when did you see Mr. Gallman again?

22 A Monday.

23 Q And about what time was that?

24 A Sometime in the afternoon.

25 Q And who was at your house then?

1 **A** Dominic and his father.

2 **Q** And what were they doing? When you say his father,
3 what's Dominic's father's name?

4 **A** Albert Gallman.

5 **Q** What were they doing?

6 **A** They were burning something in the grill.

7 **Q** How did you see that?

8 **A** Because I walked outside and saw flames coming out of
9 the grill. And I stood out there for a minute and
10 then I went back in the house.

11 **Q** And what was in the grill?

12 **A** I am not sure. I didn't see what was in there. It
13 was already on fire. It wasn't food. But I'm not
14 sure.

15 **Q** Did you see any material?

16 **A** It looked like material.

17 **Q** Did Dominic when he told you this this Sunday
18 morning, did he tell you about trying to find --

19 **MR. STRICKLER:** Objection. Leading.

20 **THE COURT:** Yes, sir. Sustained.

21 **Q** Do you know anything -- what, if anything, do you
22 know about the storage building?

23 **A** About the storage building?

24 **Q** (Nods head affirmatively)

25 **A** Nothing.

1 Q Okay.

2 A I don't know.

3 Q Was your cellphone number at the time 599-0434?

4 MR. STRICKLER: Objection. Leading.

5 THE COURT: Yes, sir. Sustained.

6 Q What was your cellphone number?

7 A 599-0434.

8 Q And did Dominic Gallman use your cellphone from time
9 to time?

10 A Yes, sir.

11 Q During this time around Labor Day, right before and
12 right after, if there were calls to Stanley Oliver
13 from that phone number, would you have made those
14 calls?

15 A No, sir.

16 Q If there were calls from that number around that same
17 time period to Kenneth Joy, would you have made those
18 phone calls?

19 A No, sir.

20 Q If there were calls around that same time period to
21 somebody named Omekas Moaney, would you have made
22 those phone calls?

23 A No, sir.

24 Q Would Dominic Gallman have made those phone calls?

25 MR. MILLING: Objection. It calls for

1 speculation.

2 **THE COURT:** Sustained.

3 **Q** Did Dominic have access to your cellphone?

4 **A** Yes.

5 **Q** Now, did you talk with Investigator Holdorf?

6 **A** Yes.

7 **Q** About this case?

8 **A** Yes.

9 **Q** Back on September 23rd, 2005?

10 **A** Yes.

11 **Q** Did you tell him the information that you've just
12 told this jury?

13 **A** No.

14 **Q** Did they take your statement at that time?

15 **A** Yes, he did.

16 **Q** And did they type it up?

17 **A** Yes.

18 **Q** And did you sign it?

19 **A** Yes.

20 **Q** Did you basically tell them that you didn't know
21 anything --

22 **MR. STRICKLER:** Objection. Leading.

23 **THE COURT:** It's leading.

24 **Q** Did you tell them the truth at that time? Did you
25 tell Investigator Holdorf the truth at that time?

1 A No.

2 Q Why did you give a different statement then?

3 A Because that's what Dominic told me to tell them.

4 Q Mr. Gallman told you to tell them that?

5 A Yes.

6 Q When did you give the information that you've told
7 the court today?

8 A A few weeks ago when I -- after I received my first
9 subpoena and you came to my job. You said that you
10 knew --

11 Q Stop right there. Did you ever tell Investigator
12 Holdorf after I talked to you? Did you talk to
13 Investigator Holdorf?

14 A Yes.

15 Q Did you tell him the same information?

16 A Yes.

17 Q That you have given today?

18 A Yes.

19 Q But only after I talked to you?

20 A That's correct.

21 Q Did I promise you anything to get you to say
22 something different?

23 A No.

24 Q Did I threaten you in any way?

25 A No.

1 Q Did I threaten to bring any charges against you in?

2 A No.

3 Q Did I promise to get you out of any trouble?

4 A No.

5 Q Why are you telling a different version today?

6 A Because I feel like I have no choice.

7 Q When you say that, what do you mean?

8 A Because -- because he put me in it. He got me
9 involved in it, and I couldn't -- when you came to
10 talk to me, I couldn't lie. I just couldn't lie.

11 Q Has the person that gave you that information that
12 Sunday morning, September 4th, 2005, in the
13 courtroom?

14 A Yes.

15 Q Can you point him out?

16 A He's right there.

17 Q You nod to refer to who you're pointing to?

18 A Right there.

19 MR. ROSS: Let the record reflect the witness
20 has pointed to Mr. Gallman.

21 THE COURT: The record will reflect the witness
22 identified the defendant, Mr. Gallman.

23 Q And the person that you know as Solo or Stanley
24 Oliver, can you point him out?

25 A Right there.

1 Q Let the record reflect she's pointed out Mr. Oliver.

2 THE COURT: The record will so reflect the
3 witness identified the defendant, Oliver.

4 Q Answer any questions defense has for you.

5 THE COURT: Cross examination.

6 CROSS EXAMINATION

7 BY MR. STRICKLER

8 Q Good afternoon, Ms. Jones.

9 A Hi.

10 Q Would you like to take a little time up to there to
11 compose yourself, please? Are you all right?

12 A (Nods head affirmatively).

13 Q Are you ready to proceed anyway?

14 A Yes.

15 Q Now, just so I'm sure about a couple of things. You
16 are making no claim that you were anywhere near
17 Mildred Avenue on the evening of September 3rd, early
18 morning hours of September 4th, 2005, right?

19 A That's correct.

20 Q Okay. You weren't participating in this crime,
21 correct?

22 A No, sir.

23 Q Okay. So you of your own knowledge haven't the
24 slightest idea what did or did not happen on that
25 evening, do you?

1 A That's correct.

2 Q You don't know. And Mr. Ross asked you about
3 speaking with police and giving them a statement,
4 right?

5 A Yes.

6 Q Okay. Back in 2005?

7 A Yes.

8 Q In fact, you gave the police two separate statements
9 on September 23rd, 2005. One was the time of 13:05,
10 1:05 in the afternoon and another given at 14:00 or
11 2:00 in the afternoon. Do you remember that?

12 A Yes. I made two statements.

13 Q Two statements. Have you seen these statements since
14 then?

15 A No. Not the actual statements.

16 Q Let me show you what I have here and make sure we're
17 talking about the same ones. Okay?

18 A (Nods head affirmatively).

19 Q Do you recognize that document? That's one of the
20 statements, right?

21 A Yes.

22 Q And this one. Do you recognize that one, too?

23 A Yes.

24 Q Okay. Now, each of these statements, about each two
25 pages long, right?

1 A Mm-hmm (affirmative).

2 Q The bottom of each page on each of the statements
3 there's a place for you to sign, right?

4 A Yes.

5 Q Okay. And right next to it it's got a place for the
6 date?

7 A Yes.

8 Q It's written in, September 23rd?

9 A Mm-hmm (affirmative).

10 Q Okay. And right above that it says what?

11 A "Sworn to and subscribed before me".

12 Q "Sworn to and subscribed before me this 23rd day of
13 September, 2005". Right?

14 A Mm-hmm (affirmative).

15 Q That says it on the first page of this statement, the
16 same thing on the second page, right?

17 A Mm-hmm (affirmative).

18 Q And as to this other statement, the one taken at
19 14:00 or 2:00, it says the same thing on the first
20 page, "sworn to and subscribed before me"?

21 A Mm-hmm (affirmative).

22 Q And on the second page, correct?

23 A Yes.

24 Q All right. Now, and in that statement, let's say the
25 13:05 statement, you indicate the last time you saw

1 Stanley "Solo" Oliver you hadn't seen him since
2 August, correct?

3 A That's correct.

4 Q And you indicate that the last time you saw him he
5 and Dominic had gotten in an argument at your place?

6 A Yes.

7 Q And almost got into a fight?

8 A Yes.

9 Q And that Dominic put him out of the house?

10 A Yes.

11 Q Okay. So you had an opportunity at 1:05 in the
12 afternoon to tell the officer what you had to say
13 about this and you chose not to, correct?

14 A That is correct.

15 Q Then you had a chance at 2:00 in the afternoon that
16 same day over two years ago to tell the officer what
17 you had to say here today about this and you chose
18 not to, correct?

19 A That's correct.

20 Q And on each of those occasions you swore that what
21 you had told the officer was the truth, correct?

22 A Correct.

23 Q That's the meaning of "sworn and subscribed before
24 me", right?

25 A Yes. I understand that.

1 Q Okay. Thank you very much.

2 MR. MILLING: Your Honor, may it please the
3 Court?

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. MILLING

7 Q Good afternoon, Leticia. As you'll recall my name is
8 Jonathan Milling. We've had an occasion to speak a
9 few times about Dominic, haven't we?

10 A Yes.

11 Q And you've also spoken with a young lady by the name
12 of Lee Connelly?

13 MR. ROSS: I'm sorry, Your Honor. I can't hear
14 him.

15 Q You've also spoken with a young lady by the name of
16 Lee Connelly who has been working on this case with
17 us, correct?

18 A Yes.

19 Q Okay. Now, in your direct testimony as well as the
20 cross examination by Mr. Strickler you talked about a
21 statement that you gave to law enforcement?

22 A That's correct.

23 Q Actually two statements?

24 A Mm-hmm (affirmative).

25 Q You didn't mention anything about this alleged

1 conversation in those two statements, did you?

2 A No.

3 Q In fact, in your first statement investigators asked
4 you specifically if you had talked with Dominic about
5 the murders, didn't they?

6 A Yes, they did.

7 Q And you told them, just asked if he had anything to
8 do with it and he said no?

9 A That's correct.

10 Q Okay. You didn't clarify this in the second
11 statement, did you?

12 A No.

13 Q Those two interviews occurred at [REDACTED] Springwood
14 Lake Point, correct?

15 A No, they didn't.

16 Q They didn't?

17 A They didn't occur at the house.

18 Q Okay.

19 A They occurred at the station.

20 Q But that's where you were living?

21 A Yes.

22 Q That was the residence that you shared with Dominic?

23 A Yes.

24 Q Okay. Do you recall speaking with Ms. Connelly at
25 that location?

1 A Yes.

2 Q Thereafter?

3 A Yes.

4 Q Back in January of 2006?

5 A That's correct.

6 Q Did you tell her about this alleged conversation?

7 A No, I didn't.

8 Q In fact, you told her that you didn't know anything
9 about the situation, correct?

10 A Mm-hmm (affirmative). Yes.

11 Q You also told her that you all had an impromptu
12 barbecue on Monday, correct?

13 A That's correct.

14 Q And that wasn't until Monday that you saw Dominic
15 after that weekend, correct?

16 A That's correct.

17 Q Okay. And you also told her that he wasn't acting
18 strange at that time?

19 A That's correct.

20 Q Okay. Now, [REDACTED] Springwood Lake Point, when did you
21 all move there? I think you said July of '05?

22 A Yes.

23 Q Early part or latter part?

24 A The beginning of.

25 Q Like July 1st, first of the month?

1 **A** Yes.

2 **Q** Okay. Now, did you ever call my office and tell me

3 about this alleged conversation?

4 **A** No, I did not.

5 **Q** So you didn't talk to anybody until law enforcement

6 subpoenas you?

7 **A** That's correct.

8 **Q** They show up at your work?

9 **A** That's correct.

10 **Q** Did they use any -- did they threaten you with

11 charging you with false statement?

12 **A** No, they didn't.

13 **Q** Have they charged you with false statement to police

14 based on your first statement?

15 **A** No, they haven't.

16 **Q** But they did actually arrest you back in September,

17 September 23rd of 2005, didn't they?

18 **A** No, they did not arrest me.

19 **Q** They did not? Did they execute a search warrant at

20 your residence at that time?

21 **A** Yes, they did.

22 **Q** Did they charge with you anything at that time?

23 **A** Yes. They gave me a ticket.

24 **Q** Is that still pending?

25 **A** No, sir.

1 Q Okay. It's been resolved?

2 A Yes, it has.

3 Q Okay. During the time Mr. Dominic has been
4 incarcerated, have you had occasion to write him any
5 letters?

6 A I wrote him all the time.

7 Q Because you love him?

8 A Mm-hmm (affirmative).

9 Q Is Rob the name of your nine-year-old son?

10 A Yes.

11 Q Where does Rob live right now in?

12 A In Georgia with my parents.

13 Q Who has got custody?

14 A My parents.

15 Q Does that make you happy?

16 A No.

17 Q You want to get him back, don't you?

18 A Of course.

19 Q Did your parents set any guidelines as far as what
20 they expected you to do before they would be willing
21 to relinquish custody?

22 A To cut off all ties with Dominic.

23 Q And to do what they wanted you to do?

24 A To stop talking to him and stop writing him and stop
25 going to see him.

1 Q Okay. And they know that if you don't do what they
2 want you're not going to get your son back, correct?

3 A That's correct.

4 Q In your letters have you ever talked with Dominic or
5 written to Dominic about suing the newspaper because
6 the lies that were spread?

7 A Yes.

8 Q Because you didn't think it was fair that they were
9 writing this about him?

10 A They said things about him in the news that weren't
11 true.

12 Q Okay. And that he was charged with this murder.
13 Now, have you ever referred to the allegations
14 against Dominic as being lies?

15 A Yes.

16 Q And you've referred to those accusations of murder
17 and armed robbery and all the accusations against him
18 as being lies and their responsibility on more than
19 one occasion, correct?

20 A That's correct.

21 Q Have you ever written to Dominic concerning your
22 belief as to his involvement in this case?

23 A Yes.

24 Q And you told him that you thought he was innocent?

25 A That's true.

1 **MR. MILLING:** Nothing further, Your Honor.

2 **THE COURT:** Mr. Delgado.

3 **MR. DELGADO:** Thank you, Your Honor.

4 CROSS EXAMINATION

5 **BY MR. DELGADO**

6 **Q** Hi.

7 **A** Hi.

8 **Q** It's going to be all right. Okay? Two areas, Ms.
9 Jones, I want to talk with you about.

10 **A** All right.

11 **Q** Two areas I want to talk with you about. Okay?

12 **A** Okay.

13 **Q** Your cellphone number, if someone used that cellphone
14 number to call other people, all it would show is
15 that you don't remember making those phone calls,
16 right?

17 **A** That's correct.

18 **Q** You don't know who was on -- let's just pretend that
19 your cellphone called my cellphone. That doesn't
20 mean you were talking to me. You could have been
21 talking to my wife. Would that be fair?

22 **A** Yes.

23 **Q** Right?

24 **A** Yes.

25 **Q** Okay. Just because the cellphone is registered in my

1 name, somebody else could be using it to make phone
2 calls back and forth, right?

3 A Yes.

4 Q All right. So if there is a phone call made to, oh,
5 I don't know, Ken Joy, that doesn't mean anybody was
6 speaking with Ken Joy; just speaking to Ken Joy's
7 phone, right?

8 A True.

9 Q All right. As a matter of fact, when the solicitor
10 asked you if you would identify Mr. Oliver and Mr.
11 Gallman, he didn't ask you if you could identify Ken,
12 did he?

13 A No, he didn't.

14 Q You've never even seen Ken, have you?

15 A No, sir.

16 Q One last thing. Monday, the 5th, 2005, that's Labor
17 Day. Okay?

18 A Mm-hmm (affirmative).

19 Q That's the day that you said you were in the presence
20 of Dominic and his father, right?

21 A Right.

22 Q All right. And his name was Mr. Albert Gallman. Is
23 that right?

24 A Right.

25 Q And they were over at whose house? I'm sorry.

- 1 **A** At myself and Dominic's house.
- 2 **Q** So Mr. Albert had come over to where you all were,
3 were living. Is that right?
- 4 **A** Yes.
- 5 **Q** All right. And there was a grill being used maybe to
6 prepare food or something like that, right?
- 7 **A** True.
- 8 **Q** But when you went out into the back, there wasn't any
9 food on the grill, right?
- 10 **A** No, sir.
- 11 **Q** There was material or fabric, right?
- 12 **A** It looked like it.
- 13 **Q** Okay.
- 14 **A** I couldn't say for sure.
- 15 **Q** I'm sorry, dear.
- 16 **A** I said it looked like it but I couldn't say for sure.
- 17 **Q** Yes, ma'am. Because you didn't get close enough?
- 18 **A** No, sir.
- 19 **Q** It looked like clothing maybe?
- 20 **A** Just some kind of material. I don't know -- I don't
21 know.
- 22 **Q** You didn't ask any questions about that?
- 23 **A** No, sir.
- 24 **Q** You didn't say, that's strange, to either Mr. Albert
25 Gallman or to Dominic?

1 **A** No.

2 **Q** You just saw it and left. Right?

3 **A** That's correct.

4 **Q** All right. I think that's all. Thank you very much.

5 **THE COURT:** Anything further?

6 **MR. ROSS:** Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 **BY MR. ROSS**

9 **Q** I think Mr. Gallman's attorney kind of touched on it.
10 But you love Dominic Gallman, right?

11 **A** Yes.

12 **Q** Very much?

13 **A** Yes.

14 **Q** And you all had a long-term relationship?

15 **A** Yes.

16 **Q** So when you told those things to law enforcement
17 originally, that Mr. Gallman was not involved, why
18 was that again?

19 **A** Because I love him and I -- I didn't want to believe
20 it. I just -- I couldn't believe it. And I didn't
21 want -- I just wanted to protect him.

22 **Q** And these letters that you wrote to Mr. Gallman at
23 the jail, why did you write those letters?

24 **A** Because after a while I really started to believe
25 that he didn't do it, that he hadn't told me what he

1 told me. I just kind of pushed it in the back of my
2 mind because I couldn't see him like that. I never
3 saw that side of him. So -- and I don't think that
4 he did it because he wanted to do it. I think he was
5 forced. And I just -- I just -- I couldn't -- I just
6 couldn't tell him. I couldn't do it.

7 Q And what you know about what happened at Mildred
8 Avenue and what you know about what happened to the
9 lady involved in this case, that information came
10 from who?

11 A From Dominic.

12 Q And look these ladies and gentlemen of the jury in
13 the eye. Is that information that you told them
14 today true or not true?

15 A It was true.

16 Q Mr. Gallman told you what you testified to today that
17 he said?

18 A Yes.

19 Q That's all the questions I have.

20 THE COURT: Anything further from Mr. Oliver?

21 MR. STRICKLER: No, sir.

22 THE COURT: From Mr. Gallman?

23 RECROSS EXAMINATION

24 BY MR. MILLING

25 Q Ms. Jones, this is a man that you were planning on

1 spending the rest of your life with, correct?

2 A Yes.

3 Q Someone who you wrote about making a home with upon
4 his release?

5 A Yes.

6 Q Someone you wrote that you knew was innocent?

7 A Yes.

8 MR. MILLING: Nothing further.

9 THE COURT: Mr. Delgado?

10 MR. DELGADO: Nothing from Mr. Joy.

11 THE COURT: All right, ma'am. Thank you very
12 much. You may come down. May this witness be
13 excused?

14 MR. ROSS: Yes, Your Honor.

15 MR. STRICKLER: Without objection.

16 MR. MILLING: Without objection, Your Honor.

17 THE COURT: Without objection.

18 MR. MEADORS: May we approach?

19 (Whereupon, a bench conference is had)

20 THE COURT: All right, ladies and gentlemen.

21 We're awaiting the next witness. Rather than have
22 you just sit here, they tell me that he is short. I
23 don't know what that means. But I just ask you to go
24 to the jury room for a few minutes. And we'll call
25 you when we're ready. Don't discuss the case among

1 yourselves while you're in the jury room, please.

2 (Jury out at 2:00 p.m.)

3 **THE COURT:** Mr. Strickler, you have something
4 you want to put on the record?

5 **MR. STRICKLER:** Yes, sir.

6 **THE COURT:** All right.

7 **MR. STRICKLER:** I managed to get something on
8 the record during the course of this last witness'
9 testimony, which was lodging an objection to it under
10 Crawford vs. Washington. In essence, her testimony
11 as to the events of the evening in question led to
12 her conveying to the jury what she claimed Dominic
13 Gallman told her. Okay. Everything she said about
14 that has Dominic Gallman as the source. That's
15 Crawford vs. Washington.

16 Now, so I moved at that time, objected. Your
17 Honor had indicated after my second or third
18 objection that it was a continuing objection, that
19 entire line of questioning. I believe I objected
20 once more on leading. It should also have been
21 leading and Crawford in that regard. Your Honor, I
22 think that's preserved.

23 At this point in time I move for a mistrial. We
24 raised this issue specifically pre-trial regarding
25 every witness that we had knowledge that it applied

1 to. Your Honor heard the testimony. Obviously we
2 did not have knowledge it applied to this witness.
3 The State when you had an opportunity to go through
4 this, deal with the issue, they did not. The State
5 elected to try these gentlemen in the fashion in
6 which they're being tried, you know. And they need
7 to live with the consequences, and the consequences
8 are Crawford.

9 Now, I am concerned, I am concerned that a
10 portion of her testimony which was from Mr. Gallman
11 got to that jury. I'm not concerned; I'm sure it
12 did, prior to my objection. And if for some reason
13 further down the line I will be deemed to have waived
14 any objection by not objecting in a timely fashion,
15 then obviously I am per se ineffective assistance of
16 counsel, and Mr. Oliver is entitled to the Sixth
17 Amendment right to effective assistance of counsel,
18 and I will so testify in any PCR hearing. I move for
19 mistrial in this regard, sir.

20 **THE COURT:** All right. All right. I -- this
21 issue of Crawford and Bruton issues was taken up
22 pre-trial. It's been taken up with most, I wouldn't
23 say all of the witnesses, but several witnesses. I
24 have ruled prior, previously that as long as there
25 was no identification of persons who may have been

1 involved in some of the activities that have been
2 testified to about, as long as they were not
3 identified. And this witness did not identify from
4 Mr. Gallman either Mr. Oliver or Mr. Joy as being
5 persons that were involved in the activities that
6 took place on September the 4th and/or September the
7 5th, 2005.

8 And my ruling as to your objections during her
9 testimony are consistent with that ruling earlier in
10 the trial of the case; and as a result, I must
11 respectfully deny your motion for a mistrial at this
12 time.

13 **MR. STRICKLER:** Thank you, sir. And I
14 understand your ruling. I'm not arguing with it.
15 And I just -- frankly, it's been now six days, and I
16 forget what our discussion consisted of back when we
17 discussed Bruton, Crawford as it related to what Your
18 Honor has said just now as far as not identifying
19 anyone. I hope I was on the record at that point in
20 time as indicating that did not satisfy Bruton. And
21 I don't know that it addressed as far as it
22 satisfying Crawford. If I didn't address it as far
23 as it satisfying Crawford, then I was remiss at that
24 point in time.

25 **THE COURT:** I think you did. But I will allow

1 to restate it if you wish to do so.

2 **MR. STRICKLER:** Well, Your Honor, and the --
3 it's not apples and oranges. It's a bit of a melange
4 as far as what we're dealing with. But, I mean, they
5 all involve -- Bruton is co-defendants. Crawford is
6 anybody. In Crawford I guess Bruton would be a
7 subset, and if you look at a diagram, of a larger set
8 of Crawford problems. And the Crawford problem is
9 that I can't cross examine him, period. It doesn't
10 matter how his statement is redacted. It doesn't --
11 it just doesn't matter. I can't cross examine him.

12 **THE COURT:** I understand that. But on the other
13 hand, the basis of my ruling is that Mr. Gallman
14 through this witness did not identify your client.

15 **MR. STRICKLER:** And I understand.

16 **THE COURT:** As being involved in the activities
17 of September 4th or September 5th. I mean, as I say,
18 I think that's generally consistent with my rulings.

19 **MR. STRICKLER:** Yes, sir. I'm not trying to
20 argue with your ruling at all. I just am not sure
21 what I said earlier.

22 **THE COURT:** We've disagreed before.

23 **MR. STRICKLER:** Yes, sir.

24 **MR. MEADORS:** Your Honor, just for the record,
25 his objection there was that just as to Dominic

1 Gallman's statement coming in through Ms. Leticia
2 Jones.

3 **THE COURT:** No.

4 **MR. MEADORS:** I think he was saying that. If
5 I'm wrong --

6 **THE COURT:** His objection was that he has no
7 opportunity to cross examine Mr. Gallman. That's his
8 objection.

9 **MR. MEADORS:** Right. On what he said to her
10 about his, against his interest is why it was
11 offered. And that's why for the record everything
12 else was said another person or somebody else. There
13 wasn't an objection to that. It's just the objection
14 to what Dominic Gallman has said to somebody else.

15 **THE COURT:** That's my ruling. That's exactly
16 what happened. All right. If you'll please deal
17 with the matter at hand so Mr. Nettles can --

18 **MR. MEADORS:** Yes, sir.

19 **THE COURT:** We'll stand at ease for another ten
20 minutes.

21 (Whereupon, a break is taken)

22 **THE COURT:** The State ready to proceed?

23 **MR. ROSS:** Yes, sir.

24 **THE COURT:** Defendants ready to proceed? At
25 this point is this --

1 **MR. STRICKLER:** As far as Mr. Oliver; yes, sir.

2 **MR. MILLING:** Yes, Your Honor.

3 **MR. DELGADO:** Yes, Your Honor.

4 **THE COURT:** Call your next witness.

5 (Pause)

6 **THE COURT:** Are you ready to proceed, Mr. Ross?

7 **MR. ROSS:** Yes, sir.

8 **THE COURT:** Who is the witness?

9 **MR. ROSS:** This is Investigator Ross.

10 **THE COURT:** Thank you.

11 **MR. MEADORS:** Your Honor, the witness after
12 this, or the witnesses after this, two after this,
13 depending on Ms. Robinson is going to be an Omekas
14 Moaney whose testimony would be he knows Stanley
15 Oliver and Dominic. He will testify he knows them,
16 but he says he'd sold them some small amounts of
17 marijuana. Just how he knows them, I just wanted to
18 put that on the record.

19 **THE COURT:** All right. Call your witness.

20 **MR. NETTLES:** Your Honor, I was just wondering
21 if it's -- I mean, if I could just say that at 9:00
22 this morning we were promised that Reggie Lloyd was
23 going to be walking through the door at any minute.

24 **MR. MEADORS:** That's not true.

25 **THE COURT:** Let's don't, please.

1 **MR. NETTLES:** I just want to know --

2 **THE COURT:** If your client is going to be called
3 as a witness today, I would suggest that you be here.
4 I don't run the State's case.

5 **MR. NETTLES:** Well, I would like to put on the
6 record, I want the record to be clear that I mean, I
7 think the record will reflect that at 9:00 this
8 morning we were told that Reggie Lloyd was going to
9 be walking through the door. It's now 2:30. I still
10 have not received anything in the way of immunity. I
11 have tried to call Reggie Lloyd. I haven't gotten a
12 phone call back from him. I just want that to be
13 clear.

14 **MR. MEADORS:** Your Honor, I'd like the record to
15 be clear, we've granted him state and federal
16 transactional immunity at 9:00 this morning. We're
17 ready to go. We talked to Reggie Lloyd.

18 **THE COURT:** He wants it in writing. And I think
19 I need to see it and put it on the record.

20 **MR. MEADORS:** Two in writing. Ms. Wicker has
21 sent over one document. We're sending it back to
22 her. I don't know what else we can do. I told him
23 Mr. Reggie --

24 **THE COURT:** One thing you can do is let
25 Mr. Nettles look at it.

1 **MR. MEADORS:** I don't have it back yet. It has
2 some stuff in there I know he's going to object to.

3 **THE COURT:** Well, let him look at the
4 statements.

5 **MR. MEADORS:** And, your Honor, if they would
6 give me the affidavit part of it, they're trying to
7 get immunity for a document they haven't shown us.
8 That's unbelievable.

9 **THE COURT:** Well, believable or not, if you're
10 going to grant her immunity, you're going to grant
11 her immunity. That's the bottom line.

12 **MR. MEADORS:** But, Your Honor, --

13 **THE COURT:** And not from her.

14 **MR. MEADORS:** Okay. Thank you.

15 **THE COURT:** From transactional immunity.

16 **MR. MEADORS:** Yes, sir. No question about that.

17 **MR. NETTLES:** Well, I understand, Your Honor.
18 In that case, just so we know for scheduling
19 purposes, I am going to require an in camera hearing
20 at some point because part of my concern is a
21 document that they don't have that if she takes the
22 stand will come out, just so the court knows.

23 **MR. MEADORS:** And as I said prior to the break,
24 I can't anticipate or give immunity for something
25 that I don't know what's in there. I would be fired

1 for that.

2 **THE COURT:** Well, ultimately I will give you my
3 decision.

4 **MR. MEADORS:** Yes, sir.

5 **THE COURT:** Right. Call your next witness.
6 Now, Mr. Nettles, I can't tell you when anything is
7 going to happen in this case. I'm doing the best I
8 can. I'm doing my best to --

9 **MR. NETTLES:** I know. I appreciate that.

10 **THE COURT:** -- encourage all parties to move
11 along in this case. We may be here next week at this
12 rate. It's not your problem, but it's my problem.

13 **MR. MEADORS:** Your Honor, again, we're doing
14 everything we can. If he wants to go to his office,
15 when it gets here, we'll be happy to call him back.

16 **THE COURT:** Please, you don't always have to
17 have the last word. Please. Call your next witness.

18 **MR. ROSS:** We call Investigator Ross.

19 **THE COURT:** Is this in camera?

20 **MR. ROSS:** No, sir.

21 **THE COURT:** Well, then just have a seat, sir.
22 Let me get the jury back in. Bring the jury, Mr.
23 Broome.

24 **THE BAILIFF:** Yes, sir.

25 (Jury in at 2:32 p.m.)

1 **THE BAILIFF:** Your Honor, the jury is present.

2 **THE COURT:** Thank you. All right, Solicitor.

3 Call your next witness.

4 **MR. ROSS:** The State calls Investigator Ross.

5 GLENN ROSS, after being duly sworn, testifies as
6 follows:

7 **THE CLERK:** Thank you. Please have a seat in
8 the witness stand and state your name for the record.

9 **THE WITNESS:** Glenn Ross.

10 DIRECT EXAMINATION

11 **BY MR. ROSS**

12 **Q** Investigator Ross, where are you employed?

13 **A** Lexington County Sheriff's Department.

14 **Q** What's your position there?

15 **A** Crime scene investigator.

16 **Q** Did you work for the City Police Department?

17 **A** Yes, sir. Up to October of this year.

18 **Q** And how long had you been employed there?

19 **A** Since 1995.

20 **Q** What was your position when you left Columbia Police
21 Department?

22 **A** Crime scene investigations.

23 **Q** Did you have occasion to attend the autopsies of two
24 victims in this case, Jim Batie and Kevin Miller?

25 **A** Yes, sir, I did.

1 Q And at the autopsy did you check certain items that
2 were removed from the body?

3 A Yes, sir, I did.

4 Q I hand you what's been marked as State's Exhibit
5 No. 150. Do you recognize that item?

6 A Yes, sir. A cigarette.

7 Q Is that the cigarette collected from a pocket of
8 Kevin Miller?

9 A Yes, sir.

10 Q And did you then take that item and log it in at the
11 Columbia Police Department?

12 A Yes, sir.

13 Q All right. I hand you State's Exhibit No. 145. Do
14 you recognize that?

15 A Yes, sir.

16 Q Is that the dollar money and also change that was
17 collected from Kevin Miller's person?

18 A Yes, sir, it is.

19 Q At the autopsy?

20 A Yes, sir.

21 Q Had you also taken that money and logged it in at the
22 Columbia Police Department?

23 A Yes, sir.

24 Q I hand you what's been marked as State's Exhibit
25 149C. Do you recognize that item?

1 **A** Yes, sir.

2 **Q** Is that the projectile that was collected during the
3 autopsy of Kevin Miller?

4 **A** Yes, sir. It is.

5 **Q** I hand you what's been marked as State's Exhibit No.
6 149A. Do you recognize that item?

7 **A** Yes, sir, I do.

8 **Q** And are those the three projectiles from the body of
9 Jim Batie during autopsy?

10 **A** Yes, sir, it is.

11 **Q** And 149A and 149C, you also took those items, logged
12 them in the Columbia Police Department?

13 **A** Yes, sir.

14 **Q** Did you then also take these two items to SLED?

15 **A** Yes, sir, I did.

16 **Q** And submit them for analysis?

17 **A** Yes, sir.)

18 **MR. ROSS:** Your Honor, I'd offer State's
19 Exhibits 149C, A, also 145 and 150 into evidence at
20 this time.

21 **MR. STRICKLER:** Without objection as to Mr.
22 Oliver.

23 **MR. MILLING:** No objection, Your Honor.

24 **MR. DELGADO:** No objection.

25 **THE COURT:** All right. Without objection.

1 (WHEREUPON, State's Exhibit No. 149A is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 149C is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 145 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 150 is admitted
8 into evidence.)

9 Q I hand you State's Exhibit 147. Do you recognize
10 that item?

11 A Yes, sir.

12 Q What are those items?

13 A GSR kits.

14 Q Okay. And does it refer -- I'm not sure if it
15 does -- does it refer to which persons those go with?

16 A This one is Kevin Miller, George Batie. I do not see
17 on this one.

18 Q I'm handing you your SLED forensic request.

19 A Kit number one would be to Ms. McKie.

20 Q Zondria McKie?

21 A Yes, sir.

22 Q Did you get those items from City Police Department
23 property and evidence?

24 A Yes, sir.

25 Q And did you then take those items to SLED for

1 analysis?

2 **A** Yes, sir, I did.

3 **MR. ROSS:** Your Honor, I'd offer State's Exhibit
4 147 into evidence.

5 **MR. STRICKLER:** Without objection as to Mr.
6 Oliver.

7 **MR. MILLING:** No objection, Your Honor.

8 **MR. DELGADO:** And as to Ken Joy.

9 **THE COURT:** Without objection.

10 (WHEREUPON, State's Exhibit No. 147 is admitted
11 into evidence.)

12 **Q** That's all the questions I have, Investigator.

13 CROSS EXAMINATION

14 **BY MR. STRICKLER**

15 **Q** Good afternoon, Investigator. My name is Doug
16 Strickler. I'm here representing Mr. Oliver, sir. I
17 have just a couple of questions really. As to what's
18 marked as State's 145 which I believe is the money
19 that you recovered, --

20 **A** Yes, sir.

21 **Q** -- can you tell us how much money that was that you
22 recovered?

23 **A** Making reference to my report, item number 8 is \$79
24 in paper currency. The other four quarters is item
25 15 that was taken from my second victim.

1 Q Okay.

2 A They were attached together, but they're actually
3 split. It was taken by both victims.

4 Q So they actually came from -- \$79 came from Kevin
5 Miller and, the quarters came from the other
6 individual, Mr. Batie. Correct?

7 A Yes, sir.

8 Q You've got three twenties, three 5's and four 1's
9 from Kevin Miller?

10 A Yes, sir.

11 Q Okay. And as to the projectiles, I believe they're
12 marked State's 149A and State's 149C; you transported
13 those to SLED for testing?

14 A Yes, sir, I did.

15 Q And when did you transport those? When did you carry
16 them out there?

17 A I don't have the dates in my report. It would be on
18 the actual paperwork at SLED, the actual date it was
19 turned in.

20 Q Okay. And I believe that you also indicate that you
21 took the three gunshot residue tests which are in
22 evidence as State's 147, also took those to SLED.
23 The same question: Do you know when you took those
24 to SLED yourself?

25 A It's also on the SLED paperwork.

1 Q All right. Thank you very much, sir.

2 THE COURT: Mr. Gallman.

3 MR. MILLING: No questions, Your Honor.

4 THE COURT: Mr. Joy.

5 CROSS EXAMINATION

6 BY MR. DELGADO

7 Q Good afternoon, sir. You went to -- in your role as
8 a crime scene investigator, you went to the autopsy?

9 A Yes, sir.

10 Q And received from the individuals, I guess the
11 medical examiner or the forensic pathologist certain
12 items that you then place for others to review.

13 Would that be fair?

14 A Yes, sir.

15 Q All right. You know the name of the African-American
16 gentleman by the name of George Batie. Is that
17 correct, sir? That's how your --

18 A That's the information that I had at the time of
19 autopsy.

20 Q Yes, sir. That was his name as far as your
21 information is concerned?

22 A Yes, sir.

23 Q That's all. Thank you, sir.

24 THE COURT: Anything further?

25 REDIRECT EXAMINATION

1 **BY MR. ROSS**

2 **Q** Looking at your SLED paperwork, when did you take the
3 GSR kits to SLED?

4 **A** 9-7 of '05.

5 **Q** And also looking at your paperwork, when would you
6 have taken the projectiles?

7 **A** 9-7 of '05.

8 **MR. ROSS:** One moment, Your Honor. That's all
9 the questions I have.

10 **THE COURT:** Anything further?

11 **MR. STRICKLER:** No, sir.

12 **MR. MILLING:** Nothing.

13 **MR. DELGADO:** Nothing. Thank you, Your Honor.

14 **THE COURT:** May this witness be excused?

15 **MR. STRICKLER:** Without objection.

16 **THE COURT:** Without objection.

17 **MR. DELGADO:** Oh. Yes. I'm sorry. Yes, sir.
18 Without objection.

19 **MR. MEADORS:** Omekas Moaney.

20 OMEKAS L. MOANEY, after being duly sworn,
21 testifies as follows:

22 **THE CLERK:** Thank you. Please have a seat in
23 the witness stand and state and spell your full name
24 for the record, please.

25 **THE WITNESS:** My name is Omekas Latrell Moaney,

1 O-M-E-K-A-S, M-O-A-N-E-Y.

2 DIRECT EXAMINATION

3 **BY MR. MEADORS**

4 Q Omekas?

5 A Omekas.

6 Q And last name Moaney?

7 A Yes, sir.

8 Q Mr. Moaney, would you mind pulling up a little bit,
9 if you don't mind, in your seat. If you can just
10 talk into here so the court reporter and all the
11 ladies and gentlemen of this jury can hear you.

12 A Yes, sir.

13 Q Mr. Moaney, where are you from?

14 A Columbia, South Carolina, Richland County.

15 Q Born and raised here?

16 A Yes, sir.

17 Q Take these folks through your schooling. Where did
18 you go to school, elementary and on up?

19 A I went to Lydon Street Elementary. I went to Clayton
20 Middle School. And I graduated from A. C. Flora High
21 School.

22 Q What year did you graduate from A. C. Flora?

23 A 1996.

24 Q What did you do after that, Mr. Moaney?

25 A I left high school. I was working at Richland

1 Fashion Mall as a store manager of Great Steak 'N
2 Fry, and I did security also at that same mall.

3 Q At Richland Fashion Mall?

4 A Yes, sir.

5 Q After that did you have an occasion to work anywhere?

6 A Yes, sir. After that, after leaving Richland Fashion
7 Mall, I went to work at Carolina Insulators. After
8 working at Carolina Insulators I went to work at
9 Tyson's poultry plant off of --

10 Q Where?

11 A On Beltline. After leaving Tyson's poultry plant I
12 went to work at Fort Roofing of Columbia.

13 Q Fort Roofing of Columbia?

14 A Yes, sir.

15 Q Did you put on roofs?

16 A Yes, sir.

17 Q And what did you do after that?

18 A After that I moved around. I started selling dope.

19 Q All right. Well, Fort Roofing, as a point in your
20 life, when was that when you worked at Fort Roofing?

21 A I was at Fort Roofing at 2002, 2003. I started at
22 Fort Roofing.

23 Q All right. And at some point during that time did
24 start using drugs?

25 A I experimented with cocaine before that.

1 Q Had you smoked marijuana?

2 A Yeah. I was -- yeah. I smoked marijuana and drunk
3 alcohol.

4 Q What was that last thing? Drunk alcohol?

5 A Yes, sir.

6 Q And you started selling. Did you start selling
7 drugs?

8 A Yes, sir. I started selling marijuana first and
9 moved from marijuana to cocaine and crack.

10 Q And what time period are we talking about now when
11 you were -- was that -- were you exclusively doing
12 that for a while? I mean, was that your main source
13 of income?

14 A Yes, sir. I did that from 2003 'til 2006.

15 Q Okay. And did you get arrested and charged for
16 P.W.I.D. crack and marijuana?

17 A Yes, sir.

18 Q When was that?

19 A That was in 2003.

20 Q And were there any other related charges, gun
21 charges, D.U.S. or simple possession of marijuana?

22 A I had a gun charge. I had a possession of a
23 concealed weapon by a person under 21 in 1997. I had
24 two prior driving under suspensions and simple
25 possession of marijuana. Everything else was just

1 city level court.

2 Q City level?

3 A Yes, sir.

4 Q Tell it all. I mean, did you end up pleading guilty
5 to that?

6 A Yes, sir.

7 Q And got on probation?

8 A I received two and a half years probation and fines.
9 My probation was suspended upon payment of my fines.
10 That was for the weapons charge. And I pleaded
11 guilty to the marijuana and received time served for
12 that.

13 Q So you were on -- do you remember your court date?

14 A I was sentenced in front of Judge Goode in, I want to
15 say, January of 2004 for the P.W.I.D. crack, P.W.I.D.
16 marijuana.

17 Q Look at this and see if this is your record. Is that
18 you, Omekas Moaney?

19 A Yes, sir.

20 Q And does it have a court date on here for about --
21 you said January of 2004. Could that have been
22 January of 2005?

23 A Yes, sir.

24 Q And you said you were on probation for how long?

25 A I received three years probation for the possession

1 with intent to distribute crack cocaine, possession
2 with intent to distribute marijuana.

3 Q Now, you got back out. Did you go back to work at
4 roofing or something when you got on probation?

5 A No. I didn't go back to Fort Roofing. But I worked
6 little jobs, little pick-up jobs that I could have
7 something, some type of receipt to go and show my
8 probation officer that I was doing something else
9 besides selling dope, a way to keep me from going
10 back to jail for not having a job.

11 Q Pick-up type jobs. You mean -- no disrespect -- like
12 manual labor type jobs?

13 A Yes, sir.

14 Q Now, let me just ask you; did you know Stanley
15 Oliver?

16 A Yes, sir. I met Mr. Oliver in the summer of 2003.

17 Q And did you know -- did you meet him here in
18 Columbia?

19 A Yes, sir.

20 Q And do you know Dominic Gallman?

21 A Yes, sir.

22 Q Please tell the ladies and gentlemen of the jury how
23 you know Mr. Dominic Gallman?

24 A I knew Mr. Gallman from my childhood. Me and Mr.
25 Gallman grew up together. His mother knows my

1 mother.

2 Q You've known him your whole life?

3 A Yes, sir.

4 Q And let's go back, or up or down, either one. Do you
5 know Mr. Joy? Do you know him? Can you see him?

6 A Yes, sir.

7 MR. MEADORS: I just asked if he could see. He
8 was going around to see.

9 MR. DELGADO: "You can see him" I think exactly
10 is what the words were.

11 MR. MEADORS: Yeah.

12 A Yes, sir.

13 Q Okay. And when did you meet Mr. Joy?

14 A I met Mr. Joy in September 2005.

15 Q So prior to September 2005 you did not know Mr. Joy?

16 A No, sir.

17 Q Let me just ask you, going back to Mr. Oliver.

18 Again, you've said you've known Mr. Gallman your
19 whole life. When did you meet Mr. Oliver? If you
20 said it, I apologize.

21 A I met Mr. Oliver summer of 2003.

22 Q Okay. How often would you see Mr. Oliver from the
23 summer of 2003 until Labor Day weekend of 2005?

24 A It was just on occasions off and on. It wasn't
25 anything constant. He would come over and see me if

1 he needed something. Or if he was around the
2 neighborhood, I probably would have seen him.

3 Q And when you say he'd come around to see you, where
4 would he come to see you?

5 A He would either come and see me at the corner right
6 there at the time house I had on McDuffie or he would
7 visit me at the house on the corner of McDuffie and
8 Washington.

9 Q And Mr. Gallman during that -- I know you said you'd
10 seen him your whole life. But that same period,
11 Labor Day of 2003 until the summer of 2005, how much
12 were you seeing Mr. Gallman?

13 A The same thing, just off and on. It was a constant
14 relationship or anything.

15 Q Where would you see him?

16 A He would also come through the neighborhood. I would
17 see him pass through or he would come see me.

18 Q And when they were coming to see you, were they
19 bringing anything?

20 A No, sir.

21 Q Did they come to you for something?

22 A Yes, sir.

23 Q Had they ever brought you anything prior to Labor Day
24 weekend September 2005?

25 A No, sir.

1 Q I'd like to take you now to September 2005?

2 A Yes, sir.

3 Q Where were you living?

4 A The house that I shared with my fiancée. My child
5 was in Forest Acres, but I also had the house on the
6 corner of McDuffie and Washington Street.

7 Q And during Labor Day weekend September 2005, or
8 during that month before, two months before, Mr.
9 Moaney, tell these ladies and gentlemen of the jury;
10 what was your job?

11 A Selling dope.

12 Q You're still selling dope while you're on probation?

13 A Yes, sir.

14 Q Were you using dope?

15 A I was smoking marijuana, drinking.

16 Q Now, specifically on Labor Day weekend of September
17 of 2005, did you have an occasion to see Stanley
18 Oliver and/or Dominic Gallman and/or Mr. Kenneth Joy?

19 A Not -- not that weekend. On September the 5th --

20 Q Okay.

21 A -- I saw them.

22 Q On September 5th?

23 A Yes, sir.

24 Q And looking at what's marked as State's 178, and I
25 think it's been stated that Sunday is usually over

1 here on a calendar but on this particular calendar
2 it's here. So what day did you see one or both of
3 these or one or all three of these? I'm going to ask
4 you to be specific. What day did you say?

5 A Monday, September the 5th.

6 Q Here?

7 A Yes, sir.

8 Q Can you say specifically who you saw on Monday,
9 September the 5th?

10 A Yes, sir.

11 Q Please tell these ladies and gentlemen who you saw?

12 A Mr. Joy brought Stanley Oliver over to see me, and
13 Mr. Gallman came to the residence alone.

14 Q Mr. Joy brought Mr. Oliver to see you where?

15 A At Washington street. At the house on the corner of
16 Washington and McDuffie.

17 Q When was the first time you saw Mr. Joy?

18 A That was my first time meeting him, meeting Mr. Joy.
19 He was introduced to me by Mr. Oliver as his cousin.

20 Q Did Mr. Joy hang around then?

21 A No, sir. He dropped Mr. Oliver off and left.

22 Q And how did Mr. Gallman get there, if you know?

23 A Mr. Gallman arrived in another vehicle. He drove his
24 own vehicle.

25 Q And at that point where, if anywhere, did Mr. Oliver

1 and Mr. Gallman and you go?

2 A We went upstairs to the apartment that I rented at
3 Washington Street at the corner of Washington Street
4 and McDuffie.

5 Q How long was it before -- did they arrive at the same
6 time?

7 A No, sir.

8 Q Okay. How long was it after Mr. Oliver had been
9 dropped by Mr. Joy that Mr. Gallman came?

10 A Maybe 30 minutes to an hour.

11 Q After Mr. Gallman got there, what, if anything,
12 happened? What transpired?

13 A We all went upstairs. There was another individual
14 there also that also dealt with me as far as drugs
15 was concerned. I received a phone call earlier that
16 day asking me would I be willing to help them do some
17 things and to get rid of some stuff. And I told them
18 to come through and holler at me, we'll talk. When
19 they both arrived, when Mr. Oliver arrived and Mr.
20 Gallman got there, we all went upstairs. We sat down
21 and discussed what it was they were asking me to do.

22 Q Mr. Oliver and Mr. Gallman were asking you to do?

23 A Yes, sir.

24 Q What did they ask you to do?

25 A They had a large amount of cocaine they were liking

1 to be distributed, crack and this cocaine. And they
2 wanted some of the cocaine cooked up into crack and
3 they wanted, you know, things to be sold.

4 Q And why were they coming to you?

5 A I was known to be able to distribute large amounts of
6 drugs. That was -- I mean, that was the way I was
7 making my living. I was basically just selling drugs
8 to live really.

9 Q Can you tell the ladies and gentlemen of the jury the
10 amounts of drugs we're talking about? How much drugs
11 did they bring to you?

12 A After we discussed what it was, after they were
13 asking me to do and the prices that they were looking
14 for, what they were expecting for the amount of drugs
15 that they were dealing with, they left, went -- they
16 left together. Mr. Gallman and Mr. Oliver left the
17 house and came back. When they returned they
18 returned with a large bag of cocaine. At that point
19 in time we sat there. We cooked approximately six to
20 eight ounces, six to eight circles of crack cocaine
21 using 21 grams of cocaine per circle. And that
22 night, that was --

23 Q Let me just stop real quick. You said six to eight
24 circles?

25 A Yes, sir.

1 Q What is a circle?

2 A A circle is the final product, is the cooked product
3 of cocaine.

4 Q Crack?

5 A Yes, sir. It's crack.

6 Q How much powder goes in a circle to make --

7 A We were actually using 21 grams of cocaine per
8 circle.

9 Q How many circles did you make?

10 A We cooked six to eight circles that night.

11 Q What happened after? What happened to those six or
12 eight circles?

13 A That night once we finished cooking things up and
14 separating the crack from the rest of the cocaine,
15 Mr. Oliver and Mr. Gallman left. They took the two
16 to three circles of the cooked crack and they left.
17 And the other, the rest of the crack was left with
18 me.

19 Q The rest of the crack was left what?

20 A With me.

21 Q Well, what were you to do with the crack, if
22 anything, and what was to happen to the proceedings?

23 A I was -- the crack was left with me to sell whatever
24 it was I could sell. And the money that I would get
25 from it, I was to give Mr. Oliver and Mr. Gallman

1 \$700 per circle.

2 Q And would you be making a profit on that?

3 A Yes, sir.

4 Q A good profit?

5 A Yes, sir.

6 Q Based on the experience you had with them, them being
7 Stanley Oliver and Dominic Gallman, was it unusual
8 for them to bring this over there?

9 A Yes, sir.

10 Q Was it unusual for them to bring anything over there?

11 A Yes, sir. More than likely, whenever I dealt with
12 them, they were coming to me to either purchase
13 marijuana, cocaine or crack.

14 Q So would this be the first time they've brought a
15 product to you?

16 A Yes, sir.

17 Q Had they ever been your supplier before?

18 A No, sir.

19 Q After that six or eight cookies --

20 A Yes, sir.

21 Q -- that you cooked, right?

22 A Yes, sir.

23 Q Was there any more dope?

24 A Yes, sir.

25 Q Can you tell them about that?

1 **A** It was after -- after cooking the first six or eight
2 circles, there was still a nice -- there was still a
3 pretty large amount of cocaine left; Mr. Gallman and
4 Mr. Oliver, myself and another individual spoke with
5 somebody else that called us about buying some
6 cocaine. We sold them approximately four and a half
7 ounces of cocaine for, I believe it was in the price
8 range of like from \$2,800 to \$3,200.

9 **Q** And that's a pretty large sale, isn't it?

10 **A** It's -- yes, sir.

11 **Q** Well, what happened to the proceeds of that four to
12 five ounces?

13 **A** That money went to Mr. Oliver and Mr. Gallman.

14 **Q** Was there any more left after that?

15 **A** Yes, sir.

16 **Q** How much more was left?

17 **A** It wasn't -- it wasn't a large -- it wasn't a large
18 sum left after that, but it was -- it was a pretty
19 good amount left. It was enough to cook I believe
20 like four -- like four more circles of -- like four
21 more circles of crack, and there was more cocaine
22 left over.

23 **Q** And what happened to the proceeds of that?

24 **A** That money also was given to Mr. Oliver and Mr.
25 Gallman. A portion of it was also given to Mr. Joy

1 also after Mr. Oliver was arrested.

2 Q And how did that come about?

3 A I spoke with Mr. Gallman on the telephone. He told
4 me to give Kenneth Joy some money to --

5 MR. DELGADO: Object, Your Honor. It's the
6 same, the same Crawford problems.

7 THE COURT: He spoke with -- he's saying you
8 spoke with Gallman?

9 THE WITNESS: Yes, sir.

10 THE COURT: All right. Sustained.

11 MR. DELGADO: I move that that be stricken from
12 the record.

13 THE COURT: All right. Strike it from the
14 record. Sustained.

15 Q As a result of the conversation with Mr. Gallman,
16 what happened? Did some money go to Mr. Joy?

17 A Yes, sir.

18 Q Where did that take place?

19 A Mr. Joy met me at the house on Washington Street and
20 McDuffie and he picked up money, you know, from me
21 there.

22 Q Mr. Joy, did you what, if anything, he was going to
23 do with the money?

24 A No. I already knew the money was supposed to go to
25 Mr. Oliver.

1 Q And is that the next time you saw Mr. Joy?

2 A Yes, sir. I called him to come and pick up the
3 money.

4 Q What were your phone numbers you were using then?

5 A I had -- I had one phone that was -- that was a
6 monthly phone. It was through Suncom. It was
7 665-2996. And I had a prepaid cellphone through
8 Cingular Wireless which was 237-6224.

9 Q So between -- well, August, September of 2005, were
10 these your phone numbers?

11 A Yes, sir.

12 Q Did anybody else have access to these phone numbers
13 besides you?

14 A No, sir. They were mine.

15 Q So if a call originated from here and went out into
16 the world, who would it have come from, if anybody?

17 A Me.

18 Q If a call from anywhere in the world came back to
19 these two phone numbers, who would it have been going
20 to?

21 A Me.

22 Q Had you received any phone calls from any of these
23 individuals involved in this case on what you said
24 was I believe -- well, when did you hear from them
25 the first time?

1 A I first heard from them on the morning of October the
2 5th. They called me at around a little bit past
3 lunchtime.

4 Q And would that be reflected on your tolls?

5 A Yes, sir.

6 Q And did you have conversations with Mr. Oliver
7 throughout the first part of this week with reference
8 to what you testified about?

9 A Yes, sir.

10 Q Were the calls from Mr. Oliver to you?

11 A Yes, sir.

12 Q Were the calls from you to Mr. Oliver?

13 A I believe I made one or two calls back to them.

14 Q What about Mr. Gallman? Did you have an occasion to
15 talk to him on any of these two phones or have calls
16 from him on any of these two phones?

17 A Yes, sir.

18 Q And if you said it a minute ago, I apologize. Did
19 you talk to Mr. Joy on one of these phones? Or
20 that's the first question I guess.

21 A I called Mr. Joy on the 20th for him --

22 Q Did you ever receive a call from Mr. Joy on one of
23 these two phones?

24 A Yeah. His phone number has -- his phone number was
25 the first phone number that called me.

1 Q And did you talk to Mr. Joy?

2 A I didn't talk to Mr. Joy. It was Mr. Oliver that I
3 talked to.

4 Q You talked to Mr. Oliver on whose phone?

5 A Kenneth Joy's phone.

6 Q And at that point when you received that call, did
7 you even know Mr. Joy?

8 A No, sir.

9 Q Now, Mr. Omekas Moaney, you testified that this was
10 unusual, this large amount. Did you ask Mr. Oliver
11 or Mr. Gallman about the large amount?

12 A Later on during the week, you know, I got suspicious.
13 I started thinking and I was hearing things, you
14 know. And I asked them, you know, where did it come
15 from. They didn't talk to me too much about where it
16 came from. On Wednesday I read in the newspaper
17 about the homicides and the robbery, and on Thursday
18 Mr. Oliver's picture was on the news. On that
19 Thursday we all sat down and we talked about where it
20 came from and how they got it.

21 Q You say you all. Specifically who are you talking
22 about?

23 A Myself, Mr. Oliver, Mr. Gallman and the other
24 associate of mine that was at the residence.

25 Q This other associate is somebody that's involved with

1 you, was involved with you in the drug business?

2 **A** Yes, sir.

3 **Q** What, if anything, specifically we'll just start, did
4 Mr. Oliver say about what, if anything, had happened?

5 **A** Once we started to talking and I wanted to know what
6 happened, what went on and how they got it, that's
7 when I learned they got it through a robbery. But it
8 was -- it was said that, you know, they didn't intend
9 to harm anybody. They did not go there with the
10 intentions of harming anybody but things got out of
11 hand, things went wrong.

12 **Q** Things got out of hand?

13 **A** Yes, sir.

14 **Q** And that was a conversation between Mr. Oliver?

15 **A** Yes, sir. Mr. Oliver. That was the conversation
16 that we all had; myself, Mr. Oliver, Mr. Gallman and
17 my other associate.

18 **Q** Based on your memory, when did this thing hit the
19 news, I mean about the murders?

20 **A** It was in the newspaper on that Wednesday. It showed
21 up on the news. Mr. Oliver's picture showed up on
22 the news on that Thursday.

23 **Q** At some point did you feel less comfortable dealing
24 with this dope?

25 **A** Yes, sir.

1 Q Explain that?

2 A Once I -- once I actually had the opportunity to sit
3 down and it was said that the dope came from the
4 robbery where the guys, where the two guys were
5 killed, I became uncomfortable because I was already
6 on probation. I'm already selling dope which
7 violates my probation. I don't -- I didn't want any
8 other activity, anything to bring the police closer
9 to me. I wanted to stay away from it. And this -- I
10 mean, that did it. Just by them bringing me the dope
11 and them being seen at my house brought more
12 attention to me.

13 Q Ultimately, did the police come to see you?

14 A Yes, sir.

15 Q After they were arrested, did you get in trouble?

16 A Yes, sir.

17 Q Tell it all. Tell us about that.

18 A The week of October the -- the week of September the
19 20th, the house that I had on McDuffie and
20 Washington, it was raided by the officers of Richland
21 County Narcotics Squad. By them raiding that house,
22 I received a charge for manufacturing crack cocaine,
23 LSD, methamphetamines, possession with intent to
24 distribute and simple possession of marijuana.

25 Q When you were arrested, did you get shot?

1 **A** Not on that occasion. I didn't get -- actually when
2 they raided the house in September, they arrested
3 Willie Jackson which was staying in the house. He
4 took responsibility for what they found in the house,
5 but they still wanted to talk to me. I continued to
6 run. I showed up to my probation officer October the
7 11th of 2005. Once I showed up to my probation
8 officer, she took me into the back and she detained
9 me, told me that I had two outstanding warrants with
10 the Richland County Sheriff's Department.

11 **Q** And you were arrested for what? The charges you just
12 mentioned there?

13 **A** Yes, sir.

14 **Q** And those dated from when?

15 **A** September 2005.

16 **Q** Now, your subsequent -- let me get you close up here.
17 If you don't mind, if I could approach. I don't
18 know. These are prison bottoms, right?

19 **A** Yes, sir.

20 **Q** And tell these ladies and gentlemen where you're
21 living right now?

22 **A** I am currently incarcerated at the Federal Medical
23 Center in Buckner, North Carolina. I'm currently
24 serving a 20-year prison sentence for conspiracy to
25 possess and conspiracy to distribute 50 grams or more

1 of crack cocaine.

2 Q And that's a federal charge?

3 A Yes, sir.

4 Q So did the Feds adopt the case?

5 A Yes, sir. I ended up having to take responsibility
6 and having to take credit for the charges that came
7 from September on my federal indictment.

8 Q So was the State charges assumed in the federal?

9 A Yes, sir.

10 Q So you got a 20-year sentence?

11 A Yes, sir.

12 Q And you said you're in the Buckner Federal --

13 A Yeah. Federal Medical Center in Buckner, North
14 Carolina.

15 Q Why are you in the Federal Medical Center?

16 A Because I was shot twice in my chest and I received
17 damage to my lungs, my liver, my diaphragm, my
18 gallbladder and my appendix.

19 Q And was that when you were arrested by the federal
20 and/or state authorities?

21 A Yes, sir.

22 Q Which?

23 A That's when I arrested by the federal authorities in
24 2006.

25 Q And you pled guilty when?

1 **A** I pled guilty in -- I took my plea agreement in
2 February. I pled guilty in, I want to say March of
3 2006, and I was sentenced in August of 2006.

4 **Q** How long did it take to sell the amount of drugs you
5 were talking about, the circles? How long did it
6 take to sell that?

7 **A** A week and a half, two weeks at the most.

8 **Q** You mentioned Stanley Oliver. Could you just point
9 out Stanley Oliver, if he is in the courtroom?

10 **A** (Witness points)

11 **MR. MEADORS:** We'd like the record to reflect
12 he's pointing to Mr. Oliver between Ms. LaFave and
13 Mr. Strickler.

14 **Q** And could you point out Mr. Gallman who you've
15 referred to?

16 **A** (Witness points)

17 **MR. MEADORS:** Sitting next to Mr. Milling. We'd
18 ask the record to reflect --

19 **THE COURT:** The record will so reflect. The
20 witness identified the defendants, Oliver and
21 Gallman.

22 **Q** And finally you said you met Mr. Joy how many times?

23 **A** I met Mr. Joy the first time on September the 5th
24 when he dropped Stanley Oliver off. And I met him
25 again on September the 20th when he picked up money

1 from me.

2 Q And is Mr. Joy in the courtroom?

3 A Yes, sir.

4 Q Would you please point him out?

5 A (Witness points)

6 MR. MEADORS: I'd like the record to reflect
7 he's pointed to Mr. Joy sitting next to Mr. Delgado.

8 THE COURT: Let the record reflect the witness
9 identified the defendant, Joy.

10 MR. MEADORS: Beg the Court's indulgence. Your
11 Honor, we have a quick matter we'd like to take up.

12 THE COURT: Approach the bench.

13 (Whereupon, a bench conference is had)

14 Q Beg the Court's indulgence. If I told you -- when
15 did I meet you for the first time?

16 A On yesterday.

17 Q Have I told you that I would let the federal
18 authorities know that you have testified in this
19 case?

20 A Yes, sir.

21 Q Is that the extent of what I've told you?

22 A Yes, sir.

23 MR. MEADORS: Thank you. That's all I have.

24 THE COURT: Cross examination.

25 CROSS EXAMINATION

1 **BY MR. STRICKLER**

2 **Q** Good afternoon, Mr. Moaney.

3 **A** Good afternoon.

4 **Q** My name is Doug Strickler. I'm here. I'm one of the
5 attorneys representing Mr. Oliver. You know Stanley
6 as Solo?

7 **A** Yes, sir.

8 **Q** That was his street name, if you will?

9 **A** Yes, sir.

10 **Q** Okay. You might be known on the street as Blue?

11 **A** Yes, sir.

12 **Q** Now, when the police raided the address on Washington
13 Street --

14 **A** Yes, sir.

15 **Q** -- when was that?

16 **A** Where was it?

17 **Q** When?

18 **A** In September.

19 **Q** That's right. And then it didn't register with you
20 at that point in time, but I guess you got word or
21 heard word that they were looking for you, right?

22 **A** I wasn't at the residence. That's why I wasn't
23 arrested.

24 **Q** Right. But I thought you testified that you heard
25 that they were looking for you. No?

1 **A** I was at the residence a couple of days after that
2 and I noticed Richland County narcotics agents
3 circling the block. Once they noticed that I was
4 standing in the yard, they stopped and pursued me in
5 a foot chase and I ended up getting away.

6 **Q** Okay. So it wasn't so much a matter of realizing
7 what time it was, you got informed what time it was
8 real specifically. They came?

9 **A** Yes, sir.

10 **Q** Running right after you, right?

11 **A** (Nods head affirmatively).

12 **Q** But then you went to see your probation officer in
13 November?

14 **A** October.

15 **Q** October. I'm sorry. October. And the probation
16 officer kept you there until the police came and got
17 you, right?

18 **A** Yeah. When she came out front and called me in the
19 back, I got in her office. Once I got in her office,
20 another agent came behind me to detain me and put me
21 in handcuffs. And right then she told me that she
22 looked on her computer and there was a hold. There
23 was two outstanding warrants from Richland County
24 Sheriff's Department for my arrest.

25 **Q** After your arrest -- or this -- when you were taken

1 into custody, custody in -- or, rather, when you saw
2 the police in October of 2005 --

3 A Yes, sir.

4 Q -- you talked with them. Did you get any State
5 charges as a result of that?

6 A Yes, sir.

7 Q Okay. Those are the ones that end up going -- they
8 went federal on them, as they say, right?

9 A Yes, sir.

10 Q And I believe you said manufacturing crack, LSD,
11 meth, P.W.I.D. and simple possession of marijuana?

12 A Yes, sir.

13 Q I was writing as fast as I could. Is that right?

14 A Yes, sir.

15 Q So those were the state charges that you got?

16 A Yes, sir.

17 Q Right. Okay. And you end up getting charged
18 Federally, so the State charge was just done away
19 with?

20 A I was held accountable for the drug weight in my
21 federal case.

22 Q Right. And when did they put those warrants on you,
23 the State charges on you? In October when they went
24 to the probation office?

25 A No.

1 Q No?

2 A Those warrants were filed, if I'm not mistaken,
3 September the 23rd.

4 Q Of 2005?

5 A Yes, sir.

6 Q So they were filed the 23rd of '05, weren't served on
7 you until October 11th or whenever it was that you
8 were picked up, right?

9 A After they saw that I wasn't going to come and talk
10 to them and that I was running from them, that's when
11 they decided to file the charges. Because they knew
12 that I had to go and see my probation officer and
13 that would be the only way that she could detain me
14 or hold me for questioning.

15 Q So the first time you saw the warrants was after you
16 got picked up and went to see your probation officer?

17 A The first time I saw the warrants was October the
18 11th.

19 Q And that was -- and then you sat down and spoke with
20 the police about this, right?

21 A Yes, sir. Richland County homicide detectives.

22 Q Who did you talk with?

23 A I talked with, if I'm not mistaken, I think his name
24 is Stan Smith and one other officer. I'm -- I don't
25 know. I can't remember his name.

1 Q All right. And you talked with them down there at
2 the Sheriff's Department, right?

3 A On Two Notch, yes.

4 Q You and these two other officers in an office
5 together, I take it?

6 A Yes, sir.

7 Q Right? Were you handcuffed at that point in time?

8 A I was restrained on the way --

9 Q Mm-hmm (affirmative).

10 A -- to --

11 Q Right.

12 A -- the Sheriff's Department. But once I got to the
13 Sheriff's Department and got inside the office, the
14 restraints were removed.

15 Q Okay. So you didn't have any handcuffs on you when
16 you were talking with the police --

17 A No, sir.

18 Q -- in the office? And did they -- how long did you
19 talk with them for?

20 A I spoke with them for a couple of hours.

21 Q And what kind of tape recorder were they using to
22 record this conversation that you all had?

23 A I don't remember if there was a tape recorder used at
24 all.

25 Q And you wouldn't remember if they videotaped this

1 conversation, would you? Correct?

2 A No, sir.

3 Q And if they didn't video it, they wrote down what
4 they say you told them, right?

5 A Yes, sir.

6 Q Your statement?

7 A If I'm not mistaken, I wrote a statement on my own.

8 Q On your own. Now, at this point in time you've got
9 these state charges on you, manufacturing crack, LSD,
10 meth, P.W.I.D., simple possession of marijuana. Did
11 you then have a bond set on you on those charges?

12 A Yes, sir.

13 Q What kind of bond did you get set?

14 A I had a \$25,000 surety bond.

15 Q \$25,000 surety bond. That means -- when you say
16 surety bond, that means that you had to find a bail
17 bondsman to go ahead and stand your bond for you,
18 right?

19 A Yes, sir.

20 Q And they generally charge ten percent of the bond as
21 their fee?

22 A Yes, sir.

23 Q So you've got to come up -- on a \$25,000 bond, you've
24 got to come up with \$2,500 from a bondsman, right?

25 A Yes, sir.

1 Q You pay the bondsman \$2,500, he guarantees that
2 you're going to be in court when you're supposed to
3 be there, does the paperwork, gets you out of jail?

4 A Yes, sir. Correction. My bond was set either at
5 25,000 or a \$20,000 surety bond, one of the two.

6 Q 20 or 25. And that was set with you having that
7 prior conviction for possession of pistol back in
8 1997?

9 A Yes, sir.

10 Q And for being currently on probation for what?
11 P.W.I.D. crack or manufacturing P.W.I.D. crack and
12 marijuana?

13 A I was on probation for possession with intent to
14 distribute crack cocaine, possession with intent to
15 distribute marijuana.

16 Q All right. Let me be sure I get it straight.
17 P.W.I.D. crack, P.W.I.D. marijuana, correct?

18 A Yeah.

19 Q So you got a 20 or a \$25,000 bond set on you with the
20 1997 fiscal charge and are currently on probation
21 from a plea done on January 31st, 2005; some less
22 than nine months earlier for P.W.I.D. crack, P.W.I.D.
23 marijuana?

24 A Yes, sir.

25 Q Correct? Okay. Did the police tell you they'd help

1 you out with that when you were talking with them?

2 **A** No, sir.

3 **Q** Of course not.

4 **MR. MEADORS:** Objection to that comment. It
5 wasn't a question.

6 **THE COURT:** Just ask a question.

7 **Q** So the police did not offer to assist you with your
8 bond on your current charges. Correct, sir?

9 **A** No, sir, they didn't.

10 **Q** Okay. Now, eventually you're out on these charges.
11 And the federal authorities, I believe -- I don't do
12 federal work -- I believe they adopted the State
13 charges and they went ahead and prosecuted you
14 Federally for some of the stuff?

15 **A** I had been taken to court. I went to a preliminary
16 hearing on the charges of manufacturing, the
17 manufacturing cocaine, LSD, PCP, well,
18 methamphetamines; and once I went to the preliminary
19 hearing, the charge was dropped from manufacturing to
20 possession of cocaine. And I hadn't been back to
21 court when I was arrested by the federal authorities.

22 **Q** And when did the Feds arrest you?

23 **A** I was shot by the federal agents on October the 20th,
24 2006.

25 **Q** That's as they were trying to arrest you on the

1 federal charges, right?

2 A Yes, sir.

3 Q October 20th, 2006?

4 A Yes, sir.

5 Q So about a year, a little more than a year after you
6 were initially charged with this thing, right?

7 A Yes, sir.

8 Q All right. And you were initially charged Federally
9 in a conspiracy charge as count one of your federal
10 indictment?

11 A That's the count that I pled to, count one of my
12 federal indictment.

13 Q Right. It was conspiracy to knowingly, intentionally
14 and unlawfully possession with intent to distribute
15 and distribute 450 grams or more of cocaine base,
16 commonly known as crack cocaine?

17 A Yes, sir.

18 Q Right? You and a number of other individuals?

19 A Yes, sir.

20 Q Quite a few. Right?

21 A Yes, sir.

22 Q And you were also charged in count five of that
23 indictment with knowingly, intentionally, unlawfully
24 possessing with intent to distribute and distributed
25 crack? They charged you with a substantive count of

1 possession of crack, correct?

2 A If I'm not mistaken, I was charged a total of four
3 times in the federal indictment but I only pled to
4 one count, and that was the count one conspiracy with
5 the intent to possess and distribute 50 grams or more
6 of crack cocaine.

7 Q Charged you in count 26 with another count of
8 knowingly, intelligently, unlawfully possessing with
9 an intent to distribute crack?

10 A Yes, sir.

11 Q Now, you had a prior, as you testified to, conviction
12 for P.W.I.D. crack?

13 A Yes, sir.

14 Q And for P.W.I.D. marijuana?

15 A Yes, sir.

16 Q Correct? And the government informed you at that
17 point in time that because of these they would seek
18 enhanced penalties under the federal law for the
19 charges that you had against you, correct?

20 A If I'm not mistaken, my enhancement came from an 851
21 enhancement and I got the extra enhancement for a
22 gun.

23 Q I haven't gotten to that yet, sir.

24 A If I'm not mistaken, that's what my enhancement was
25 for.

1 Q I asked you if they served you notice with the intent
2 to enhance based on the prior convictions.

3 A The enhancement was part of my plea agreement.

4 Q Yes, sir. I haven't gotten to that yet either. But
5 I'll be happy to. You entered into a written plea
6 agreement with the government. You testified about
7 that during your direct testimony, correct?

8 A Yes, sir.

9 Q Okay. It was entered into 26th February 2007,
10 correct?

11 A Yes, sir.

12 Q Now, as part of that plea agreement you ended up
13 pleading, whether it was conspiracy and a couple of
14 substantive counts and conspiracy and four as you
15 say, you ended up pleading only to the conspiracy
16 charge, right?

17 A Yes, sir.

18 Q Okay. Now, the weapons charge that you had, it's a
19 little complicated with Federal Court; but the
20 weapons charge has some serious ramifications as to
21 what your possible sentence was in Federal Court,
22 correct?

23 A Yes, sir.

24 Q What kind of ramifications were those?

25 A It enhanced my federal sentence by ten years.

1 Q Ten years. For a minimum sentence of ...?

2 A I received my mandatory minimum which was 20 years.

3 Q And the maximum sentence could have been ...?

4 A Life.

5 Q Okay. Hence your plea agreement. It indicates that,
6 among other things, on page 6, paragraph 11, that
7 provided that you cooperate pursuant to the
8 provisions of this plea agreement as deemed by the
9 government, the U.S. government, has provided
10 substantial assistance in the investigation of the
11 prosecution of another person who has committed an
12 offense, the government agrees to move the court for
13 a downward departure or reduction of sentence.
14 That's part of your plea agreement, isn't it?

15 A Yes, sir, it is.

16 Q And Mr. Meadors just asked you, he told you he'd talk
17 with the U.S. Attorney and tell them that you came
18 here and cooperated. Is that right?

19 A Yes, sir. Entered into that plea agreement before I
20 was even notified that I would be coming here to
21 testify in this matter.

22 Q Then there's no reason for him to get in touch with
23 the U.S. Attorney, is there, because there's no
24 benefit to you, right?

25 A It could benefit me. Yes, it could.

1 Q Yeah. Because despite the fact that you got already
2 20, a lot of time, 20, the minimum sentence for what
3 you pled guilty to?

4 A Yes, sir.

5 Q You could get less than the minimum sentence for what
6 you pled guilty to as a result of providing
7 substantial assistance in the investigation and
8 prosecution of another person, correct?

9 A Yes, sir.

10 Q Pursuant to your plea agreement?

11 A It was -- I was given that and I was looking for that
12 for information that I gave the federal government.

13 Q Well, page 4 of your plea agreement, sir, cooperation
14 and forfeiture, paragraph 8?

15 A Mm-hmm (affirmative).

16 Q "The defendant agrees to be fully truthful and
17 forthright with federal, state and local law
18 enforcement agencies by providing full, complete and
19 truthful information about all criminal activities
20 about which he has knowledge"?

21 A Yes, sir.

22 Q Correct? So this wasn't done in anticipation of the
23 federal charges. It was done in anticipation of any
24 charges, right, including assistance to the State?

25 A Anything that I gave them statements about; yes, sir.

1 Q I mean, you had a lawyer, right?

2 A Yes, sir.

3 Q And he reviewed this with you, correct?

4 A Yes, sir.

5 Q You all discussed it, correct?

6 A Yes, sir.

7 Q You all filed motions to try to get down lower than
8 this, right?

9 A Filed motions trying to get lower than this?

10 Q Yeah.

11 A No, sir. I filed a motion to have my downward
12 departure and to receive my downward departure at my
13 time of sentencing.

14 Q Mm-hmm (affirmative).

15 A And that would have been before I was notified that I
16 would be coming here, which I was sentenced in August
17 of 2006.

18 Q Right. And you haven't had your downward departure
19 yet, have you?

20 A No, sir.

21 Q And there's nothing to keep you from seeking your
22 downward departure now, is there?

23 A Yes, it is.

24 Q Well, okay. So there's no reason for Mr. Meadors to
25 talk with the U.S. Attorney, put in a good word on

1 your behalf as he said he would?

2 A Yeah. It would benefit me. It would. I haven't
3 received my downward departure because the
4 information that I have given federal agents has not
5 matured. They said it has not matured to the point
6 to where it has led to any other arrests at this
7 point in time. So that is why I haven't received my
8 downward departure.

9 Q So it just deals with federal agents. Then it won't
10 matter what Mr. Meadors has to say because this is a
11 State charge here. This is State cooperation here?

12 A As far as my knowledge is, I haven't received it
13 because the information that I gave the federal
14 agents has not matured, even though any assistance
15 that I do give any law enforcement would also benefit
16 me and help me at any time to receive my downward
17 departure.

18 Q How old are you now, sir?

19 A 29.

20 Q 29. And you got a 20-year sentence?

21 A Yes, sir.

22 Q 240 months, as they put it in federal courts, right?

23 A Yes, sir.

24 Q I don't do much federal work. But you've got to do
25 what? 85 percent of that?

1 A 17 years.

2 Q Yeah. 17 years. And that is whether you're 29 or
3 57?

4 A Yes, sir.

5 Q That's a long time, right?

6 A Yes, sir.

7 Q And a downward departure, just in case anyone in the
8 courtroom is not familiar with that terminology, that
9 means despite the fact that you've gotten the minimum
10 sentence that the law says you could get, it could
11 actually come down underneath that amount in your
12 sentence?

13 A Yes, sir.

14 Q Could be decreased from what it is now?

15 A Yes, sir.

16 Q Which would mean that you would spend less time in
17 federal prison, correct?

18 A Yes, sir.

19 Q And that you would have an opportunity to be out and
20 see your -- you say you have a wife?

21 A I don't have a wife, sir.

22 Q No wife? Child?

23 A Yes, sir.

24 Q You have an opportunity to be out and see your child
25 or --

1 **MR. MEADORS:** Your Honor, he's gone beyond the
2 scope. We'd object.

3 **THE COURT:** Overruled. Go ahead. It's fair
4 cross examination.

5 **MR. STRICKLER:** Thank you, sir.

6 **Q** You have an opportunity to be out earlier, correct?

7 **A** Yes, sir.

8 **Q** To breathe summer air that's circulating other than
9 inside a federal institution, right?

10 **A** Yes, sir.

11 **Q** And despite what you might see on the TV shows, is it
12 that fun to be in prison?

13 **A** No, sir, it's not.

14 **Q** It's not a holiday camp, is it?

15 **A** No, sir, it's not.

16 **Q** So it would be nice to get out a little earlier,
17 wouldn't it?

18 **A** Sure it would.

19 **Q** Thank you, sir. I have nothing.

20 **THE COURT:** From Mr. Gallman.

21 **MR. MILLING:** Thank you, Your Honor. May it
22 please the Court.

23 CROSS EXAMINATION

24 **BY MR. MILLING**

25 **Q** Good afternoon. My name is Jonathan Milling. I

1 represent Mr. Dominic Gallman in this case.

2 A Good afternoon.

3 Q Now, you gave a statement back in October of '05
4 concerning this case, correct?

5 A Yes, I did.

6 Q A written statement?

7 A Yes, I did.

8 Q You signed your name at the bottom of each page?

9 A Yes, I did.

10 Q And you promised to be fully truthful and forthright
11 during that interview, correct?

12 A Yes, I did.

13 Q Okay. Now, in that statement, first off you said
14 that you weren't presently selling crack, correct?

15 A Yes, I did.

16 Q That's not accurate, was it?

17 A No, it's not.

18 Q Later on you said that the last time that you sold
19 drugs was in the summer of 2004. Again that's not
20 accurate?

21 A No, it's not.

22 Q In that statement you also said when you were asked
23 whether or not you knew anything about the murders
24 which we're here today for, you said that on not
25 Monday; Wednesday or Thursday after Labor Day Solo

1 and K.I. came to my house on Washington Street. Is
2 that correct?

3 A Yes, I did.

4 Q Okay. And that Solo had about three or four ounces
5 of powder cocaine?

6 A I didn't say that he brought it with him. He went
7 back and got it.

8 Q Okay. And that was going to be my next question. He
9 didn't -- in your statement you said he didn't bring
10 anything?

11 A Yes, I did.

12 Q You didn't --

13 A No. He didn't bring anything.

14 Q He did not bring anything?

15 A Yeah. You are correct.

16 Q Okay. And in that statement you did not state
17 Dominic Gallman ever came to your house, correct?

18 A No, I didn't.

19 Q Okay. Now, the Solicitor's Office and Mr. Strickler
20 have talked to you a little bit about what you're
21 currently in custody on?

22 A Yes, sir.

23 Q You're in on a federal conspiracy charge?

24 A Yes, sir.

25 Q Those charges at least in part arose from these State

1 arrests that you're talking about in early '06,
2 correct?

3 A Yes, sir.

4 Q Okay.

5 A Well, no, sir. Because they -- I was only held
6 accountable for the drug weight.

7 Q Okay.

8 A On my federal case.

9 Q But you were charged in a conspiracy in Federal
10 Court?

11 A Yes, sir.

12 Q You had the two substantive counts which Mr.
13 Strickler asked you about --

14 A Yes, sir.

15 Q -- which were the different distribution counts,
16 correct?

17 A Yes, sir.

18 Q You've seen a copy of that indictment, correct?

19 A Yes, sir.

20 Q It was issued in July of 2006, correct?

21 A Yes, sir.

22 Q You weren't arrested until October 20th of 2006,
23 correct?

24 A Yes, sir.

25 Q Did the government consider you a fugitive during

1 that time period?

2 A Yes, they did.

3 Q And, in fact, they charged your girlfriend,
4 Ms. Dorothy Elizabeth Chapman, for lying to police
5 for concealing your whereabouts?

6 A Yes, sir.

7 Q Okay. Now, in that original indictment, or
8 thereabouts, they served you with an enhancement,
9 didn't they?

10 A Yes, sir.

11 Q They didn't serve with you one prior; they served you
12 with two priors, correct; and the enhancement?

13 A If I'm not mistaken, my enhancement was for the
14 weapons charge. I don't recall it then for the other
15 drug charge. I received a two-point enhancement for
16 being on probation.

17 Q I'm talking about the 851 enhancement done prior to
18 set your sentence. Do you remember that?

19 A That's my criminal record.

20 Q Your criminal record enhancement?

21 A Yes, sir.

22 Q Yes, sir. Do you remember the two different charges
23 that they had on that?

24 A I knew it was for the weapon. I don't recall it
25 being for the prior drug offense.

1 Q Let me ask you if you've ever seen this document?

2 A I was not delivered with a notice of enhancement.

3 The enhancement was part of the plea agreement.

4 Q Do you recognize your name on there? Is that what
5 you're talking about?

6 A Yes, sir.

7 Q How many enhancements does it show on there?

8 A This shows possession with intent to distribute
9 marijuana and possession with intent to distribute
10 crack cocaine, too.

11 Q Okay. And you understand from your conversations
12 with your lawyer -- Mr. Rhett Eleazer represented you
13 on that, correct?

14 A Yes, sir.

15 Q And the arraignments that went forth in Federal
16 Court, that if you got two prior enhancements you're
17 subject to a mandatory life sentence, correct?

18 A Yes, sir.

19 Q Okay. But you didn't get life?

20 A No, sir.

21 Q Despite this 851 enhancement?

22 A Yes, sir.

23 Q You worked out a deal, didn't you, where you got down
24 to a 20-year mandatory minimum?

25 A Yes, sir.

1 Q Okay. Now, before you entered into your plea
2 agreement though you entered into another agreement
3 with the U.S. Attorney's Office, right? Proffer
4 agreement?

5 A Yes, sir.

6 Q And during the proffer or according to the proffer
7 agreement you agreed to talk to the government?

8 A Yes, sir.

9 Q You spoke with FBI agents?

10 A FBI Agent Rodney Crawford.

11 Q Rodney Crawford. Did you ever speak with Brian Jones
12 as well or just Rodney?

13 A Rodney Crawford did my debriefing.

14 Q How many times did he debrief you?

15 A Rodney Crawford debriefed me on one occasion.

16 Q One occasion?

17 A Yes, sir.

18 Q And that's where he sat down and talked to you about
19 whatever you wanted to talk about about the illegal
20 conduct of others?

21 A Yes, sir.

22 Q Okay. And it was based upon that cooperation that
23 you were hoping to get a deal, right?

24 A Yes, sir.

25 Q Okay. And that was before you entered into the plea

1 agreement?

2 **A** That was after. I didn't do my debriefing until
3 after --

4 **Q** You didn't do your debriefing until after?

5 **A** -- I signed my plea agreement.

6 **Q** Okay. Because your plea agreement had an additional
7 cooperation requirement, correct?

8 **A** Additional? What you mean?

9 **Q** Yeah. Your plea agreement required you to cooperate
10 also, correct?

11 **A** Yeah.

12 **MR. MEADORS:** Your Honor, objection. If he'd
13 let him finish. He said that was after the plea
14 agreement.

15 **MR. MILLING:** Your Honor, these are two
16 different things.

17 **THE COURT:** Just let him answer the question.

18 **Q** You weren't debriefed until after?

19 **A** My plea after I signed my plea agreement.

20 **Q** After you signed your plea agreement?

21 **A** Yes, sir.

22 **Q** Was this before you had actually entered your change
23 plea in Federal Court?

24 **A** Before I changed my plea.

25 **Q** In Federal Court. Yes, sir. Had you already signed

1 the document? Because there's two different steps in
2 Federal Court, right? You sign the document and then
3 you have to go in front of the judge, correct?

4 **A** Yes, sir.

5 **Q** Okay. When was it that you were interviewed by Agent
6 Crawford?

7 **A** After I signed my plea agreement, after I went in
8 front of the judge and he accepted my plea agreement.

9 **Q** Okay. And you understand, and based upon what Mr.
10 Strickler asked you about, you understand that the
11 only way you can get below that mandatory minimum is
12 through substantial assistance, correct?

13 **A** Yes, sir.

14 **Q** And if it's before your sentencing, it's a downward
15 departure, right?

16 **A** Yes, sir. It's before or --

17 **Q** And if it's after sentencing, it's --

18 **MR. MEADORS:** Your Honor, objection. He's asked
19 him a question and then going on to the next one.

20 **THE COURT:** Slow down, please. You're confusing
21 me. You're confusing the witness.

22 **A** It's before or after.

23 **Q** Okay. But it can be based upon the substantial
24 assistance that you hope to provide?

25 **A** Yes, sir.

1 Q Okay. Now, in Federal Court isn't it true that the
2 plea and your sentencing are in two different steps,
3 correct?

4 A Yes, sir.

5 Q Okay. After you enter your plea and after you're
6 debriefed, did you learn that the government wasn't
7 going to make a motion for downward departure at that
8 time, at sentencing?

9 A I learned the day of my sentencing. Well, no. I
10 learned before that the government had some problems
11 with some of the things that I said about my shooting
12 and me taking responsibility for selling some other
13 individuals a said quantity of drugs.

14 Q Okay.

15 A I was then taken in to be polygraphed. Once I spoke
16 with the examiner, he determined there wasn't any
17 need for me to be polygraphed. And my proceeding --
18 and the proceedings went on. They accepted my plea
19 agreement and I went to be sentenced.

20 Q Okay. But before sentencing you were so desperate to
21 get your sentence cut that you filed two motions,
22 right?

23 MR. MEADORS: Objection to the term "desperate",
24 Your Honor. His lawyer involved --

25 A My attorney --

1 **THE COURT:** Yes, sir. I sustain that. Just ask
2 him a question, please, Mr. Milling.

3 **Q** Did your attorney file two motions on your behalf?

4 **A** He filed a motion to -- a motion to compel the
5 government to ask for my downward departure.

6 **Q** And he also asked a motion to vary from the
7 guidelines because you were shot. Is that correct?

8 **A** I don't know whether he asked for them to vary from
9 the guidelines because I got shot. I know he put in
10 a motion for me to get -- to compel the government
11 for my downward departure.

12 **Q** Okay.

13 **A** And that was -- that was during the time when they
14 were discussing whether to polygraph me or not.

15 **Q** Okay. I ask you whether or not you recognize that?

16 **MR. MEADORS:** Your Honor, may I inquire,
17 respectfully, if I can look at that? I'm not sure
18 what he's asking him frankly.

19 **THE COURT:** Well, he hasn't offered it. I don't
20 know what he's doing.

21 **A** This is the motion that has been filed by my lawyer,
22 but it was not given to me.

23 **Q** Okay. That was one of the two motions that you
24 talked about?

25 **A** Yeah. We filed -- we filed one motion, and that was

1 a motion to compel the government to ask for my
2 downward departure at my time of sentencing.

3 Q Okay. And did the government file a response to
4 that?

5 A Yes, sir.

6 Q And that response was two-prong, correct? First off
7 they said that the cooperation that you had provided
8 hadn't come to fruition yet, correct?

9 A Yes, sir.

10 Q Okay. And the second thing was that they didn't find
11 you believable?

12 A No, sir.

13 Q That's not what it says?

14 A No, sir. What they filed was that the reason that
15 they gave for not asking for my downward departure at
16 the time of my sentencing was because the information
17 that I had given had not matured to the point to
18 where it led to any other arrests.

19 Q I'll ask you whether or not you've seen a copy of
20 that?

21 A This was a motion that was filed before they decided
22 to give me the polygraph examination.

23 Q Okay. And in this, and I tell you what; why don't
24 you take a look at the last page, page 3. The
25 highlighted portion says: "Second: Assuming

1 Moaney's assistance was substantial at this time, the
2 United States believes that some statements made by
3 Moaney are not credible or truthful."

4 **MR. MEADORS:** Your Honor, if he's going to offer
5 that into evidence, I have no objection to it
6 whatsoever. But he can't read off of it. No
7 objection if he wants to mark it as Gallman's No. 1.

8 **THE COURT:** What's the question?

9 **Q** The question is whether or not that's a grounds that
10 the government denied your motion for substantial
11 assistance?

12 **A** Yes. That was before they decided to take me in for
13 a polygraph examination.

14 **MR. MILLING:** Your Honor, I would move to have
15 this marked and introduced as Defendant's Exhibit
16?

17 **COURT REPORTER:** It would be No. 1.

18 **MR. MILLING:** No. 1.

19 **MR. MEADORS:** No objection.

20 **MR. DELGADO:** Your Honor, may we approach?

21 **MR. MEADORS:** Your Honor, he's just offered
22 that. We have no objection. He can't confer with
23 his co-counsel.

24 **THE COURT:** It's offered. It's in evidence.

25 **MR. MEADORS:** Thank you.

1 **COURT REPORTER:** Let me mark it, please.

2 Gallman's No. 1.

3 (WHEREUPON, Defendant's Exhibit No. 1 is marked
4 for identification and received in evidence.)

5 **Q** The government has not made a motion to reduce your
6 sentence yet, has it?

7 **A** No, they haven't.

8 **Q** Okay. And you certainly hope to get below the
9 20-year mandatory minimum, don't you?

10 **A** Yes, sir.

11 **Q** And you hope that this cooperation will assist you in
12 that regard?

13 **A** Yes, sir.

14 **Q** Nothing further.

15 **THE COURT:** Mr. Delgado.

16 **MR. DELGADO:** Thank you, Your Honor.

17 CROSS EXAMINATION

18 **BY MR. DELGADO**

19 **Q** You know this gentleman right here, do you not, sir?

20 **A** Yes, sir.

21 **Q** His name is Travis Holdorf. Correct, sir?

22 **A** I don't know his name.

23 **Q** He's an investigator with the Richland County
24 Sheriff's Department. Correct, sir?

25 **A** Yes, sir.

1 Q During your course of involvement with the activities
2 that you've been engaged in, you've seen him before,
3 have you not?

4 A If I am not mistaken, he is the one that transported
5 me from Richland County's Sheriff's Department to the
6 detention center.

7 Q And you were at the Richland County Sheriff's
8 Department because you made a statement, did you not,
9 Mr. Moaney?

10 A Yes, sir.

11 Q Mr. Moaney, when was the last time you have seen that
12 statement, sir?

13 A I've seen some parts of it on yesterday.

14 Q Where did you see that yesterday?

15 A Yesterday when I met with Mr. Meadors.

16 Q That was here at the Solicitor's Office?

17 A No, sir.

18 Q He came to jail, did he?

19 A Yes, sir.

20 Q The Lexington County Detention Center?

21 A No, sir.

22 Q Wherever you're being housed?

23 A Yes, sir.

24 Q Do you remember whenever you made a statement to the
25 Richland County Sheriff's Department, Mr. Moaney?

1 **A** October the 11th of 2005.

2 **Q** Let me put that up here. October the 11th of 2005
3 you made a six-page statement, did you not, sir?

4 **A** Yes, sir.

5 **Q** Would you like to look at it?

6 **A** Is that the one that they typed off the computer?

7 **Q** Just take a look at it, make sure we're talking about
8 the same thing. Excuse me.

9 **A** All right. Yes, sir.

10 **Q** That's a six-page typed statement. You signed every
11 one of those pages, did you not, sir?

12 **A** Yes, sir.

13 **Q** You remember giving that statement at the Richland
14 County Sheriff's Department?

15 **A** Yes, sir.

16 **Q** Do you remember giving that statement in front of the
17 captain of that investigation division, a fellow by
18 the name of Stan Smith, Captain Stan Smith?

19 **A** Yes, sir. If I'm not mistaken, he is the one that
20 picked me up from my probation office.

21 **Q** Do you remember Mr. Holdorf being present in that
22 room or witnessing your statement? If you do, fine.
23 If you don't, fine.

24 **A** He looks familiar. He looks like the guy that showed
25 up with Mr. Smith to pick me up.

1 Q Okay. From the probation office?

2 A Yes, sir.

3 Q All right. Just before this there was a raid of a

4 house that you either owned or used or --

5 A Yes, sir.

6 Q On Washington Street. Correct, sir?

7 A Yes, sir.

8 Q That's right at the corner of Washington and McDuffie

9 Streets, right?

10 A Yes, sir.

11 Q Here in the City of Columbia?

12 A Right.

13 Q Right just east of Gonzales Gardens housing project?

14 A Yes, sir.

15 Q That's where you grew up, that area of Columbia?

16 A Yes, sir.

17 Q That was late September; just before this, right?

18 A Yes, sir.

19 Q Do you remember the dates?

20 A I don't remember the exact date that they came to the

21 house.

22 Q Let me just put it late September. All right.

23 That's when your uncle was arrested. His name is

24 Mr. Jackson, Mr. Willie Jackson. Is that correct,

25 sir?

1 **A** He is not actually my uncle, but he is like an uncle
2 to me. Yes.

3 **Q** That's when he was arrested as a result of your
4 facilitating, allowing him to sell from the place
5 that you were renting. Right?

6 **A** Yes, sir.

7 **Q** This was part of your scheme, was to use that spot to
8 sell drugs from?

9 **A** Yes, sir.

10 **Q** And, sir, let me just see if I understand all of the
11 drugs that were sold under your authority. Cocaine?

12 **A** Yes, sir.

13 **Q** Crack cocaine?

14 **A** Yes, sir.

15 **Q** LSD?

16 **A** No, sir.

17 **Q** I'm sorry. I thought I heard that.

18 **A** I was charged with manufacturing LSD.

19 **Q** Oh, that's right. Okay.

20 **A** The only thing that was sold from that location was
21 cocaine, crack cocaine and marijuana.

22 **Q** Not any meth either?

23 **A** No, sir.

24 **Q** Were you ever charged with meth?

25 **A** I was charged with manufacturing it.

1 Q All right. And you were charged by the federal
2 authorities or the State authorities?

3 A I was charged by the State, by Richland County
4 Sheriff's deputies.

5 Q All right. Let me go back. October of 2006,
6 however, you were shot, were you not, sir?

7 A Yes, sir.

8 Q Just a little -- a year ago last week?

9 A October the 20th.

10 Q October. I'm sorry. October the 20th?

11 A Yes.

12 Q 2006, correct?

13 A Yes.

14 Q So in late September when you were under
15 investigation, would that be fair to say?

16 A I was under investigation ever since 2000.

17 Q 2000?

18 A Yes. I was under federal investigation from 2000.

19 Q Is that right?

20 A Yes, sir.

21 Q You managed to evade being arrested or being
22 convicted for all that period of time?

23 A No, sir. When I first -- they were watching me since
24 2000. My first involvement came in 2003. They
25 didn't issue their federal warrant for my arrest

1 until July of 2006.

2 Q Yes, sir. The point being, sir, that you were under
3 investigation. You gave a statement October the
4 11th, six pages; October the 20th, 2006 you were
5 shot?

6 A Yes, sir.

7 Q Right? By the federal government. By the FBI.
8 Isn't that correct?

9 A Yes, sir.

10 Q And in this statement, sir, October the 11th of six
11 pages, I'm certain that you wanted to be as complete
12 as you could be in telling Mr. Holdorf and Captain
13 Smith about what you knew, right?

14 A No, sir. I didn't.

15 Q Oh, you didn't? You didn't want to be complete with
16 them?

17 A No, sir. I didn't. Actually I didn't want to be
18 involved. I didn't want to have no involvement in
19 drugs. I didn't want to have no involvement --

20 Q No, no, no. You didn't want to be caught for any
21 involvement --

22 MR. MEADORS: Your Honor, objection.

23 MR. DELGADO: Sorry. I apologize.

24 THE COURT: Sir, please let him answer.

25 MR. DELGADO: You're right, sir. I apologize.

1 **THE COURT:** We'll get out of here.

2 **Q** I'm sorry.

3 **A** I didn't want to have -- I had involvement in drugs,
4 yes. But I didn't want it to be found out by the
5 police that I had any involvement in drugs or in the
6 case that they were investigating because it would
7 violate my probation.

8 **Q** That's right. So on October the 11th you didn't tell
9 the Richland County Sheriff's Department everything
10 you knew?

11 **A** No, sir.

12 **Q** Is that right? You in effect withheld the truth from
13 the Richland County Sheriff's Department?

14 **A** Yes, sir.

15 **Q** Does that statement require you to tell the truth,
16 sir?

17 **A** Yes, sir.

18 **Q** So you knew you were supposed to tell the truth and
19 you didn't?

20 **A** Yes, sir.

21 **Q** Right? Look through that six-page statement, sir,
22 and see if you ever said anything to the Richland
23 County Sheriff's Department about Ken Joy coming to
24 Washington Street, Gonzales Gardens, on September the
25 5th and dropping anybody off?

1 (Pause - witness reviewing document)

2 **A** And what was your question again?

3 **Q** Sure. On October the 11th, your six-page statement
4 you gave to the Richland County Sheriff's Department,
5 does any bit of that, one sentence say anything about
6 Ken Joy coming to your apartment, your house on
7 Washington Street on September the 5th and dropping
8 somebody off and leaving?

9 **A** No, sir. It asked me in the fourth question: "Do
10 you know Dominic Gallman, Stanley Oliver and Ken
11 Joy?"

12 **Q** I understand. My question --

13 **A** My answer --

14 **MR. MEADORS:** Your Honor, if he could let him
15 answer.

16 **MR. DELGADO:** No, sir.

17 **MR. MEADORS:** Yes, sir.

18 **MR. DELGADO:** No, sir.

19 **THE COURT:** Just wait a minute. Have a seat.
20 Ask the question. Let him answer the question.
21 Don't be correcting the witness.

22 **MR. DELGADO:** All right, sir.

23 **MR. MEADORS:** Your Honor, he was about to --

24 **THE COURT:** Sir, I said please sit down. I
25 understand what's going on.

1 Q On October the 11th --

2 MR. MEADORS: Can he finish?

3 THE COURT: One more time and you're out of
4 here. Now, listen. Ask a question. Let him answer
5 the question. I don't think that's too hard.

6 Q On October the 11th, did you ever say anything about
7 Ken Joy coming to your apartment, house, whatever you
8 call it, where you were selling drugs on September
9 5th? Does that statement say anything about that?

10 A No, sir. Not on October 5th it doesn't.

11 Q No, sir. September the 5th.

12 A Yeah. September the 5th. No, it doesn't.

13 Q September 5th is Labor Day for the year of 2005.

14 A Yes, sir.

15 Q Today that's the truth?

16 A Yes, it is.

17 Q According to you, sir. Right?

18 A Yes, sir.

19 Q September 20th, 2005, does your six-page sworn
20 statement to the Richland County Sheriff's Department
21 ever say anything that Ken Joy -- that you called Ken
22 Joy and asked him to come over to your place and pick
23 up money?

24 A No, sir.

25 Q Sir, if I said to you that the United States

1 Attorney; that is, the head federal prosecutor for
2 this, what we call the District of South Carolina,
3 it's the whole state of South Carolina, is a fellow
4 by the name of Reginald I. Lloyd, would you know that
5 name, sir?

6 **A** Yes, sir.

7 **Q** He is the head man or the federal prosecutor in this
8 state, correct?

9 **A** Yes, sir.

10 **Q** Through his office they filed something with the
11 judge saying they didn't believe you?

12 **MR. MEADORS:** Objection, Your Honor.

13 **THE COURT:** I sustain that. I'll sustain that,
14 that objection.

15 **Q** The United States government has filed a piece of
16 paper about your believability. Isn't that right?

17 **A** At one point in time; yes, sir.

18 **Q** At one point in time that means the government had a
19 reason to not believe you?

20 **A** Yes, sir.

21 **Q** Right? As a matter of fact, they believed that you
22 had distorted the truth on several occasions. Isn't
23 that correct, sir?

24 **A** Not on several occasions. About -- about some --
25 about me being shot and about the amount of drugs

1 that I sold to two individuals.

2 Q They had a reason to believe that you weren't being

3 truthful, correct?

4 A Yes, sir.

5 Q You weren't being believable, correct?

6 A Yes, sir.

7 Q You weren't being credible?

8 A Yes, sir.

9 Q Just one second, please, Your Honor. Oh. One time

10 during your testimony here today in front of this

11 jury --

12 A Mm-hmm (affirmative).

13 Q -- you said, sir, that Mr. Oliver, Mr. Gallman,

14 yourself and another man and a second individual were

15 together over at your house over on Washington

16 Street?

17 A Yes, sir.

18 Q That other individual wasn't Ken Joy, was it?

19 A No, sir.

20 Q When you say something about an associate came over

21 to the house and either got money or got drugs from

22 you, that associate was not Ken Joy, was it?

23 A When are you speaking of?

24 Q I don't know, sir. I'm just -- you used the word

25 "the associate". That associate wasn't Ken Joy to

1 get drugs, was it?

2 A To get drugs, I never said he came to get drugs.

3 Q I'm just asking who your associate was, sir. Do you
4 understand what I'm saying?

5 A The associate is somebody else that was affiliated
6 with that house.

7 Q Yeah. I see. That you don't want to have to reveal
8 or name now, right?

9 A Yes, sir.

10 Q And you were shot in 2006?

11 A Yes, sir.

12 Q It's my understanding, sir, that you pled guilty --
13 do you remember if you pled guilty on March 13th of
14 2007? 2007. Well, let's put it this way. You
15 didn't plead guilty before you were shot. Correct,
16 sir?

17 A No, sir.

18 Q It had to be after October 20th of 2006?

19 A Yes, sir.

20 Q If I told you March 13th, would that be fair?

21 A It might. Yeah. Yeah. That would be in my plea
22 agreement.

23 Q Do I understand, sir, that you were sentenced -- you
24 pled guilty March 13th?

25 A Yes, sir.

1 Q You were just sentenced in the summer, in August of
2 2007?

3 A August 7th.

4 Q August the 7th of this year?

5 A Yes, sir.

6 Q That's when you were sentenced to 20 years in prison.
7 Correct, sir?

8 A Yes, sir.

9 Q And that's why you are now serving your time in the
10 federal Correctional Institution or at least the
11 hospital portion of the Buckner Correctional
12 Institution in Buckner, North Carolina?

13 A Yes, sir.

14 MR. DELGADO: Your Honor, if I may just check my
15 notes for one second. That's all the questions I
16 have of Mr. Moaney. Thank you.

17 THE COURT: Redirect.

18 MR. MEADORS: Yes, sir.

19 MR. DELGADO: Your Honor, may we approach for
20 one second, please?

21 THE COURT: Sure. Approach the bench.

22 (Whereupon, a bench conference is had)

23 THE COURT: Redirect.

24 REDIRECT EXAMINATION

25 BY MR. MEADORS

1 (WHEREUPON, State's Exhibit No. 181 is marked
2 for identification.)

3 (WHEREUPON, State's Exhibit No. 182 is marked
4 for identification.)

5 **MR. MEADORS:** If I can approach, please?

6 **THE COURT:** Yes, sir.

7 **Q** I'll show you what's marked State's Exhibit 181. Mr.
8 Milling was asking you about considerations and
9 requests to vary from the sentencing guidelines. Do
10 you remember when he showed you this?

11 **A** Yes, sir.

12 **Q** And is this the document he was asking you about
13 where you were requesting that the court kind of give
14 you -- go below the guidelines?

15 **A** Yes, sir.

16 **MR. MEADORS:** Your Honor, we'd offer State's
17 181.

18 **MR. MILLING:** I'd object. I don't know what
19 that is. Which one is that, Mr. Meadors?

20 **MR. MEADORS:** It's the one you were asking him
21 about.

22 **MR. MILLING:** Which one? There were two.

23 **MR. MEADORS:** It's not the one that is in
24 evidence.

25 **MR. MILLING:** Okay.

1 **MR. MEADORS:** I believe without objection.

2 **MR. STRICKLER:** That's correct, sir.

3 **MR. MILLING:** No objection.

4 **MR. DELGADO:** That will be fine.

5 **THE COURT:** Without objection.

6 (WHEREUPON, State's Exhibit No. 181 is admitted
7 into evidence.)

8 **Q** Now, State's 181, Mr. Milling asked you about it.
9 Were you shot?

10 **A** Yes, sir.

11 **Q** Okay. Who shot you?

12 **A** An FBI agent.

13 **Q** Do you remember his name?

14 **A** Yes, sir. Michael Stansbury.

15 **Q** Michael Stansbury. And this request for a reduction
16 was why? Did you give a version of how --

17 **MR. DELGADO:** Objection, Your Honor. Leading.

18 **THE COURT:** Let him answer the question.

19 **Q** What version did you give as far as how you were
20 shot? Did you tell them how you were shot?

21 **A** Yes, sir.

22 **Q** And is that contained in 181?

23 (Pause - witness reviewing document)

24 **A** What was your question?

25 **Q** Is what happened when you were arrested contained in

1 181?

2 A Yes, sir.

3 Q Filed for you by your attorney, correct?

4 A Yes, sir.

5 Q And this document is requesting what?

6 A Consideration and request to vary from sentencing
7 guidelines.

8 Q Okay. And what were you holding, if anything, when
9 you got shot?

10 A My nephew.

11 Q How old was your nephew?

12 A Now he's a little more than two years old.

13 Q And did you have a weapon?

14 A No, sir.

15 Q And is that, along with other stuff, what you put in
16 here?

17 A Yes, sir.

18 Q And is that what you were requesting downward
19 departure for?

20 A No, sir.

21 Q Is part of that included in this document that you're
22 request?

23 A Yes, sir.

24 Q I say it's a sentence reduction. A variance. Excuse
25 me.

1 A Yes, sir.

2 Q I apologize. A variance?

3 A Yes, sir.

4 Q And did the government agree with your version of how
5 you got shot?

6 A No, sir. Not totally.

7 Q So you did not get a variance because of that,
8 correct?

9 A No, sir.

10 Q How long were you in the hospital?

11 A I stayed in the hospital from October the 20th 'til
12 November the 6th.

13 Q How many times were you shot?

14 A Twice.

15 Q How many bullet holes?

16 A The same hole. One came -- one was taken out during
17 the surgery, and the other one was taken out in
18 December of 2005. 2006.

19 Q Your testimony, you were charged with four counts?

20 A It was -- if I'm not mistaken, they had three
21 distribution charges, three distribution charges and
22 the conspiracy charge.

23 Q And how many counts did you plead to?

24 A One.

25 Q Now, they have asked you -- I don't have it, but what

1 date was that plea agreement with the Feds?

2 A I ended up pleading February, February 26th, if I'm
3 not mistaken.

4 Q February 26th. February 26th of what year?

5 A 2006. No.

6 Q Go ahead. I'm sorry.

7 A February 26th, 2007.

8 Q 2007?

9 A 2007. Yeah.

10 Q Okay. Now, these numbers you told us that were yours
11 back in 2005, did Stanley have a cellphone back in
12 2005, September of 2005?

13 A No, sir.

14 Q And on February 26th, 2007 or any time after that,
15 did you make those calls that were made on
16 September 5th, 2005?

17 A Did I --

18 Q Were those calls on September 5th, 2005 made after
19 February 2007 or before?

20 A Before.

21 Q Did you know you were going to be signing a plea
22 agreement a year and a half down the road?

23 A No, sir.

24 Q And your enhancement you said was because of the
25 weapons charge?

1 A Yeah. I was told it was because of my weapons charge
2 and the criminal history.

3 Q Now, I show you just what's marked State's 182 for
4 I.D. only. Several people had mentioned Stan Smith
5 and Holdorf. Is this the statement they've been
6 questioning you on? Is that your statement up there
7 at the top?

8 A Yes, sir.

9 Q Date of birth, what's your date of birth?

10 A [REDACTED].

11 Q Is that your signature down there?

12 A Yes, it is.

13 Q Turning on page 2, I think it was Mr. Joy or Mr.
14 Milling. It may have been Mr. Strickler. I don't
15 know. What, if anything, did you say about how you
16 knew Dominic Gallman?

17 MR. MILLING: Objection, Your Honor. That's
18 outside the scope of cross. I don't recall anybody
19 asking about how he knew Mr. Gallman. My questions
20 did not go around that topic.

21 THE COURT: Overruled.

22 Q What, if anything, on page 2 did you say about how
23 you knew Dominic Gallman?

24 A I said that I knew Dominic since we were kids. I
25 said that we grew up together in the neighborhood

1 around Gonzales Gardens.

2 Q What, if anything, did you say about Stanley and
3 whether or not he had a nickname?

4 A I said I know Stanley Oliver as Solo.

5 Q Did you say how long you had known him?

6 A It says I met him about a year and a half, a year and
7 a half ago.

8 Q Who did you meet him through?

9 A His girlfriend, Renata.

10 Q Do you know her last name?

11 A I don't know her name.

12 Q And specifically, what, if anything, does it say in
13 here about what you call Ken Joy?

14 A It says I call Ken Joy K.I.

15 Q What, if anything, does it say on page 3 about seeing
16 Ken or Solo after Labor Day on September 5, page 3?

17 A Okay. "I know that Wednesday or Thursday after Labor
18 Day, Solo and K. I. came to my house on Washington
19 Street."

20 Q What does it say, if anything, about the amount of
21 dope they brought?

22 A "Solo had about three or four ounces of powder
23 cocaine."

24 Q What, if anything, does it say about what he wanted
25 you to do with that dope?

1 A "He asked me if I wanted to work. He wanted it
2 cooked up."

3 Q What, if anything, does it say about how much money
4 you could make off of it?

5 A It said: "I could make a couple of hundred dollars
6 off of it."

7 Q Your testimony here earlier today is that this
8 happened on Monday on Tuesday?

9 A Yes, sir.

10 Q Tell them why you said Thursday or Friday or whatever
11 this was when you gave this statement?

12 A I said Thursday or Friday when I gave this statement
13 because I was --

14 Q Excuse me. Wednesday or Thursday.

15 A I was intentionally trying to place myself as close
16 to them being seen on the news as I possibly could
17 because I didn't -- like I said, I didn't want any
18 involvement in it. I was already serving three years
19 probation. I was already arrested at my probation
20 office. So I had to report back to her. I've got
21 kids of my own. I have a family, you know. It was
22 me protecting my family, me wanting to stay out, out
23 of jail and not be incarcerated. And I lied.

24 Q What, if anything, did you tell law enforcement about
25 the numbers you were using, your telephone numbers?

1 Did you tell them?

2 A Yeah. I told them it was my numbers. I told them
3 that -- on page 3 they asked me what was my cellphone
4 number. I gave them the cellphone number, 665-2996.
5 On page 4 it says: "Do you recall getting calls from
6 any of these subjects during Labor Day weekend?" And
7 I stated that Solo probably called me on the
8 665-2996. And it states that he called from Renata's
9 apartment.

10 Q And again, to your knowledge, did Stanley Oliver have
11 a cellphone --

12 A No, sir.

13 Q -- during this time? And were you shown calls from
14 the 4th or the 5th?

15 A Yes, sir.

16 Q And what, if anything, did you say about where or
17 whom those would have come from?

18 A They asked me what about various calls you got from
19 K.I. and Dominic's phone on the 4th and the 5th of
20 September. And I responded: "I see on the record
21 that I got calls from their phones, but I was
22 probably talking to Solo most of the time."

23 Q On page 5. We're almost through.

24 A This was page 4.

25 Q I understand that. Yes, sir. I was moving on to

1 page 5. I apologize.

2 A Okay.

3 Q As far as who was doing the talking when they were
4 talking about the dope, who did you put?

5 A Solo.

6 Q As far as the amount, did you -- what, if anything,
7 was in here about -- strike that. How do you know it
8 was three or four ounces?

9 A Just by guessing, by --

10 Q And specifically on page 5, what, if anything, was
11 said about circles?

12 A It's referring to the amount that was supposed to be
13 cooked up. It says: "Just a couple of circles."

14 Q And you testified previously you actually saw that
15 and they asked for circles, right?

16 A Yes, sir.

17 Q Beg the Court's indulgence. And that statement was
18 given to law enforcement on October 11th, 2005,
19 correct?

20 A Yes, sir.

21 Q Before you were shot?

22 A Yes, sir.

23 Q Thank you. That's all.

24 THE COURT: Recross.

25 MR. STRICKLER: Thank you, sir.

RECROSS EXAMINATION

BY MR. STRICKLER

Q Mr. Moaney, do you have a copy of that October 11th statement with you?

A Yes, sir.

Q All right. Just a couple more things. First of all, I'm just going to go front to back, okay, so we won't have to jump around. All right. First of all, October 11th, 2005, you told the police that you didn't sell crack or cocaine, right?

A Yes, sir.

Q That would have been a lie, right?

A Yes, sir.

Q Okay. All right. And they asked whether the stuff was sold from [REDACTED] Washington Street, and you said yes, it was. That was probably the truth right there, right?

A Yes, sir.

Q By who? And you indicated your uncle and two associates?

A Yes, sir.

Q Was that a complete listing of by whom it was sold?

A No, sir.

Q Who else would have been included in that?

A Me, myself.

1 Q Okay. So, if you will, that was a lie of omission in
2 this. You did not include yourself as people on the
3 list who were selling drugs from that residence,
4 correct?

5 A Yes, sir.

6 Q Now, if I am understanding you correctly, I'll move
7 forward to page 3 of the statement, okay, just for a
8 moment's sake. You talked about circles. I'm out of
9 date. Is that the same thing as cookies, when people
10 talk about cooking it up?

11 A Yes, sir.

12 Q Okay. Now, you indicate in your statement that you
13 saw Stanley and K.I. on Wednesday or Thursday of
14 Labor Day. You've told us here that it was Monday or
15 Labor Day, right?

16 A Yes, sir.

17 Q So one of those statements is a lie, right?

18 A The statement about Wednesday or Thursday is a lie.

19 Q Okay. And definitely both of them can't be true.
20 You either saw them first on Monday or you saw them
21 first on Monday or Tuesday, right?

22 A It was on Monday when K.I. dropped Solo off at the
23 house.

24 Q Okay, sir. Would you agree with me that the
25 statement that I saw them on Monday and the statement

1 that I saw them on a Wednesday and Thursday are what
2 we would term mutually exclusive propositions? You
3 either saw them first one day or the saw them first
4 further on down the line?

5 **A** Yes, sir.

6 **Q** All right now. Then I'm not going to go through
7 everything that you said. But you described quite a
8 big deal, this went on as far as preparing the drugs
9 and this and that for them. Correct?

10 **A** Yes, sir.

11 **Q** A while back when you first testified, it's fair to
12 say that your statement on October 11th, 2005 says as
13 far as the meeting, as far as whether it was Monday
14 or Thursday or Thursday and Friday, whenever,
15 Wednesday or Thursday, the meeting was in the front
16 yard and you said, no, I ain't going to do it?

17 **A** Yes, sir.

18 **Q** In a word. I'm not going to -- but that's what it
19 comes down to, right?

20 **A** Yes, sir.

21 **Q** So you denied doing any sort of business with them on
22 that date, correct?

23 **A** Yes, sir.

24 **Q** Involving those drugs, correct?

25 **A** Yes, sir.

1 Q All right. And you've testified at rather great
2 length that, no, actually you did?

3 A Yes, sir.

4 Q That you did this. So one or the other of those
5 statements is a lie, correct? They can't both be
6 true?

7 A The one that I did not take part in, I told them --

8 Q One or the other?

9 A Yes, sir.

10 Q And you testified that -- I'm at page 4 of your
11 statement. I'm just about done. You testified on
12 direct a while back that you phoned -- 237-6224 had
13 been stolen. Excuse me. Was your cellphone?

14 A Yes, sir.

15 Q Look one, two, three, four, fifth line down. It
16 starts with the fifth line down. You would agree
17 with me that on October 11th, 2005 you told the
18 Sheriff's Department that the 237-6224 number had
19 been stolen from you beginning of the summer or a
20 little earlier?

21 A Yes, sir.

22 Q Okay. Well, that phone was either stolen from you or
23 was a phone that they were calling you on. One or
24 the other of those is a lie, right?

25 A It was a phone that they were calling me on. The

1 phone had not been stolen.

2 Q So when sworn to tell the truth on October 11th,
3 2005, what you're telling us is you lied then. You
4 actually did still have that number, that phone,
5 right?

6 A Yes, sir.

7 Q Okay. And then lastly, on page 5; again, as far as
8 whether it was Monday or Wednesday and Thursday, I
9 mean, the police returned to that question. It was
10 of some interest to them because again the top
11 question on page 5 of your statement, possibly they
12 could have come earlier? Nope. It had to be
13 Wednesday or Thursday, right?

14 A Yes, sir.

15 Q Okay. And that you are telling us today is a lie?

16 A Yes, sir.

17 Q All right. Very good, sir. Thank you very much.

18 **THE COURT:** Anything?

19 **MR. MILLING:** Thank you, Your Honor. May it
20 please the Court.

21 RE CROSS EXAMINATION

22 **BY MR. MILLING**

23 Q Mr. Moaney, you understood -- let me get State's
24 Exhibit 1 -- thank you, sir. State's Exhibit 181 was
25 your request that the court vary from the guidelines

1 based upon the shooting, correct?

2 A Yes, sir.

3 Q But you understood and Mr. Eleazer had explained to
4 you, the only way to get below the 20-year mandatory
5 minimum is for the government to make the motion,
6 correct?

7 A Yes, sir.

8 Q But you made these two motions anyway?

9 A Yes, sir.

10 Q Nothing further.

11 **THE COURT:** Mr. Delgado.

12 RECROSS EXAMINATION

13 **BY MR. DELGADO**

14 Q Mr. Moaney, I just want to make certain that I hand
15 you the correct -- this is State's Exhibit 181. That
16 was something that your lawyer filed on your behalf,
17 right?

18 A Yes, sir.

19 Q Your lawyer is a fellow by the name of Mr. Rhett
20 Eleazer. Correct, sir?

21 A Yes, he is.

22 Q You told Mr. Rhett Eleazer -- this is what he put in
23 that statement, 181; you'd been on the run for a
24 while, correct?

25 A Yes, sir.

1 Q You'd even hidden in your girlfriend's attic?

2 A In the house that we shared together.

3 Q In the attic?

4 A Yes, sir.

5 Q Isn't that what it says right there?

6 A Yes, sir.

7 Q And then you heard the police, I guess the FBI saying
8 they were going to kill you. Is that right?

9 A Yes, sir. I heard the comment made.

10 Q Is that right?

11 A Yes, sir. It was a threat.

12 Q And I'm certain that you've reported that to the FBI
13 or to the United States attorney, correct?

14 A Yes, sir.

15 Q I'm certain they investigated that, right?

16 A Yes, sir.

17 Q I'm certain they have reprimanded somebody with an
18 intent to shoot you, kill you. Is that right?

19 A Currently they said the investigation is not
20 complete.

21 Q Yes, sir. I bet. And --

22 MR. MEADORS: Your Honor, objection. He keeps
23 saying "I bet". He keeps making little comments
24 after that.

25 THE COURT: No comments, please.

1 **MR. DELGADO:** Thank you.

2 **Q** The completion is that nobody has been held
3 responsible for shooting you, correct?

4 **A** Yes, sir.

5 **Q** That's what the federal government has said about the
6 incident, correct?

7 **A** Well, it's not that no one has been held responsible.
8 They know exactly who shot me. They're just saying
9 that the investigation is not complete. For what
10 reason, they do not specify.

11 **Q** Could that be, sir, that they don't believe your
12 version of that?

13 **A** No, it's not.

14 **Q** Oh. All right. Sir, in your statement of October
15 the 11th, police officers Captain Smith and
16 Mr. Holdorf, did they ask you to look at a line-up?

17 **A** Yes, sir.

18 **Q** I want you to see if you can identify that?

19 **MR. MEADORS:** Your Honor, if I could please see
20 that.

21 **MR. DELGADO:** Sure.

22 **A** Yes, sir.

23 **Q** All right, sir.

24 **MR. MEADORS:** May we approach?

25 (Whereupon, a bench conference is had)

1 Q Sir, the prosecutor asked you on several occasions,
2 Mr. Stanley Oliver didn't have a cellphone?

3 A No, sir.

4 Q He would call you from various cellphones or
5 different phones. Correct, sir?

6 A He called me from a house phone and a cellphone.

7 Q So from Renata's house, right?

8 A Yes, sir.

9 Q He also called you from a cellphone that I'm going to
10 say to you was Ken Joy's, right?

11 A Yes, sir.

12 Q You never spoke to Ken Joy from that cellphone, did
13 you?

14 A I called Ken Joy on that cellphone on October the
15 20th.

16 Q That's right. And that's the reason it's noted here
17 on your October the 11th statement, is it?

18 A Sir?

19 Q Sure. In that statement again that we've asked you
20 to look at, the six pages, that ain't in there at
21 all, is it?

22 MR. MEADORS: Your Honor, objection.

23 A No, sir, it's not.

24 Q Just one second. Oh. On September the 5th, your
25 statement today in front of this jury, you're sworn

1 under oath to tell the truth, Ken brought Stanley
2 Oliver by, dropped him off at your apartment and
3 left?

4 **A** Yes, sir.

5 **Q** He never came inside?

6 **A** No, sir.

7 **Q** He never said a word to you?

8 **A** No. I was introduced -- I was introduced to him by
9 Mr. Oliver. I mean, we spoke, said hey.

10 **Q** Sure. How you doing? Never got out of the car?

11 **A** No, sir.

12 **Q** He just left?

13 **A** Yes, sir.

14 **Q** Thank you. I have no other questions.

15 **THE COURT:** Thank you very much. You may come
16 down, sir. Thank you very much. That will conclude
17 your testimony. May this witness be excused?
18 Without objection?

19 **MR. STRICKLER:** Yes, sir. Certainly.

20 **MR. MILLING:** No objection, Your Honor.

21 **THE COURT:** All right. Approach the bench.

22 (Whereupon, a bench conference is had)

23 **THE COURT:** Ladies and gentlemen, the State,
24 just inquiring about schedules, indicated to me the
25 next witness will be relatively short after which

1 I'll dismiss you for the day. We'll recommence in
2 the morning. And I'm not sure we're going to try
3 9:00 again since that didn't work too well today.
4 We'll see. Call your next witness.

5 **MS. MCDUFFIE:** Your Honor, the State calls Ron
6 Witt.

7 (WHEREUPON, State's Exhibit No. 183 is marked
8 for identification.)

9 RONALD WITT, after being duly sworn, testifies
10 as follows:

11 **THE CLERK:** Thank you. Please have a seat in
12 the witness stand and state your full name for the
13 record.

14 (Pause)

15 **COURT REPORTER:** Full name?

16 **THE WITNESS:** Ronald Witt, W-I-T-T.

17 DIRECT EXAMINATION

18 **BY MS. MCDUFFIE**

19 **Q** Mr. Witt, where are you employed?

20 **A** I'm sorry?

21 **Q** Where are you employed?

22 **A** T-Mobile.

23 **Q** And where are you based out of?

24 **A** Parsippany, New Jersey.

25 **Q** And what are your duties with T-Mobile?

1 **A** I'm a records custodian.

2 **Q** And I'm going to show you what's been marked as
3 State's Exhibit 183 for identification purposes. Can
4 you please tell us what that is?

5 **A** It's a copy of a customer's bill showing their calls.

6 **Q** And are these records kept in the ordinary course of
7 business?

8 **A** Yes, they are.

9 **Q** And can you please tell me what phone number those
10 records are for?

11 **A** It's for phone number (803) 599-0434.

12 **Q** And who is the customer or the subscriber that those
13 records are for?

14 **A** Leticia P. Jones.

15 **Q** Can you please tell me the dates that those records
16 are valid through?

17 **A** This is valid from the 1st of September 2005 and goes
18 through the 20th of September of that same year.

19 **Q** And are these records kept in the ordinary course of
20 business by T-Mobile?

21 **A** Yes, they are.

22 **MS. MCDUFFIE:** Your Honor, the State moves No.
23 183 into evidence.

24 **THE COURT:** Any objection?

25 **MR. STRICKLER:** If I may see what he has.

1 **THE COURT:** Sure.

2 **MR. STRICKLER:** That's without objection.

3 **MR. MILLING:** No objection.

4 **MR. DELGADO:** No objection from Ken Joy.

5 **THE COURT:** Without objection.

6 (WHEREUPON, State's Exhibit No. 183 is admitted
7 into evidence.)

8 **Q** Now, mr. Witt, do those records show outgoing and
9 incoming calls?

10 **A** Correct.

11 **Q** No further questions.

12 **THE COURT:** Any questions from Mr. Oliver?

13 **MR. STRICKLER:** None as to Mr. Oliver.

14 **THE COURT:** Mr. Gallman.

15 CROSS EXAMINATION

16 **BY MR. MILLING**

17 **Q** Mr. Witt, these records don't show who was actually
18 making the calls, do they?

19 **A** They show just the phone number that was used to make
20 the calls or receive the calls.

21 **Q** Okay. So you've got no idea who was actually making
22 these phone calls?

23 **A** I would not know that.

24 **MR. MILLING:** Nothing further, Your Honor.

25 **THE COURT:** Mr. Delgado.

1 **MR. DELGADO:** No questions.

2 **THE COURT:** Redirect?

3 **MS. MCDUFFIE:** May the witness be excused?

4 **THE COURT:** You're free to go, sir. Thank you
5 very much. Any objection?

6 **MR. MILLING:** No, sir. No objection.

7 **THE COURT:** Thank you very much.

8 **MR. ROSS:** We just have one short witness, Your
9 Honor.

10 **THE COURT:** Call your next witness.

11 **MR. ROSS:** Shequitta Evans.

12 **SHEQUITTA M. EVANS,** after being duly sworn,
13 testifies as follows:

14 **THE CLERK:** Thank you. Please have a seat in
15 the witness stand and state your full name for the
16 record. And if you'll please spell your first name.

17 **THE WITNESS:** Shequitta M. Evans,
18 S-H-E-Q-U-I-T-T-A.

19 **DIRECT EXAMINATION**

20 **BY MR. ROSS**

21 **Q** Good afternoon, Ms. Evans.

22 **A** Good afternoon.

23 **Q** Where do you live?

24 **A** ██████ Wilson Boulevard, lot ██████.

25 **Q** Is that in Richland County?

- 1 A Mm-hmm (affirmative). Yes.
- 2 Q Where did you live in September of 2005?
- 3 A The same place.
- 4 Q [REDACTED] Wilson Boulevard?
- 5 A Mm-hmm (affirmative).
- 6 Q Okay. Are you familiar with Stanley Oliver?
- 7 A Yes.
- 8 Q You're familiar with Dominic Gallman?
- 9 A Only from seeing him around the neighborhood.
- 10 Q And what about Mr. Kenneth Joy?
- 11 A The same thing.
- 12 Q Okay. Does Stanley Oliver -- or did Stanley Oliver,
- 13 Kenneth Joy and Dominic Gallman hang around together
- 14 in September 2005?
- 15 A I've never seen them all together at once.
- 16 Q Okay. How did you know Stanley Oliver?
- 17 A Through Starr Richardson, through a mutual friend,
- 18 Starr Richardson.
- 19 Q Okay. Did you and Mr. Oliver have some kind of
- 20 relationship?
- 21 A Yes.
- 22 Q Okay. What would you describe that as?
- 23 A Really sex buddies.
- 24 Q Sex buddies?
- 25 A Mm-hmm (affirmative).

1 Q And that was in September 2005?

2 A Yes.

3 Q Okay. Do you recall a phone number that Mr. Oliver
4 used back in September 2005?

5 A Not by heart, no.

6 Q Do you recall a phone number that Mike Allen used in
7 September of 2005?

8 A Not by heart, no.

9 Q If I show you your statement from that time, would
10 that refresh your memory?

11 A Yes. Mm-hmm (affirmative).

12 Q Does that refresh your memory?

13 A Yes.

14 Q What was Stanley Oliver's phone number at that time?

15 A 479-2583.

16 Q 479-2583?

17 A Uh-huh (affirmative).

18 Q What was Mr. Allen's phone number?

19 A 559-0973.

20 Q Say that again?

21 A 559-0973.

22 Q How long -- from September of '05, how long had you
23 known Mr. Oliver?

24 A About two years.

25 Q Two years?

1 **A** Two to three years. Mm-hmm (affirmative).

2 **Q** I asked you a question about did they hang around?

3 **A** Mm-hmm (affirmative).

4 **Q** Looking at your statement right here --

5 **A** Mm-hmm (affirmative).

6 **Q** -- at the bottom, looking at that paragraph, that
7 first sentence, when did you say that first sentence,
8 just the part about -- let me do it this way. Did
9 you say in your statement who does Stanley hang out
10 with?

11 **MS. LAFAVE:** Objection, Your Honor. He's
12 leading from the statement.

13 **MR. ROSS:** I'm asking her a question, Your
14 Honor.

15 **THE COURT:** Well, ask her a question.

16 **Q** In your statement when they asked you who does
17 Stanley hang out with, --

18 **A** Mm-hmm (affirmative).

19 **Q** -- what was your response?

20 **A** Who does Stanley hang out with?

21 **Q** Right.

22 **A** K.I. and Dominic.

23 **Q** What else did you say in your statement?

24 **A** I don't -- I never said both of them together. I see
25 either one or the other.

1 Q What did you say in your statement?

2 MR. DELGADO: Objection, Your Honor. I didn't
3 hear a bit of that. I may be in a bad area of the
4 courtroom.

5 THE COURT: Speak up, ma'am. We need to be able
6 to hear what you say.

7 A I just said when I see K.I. or Dominic it's not
8 together. It's either/or.

9 Q So I think I understand. When you see Dominic, you
10 only see him with Stanley?

11 A Mm-hmm (affirmative).

12 MR. DELGADO: Objection, Your Honor. Leading.

13 THE COURT: Yes, sir. It is leading.

14 MR. ROSS: Yes, sir.

15 Q Explain what you mean when you saw them together?

16 A When I see Solo, it's either with K.I. or Dominic.
17 It's not all three together. Is that understandable?

18 Q It's two?

19 A Two, not three.

20 Q But you've seen Mr. Oliver with Dominic and Kenneth,
21 just not all three at the same time?

22 A Right.

23 Q That's all the questions I have. Thank you, Ms.
24 Evans.

25 THE COURT: Cross examination.

MS. LAFAVE: Just briefly, Your Honor. Beg the Court's indulgence.

CROSS EXAMINATION

BY MS. LAFAVE

Q Good afternoon, Ms. Evans.

A Hello.

Q I just have a couple of questions for you. Okay?

A Mm-hmm (affirmative).

Q You said on direct examination that you and Mr.

Oliver had a sex based relationship?

A It wasn't sex based. We wasn't in a

relationship-relationship, but --

Q How often would you see each other?

A Not often.

Q You have testified that whenever you saw Mr. Gallman and Mr. Joy, they were with Mr. Oliver?

A Mm-hmm (affirmative).

Q Did Stanley have other friends?

A Yes.

Q Did you see Stanley with other friends?

A Yes.

Q Okay. Thank you, ma'am.

MR. MILLING: No questions, Your Honor.

THE COURT: Anything?

CROSS EXAMINATION

1 **BY MR. DELGADO**

2 **Q** Ms. Evans.

3 **A** Mm-hmm (affirmative).

4 **Q** Ms. Evans, at one time you may have been with Mr.
5 Oliver when the two of you were dropped off over on
6 Tremain Street here in Columbia?

7 **A** Mm-hmm (affirmative).

8 **Q** You know the area I'm talking about?

9 **A** Yes, I do.

10 **Q** There are a series of little apartments there?

11 **A** Yes..

12 **Q** That's where Mr. Joy had his business, didn't he?

13 **A** Right.

14 **Q** That business was called Advantage Building Systems,
15 wasn't it?

16 **A** I don't know the name of it. I don't know him well
17 enough.

18 **Q** Okay. What you do know is that he ran a business out
19 of one of those apartments?

20 **A** Like he had fellows in and out doing all sorts of
21 work. Right.

22 **Q** And he contracts all over the place?

23 **A** I don't know about contracts, but --

24 **Q** Okay. That's all the questions I have. Thank you.

25 **THE COURT:** Any redirect?

1 **MR. ROSS:** No, Your Honor.

2 **THE COURT:** All right, ma'am. You may come
3 down. Thank you very much. May this witness be
4 excused?

5 **MR. ROSS:** Yes, sir.

6 **MR. STRICKLER:** Without objection.

7 **MR. DELGADO:** No objection.

8 **MR. MILLING:** No objection.

9 **THE COURT:** You're free to go, ma'am. Thank you
10 very much. All right, ladies and gentlemen, that
11 will conclude the testimony for today. I'm going to
12 ask you to be back in the jury room, let's try 9:30
13 in the morning. Again, don't discuss the case among
14 yourselves when you return to the jury room or with
15 anyone else over the evening hours. Again, I don't
16 know if there's any press coverage that will be shown
17 or in the papers or anything like that. But again, I
18 caution you, ask you not to read or look at any press
19 accounts of this trial. So have a pleasant evening.
20 We'll see you at 9:30 in the morning. We'll try to
21 be more prepared than we were this morning. Although
22 we were prepared, things just happened. They just
23 happen. Thank you very much.

24 (Jury out at 4:59 p.m.)

25 **THE COURT:** All right. As to Tatanisha

1 Robinson.

2 **MR. MEADORS:** Your Honor, we are actually ready
3 to go. We're ready to put it on the record.

4 **THE COURT:** Ready to what?

5 **MR. MEADORS:** Put it on the record I think now.
6 We can do that tonight.

7 **THE COURT:** Go ahead.

8 **MR. MEADORS:** Mr. Nettles and I have talked. I
9 have a -- I guess we ought to mark them for a Court's
10 Exhibit.

11 (WHEREUPON, Court's Exhibit No. 11 is marked for
12 identification.)

13 (WHEREUPON, Court's Exhibit No. 12 is marked for
14 identification.)

15 (WHEREUPON, Court's Exhibit No. 13 is marked for
16 identification.)

17 **MR. MEADORS:** Your Honor, Court's 13 which is
18 a --

19 **THE COURT:** Court's 13?

20 **MR. MEADORS:** Yes, sir. I just marked it
21 Court's Exhibit.

22 **THE COURT:** That's fine.

23 **MR. MEADORS:** It's in reference to Tatanisha
24 Robinson to Mr. Nettles. His name is on there, but
25 it's to the Court. "The State through Deputy

1 Solicitor for the Fifth Circuit John Meadors would
2 respectfully grant immunity to the above-named
3 individual, Tatanisha Robinson. This immunity would
4 include transactional immunity as described in State
5 v. Thrift; and, number two, immunity from prosecution
6 for the offense of providing false information to
7 police arising either out of her testimony in this
8 action or her previous statement to police on
9 September 21st, 2005. The incident from which Ms.
10 Robinson's testimony is sought occurred on
11 September 5th, 2005 and is the subject of the trial
12 of State v. Stanley Oliver, Gallman and Joy,
13 respectfully submitted John P. Meadors, Deputy
14 Solicitor."

15 Your Honor, the exact same letter in reference
16 to Ms. Robinson is signed by John McIntosh, Chief
17 Deputy Attorney General of the Office of the Attorney
18 General. That's Court's No. 12.

19 Court's 11 is an agreement not to prosecute from
20 the United States Attorney's Office signed by Nancy
21 Wicker, Assistant United States Attorney. It's going
22 to be just for the record.

23 **MR. NETTLES:** Your Honor, the only thing we do
24 need to do is --

25 **MR. MEADORS:** I'll go back on those. Yeah, I

1 know. I just want to get the record clear. It's a
2 letter to Mr. Nettles.

3 **MR. NETTLES:** I can do it on the record. I have
4 read it and I'm getting ready to sign it. And I am
5 comfortable with the immunity that the federal
6 government has granted.

7 **MR. MEADORS:** And the only difference between
8 there, and this will get back to summarize with me,
9 they have a number 4. It's fair to say with the
10 State they only have three. Their number 4 is
11 immunity from prosecution in connection with the
12 letter mailed by her, meaning Ms. Robinson, as it
13 relates to this matter. Mr. Nettles would like
14 number 4 included. And this is Court's 11. The U.S.
15 Mr. Nettles would like statement number 4 included in
16 Court's 12 and 13 which would be the letters from the
17 state office.

18 Judge, I don't have a problem with this caveat.
19 That is a letter that was mailed from Ms. Robinson.
20 From where to where I don't know. But as far as that
21 letter goes, I am not planning on prosecuting her for
22 that letter. I'm not planning on prosecuting her for
23 what's in there. But I would not want that used
24 against the State, meaning that what she says in
25 there is the truth, because I am not stipulating that

1 or saying that's the facts. I'm saying she won't be
2 prosecuted for the letter.

3 So as long as that argument can't be used, won't
4 be used by any of the parties, then we certainly
5 would not attempt to bring charges on her. That does
6 not mean that we believe the contents of it.

7 **MR. STRICKLER:** I'm sorry. As long as which
8 argument won't be used?

9 **MR. MEADORS:** I'm sorry? As long as the
10 argument that the State is not prosecuting her for
11 that letter; therefore, they must believe it or that
12 we are somehow acquiescing to the contents of that
13 letter, as long as that argument is not used, I have
14 no problem with it. I'm not going to prosecute her.
15 That does not mean the State believes what's in that
16 letter. That's for the jury, whether they believe
17 her statement or the letter.

18 **MR. STRICKLER:** I don't know. I'm not a party
19 to any agreement between the State and Ms. Robinson,
20 Your Honor.

21 **MR. MEADORS:** I don't know what that means. If
22 he could commit one way or the other.

23 **MR. STRICKLER:** It's exactly what I said. I'm
24 not a party to this agreement.

25 **THE COURT:** He's not a party to it. Whatever

1 remedies he has with regards to Ms. Robinson, he will
2 protect his client's interest. The matter that is on
3 the floor at this time is either Mr. Nettles' consent
4 or objection to calling his client as a witness,
5 despite the fact that the State, both the Fifth
6 Judicial Circuit, the Attorney General of the state
7 of South Carolina, and the United States Attorney
8 have granted his client transactional immunity.

9 **MR. NETTLES:** And I'm really trying to be just
10 so -- assuming -- I mean, the only -- I do not object
11 to her being called. She is going to waive her right
12 given the immunity that's been given to her by the
13 federal government.

14 **THE COURT:** And the State.

15 **MR. NETTLES:** Well, the State, the problem, Mr.
16 Meadors -- and I can understand his position. He's
17 asking the Court to say as long as -- if he will just
18 say the same phrase that's number 4 in the federal
19 government; that is this, number 4 says, and they
20 will give immunity from prosecution in connection
21 with the letter mailed by her as it relates to this
22 matter.

23 And he has said that. And I accept that. But
24 he said, I don't want his immunity on that issue to
25 be contingent upon an agreement that the defense will

1 not make arguments about that. I don't have a dog in
2 that fight. I mean, if he gives her immunity as the
3 federal government has, immunity from prosecution in
4 connection with a letter mailed by her as it relates
5 to this matter, I am reading off Court's No. 4 which
6 is the agreement not to prosecute by the federal
7 government, all of my concerns are taken care of.

8 **MR. MEADORS:** And, your Honor, I think my
9 position shall be clear, is that the way I read --

10 **THE COURT:** Well, it's with regard to
11 Mr. Nettles' client. That's all.

12 **MR. MEADORS:** Sure. Judge, my -- the way --

13 **THE COURT:** He cannot make any representations
14 as to these other --

15 **MR. MEADORS:** Well, I want to be clear on what
16 I'm granting immunity on, is the mailing of the
17 letter itself.

18 **THE COURT:** Okay. That's all he's asking for.

19 **MR. MEADORS:** The mailing of the letter itself.

20 **MR. NETTLES:** Well, see --

21 **MR. MEADORS:** I am not sitting here -- she is
22 not going to be charged with filing a false police
23 report, which is the only think I think she could be
24 charged with, if another statement came in. We're
25 not doing that. But I am in no way, and want the

1 record to be clear; and if it's brought up, I'll
2 respond to it, saying what she says in there is the
3 truth. And we're not saying that. She will be
4 immune. And we would ask the Court to say no
5 argument can be made about that.

6 **THE COURT:** I don't think that's in issue.

7 **MR. MEADORS:** Okay. Fine. It shouldn't be with
8 Mr. Nettles. I mean, I agree. Because --

9 **MR. NETTLES:** Are you adopting the language in
10 number 4 in the federal, which is Court's Exhibit
11 No. 11, in number 4 in the federal grant of immunity?

12 **MR. MEADORS:** Your Honor, she will be getting
13 immunity for the letter that was mailed down from
14 here to here. We are not agreeing that the contents
15 of it are correct. She will not be charged as a
16 result of that letter.

17 **THE COURT:** Just answer his question.

18 **MR. MEADORS:** I'm answering it, Judge. I'm not
19 going to answer exactly the way he posed it.

20 **THE COURT:** Well, you go beyond the question.

21 **MR. MEADORS:** No, sir. Because I think if these
22 people are going to say they're not going to argue;
23 if Your Honor won't allow an argument that says the
24 State believe it, then we're set.

25 **THE COURT:** That's got nothing to do with what.

1 **MR. MEADORS:** Judge, if they're going to get up
2 here and say, hey, the State must think it's the
3 truth --

4 **THE COURT:** That's between you and the
5 defendants.

6 **MR. MEADORS:** Right. I can't agree with that,
7 knowing what they're going to do. Are they willing
8 to say now that they --

9 **THE COURT:** No, sir. I can dismiss that from
10 this courtroom. We've got to decide whether you are
11 going to grant transactional immunity to his client
12 and whether she is going to testify. The other
13 counsel have no --

14 **MR. MEADORS:** I said that this morning.

15 **THE COURT:** -- stake in that proceeding, in this
16 proceeding.

17 **MR. MEADORS:** I said that this morning. She's
18 got transactional immunity to what she testified in
19 her statement. And as far as mailing the letter,
20 we're not planning on charging her. That's all I
21 need to say. Am I going to adopt the exact language?
22 No. I'll put it in my own language. I'm not going
23 to use their language. But I've given her
24 transactional immunity. I don't know how else you
25 can say it.

1 **THE COURT:** Well, you'd better have it by in the
2 morning.

3 **MR. MEADORS:** Giving her transactional immunity,
4 Judge. She's got it. She's not going to be charged.

5 **MR. NETTLES:** If I may, Your Honor, I really
6 think that there's some common ground we've come to
7 here. My concern is essentially this. And I can say
8 it now. All right. I've showed the letter -- I have
9 shown the letter to Mr. Meadors. I received the
10 letter from defense.

11 **THE COURT:** The letter is from who to who?

12 **MR. NETTLES:** From her to somebody. It's
13 addressed to "who it may concern".

14 **THE COURT:** Oh.

15 **MR. NETTLES:** And my concern is that Mr. Meadors
16 says, I am not going to charge her for mailing the
17 letter. Well, that implies that the only immunity
18 he's giving is for mail fraud which he can't do
19 anyway. And one of the beauties of the way that the
20 federal government chose to word that is, is they
21 say -- and it's Court's 11 again -- "immunity from
22 prosecution in connection with the letter mailed by
23 her as it relates to this matter."

24 To me that covers both the mailing and the
25 content of the letter. And what I need Mr. Meadors

1 to do before I can agree -- I can agree to the
2 federal government's. If we were in Federal Court, I
3 would be saying, let's go, ma'am, get on the stand;
4 this is a done deal. And all I need for Mr. Meadors
5 to do is assure the Court and me that he is not going
6 to prosecute her for the content of the letter
7 either.

8 I am not asking him to adopt whether it's true
9 or not. I don't know. I wasn't there. But I need
10 that assurance. Because of what's in the letter,
11 it's possible there is a way that someone could
12 prosecute her.

13 **THE COURT:** How? Say she said, I --

14 **MR. MEADORS:** I've read the letter. I'm sorry.

15 **THE COURT:** Could I ask a question?

16 **MR. MEADORS:** I apologize.

17 **THE COURT:** What if she says, "I killed JFK"?

18 **MR. NETTLES:** Well, she doesn't. I mean, I'm
19 not being smart. There is nothing in there -- and I
20 don't want to be so oblique as to imply that the
21 letter --

22 **THE COURT:** She's admitting to a number of
23 crimes.

24 **MR. NETTLES:** She's not.

25 **MR. MEADORS:** Your Honor, could he provide a

1 copy of the letter to you?

2 **THE COURT:** May I just please ask him question
3 without you interrupting me? I lose my train of
4 thought when people try to talk over other people.
5 Contents.

6 **MR. NETTLES:** Yes, sir.

7 **THE COURT:** What are the contents that -- what
8 are the contents for which somebody could be
9 prosecuted?

10 **MR. NETTLES:** Well, --

11 **THE COURT:** I mean, I write you a letter. Are
12 you going to prosecute me for writing you a letter?

13 **MR. NETTLES:** No, sir. And it certainly is
14 not -- in the context of if you made a statement that
15 said person A did the following things wrong, okay,
16 and you swore to that; and then you did -- this is
17 more than just a letter. It's meant to be done in
18 the context of an affidavit that says all of that is
19 not true. And especially when the first line admits
20 to committing a crime as it relates to these letters.

21 **THE COURT:** Well, I still would interpret that
22 as transactional immunity. That's the way I would
23 interpret transactional immunity.

24 **MR. NETTLES:** Okay. And if the Court is -- then
25 I am comfortable. Because my concern was, was that

1 the transactional immunity only applied to the
2 statements in the first statement. But if the Court
3 is going to rule that transactional immunity means
4 that anything that she testifies to --

5 **THE COURT:** "Anything", that's a big word.

6 **MR. NETTLES:** Sure. Well, I mean, if she
7 testifies consistent with one of her two
8 statements --

9 **THE COURT:** I don't care how she testifies.

10 **MR. NETTLES:** Okay. That she won't be
11 prosecuted for anything arising out of that letter.
12 I can show the Court a copy of the letter.

13 **THE COURT:** Well, I don't really think I need to
14 know. I don't think I need to know. Thrift says:
15 "Transactional immunity shields the witness from any
16 prosecution for the transaction or offense to which
17 its compelled testimony relates." How broad can that
18 be?

19 **MR. NETTLES:** Well, this was my concern. This
20 is my concern. And I might be hyper technical about
21 it. My concern was the compelled testimony was only
22 to the first statement where she admits being
23 involved in some criminal activity. If the Court is
24 telling me that you are compelling her also as it
25 relates to this other letter, then it is

1 transactional immunity.

2 So, you see what I'm saying? In other words, if
3 she'd have stayed off the stand, then the second
4 letter would have never even come to light because
5 the government didn't have it. But by her taking the
6 stand, this letter that they didn't know about then
7 became part and parcel of her testimony. I have now
8 showed it to the government. If the government is
9 still willing to give her transactional immunity, I
10 am now of the position that since they've seen the
11 letter, they know about the existence of the letter
12 and they still want to give her transactional
13 immunity, then it applies to her statement and her
14 letter.

15 **THE COURT:** I would agree with you.

16 **MR. NETTLES:** Then I am ...

17 **THE COURT:** I just ruled in your favor. So you
18 need not say anything.

19 **MR. MEADORS:** Can I get a copy of it?

20 **THE COURT:** A copy of what?

21 **MR. MEADORS:** The letter. Can I get a copy of
22 it?

23 **MR. NETTLES:** No. Not until she testifies.

24 **THE COURT:** All right. 9:30. She'll be here.
25 She'll testify.

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(Whereupon, the proceedings are concluded for
the day, to be reconvened tomorrow morning)

Tuesday, December 11, 2007

THE COURT: The State ready to proceed?

MS. MCDUFFIE: We are, Your Honor.

THE COURT: Defense ready to proceed?

MR. STRICKLER: Your Honor, I just need to get a couple of things on the record. The record should reflect yesterday I believe during the testimony of Mr. Moaney a conference was held at the bench regarding Mr. Meadors wanting to go into a couple of the photo identifications that were conducted with Mr. Moaney. I'd like the record to reflect and make it clear that we have not conducted a Neil v. Biggers in regards to those, and also clear that he's made identifications in court.

THE COURT: You have what?

MR. STRICKLER: It's also clear that Mr. Moaney did indeed make identifications in court. You know, at this point I would move for a mistrial for failure to conduct a Biggers hearing in that regard. And of course the failure could be attributed to a number of things, one of which would be me in not raising an issue to the Court. If that's the case, then --

THE COURT: Well, let me ask you this.

MR. STRICKLER: Yes, sir.

THE COURT: Am I incorrect that if a witness

1 knows the defendant and wishes to identify him in
2 court there's no need for a Neil v. Biggers? Am I --

3 **MR. STRICKLER:** May not be, contingent on the
4 degree of knowledge that the witness had. He had had
5 prior contact with him. Correct, sir.

6 **THE COURT:** I think that's -- well, I
7 respectfully deny your notion.

8 **MR. STRICKLER:** Yes, Your Honor. And, Your
9 Honor, just one thing as far as the information,
10 there may have been a piece of evidence introduced by
11 one of the co-defendants, is the Court of the opinion
12 that all co-defendants thereby lose their right to
13 final argument?

14 **THE COURT:** That's a good question,
15 Mr. Strickler. What's your opinion?

16 **MR. STRICKLER:** I'm willing to commit myself to
17 the concept that we don't. But ...

18 **THE COURT:** I'm not sure there's any case law on
19 that.

20 **MR. MEADORS:** Yes, sir. There is.

21 **THE COURT:** Maybe there is.

22 **MR. MEADORS:** There is.

23 **THE COURT:** The solicitor is waving case law.
24 So I'll take that under consideration. But it's
25 never happened to me before.

1 **MR. STRICKLER:** Yes, sir.

2 **MR. DELGADO:** Your Honor, I would also --

3 **THE COURT:** Then --

4 **MR. DELGADO:** I'm sorry.

5 **THE COURT:** A lot of things in this trial are
6 unique. The solicitor has handed up some case law.
7 I don't know exactly about it. But the thought
8 crossed my mind yesterday. And we'll look into that
9 further.

10 **MR. STRICKLER:** Yes, sir. I'll take a look at
11 it and refer to that at a later point in time, Your
12 Honor. It's something that's weighing on my mind at
13 this point.

14 **THE COURT:** I can understand.

15 **MR. STRICKLER:** Thank you, sir.

16 **THE COURT:** Mr. Delgado.

17 **MR. DELGADO:** And the same argument stands for
18 Kenneth Joy as well, Your Honor.

19 **THE COURT:** Anything further? I think the jury
20 is finally here. All right. Bring the jury, please.

21 (Jury in at 9:44 a.m.)

22 **THE BAILIFF:** Your Honor, the jury is present.

23 **THE COURT:** Thank you very much. Good morning,
24 ladies and gentlemen. We're now ready to continue
25 with the trial. Solicitor, you may call your next

1 witness.

2 **MR. MEADORS:** Good morning. If it please Your
3 Honor, the State will now call Tatanisha Robinson.

4 **TATANISHA ROBINSON,** after being duly sworn,
5 testifies as follows:

6 **THE CLERK:** Thank you. Please have a seat in
7 the witness stand and state your full name for the
8 record and please spell your name.

9 **THE WITNESS:** My name is Tatanisha Robinson.
10 T-A-T-A-N-I-S-H-A.

11 DIRECT EXAMINATION

12 **BY MR. MEADORS**

13 **Q** Good morning.

14 **A** Good morning.

15 **Q** Please tell the jury a little bit about yourself?
16 Where are you from, Ms. Robinson?

17 **A** Everywhere.

18 **Q** I mean, where were you born?

19 **A** In Connecticut.

20 **Q** All right. Where were you raised?

21 **A** In South Carolina.

22 **Q** Where did you go to school?

23 **A** South Carolina, Connecticut.

24 **Q** But specifically where did you to school in South
25 Carolina?

1 **A** Chesterfield High School.

2 **Q** Okay. That's all I'm asking. And when did you
3 graduate there, Ms. Robinson?

4 **A** 2003.

5 **Q** 2003?

6 **A** (Nods head affirmatively).

7 **Q** And what did you do after that?

8 **A** Nothing.

9 **Q** Did you stay in Chesterfield?

10 **A** No. I moved.

11 **Q** And where did you move to?

12 **A** Columbia.

13 **Q** And where in Columbia did you go, Ms. Robinson?

14 **A** I started out on Alpine Road.

15 **Q** Were you living with anybody else?

16 **A** Yes. I was living on Tremain Street.

17 **Q** And who were you living with there?

18 **A** A friend.

19 **THE BAILIFF:** She needs to speak up. They can't
20 hear back here.

21 **Q** Okay. I'm sorry. Do you mind just speaking in here,
22 please? Do you mind pulling up a little bit, please?
23 And if you'd just speak in here, Ms. Robinson,
24 please, so the jury can hear you and Ms. Court
25 Reporter can. I'll stand over this way. You said

1 you were living on Tremain Street?

2 **A** Yes.

3 **Q** Can you tell me who the friend is?

4 **A** Actually, no, I couldn't.

5 **Q** You don't remember who it was?

6 **A** No.

7 **Q** Was it a man or a woman?

8 **A** A man.

9 **Q** And how long did you live with this person on Tremain
10 Street?

11 **A** For about three months.

12 **Q** Where did you move after that?

13 **A** I moved to D.C.

14 **Q** I'm sorry?

15 **A** I moved to D.C.

16 **Q** What year was that?

17 **A** 2005.

18 **Q** Do you remember specifically when in 2005?

19 **A** No, I don't.

20 **Q** Was it after Labor Day 2005?

21 **A** No.

22 **Q** It was before Labor Day 2005?

23 **A** Yes.

24 **Q** And were you down here in Columbia during Labor Day
25 of 2005?

- 1 **A** Yes.
- 2 **Q** Where were you then, Ms. Robinson?
- 3 **A** Visiting on Tremain Street.
- 4 **Q** And I don't know if they heard you. Visiting on what
- 5 street?
- 6 **A** Tremain.
- 7 **Q** Tremain. Okay. And who were you visiting?
- 8 **A** Friends, no one in specific.
- 9 **Q** I'm not trying to be difficult. But, I mean, do you
- 10 remember anybody?
- 11 **A** No. I mean, I was just visiting several different
- 12 people.
- 13 **Q** Did you see Mr. Stanley Oliver?
- 14 **A** Yes.
- 15 **Q** Did you see Mr. Dominic Gallman?
- 16 **A** No. I don't think so. No.
- 17 **Q** Did you see Mr. Kenneth Joy?
- 18 **A** Yes.
- 19 **Q** You did see him?
- 20 **A** (Nods head affirmatively).
- 21 **Q** Where did you see them?
- 22 **A** Over at Tremain.
- 23 **Q** And did you have an occasion to talk with them?
- 24 **A** Yes.
- 25 **Q** How long have you known Stanley Oliver?

1 A Two years.

2 Q Can you tell these folks when you first met him?

3 A I don't know. I guess 2004.

4 Q Okay. And as a result of that meeting, Ms. Robinson,
5 did you all develop a relationship?

6 A Yes.

7 Q You all started dating?

8 A I guess, if that's what you want to call it.

9 Q Well, is that what you usually do before you start a
10 relationship?

11 A I guess.

12 Q Okay. You all got to where you all were fond of each
13 other and you all were talking. Is that fair?

14 A Yes.

15 Q And during the time did you stay with him some?

16 A No.

17 Q Do you know how long that that relationship lasted,
18 if you don't mind me asking?

19 A For a while.

20 Q And where are you currently living now?

21 A In Pageland.

22 Q In Pageland?

23 A Yes.

24 Q Okay. Are you living somewhere else out of state?

25 A No.

1 Q Had you been living somewhere out of state?

2 A Yes.

3 Q Where was that?

4 A In D.C.

5 Q Where in D.C.?

6 A Northeast.

7 Q Can you be more specific?

8 A I mean, on [REDACTED] Hawaiian Avenue.

9 Q In what?

10 A [REDACTED] Hawaiian Avenue.

11 Q When did you come down here to Pageland? When did

12 you come to Pageland?

13 A Maybe a month, less than a month.

14 Q Maybe right before Thanksgiving?

15 A Yes.

16 Q Staying with your mom there?

17 A Yes.

18 Q Now, as far as this incident that we're here about

19 today, did you have an occasion to see Stanley

20 Oliver?

21 A Yes.

22 Q Okay. And where did you see him?

23 A On Tremain.

24 Q And describe his demeanor when you saw him on Tremain

25 shortly after Labor Day of 2005? How was he acting?

1 **A** How he usually acts.

2 **Q** Okay. How is that?

3 **A** I don't know. I mean, like a normal person would
4 act.

5 **Q** Acting like a normal person?

6 **A** Yes.

7 **Q** Did you observe any money on him?

8 **A** No.

9 **Q** You didn't observe any money on him?

10 **A** (Witness shakes head negatively).

11 **Q** Did you observe any drugs on him?

12 **A** No.

13 **Q** Did you have an occasion to go to the Red Roof Inn
14 with Mr. Oliver?

15 **A** Yes, I did.

16 (WHEREUPON, State's Exhibit No. 184 is marked
17 for identification.)

18 (WHEREUPON, State's Exhibit No. 185 is marked
19 for identification.)

20 **MR. MEADORS:** May I approach the witness?

21 **THE COURT:** Yes, sir.

22 **Q** Do you mind if I come up?

23 **A** (Witness shrugs).

24 **Q** Ms. Robinson, I want to show you what's marked
25 State's 185. Whose name is that up there?

1 **A** Mine.

2 **Q** Tatanisha Robinson?

3 **A** Yes, it is.

4 **Q** Is that your signature?

5 **A** Yes, it is.

6 **Q** And what date did you all -- well, who were you there
7 with?

8 **A** Mr. Oliver. But I was also at several different
9 motels that week.

10 **Q** And I'll ask you about that in a minute if you like.
11 But on the particular one, what date did you check
12 in?

13 **A** Whatever date is up there.

14 **Q** 9-6? You wouldn't dispute that?

15 **A** Okay.

16 **Q** And that says a home address of [REDACTED] Holly Circle?

17 **A** Yes.

18 **Q** In Ruby, South Carolina?

19 **A** Yes.

20 **MR. MEADORS:** Your Honor, we'd offer State's
21 185, I believe without objection.

22 **MR. STRICKLER:** That's correct.

23 **MR. MILLING:** No objection.

24 **MR. DELGADO:** No objection.

25 **THE COURT:** Without objection.

1 (WHEREUPON, State's Exhibit No. 185 is admitted
2 into evidence.)

3 Q Now, how long had you known Mr. Dominic Gallman?

4 A Not long.

5 Q Can you remember when you first met him?

6 A No, I cannot.

7 Q Can you remember a year? I mean, was it 2005?

8 A I'm sorry. I have bad brain cells. So, no, I can't
9 remember that long.

10 Q You have what? I'm sorry.

11 A Bad brain cells. So I can't remember that long.

12 Q Do you remember when you met Mr. Joy?

13 A I guess around 2004.

14 MR. DELGADO: I'm sorry, Your Honor. I --

15 MR. MEADORS: She said 2004.

16 MR. DELGADO: Your Honor, with your permission,
17 may I sit here?

18 THE COURT: Sure. Absolutely.

19 Q And do you remember where you met him?

20 A On Tremain Street.

21 Q Did you meet all of them on Tremain Street? Is that
22 fair to say?

23 A Pretty much. Yes.

24 Q And on the night that you were at the Red Roof Inn --
25 well, initially, going back; when you first saw Mr.

1 Gallman on the evening before you went to the Red
2 Roof Inn --

3 A Saw who?

4 Q Excuse me. You're right. You caught me. You saw
5 Mr. Oliver. Thank you. When you saw Mr. Oliver
6 prior to going to the Red Roof Inn; what, if
7 anything, did he tell you about being worried about
8 going to jail?

9 A No.

10 Q Nothing?

11 A No.

12 Q And when you were at the Red Roof Inn, did you all
13 watch the news?

14 A I was watching the news previous to the Red Roof Inn.

15 Q What, if anything, did Mr. Oliver then tell you about
16 being worried and being worried about going to jail?

17 A Nothing. We weren't even discussing what was going
18 on.

19 Q And after that, after you went to the Red Roof Inn,
20 did you get to see Mr. Dominic Gallman?

21 A No, I did not. I left shortly after that.

22 Q The next day did you see Mr. Dominic Gallman?

23 A No. I did not.

24 Q Did Mr. Dominic Gallman ever brag to you about these
25 murders during this week?

1 **A** No. I haven't even seen him.

2 **Q** Did you see Mr. Kenneth Joy after that, after going
3 to the Red Roof Inn?

4 **A** I don't believe I did.

5 **Q** Oh, prior to that, did Mr. -- let me ask you this.
6 Did Mr. Dominic Gallman tell you he wasn't worried
7 about the fingerprint because there wasn't any other
8 evidence?

9 **MR. MILLING:** Objection, Your Honor. Leading.

10 **A** Who?

11 **MR. MEADORS:** Your Honor, under 607 -- excuse
12 me -- 611(c), Your Honor, I think I'm allowed at this
13 point to ask leading questions.

14 **THE COURT:** Well, --

15 **MR. MEADORS:** And I'd like to refer the rule to
16 Your Honor.

17 **THE COURT:** I've got the rule. I know the rule.
18 Are you declaring her a hostile witness?

19 **MR. MEADORS:** Yes, sir. I think without
20 question. And I don't even probably need to declare
21 it. But she's associated with an adverse party. And
22 according to this rule, I may use -- leading
23 questions should be permitted when a party calls a
24 hostile or adverse witness or a witness identified
25 with an adverse party. It may be by leading

1 questions. And I think that's the first leading one
2 I've asked.

3 **THE COURT:** All right. The objection is
4 overruled.

5 **Q** Did Dominic Gallman ever talk to you about not being
6 worried about the fingerprints?

7 **A** No, he did not.

8 **Q** Did he talk to you about he wasn't worried because
9 there wasn't enough evidence?

10 **A** No, he did not.

11 **Q** And that if everybody just kept quiet there's no way
12 they could be convicted?

13 **A** I haven't even spoke to Mr. Gallman. So how would he
14 tell me that?

15 **Q** You said you weren't sure if you saw Mr. Joy or not
16 after that. But if you did see Mr. Joy, did you ever
17 have a conversation with him about money for a lawyer
18 for Stanley Oliver?

19 **A** No, I did not.

20 **Q** I'm going to show you what's marked State's -- if I
21 may approach again -- State's 184 for identification.
22 You don't mind if I get up here?

23 **A** (Witness shrugs).

24 **Q** What name is at the front?

25 **A** It's my name.

1 Q Okay. I've got to ask you that. Okay. Is that
2 Tatanisha Robinson.

3 A Yes, it is. Did I write that? No, I did not.

4 Q Well, I haven't asked you that. Let me go forward
5 and then you can answer, please. Okay?

6 A Mm-hmm (affirmative).

7 Q Next it says address is what?

8 A [REDACTED] Tremain Street.

9 Q Apartment what?

10 A [REDACTED]

11 Q And that's right. Right?

12 A At the time it was.

13 Q But that information is correct?

14 A Yes.

15 Q Date of birth, [REDACTED]?

16 A Yes.

17 Q Is that your date of birth?

18 A Yes.

19 Q Okay. And do you remember meeting with an
20 investigator named Mitch Wilkerson?

21 A No, I do not.

22 Q Do you remember meeting with an investigator?

23 A Yes.

24 Q And down at the bottom, Ms. Robinson, whose signature
25 is that?

1 **A** Mine.

2 **Q** Okay. You signed that yourself?

3 **A** Yes.

4 **Q** And on page 2, how many times is your signature down

5 there?

6 **A** It's still mine. Twice.

7 **Q** I'm just asking. At page 3?

8 **A** The same.

9 **Q** Twice?

10 **A** Yeah.

11 **Q** Page 4?

12 **A** The same.

13 **Q** Twice?

14 **A** Mm-hmm (affirmative).

15 **Q** Page 5?

16 **A** Twice.

17 **Q** And finally, page 6?

18 **A** Mm-hmm (affirmative). Twice.

19 **Q** All those are your signatures?

20 **A** Yes.

21 **Q** Would you just hold this up here and refer to it as

22 we go through, please, ma'am. Do you remember being

23 asked the question whether or not you have any

24 information about the September 4th, 2005 murders on

25 Mildred Avenue?

1 **A** Yes, I do.

2 **Q** And actually, that was your first answer: "Yes, I
3 do", wasn't it, on the paper? "Yes, I do"?

4 **A** Pretty much.

5 **Q** And so that's the truth?

6 **A** No, it is not. You asked me if I remember being
7 asked that question.

8 **Q** All right. So your answer is "yes, I do", but now
9 you're saying that's not true, you didn't know?

10 **A** No. You just asked me if I would remember being
11 asked that question.

12 **Q** But is your first answer: "Yes, I do"?

13 **A** Unfortunately, yeah. I just read it off the paper.

14 **Q** What I'm asking you now is, is that -- you did know
15 information about --

16 **A** No, I did not.

17 **Q** Did you put in State's 184 for identification that
18 you were the girlfriend of Stanley Oliver?

19 **A** Yes, I did.

20 **Q** Did you put in here whether or not you had a nickname
21 for him?

22 **A** Yes.

23 **Q** You said, "I call him Solo"?

24 **A** Yes.

25 **Q** Is that right?

- 1 **A** (Nods head affirmatively).
- 2 **Q** And, looking up here, you actually have Solo tattooed
- 3 on your neck, don't you?
- 4 **A** Yes.
- 5 **Q** Solo?
- 6 **A** (Nods head affirmatively).
- 7 **Q** Did you put in here that a day after the murders
- 8 Stanley drove up in a cab on Tremain Street?
- 9 **A** Now, I don't think that's true. I think I was saying
- 10 a lot of things that weren't true because I was
- 11 expecting his child and he did not want to leave the
- 12 other woman.
- 13 **Q** Well, so is that true or not, that he drove up in a
- 14 cab on --
- 15 **A** I don't think that's true. I don't even remember
- 16 this statement. So I don't know.
- 17 **Q** Well, I'm allowed to go over it with you briefly.
- 18 And I'll do it as quick as I can. Okay? And then
- 19 you put in your next sentence: "I think the cab
- 20 driver is Renata Williams' cousin." Is that correct?
- 21 **A** I don't remember.
- 22 **Q** Okay. So you don't know if that's true, whether the
- 23 cab driver was Renata Williams' cousin?
- 24 **A** I was just saying a lot of things. But I'm not sure.
- 25 **Q** Well, the police officers, I mean, they didn't tell

1 you that the cab driver was Renata Williams' cousin,
2 did they?

3 **A** No.

4 **Q** Had Solo, Stanley Oliver, told you that that was the
5 cousin?

6 **A** No. I just knew it was his girlfriend that he did
7 not want to leave at the time. So I just threw it in
8 there.

9 **Q** But that's in your statement, isn't it?

10 **A** Yes.

11 **Q** And you testified earlier I believe that he was just
12 his normal self. Did you put in this statement that
13 Solo was nervous, real uneasy? If you wouldn't mind
14 just referring to it, you can say yes or no. I mean,
15 did you put that in here?

16 **MR. STRICKLER:** Objection, Your Honor. She has
17 a right to say yes or no. She has a right to explain
18 what she put, what is listed in the statement and her
19 testimony.

20 **THE COURT:** Sure.

21 **MR. MEADORS:** I certainly agree with that. I
22 didn't mean to imply otherwise. I apologize.

23 **A** I'm quite sure he was nervous. He was having a baby.

24 **Q** So, I mean, you put that in there. He was nervous
25 and real uneasy, correct?

1 **A** I guess. If that's --

2 **Q** And earlier -- I'm sorry.

3 **A** I said if that's what it said, I guess.

4 **Q** And next it says, I asked you whether or not he had a
5 lot of money. You said no. And your statement on
6 September 21st -- and this was September 21st, 2005?

7 **MR. STRICKLER:** Your Honor, he is in the jury
8 box, or in the witness box at this point in time. I
9 object to that.

10 **THE COURT:** Back off. Just stand back from the
11 witness.

12 **MR. MEADORS:** Was the objection to the jury box
13 or the witness?

14 **THE COURT:** No. Just ask her a question.

15 **Q** I'd asked you earlier about whether or not he had any
16 money and you said no. Would you look at the next
17 line after you said he was nervous and uneasy. Did
18 you say he had a lot of money on him? Did you say
19 you knew he had a lot of money on him?

20 **A** No.

21 **Q** You did not say in your statement on line 1, 2, 3, 4,
22 5, 6, he had a lot of money on him? I mean, is that
23 not in your statement?

24 **MR. STRICKLER:** I object. It's a compound
25 question. Did she say it or is it not in her

1 statement? That's two questions, not one.

2 Q First of all, is it in your statement? "He had a lot
3 of money on him." Stop there.

4 A It's in the statement.

5 Q Okay. Did Solo tell you how much he had in his
6 wallet?

7 A No, he did not.

8 Q And again, if I could just refer -- and I'm about
9 through -- but referring to line 8, is it in your
10 statement that Solo said he had \$800 in his wallet
11 and another \$1,500 at the house?

12 A Again, I do not remember saying it in this statement
13 alone. So I don't know.

14 Q Yes, ma'am. But is it -- just is it in this
15 statement?

16 A It's in the statement.

17 Q That's all. And is it in the statement that he also
18 had a clear plastic sandwich bag in his sock?

19 A That is not true.

20 Q Okay. As Mr. Strickler said, you can follow up. I'm
21 just saying, is it in your statement?

22 A Basically, I mean, I guess it's in my statement. But
23 that I did not say.

24 Q And you can come back to that. But all I'm asking
25 is, so it is in your statement?

1 A Yes.

2 Q "It had about three or four ounces of cocaine." Is
3 that in your statement?

4 A I don't know because you have it highlighted. So I
5 don't know where you're --

6 Q Well, that's why I'm trying to not -- page 1, first
7 1, 2, 3, 4, 6, 7 --

8 A I see it.

9 Q So it is in your statement?

10 A Yes.

11 Q Is it in your statement that Solo was worried about
12 the news?

13 A Yes.

14 Q Is it in your statement that he hoped he didn't get
15 caught and had to do 25 for getting caught for what
16 he'd done? Just is that in your statement?

17 A Yes.

18 Q Would you turn over to page 2. Is it in your
19 statement starting with line 4 that while at Tremain
20 Street with Solo, K came by in a gray Taurus?

21 A Yes.

22 Q And is it in there that it's dented on the hood?

23 A Yes. Obviously that's what you're reading.

24 Q Obviously. Was it dented on the hood?

25 A I can't remember. I told you.

1 Q But, I mean, you told them that, that it was dented
2 on the hood. Is that true?

3 A I can't remember the car, so I don't know.

4 Q And did you identify after that K as Kenneth Joy? Is
5 that in your statement?

6 A Yes.

7 Q And did you indicate in there that K wanted to talk
8 to Solo real bad but not on Tremain Street? Is that
9 in your statement?

10 A Yes.

11 Q And it's in your statement that they went off in the
12 Taurus and you didn't know where they went?

13 A Yes.

14 Q And that's true?

15 A I didn't say it wasn't. I just said yes.

16 Q And then what does it say about where you went? You
17 went to Hughes Street, correct?

18 A No, I did not.

19 Q Is that what it says?

20 A Apparently.

21 Q So that's not true?

22 A I did not go there.

23 Q And where did you go?

24 A I don't know. It's been over two years ago. So I
25 don't know.

1 Q But is it in your statement: "I went over to Hughes
2 street"?

3 A It's in a written statement.

4 Q This 184 for I.D., is it in that statement?

5 A Yes, it's in that statement.

6 Q And did you put you went to visit a friend of
7 Freaky's who you identified as Dominic Gallman? Is
8 that in your statement?

9 A I don't know if I identified him. But, you know, I
10 guess. If that's what this statement says --

11 Q And that's all I'm asking you, Ms. Robinson.

12 A -- then, fine.

13 Q And did you identify who that friend was in this
14 statement?

15 A I don't know. You're reading me the statement.

16 Q Well, can you read?

17 A I mean, but you're asking me the questions. And I
18 don't know where to look. You have it highlighted.

19 Q Okay. Well, let's go. If we could say line by line
20 then. On line 11 on page 2 of 184 for I.D.

21 A Mm-hmm (affirmative).

22 Q Starting on 10, you put in there her name is Juliana
23 Hamilton?

24 A Yes.

25 Q And is that true, that you went to see her on Hughes

1 Street? You said she lives at [REDACTED] Hughes Street?

2 A I guess.

3 Q Did you go see her while Solo and K rode off?

4 A Again, that was two and a half years ago. I do not
5 remember.

6 Q And did you put in here a few minutes after K and
7 Solo came back, came by Hughes Street, picked me up,
8 K drove you all to the Red Roof Inn? Did you put
9 that in this statement?

10 A Yes.

11 Q And did that happen?

12 A Yes.

13 Q Did you put into your statement that you stayed the
14 night and were picked up the next morning? K came
15 and picked us up the next morning? Is that in the
16 statement?

17 A Yes.

18 Q Did you put in here whether or not Solo was scared at
19 the Red Roof Inn?

20 A I don't know. We went to sleep, so I can't remember.

21 Q If you would look at, I think it's 17 where it says
22 at the hotel. Did you say at the hotel Solo was
23 scared?

24 A No.

25 Q Is it in your statement?

1 **A** It's in the statement.

2 **Q** Did you put in your statement that -- just continuing
3 there, if you'll follow along with me -- he just kept
4 watching the news? We stayed up all night? Is that
5 in your statement? It would be on line --

6 **A** If you're reading it off this statement, then, yes, I
7 guess it's in that statement.

8 **Q** And that's all I'm asking. If you'll just keep up
9 with me, we can go through it quicker.

10 **A** Mm-hmm (affirmative).

11 **Q** So that's in there?

12 **A** Mm-hmm (affirmative).

13 **Q** Is it in your statement he used the cocaine he had
14 with him to stay awake? I'm following straight after
15 that. If it is, fine. Is it in there?

16 **A** It's in the statement.

17 **Q** Okay. And after that is it in the statement: "He
18 just kept saying he got himself into something and it
19 could get him life"? Is that in the statement?

20 **A** It's in the statement.

21 **Q** Is it in there: "I saw on the news about the murders
22 and I knew what Solo had done"? It's right after
23 that.

24 **A** I know.

25 **Q** And the question now, is it in the statement?

1 A It's in the statement.

2 Q Is it in the statement that you asked Solo about it;
3 he was so emotional he couldn't talk about it? It
4 would be the next to last three lines.

5 A I know. It's in the statement.

6 Q Is it in the statement that he said he didn't want to
7 go back to jail? Going over on page 3, the bottom of
8 page 2, on the top of page 3. You can start reading
9 on the bottom and go up. Just is it in your
10 statement?

11 A Mm-hmm (affirmative).

12 Q And then you put in here: "I'm having a child by
13 Solo." Correct?

14 A Yes.

15 Q Then after that did you put in your statement the
16 next morning K picked you and Solo up and took you
17 back to Tremain Street? Is that a continuation of
18 page 3?

19 A Yes. But I could have sworn you asked me this
20 question.

21 Q But I'm just going through your statement now, Ms.
22 Robinson.

23 A Okay.

24 Q And did you put there that you all stayed on Tremain
25 and got some more sleep? Solo got some sleep there.

1 I'm sorry. Is that in your statement?

2 A It's in the statement.

3 Q Was that true?

4 A Again, it's been over two years, so I do not
5 remember.

6 Q Is it in your statement that Solo told you to look
7 out for him, to wake him if the police came or
8 something looked suspicious? Is that in the
9 statement?

10 A It's in the statement.

11 Q And is it in here that Solo ended up leaving just
12 before the investigators came by?

13 A That's not true. Well, I don't know. If you say
14 it's in the statement, it's in this statement.

15 But --

16 Q Just if you'd verify me.

17 MR. DELGADO: Your Honor, please.

18 A You asked if I --

19 MR. DELGADO: Could the witness answer this last
20 part? "But", and the solicitor cut her off.

21 MR. MEADORS: No, sir, I didn't.

22 MR. DELGADO: Well, I'll ask the court reporter.

23 MR. MEADORS: If I did, I didn't mean to.

24 MR. DELGADO: Maybe have the court reporter --

25 MR. MEADORS: You did not have --

1 **MR. DELGADO:** Maybe we can have the court
2 reporter read the question and the purported partial
3 answer back.

4 **MR. MEADORS:** Your Honor, I'm going to object.
5 This isn't funny. There was laughter coming from
6 back there. This is not funny.

7 **THE COURT:** Yes, sir. I understand that. This
8 is not an event. This is a trial. I have to
9 instruct everybody to conduct themselves accordingly.
10 No outbursts of laughter. This is serious business.
11 Ask the question again.

12 **MR. MEADORS:** Judge, I think it was, did you put
13 in your statement that Solo ended up leaving just
14 before the investigators came by? If that's not what
15 it was, I'm not doing it intentionally. I think that
16 was the last question.

17 **COURT REPORTER:** That was the last question.

18 **Q** Did you put that in your statement?

19 **A** It's in the statement.

20 **THE COURT:** Go ahead.

21 **Q** Is it in your statement the day before Solo was
22 arrested K came by Tremain Street and picked me up?

23 **A** If it's -- it's in the statement.

24 **Q** Is it in there that we met Solo on North Main Street
25 at Zesto's?

1 A It's in the statement.

2 Q And that happened, didn't it?

3 A I don't even know where North Main Street is.

4 Q "We got some food and went to a friend of K's by
5 Richland Memorial Hospital." Is that true? Excuse
6 me. Is that in your statement?

7 A It's in the statement.

8 Q Do you remember doing that?

9 A Do I remember meeting him?

10 Q And going by a friend of K's at Richland Memorial
11 Hospital?

12 A I don't even know where Richland Memorial -- I know a
13 few hospitals, but I'm not sure which hospital that
14 is. So I don't know.

15 Q I mean, could you have gone by and visited a friend
16 of K's near a hospital?

17 A I don't know. I can't remember.

18 Q And did you put in here: "Solo was like he was
19 saying goodbye to me"? Just is that in your
20 statement?

21 A It's in my statement.

22 Q Is it in here he said this could be the last day
23 before he gets locked up?

24 A It's in my statement, this statement.

25 Q And then Solo was arrested the next day. Is that in

1 your statement?

2 A I am guessing. I don't know.

3 Q I asked you earlier about your conversations you had
4 had with Mr. Dominic Gallman and/or Kenneth Joy. Do
5 you remember?

6 A Yes.

7 Q And when you were asked during this time period did
8 you have any conversation with Dominic or K, was your
9 answer: "Well, at first, right after the murders,
10 Dominic was bragging about the murders", is that in
11 this statement?

12 A It's in this statement, but I did not write this
13 statement.

14 Q Skipping down to one, two, three from the bottom, did
15 you put in your statement: "They must have got a lot
16 of money because Freaky was excited." And that he
17 was excited. Leave it at that. Did you put that in
18 your statement?

19 A Did they put it in the statement? Yes.

20 Q Was it in your statement?

21 A It's in the statement.

22 Q Did you put in your statement starting at the bottom
23 line that Freaky was paying Juliana's laundry bill
24 and just gave her \$50 to do the laundry? And I'm
25 going over on the bottom of page 3 to page 4.

1 **A** I know where it's at.

2 **Q** You've looked at this, haven't you?

3 **A** Yes.

4 **Q** I've never been over it with you, have I?

5 **A** No.

6 **Q** So from the bottom of 3 to the top of 4 you put in

7 there that Freaky gave Juliana \$50 for her laundry,

8 correct?

9 **A** Wow, that's a lot of money. But, yes.

10 **Q** And do you remember -- that's true, isn't it?

11 **A** I don't know. I wasn't there.

12 **Q** And did you put in your statement saying on page 4

13 starting at line 2, Ms. Robinson, "after Solo went to

14 jail Freaky came around Tremain Street"? Just is it

15 in there? Is it in the statement?

16 **A** Yes.

17 **Q** And is it in the statement he had \$1,000 to use for

18 Solo's lawyer? Is that in the statement?

19 **A** I guess. Yes.

20 **Q** And if you would stay on page 4 for time purposes,

21 you're on 5. Would you move back to 4, please. On

22 page 4 again, line 4, Ms. Robinson, did you put in

23 your statement: "I gave Freaky the information to

24 get hold of K and he would handle it"? Did you put

25 that in your statement on September -- is that in the

1 statement of September 21st of 2005?

2 A Yes.

3 Q And were you asked on page 4 of State's 184 for I.D.,
4 "Did Dominic speak about any specific details
5 concerning the Mildred Avenue murders?" Is that
6 question in there?

7 A It's in there.

8 Q And is it in your statement of September 21st that
9 after that question: "He just was proud of the lick
10 at first, but once Solo went to the jail he didn't
11 say anything more. He wouldn't answer phone calls or
12 come by. He is real quiet now." Is that in your
13 statement on number 4 of 184 for I.D.?

14 A It's in the statement.

15 Q Do you remember being asked if you'd seen Solo,
16 Dominic or K with guns before?

17 A Mm-hmm (affirmative).

18 Q Do you remember your answer? Do you remember what's
19 in the statement? "Solo always has a gun"?

20 A I'm reading what the statement says.

21 Q Is that in the statement?

22 A It's in the statement.

23 Q "Freaky has several guns." Stopping right there, is
24 that in your statement?

25 A It's in the statement.

1 Q Skipping down to "Dominic had a .40 caliber and he
2 let Solo hold it", is that in your statement?

3 A It's in the statement.

4 Q Beg the Court's indulgence. Did you put in there:
5 "Dominic has other guns, too"? Is it in your
6 statement that Dominic has other guns, too?

7 A It's in there. But how would I know that?

8 Q Is it in there that "solo has a revolver, it's a .38,
9 silver"? "Solo has a revolver, it's a .38 silver",
10 is that in this statement?

11 A In this statement, yeah.

12 Q "K has an old .38." Is that in this statement?

13 A Yeah.

14 Q "K also has a 9-millimeter." Is that in the
15 statement? Next to the last line. "K also has a
16 9-millimeter", on page 4?

17 A Yes.

18 Q Is it also in State's 184 for ID: "Solo also has a
19 .12 gauge pump"? Just is that in here, Ms. Robinson?

20 A Mm-hmm (affirmative).

21 Q "Guns are nothing for them." Is that at the bottom
22 of page 4 in this statement?

23 A Obviously if you're reading it.

24 Q On page 5 of 184 for I.D., when you were asked: "Did
25 Dominic say anything else", the top of page 5, do you

1 see that question?

2 A Mm-hmm (affirmative).

3 Q And I'd asked you this earlier. Is it in this
4 statement that "he learned about the fingerprint
5 being found at the victim's house. He said they
6 couldn't convict them on the fingerprints being there
7 because the neighbors and everybody had been in that
8 house", is that in this statement?

9 A It's in the statement.

10 Q "He wasn't worried about his fingerprint being found
11 there. He said they wouldn't have enough evidence to
12 prove he did it. He said if everyone just kept quiet
13 about it, no way they could convict them." Is that
14 in this statement?

15 A Who is "he"?

16 Q Just are those words in this statement?

17 A It's in the statement.

18 Q But the question is asking about Dominic, isn't it?
19 Did Dominic -- and what was your answer? Who is he?

20 A Yes.

21 Q Where are you referring to in here?

22 A I mean, you just kept saying "he". And I would like
23 to know who "he" is.

24 Q Well, aren't those word for word on the page?

25 A It's in the statement.

1 Q So where are you asking me -- where are you referring
2 to who he is?

3 A Never mind.

4 Q No. Go ahead. Which one are you referring to?

5 A I want to know who he is. Who are you talking about?

6 Q Well, this is in your statement, isn't it?

7 A This is in a written statement.

8 Q And whose name is signed below it?

9 A Mine. But I did not read over this statement.

10 Q Did they ask you about Juliana?

11 A Who?

12 Q Did they say who Juliana is? Is she a friend of
13 Dominic's? Did the police ask you that?

14 A I don't know. Who is Juliana?

15 Q Juliana. Do you remember being asked: "Are you sure
16 about the guns you described earlier?"

17 A No, I don't. It's been over two years ago. It's in
18 the statement.

19 Q Do you remember your answer: "No doubt about it.
20 I've seen them before. I've seen Dominic, Solo and K
21 with those guns"? Is that in your statement? This
22 statement?

23 A It's in the statement.

24 Q And on number 5 at the bottom, the last question, Ms.
25 Robinson: "Did you have a conversation with K,

1 Kenneth Joy, about the murders?" Is that a question
2 in this statement?

3 A It's a question.

4 Q Okay. And beside an answer does it say: "Yes. K
5 came by Tremain Street after Solo had gone to jail"?
6 Is that in here?

7 A It's in the statement.

8 Q And he did come by Tremain Street after Solo went to
9 jail, didn't he?

10 A I was pregnant. He was coming to check on me to make
11 sure I was okay.

12 Q So I'm just saying he did come by.

13 (Witness shrugs)

14 Q The next sentence: "He was keeping me informed about
15 Solo and his charges." Didn't you all talk about
16 Solo and his charges?

17 A No. I called.

18 Q "He was arranging for a lawyer for Solo." Well,
19 that's true, isn't it?

20 A I don't remember what they were doing.

21 Q Is it in your statement: "He said he came up with
22 some money for Solo's lawyer from his money but he
23 wanted me to find out from Solo where his share of
24 the robbery money was so he could pay the lawyer
25 \$15,000"? Is that in this statement?

- 1 A How would I know that when I had no contact with
2 Stanley?
- 3 Q Was that in this statement?
- 4 A It's in that statement.
- 5 Q And is it also in the statement, the second line --
6 I'm on the last page now.
- 7 A Mm-hmm (affirmative).
- 8 Q Are you on page 6?
- 9 A No. But I'm --
- 10 Q Just so we can keep up.
- 11 A All right.
- 12 Q On page 2 of line -- excuse me. Page 6, line 2. I'm
13 sorry. Is it in the statement: "He didn't want to
14 pay the lawyer with just his share"?
- 15 A He has a job. He works.
- 16 Q And where does he work?
- 17 A Excuse me?
- 18 Q You said he had a job and he works. Tell me where he
19 works?
- 20 A He did maintenance.
- 21 Q Where?
- 22 A Who in general? You just said "he".
- 23 Q Well, who were you referring to? You said he works.
24 Who were you referring to?
- 25 A I was referring to Kenneth.

1 Q Okay. And he works where?

2 A He was doing maintenance.

3 Q And do you know where he was doing maintenance?

4 A No, I don't.

5 Q And what do you mean by that, by saying that, that he
6 was doing maintenance work?

7 A I mean his share of what? Money? I mean, okay.
8 Because I'm completely lost. I did not write this
9 statement. So how am I supposed to remember
10 something that I did not write?

11 Q Is it also in this statement that "K also talked
12 about the evidence in the case"? Just if it's in the
13 statement?

14 A It's in the statement.

15 Q Is it in the statement: "He'd seen the article in
16 the newspaper about the stolen watch and wallet"? Is
17 that in here?

18 A Mm-hmm (affirmative).

19 Q Is it in here: "He showed me the article"?

20 A I have the article. Who didn't see it?

21 Q But he showed you the article that day, didn't he?

22 A No. I went and purchased the paper and got it
23 myself.

24 Q So he didn't show you the article?

25 A No.

1 Q Is it in here: "He had kept the whole paper"? I
2 mean, didn't you tell them that? I mean, he saw the
3 article. You all talked? Isn't that --

4 MR. DELGADO: Asked and answered, Your Honor.

5 THE COURT: Overruled.

6 MR. MEADORS: And, Your Honor, again, if he
7 could just say objection and no more speaking
8 objections. We'd object to it.

9 MR. DELGADO: No. Wait a minute, Judge. That's
10 the objection. Asked and answered.

11 MR. MEADORS: Your Honor, I think he needs to
12 object and let Your Honor say, "What's the
13 objection?"

14 THE COURT: Go ahead. Please. Continue your
15 direct examination.

16 Q Is it in here that "he said the cops would never find
17 the watch and wallet because they had destroyed
18 them"? Is that in this statement?

19 A It's in the statement.

20 Q Is it in here: "He didn't say how they destroyed
21 it"?

22 A It's in the statement.

23 Q Beg the Court's indulgence. On page 6, Ms. Robinson,
24 that final one, I'm just asking you if this question
25 is in there. Okay? That's all I'm asking you, if

1 this question is in there. "Did K say anything
2 else?"

3 **A** I guess. Yeah, it's in there.

4 **Q** And is it in the statement, State's 184 I.D., "He
5 said they gave the drugs from the robbery to a dealer
6 named" --

7 **MR. STRICKLER:** I object. Crawford. Matter of
8 law.

9 **THE COURT:** Sustained.

10 **MR. MEADORS:** Can I approach?

11 **THE COURT:** Not by yourself.

12 (Whereupon, a bench conference is had)

13 **THE COURT:** All right. You may continue.

14 **Q** Ms. Robinson, four lines up from the bottom after the
15 question: Did K say anything", was your answer: "He
16 said they gave the drugs from the robbery" --

17 **MR. STRICKLER:** I object. If the record will
18 reflect that I'm objecting to any reference to
19 anything K says, Your Honor.

20 **THE COURT:** Yes, sir.

21 **MR. STRICKLER:** So I don't have to continually
22 stand up.

23 **THE COURT:** Yes, sir. That's a continuing
24 objection.

25 **MR. STRICKLER:** Yes, sir.

1 **THE COURT:** I understand.

2 **Q** "He said he gave the drugs from the robbery to a
3 dealer named Blue." Is that in the statement?

4 **A** That's in the statement.

5 **Q** Is it in the statement that "Blue lives in a brick
6 house by McDuffie street"?

7 **A** It's in the statement.

8 **Q** Is it in the statement: "Blue was going to pay Solo
9 every week with what he got for the cocaine they gave
10 him"?

11 **A** It's in the statement.

12 **Q** "Blue knows K, Solo, and Dominic"?

13 **MR. MILLING:** Objection. Calls for speculation.

14 **THE COURT:** Overruled. Go ahead.

15 **MR. MEADORS:** Beg the Court's indulgence. I'm
16 sorry. Beg the Court's indulgence. Can we approach?
17 (Whereupon, a bench conference is had)

18 **THE COURT:** All right, ladies and gentlemen.
19 Let me take up a matter of law with the attorneys.
20 As I indicated at the beginning of the trial, there
21 would be times when that became necessary. We need
22 to put something on the record. And I'll ask you to
23 just retire to the jury room for a few minutes. It
24 won't be long. We'll continue shortly. Again, don't
25 discuss the case among yourselves while you're in the

1 jury room.

2 (Jury out at 10:36 a.m.)

3 **THE COURT:** All right, Mr. Meadors.

4 **MR. MEADORS:** Your Honor, if I could -- pursuant
5 to the objection from defense counsel, we would hand
6 Your Honor a copy of the statement, it might be
7 easier. Ms. Robinson may have it. I hand Your Honor
8 Court's 184 for I.D. And I guess if Ms. Robinson can
9 leave the courtroom at this point, we would ask.

10 **THE COURT:** All right. Mr. Nettles.

11 **MR. NETTLES:** Yes, sir.

12 **THE COURT:** Will you accompany your client, have
13 her step out for just a minute?

14 **MR. MEADORS:** And I know Mr. Nettles won't
15 discuss this case with her while she's outside.

16 **THE COURT:** Ma'am, did you have a pair of
17 glasses?

18 **THE WITNESS:** Yes.

19 **THE COURT:** You didn't leave them up there, did
20 you?

21 **THE WITNESS:** No, I did not.

22 **THE COURT:** Okay.

23 (Whereupon, Mr. Nettles and Ms. Robinson leave
24 the courtroom).

25 **MR. MEADORS:** If it pleases you. The bottom of

1 State's 184, and I did not go over this with her.

2 **THE COURT:** Bottom of what?

3 **MR. MEADORS:** Just page 1. I'm sorry. "I have
4 seen Solo and Dominic do licks before. I have even
5 been with them before. They basically rob drug
6 dealers because drug dealers can't call police. They
7 can't report to police that they have drugs stolen."
8 That's one thing I didn't go into. And I want --

9 **THE COURT:** You're on page 1?

10 **MR. MEADORS:** Yes, sir. The bottom of page --

11 **THE COURT:** All right.

12 **MR. MEADORS:** I think it's the last few
13 sentences. Then "I've seen Solo".

14 **THE COURT:** What are you asking?

15 **MR. MEADORS:** Well, it's a statement against her
16 interest. And it still should -- let me go through
17 the other ones. Then we can have one ruling, if
18 that's okay. And then I guess the next would be on
19 page 6. Excuse me. Page 4. Okay. On page 4, Your
20 Honor, the question is: "Have you ever seen Solo,
21 Dominic or K with guns?" I left out: "When I went
22 over with her, after Freaky had several guns." The
23 next one, line, is: "I remember a lick two or three
24 months ago, that I was with them." I did not ask her
25 that on direct, I mean, so far without a ruling.

1 And then finally I think it's page 6. I think
2 it's a follow-up from the officers. "How many
3 robberies have you been with them on in the past?"
4 "Three that I was with them on. There is others that
5 I didn't go on. Basically I would go along as
6 bait" --

7 **THE COURT:** What page are you on?

8 **MR. MEADORS:** I'm sorry. Page 6, Judge. It
9 would be like the first actual question on there.

10 **THE COURT:** All right.

11 **MR. MEADORS:** "How many robberies have you been
12 with them on in the past?" "Three that I was with
13 them on. There's others I didn't go on. Basically I
14 would go along as bait. I would sometimes go into
15 the drug house first. I would put everyone at ease
16 because I was a female. Then they would go in and do
17 the robbery."

18 **THE COURT:** And what are you proposing?

19 **MR. MEADORS:** Your Honor, it's a statement
20 against her own interest. She is now saying in this
21 statement that, I think, she didn't make this
22 statement. Well, clearly this is a statement against
23 her own interest. She puts in here I did this with
24 these individuals.

25 **THE COURT:** And ...?

1 **MR. MEADORS:** She is trying to say everything in
2 the statement was made up. It's a credibility issue
3 with her. She's saying I did that --

4 **THE COURT:** What are you asking?

5 **MR. MEADORS:** That we be allowed to ask those,
6 go through the statement with her.

7 **THE COURT:** I'm just trying to get it out.
8 Those three --

9 **MR. MEADORS:** References.

10 **THE COURT:** -- sections. Is that correct?

11 **MR. MEADORS:** That's it.

12 **THE COURT:** Any objection?

13 **MS. LAFAVE:** Your Honor, on behalf of Mr. Oliver
14 we have an objection to the introduction of all three
15 of these statements, these portions of her statement.
16 I think each one of them are different, Your Honor.
17 And if I can beg the patience of the Court and
18 request that we go through each of them individually.

19 **THE COURT:** Yes, ma'am.

20 **MS. LAFAVE:** On page 1, the portion that she had
21 seen Solo and Dominic do licks before, this is the
22 first portion that the State wishes to introduce as
23 impeachment evidence. Your Honor, I think that's
24 almost a mischaracterization of what is in the
25 statement. This has nothing to do with her

1 credibility and has everything to do with the
2 propensity of my client to commit a robbery, which is
3 inappropriate, Your Honor, as character evidence.

4 **THE COURT:** Well, let me -- what are you
5 referring to? I don't see where he said that.

6 **MS. LAFAVE:** Mr. Meadors.

7 **THE COURT:** No.

8 **MS. LAFAVE:** I just want to make sure I am
9 getting it right.

10 **THE COURT:** You say that -- that's not what I'm
11 reading here.

12 **MS. LAFAVE:** On page 1, the bottom of the page
13 where it says: "I had seen Solo and Dominic do licks
14 before", isn't that the reference on the first page?

15 **THE COURT:** Oh. I thought he was up in the body
16 of that paragraph where he said that he, Dominic and
17 K probably done another lick. That certainly is
18 objectionable.

19 **MS. LAFAVE:** Yes, Your Honor. Again, I would
20 argue that this is not --

21 **THE COURT:** "I had seen Solo and Dominic do
22 licks before."

23 **MS. LAFAVE:** Yes, Your Honor.

24 **THE COURT:** Just that one sentence. All right.

25 **MS. LAFAVE:** It was my understanding that was

1 what Mr. Meadors was hoping to get from this first
2 page. If that's incorrect --

3 **MR. MEADORS:** And on into the second page. I
4 don't disagree with that. And on into the second
5 page. I think that's significant: "I had even done
6 licks with them." Yes, sir.

7 **THE COURT:** All right.

8 **MS. LAFAVE:** So what we're looking at is a
9 statement saying that she had seen Solo and Dominic
10 do licks before and they basically robbed drug
11 dealers because drug dealers can't call police. That
12 has nothing to do with her credibility as a witness.

13 **MR. MEADORS:** Your Honor, she's leaving out that
14 "I have even been with them before." That's
15 inbetween the two phrases. That's part and parcel.
16 That's why it does go directly to her credibility.
17 That ties up those two sentences.

18 **MS. LAFAVE:** Her credibility as to what, Your
19 Honor? I'm sorry. I must not just be understanding.
20 Her credibility as to her robbing drug dealers? If
21 you want to ask her if she's ever robbed drug dealers
22 before, that's I think more appropriate than saying
23 that she along with Solo and Dominic robbed drug
24 dealers. That has additional consequences, Your
25 Honor. And I don't think it's proper as impeachment.

1 My objection is that my client is referenced in that
2 particular part of the statement.

3 Page 4, I believe it's seven lines from the
4 bottom: "I remember a lick or two three months ago
5 that I was with them." Again, Your Honor, this is
6 the same objection that I had. And I think that at
7 the very end of this, aside from the fact that I
8 don't believe it's proper impeachment, additionally,
9 I am lodging objection under 404. This is improper
10 character evidence.

11 But also, Your Honor, this is more prejudicial
12 than probative. To say that she had been with them
13 on licks before as a woman as to imply that my client
14 and Mr. Gallman have done robberies in the past is
15 more prejudicial than probative. What does it
16 actually prove? That they robbed Jim Batie? That's
17 an improper assumption on behalf of the jury.

18 And, Your Honor, as to page 6, that she would go
19 and distract the people inside the house while they
20 robbed other people, there has been no testimony that
21 Desiree Felder was used in this particular instance
22 or that another female was used in this particular
23 instance to distract anyone inside the Mildred Avenue
24 house. None.

25 So again, Your Honor, my objection is it's

1 improper impeachment evidence, it's propensity
2 evidence, and it's more prejudicial than probative,
3 Your Honor. It's actually contrary to the testimony
4 that's been given about the alleged incidents of this
5 night. That's my objection, Your Honor. Thank you.

6 **THE COURT:** Anything from Mr. Gallman?

7 **MR. MILLING:** Yes, sir. Your Honor, on behalf
8 of Mr. Gallman first I'd like to join in Ms. Lafave's
9 objection on behalf of Mr. Oliver. But I would also
10 like to go on as it relates to Lyle and 404(b),
11 because these statements Mr. Meadors seeks to
12 introduce directly go against what is specifically
13 the type of conduct that Lyle and 404(b) seeks to
14 prohibit the introduction of.

15 Additionally, Your Honor, this is a statement --
16 the statement in and of itself is what Mr. Meadors is
17 trying to use to impeach the witness. There, as far
18 as I know, is no conviction as relates to the alleged
19 conduct in this case. Therefore, to fall under
20 404(b) or Lyle, it's got to be demonstrated by clear
21 and convincing evidence.

22 There simply is nothing to support this other
23 than the fact it's in the statement. And Ms.
24 Robinson has consistently maintained that this is not
25 her statement and that she did not say these things.

1 There is no evidence to support this bear allegation.
2 There is no probative value to it. There clearly is
3 a great prejudicial effect upon my client and the
4 other two defendants in this case. And it would be
5 highly inappropriate for the State to be allowed to
6 question Ms. Robinson about this.

7 **THE COURT:** Anything further?

8 **MR. DELGADO:** Yes, Your Honor. I agree with the
9 comments and objections of my colleagues I think as
10 well. First, it is improper character impeachment of
11 Mr. Joy. Rule 404 is a rule of exclusion. Only
12 where the Court finds by clear and convincing
13 evidence that this meets 404, similar misconduct
14 evidence, is admissible.

15 And as a final objection to it, Your Honor, this
16 is my humble estimation as the advocate for Mr. Joy,
17 the probative value is substantially outweighed by
18 the injection of this on the possibly fifth or sixth
19 day of the trial before the jury. For this to come
20 in now is so horrendously prejudicial that Mr. Joy's
21 rights to a fair trial are abdicated. I object on
22 those bases.

23 **THE COURT:** All right.

24 **MR. STRICKLER:** Excuse me. Could I chime in
25 also, please, Your Honor?

1 **THE COURT:** On the record.

2 **MR. STRICKLER:** Yes, sir. Additionally, the
3 record should reflect that Your Honor on Friday asked
4 that the State provide you with a memorandum of law
5 or a brief in support of why they thought prior bad
6 acts on the part of our clients, which these clearly
7 are as far as I'm concerned, should be admissible in
8 the trial of this case. They may have provided it to
9 you, Your Honor. You know, I'm not privy to what
10 they give you. I haven't seen it.

11 And I would submit that's because they -- my
12 interpretation was they decided to go ahead and not
13 pursue the issue. Now, it's my fault for
14 interpreting things. So I'd submit, you know, they
15 didn't deal with it when they should have dealt with
16 it. We're just getting this dropped on us in the
17 middle of the witness's testimony. And it should not
18 just not be admitted for that basis on top of
19 everything else.

20 **THE COURT:** All right.

21 **MR. MEADORS:** Your Honor, respectfully, respond?
22 Sorry.

23 **THE COURT:** Yes, sir.

24 **MR. MEADORS:** Just to start in reverse order,
25 it's my understanding, and my colleagues'

1 understanding, that the memo that was due Monday
2 related to the August 24th prior arrest.

3 **THE COURT:** No.

4 **MR. MEADORS:** We haven't talked about it. They
5 haven't talked about it.

6 **THE COURT:** That was the instruction before.
7 That's correct.

8 **MR. MEADORS:** Nobody has talked to each other
9 about that. And we're not planning on offering that.
10 And that's the only thing we were instructed by the
11 Court, I'd like the record to reflect.

12 Going up to that, whether this is the fifth or
13 six day of trial, as Mr. Delgado says, Ms. Tatanisha
14 I have not been able to talk to. Mr. Nettles has
15 been her attorney.

16 **THE COURT:** That's an issue raised by the
17 defense.

18 **MR. MEADORS:** Yes, sir. Judge, we are offering
19 this as impeachment. It goes directly to the
20 credibility of this witness. Some of Ms. Lafave's
21 concerns she can handle in cross. She can ask her
22 about that. This goes directly to this witness's
23 credibility. That's what we're offering it for.
24 Specifically, she'd been on --

25 **THE COURT:** Well, let me just ask you. Are you

1 planning to introduce the entire statement?

2 **MR. MEADORS:** No, sir. Just these three
3 references are what I didn't go through. And that's
4 it. It goes directly to her credibility, Your Honor.
5 And I think one of the arguments, they're saying
6 she's saying this didn't even happen. Well, here
7 she's saying this, Judge. I mean, they can cross her
8 on it.

9 **THE COURT:** Well, I'm confused because I assumed
10 your entire line of questioning was under 613 an
11 attempt to lay the groundwork for introducing the
12 entire statement.

13 **MR. MEADORS:** I certainly would like to. Yes,
14 sir.

15 **THE COURT:** Just let me finish my sentence. And
16 these, being the objectionable parts, were either to
17 be redacted or not redacted based on your argument
18 that these serve as impeachment of the witness, and
19 consequently they result in testimony regarding prior
20 bad acts of the defendants.

21 I don't -- and I'm not ruling on the
22 admissibility of the statement at this point because
23 I think it's premature. But I do think these
24 portions of the statement are 404(b). They're
25 character evidence. And even though you may take the

1 position that they go to her credibility, I think the
2 prejudicial value outweighs the probative value of
3 it, and I would not allow those portions of the
4 statements to be admitted under 404.

5 Now, the entire statement as a prior
6 inconsistent statement may be a subject for another
7 time, but at this point in time I would not allow
8 either her to testify about or for those portions to
9 be considered to be introduced, any statements about:
10 Probably done another lick, I've been with Solo and
11 Dominic, do licks before. And I haven't read this
12 entire statement. I've just -- and I'm hesitant to
13 even highlight what you've pointed out.

14 But those portions of the statement which
15 indicate that the defendants have participated in
16 prior bad acts, I'm not sure this witness is credible
17 enough to say that. And that's pointed out by Mr.
18 Milling's point that that there must be -- to even
19 consider it, prior bad acts, there has to be a
20 certain degree of certainty about them. This is way
21 out on the edge of certainty as far as I'm concerned
22 as far as these prior bad acts. So I would -- that's
23 what I'm -- that's my ruling --

24 **MR. MEADORS:** Your Honor.

25 **THE COURT:** -- as to those portions of this

1 statement.

2 **MR. MEADORS:** I will be assuming I lay the
3 proper foundation to be offering it under 613(b) as
4 Your Honor is more knowledgeable than I am. So that
5 would be coming up very shortly. If we have to take
6 a break then, I just wanted to let the Court know at
7 this point.

8 **THE COURT:** Well, you haven't laid the
9 foundation at this point. So it's not ripe for a
10 ruling at this point.

11 **MR. MEADORS:** Beg the Court's indulgence.

12 **THE COURT:** Let me just give you a hint. You
13 haven't even proved the statement was even made yet.

14 **MR. MEADORS:** Judge, I understand. I understand
15 that completely.

16 **THE COURT:** So let's move on. Are you ready to
17 move on?

18 **MR. MEADORS:** I think I am. Yes, sir. I'm
19 ready.

20 **MR. STRICKLER:** Just while the jury is out, Your
21 Honor, if I could, please. I ask the record to
22 reflect that I lodged an objection during the course
23 of this witness's testimony pursuant to Crawford.
24 And, Your Honor, I just want to make sure the record
25 that the reflects it. I believe that my objection

1 was not lodged until the testimony at the end of,
2 actually the end of the statement: "Did K say
3 anything else?" This is page 6 of the statement.
4 The response is: K was talking about taking it to
5 Blue.

6 The record should also reflect that on page 3 in
7 response to a question at the bottom of the page:
8 "During the time period did you have a conversation
9 with Dominic and K?" "Well, at first right after the
10 murders Dominic was bragging about them and the lick
11 they did."

12 That's a statement by Dominic that I am unable
13 to cross examine him on. But if my failure to object
14 in a timely fashion results in a problem, then I will
15 deal with that appropriately at some later point in
16 time.

17 On page 4, the first question on the page: "Did
18 Dominic speak about any specific details", the
19 response the first couple of lines don't relate to
20 anything that was said by Mr. Gallman. They relate
21 to how he was acting. I don't think that's Crawford
22 or Bruton or anything like that.

23 However, the last two lines -- well, actually
24 never mind. I don't think that's right. On page 5,
25 however, of course the question: "Did Dominic say

1 anything else", the first few lines I think relate to
2 actions. However, then they say he said that -- then
3 the response is: "He said they couldn't convict him
4 on the fingerprints being there because the neighbors
5 and everyone within in the house", I would submit
6 that's Crawford.

7 And also he said at the bottom, at the end of
8 the response: "He said they wouldn't have enough
9 evidence to prove he did it. He said if everyone
10 just kept quiet about it there's no way they could
11 convict them." I submit all of that is Crawford.

12 At the bottom of the page in answering the
13 question: "Did you have any conversations with K
14 about the murders", the last three lines: "He said
15 he came up with some money for Solo's lawyer with his
16 money but he wanted me to find out from Solo where
17 his share of the robbery money was and pay the lawyer
18 \$15,000. He didn't want to pay the money with his
19 share. K also talked about the evidence in the
20 case."

21 I would submit that also the last three lines:
22 "He said the cops would never find the watch and
23 wallet because he destroyed them. He didn't say how
24 he destroyed them", I submit that's all Crawford
25 evidence.

1 So if I failed to object in a timely fashion,
2 once again of course, Your Honor, there you have it.

3 **THE COURT:** All right. The objection is noted
4 for the record.

5 **MR. MEADORS:** Could I put one thing on the
6 record? For the record, the State would take the
7 position this is not a Crawford issue. You have a
8 witness who has taken the stand and is repeating what
9 one or what a defendant has said. We'd argue that is
10 a statement against their interest which is
11 admissible.

12 We've been very careful throughout this trial,
13 whether it be written and/or oral statements, to only
14 have a reference to that person from the defendant
15 which we think clearly is admissible as a statement
16 against interest against that defendant. So we've
17 been careful to refer to other folks as another
18 person or someone else. And I want the record to
19 reflect that we do not think this is a Crawford issue
20 with this witness.

21 **MR. STRICKLER:** That's why it's not a Bruton
22 issue. That's why it's a Crawford issue.

23 **MR. MEADORS:** No, sir. She's subject to cross
24 examination. So it's not a Crawford issue.

25 **MR. STRICKLER:** But Mr. Gallman and Mr. Joy,

1 they are not. Mr. Joy are not subject to cross
2 examination. And that's why it is a cross
3 examination -- I'm sorry, Your Honor. You have
4 ruled. I understand.

5 **THE COURT:** Yes, sir.

6 **MR. STRICKLER:** I'll be quiet now.

7 **THE COURT:** You ready to go?

8 **MR. MEADORS:** Yes, sir.

9 **MR. MILLING:** Your Honor, if I could put one
10 thing on the record?

11 **THE COURT:** Why don't I just leave here and you
12 all just keep putting stuff on the record? Strike
13 that.

14 **MR. MILLING:** Well, this would involve you. At
15 the beginning of the case we noted security was going
16 to be required on both sides of the courtroom. I
17 notice this morning that we've got three officers on
18 our side of the courtroom and only one on the other
19 side. The Solicitor's Office is utilizing the other
20 two chairs. I would just ask that it be balanced out
21 so that there's no inference that could be drawn from
22 the jury.

23 **THE COURT:** You want three on the other side?
24 Is that what you're saying?

25 **MR. MILLING:** Or two and two.

1 **THE COURT:** Just -- thank you. Bring the
2 witness back. You're all right, Jessie. Jessie is
3 in charge of security. Talk to Jessie. Although I
4 would tend to agree with you; the solicitors probably
5 need security on their side for numerous reasons.
6 Has somebody gone to get the witness?

7 **MR. ROSS:** Yes, sir.

8 **THE COURT:** Okay.

9 **MR. STRICKLER:** Your Honor. I'm sorry. May I
10 approach on something unrelated this case?

11 **THE COURT:** Sure.

12 **MR. STRICKLER:** A scheduling matter?

13 (Off the record)

14 **THE COURT:** Anything else before we bring the
15 jury?

16 **MR. STRICKLER:** Not from Mr. Oliver.

17 **THE COURT:** Bring the jury.

18 (Jury in at 11:02 a.m.)

19 **THE BAILIFF:** Your Honor, the jury is present.

20 **THE COURT:** All right. Thank you. You may
21 continue.

22 **MR. MEADORS:** May I approach again, sir?

23 **THE COURT:** Yes, sir. Hand it to her.

24 **Q** Ms. Robinson, at the top of State's 184 for I.D.,
25 what's the date on that?

1 A 9-21-05.

2 Q Okay. And the time is what?

3 A 12:05 p.m.

4 Q And next to the place, what does it say?

5 A Columbia Police Department.

6 Q And underneath that it says: "I am Tatanisha
7 Robinson." Correct?

8 A Yes.

9 Q And so, that's the time and the place that the
10 statement was given, correct?

11 A Yes.

12 Q And the person -- if you can't remember them -- but
13 is the investigator's name down there? Investigator
14 Wilkerson I think you said. I'm sorry.

15 A That's okay.

16 Q Do you see the name Wilkerson?

17 A Mm-hmm (affirmative).

18 Q Okay. So that person was there, correct?

19 A I guess.

20 Q And that is your statement, is it not?

21 A No, it is not.

22 Q You deny that that's your statement?

23 A Yes.

24 MR. MEADORS: Your Honor, at this time we would
25 offer State's 184.

1 **MR. STRICKLER:** I would object at this point in
2 time, Your Honor, for the record.

3 **MR. MILLING:** We object as well.

4 **MR. DELGADO:** And Ken Joy.

5 **THE COURT:** Mark it for identification only.

6 **MR. MEADORS:** It is marked, Your Honor, already.

7 **THE COURT:** It's not in evidence at this time.

8 **MR. MEADORS:** Okay.

9 **Q** Why you do you say that's not your statement?

10 **A** Because I did not write this and half this stuff in
11 here I don't even remember saying.

12 **Q** Do you remember saying some of it in there?

13 **A** No. I was forced to say a lot of things.

14 **MR. MEADORS:** Your Honor, I'd offer it now as
15 State's 184.

16 **THE COURT:** For I.D. only.

17 **Q** You're denying you made that statement?

18 **A** Yes.

19 **Q** Okay. You know it was made at 9-21-05 at the
20 Columbia Police Department, correct?

21 **A** Yes.

22 **Q** You know that the officer there was Wilkerson,
23 correct?

24 **A** Yes.

25 **Q** And your statement is on two times on all of these

1 six -- your signature, is it on all six pages twice
2 at the bottom?

3 A Yes, it is. But again, I did not write this
4 statement. Therefore, I did not re-read the
5 statement after it was written.

6 MR. MEADORS: Your Honor, now we would offer it
7 as State's 184.

8 MR. DELGADO: Objection.

9 THE COURT: Approach the bench.

10 (Whereupon, a bench conference is had)

11 Q At the bottom -- have you still got it, Ms. Robinson?
12 At the bottom of there -- you received a copy of
13 this, correct?

14 A No, I did not.

15 Q Well, does it say at the bottom that you received a
16 copy? Does it say: "Tatanisha Robinson received a
17 copy of this statement"?

18 A Yes.

19 Q And below that is your signature, correct?

20 A Yes.

21 Q And does it say that on page 2?

22 A Yes.

23 Q Page 3?

24 A Yes.

25 Q 4?

1 A Yes.

2 Q 5 and 6?

3 A (Nods head affirmatively).

4 Q Now, the officers didn't make you sign, did they?

5 A No. I just signed it because I wanted to get out of
6 there.

7 Q Now, can you point out Stanley Oliver for the ladies
8 and gentlemen of the jury?

9 A The gentleman in front of me.

10 Q Beside Mr. Strickler and Ms. LaFave?

11 A Yes.

12 MR. MEADORS: Your Honor, we'd ask the record
13 reflect she's pointed out Stanley Oliver.

14 THE COURT: The record will reflect the witness
15 identified the defendant, Oliver.

16 Q Can you point out, if you can, Mr. Dominic Gallman?

17 A The gentleman sitting over here in the corner.

18 Q Next to Mr. Milling?

19 A Yes.

20 Q Who is the gentleman behind Mr. Milling?

21 A Mr. Bill Nettles.

22 Q Is that your attorney?

23 A Yes, it is.

24 Q And next, well, point out Mr. Joy if you can?

25 A I can't see Mr. Joy, but I'm assuming he is sitting

1 over there in the corner.

2 Q Well, if you would come down or --

3 MR. DELGADO: Stand up.

4 A That is Mr. Joy.

5 Q Is that Mr. Joy?

6 A (Nods head affirmatively).

7 MR. MEADORS: And we'd like the record to
8 reflect, if I didn't do it, Mr. Gallman and Mr. Joy,
9 I think I did, we'd ask the record to reflect that.

10 THE COURT: The record will reflect the witness
11 identified the defendants, Gallman and Joy.

12 Q So you are denying this statement?

13 A Yes.

14 Q Are you scared?

15 A Of what?

16 Q I don't know. Are you scared of anything?

17 A No.

18 Q And so you've never been scared?

19 A No. I was forced to say half this stuff because with
20 the threats of -- I don't know; they had two other
21 females in custody -- of being locked up, so ...

22 Q Have you ever given another statement?

23 A Yes, I have.

24 Q Who did you give that to?

25 A I am not sure who was it was given to.

1 Q Who asked you to give a statement?

2 A I gave a statement myself because I didn't write this
3 first one and it's a bunch of garbage.

4 Q All right. And when did you give that statement?

5 A I'm not sure. About a year ago maybe.

6 Q About a year ago? Do you remember who asked you to
7 give that statement?

8 A I wrote it myself.

9 Q Okay. But, I mean, did anybody ask you to write a
10 statement?

11 A No.

12 Q Did anybody come see you and talk to you about this
13 case, an investigator come see you?

14 A No.

15 Q An investigator didn't see you?

16 A No.

17 Q So no one asked you to write this letter or this
18 statement?

19 A No.

20 Q Well, what did you do with it?

21 A I wrote it and had it notarized and sent it
22 somewhere.

23 Q You had it notarized?

24 A Yes.

25 Q And you sent it somewhere. Do you know where you

1 sent it?

2 A I'm not sure at the moment.

3 Q How did you know where to send it?

4 A I don't know. It's been a year ago.

5 Q You don't remember how you knew where to send it?

6 A (Shakes head negatively).

7 Q And you don't know where it went?

8 A (Shakes head negatively).

9 Q Do you have a copy of that now?

10 A With me, no.

11 Q Where is it?

12 A It's at my house.

13 Q Well, what does it say?

14 A The truth.

15 Q Okay. What does it say?

16 A Basically that everything I said in this statement
17 was not true due to the fact that I was being
18 threatened with being locked up if I did not comply
19 with the police and that I was emotional because I
20 was pregnant with Stanley's child.

21 Q When is the last time you have reviewed that
22 statement?

23 A What? This statement?

24 Q No, ma'am. The statement you are just referring to
25 that you in your mind you said you wrote a year ago?

1 When is the last time you've looked at it?

2 **A** I guess when I moved back down here.

3 **Q** Well, did you look at it today?

4 **A** No, I did not.

5 **Q** Did you look at it yesterday?

6 **A** Yes, I did.

7 **Q** So yesterday you looked at the other statement?

8 **A** Yes.

9 **Q** And you don't have it with you?

10 **A** No, I do not.

11 **Q** And when is the last time you reviewed this
12 statement?

13 **A** Yesterday.

14 **Q** And you and I have never talked or gone over this or
15 anything, have we?

16 **A** No, we have not.

17 **Q** Do you know if the statement is in this courtroom?

18 **A** I don't know. I'm not even in this courtroom, so how
19 would I know?

20 **Q** Beg the Court's indulgence. That's all I have.

21 **THE COURT:** Cross examination.

22 **MR. STRICKLER:** May it please the Court, sir.

23 CROSS EXAMINATION

24 **BY MR. STRICKLER**

25 **Q** Good morning, Ms. Robinson.

1 A Good morning.

2 Q My name is Doug Strickler. I'm one of the attorneys
3 representing Stanley Oliver. Have we ever met
4 before?

5 A I don't believe we have.

6 Q I've never sat down and taken a statement from you,
7 right?

8 A No, you haven't.

9 Q We've never sat down and discussed this case,
10 correct?

11 A No, we have not.

12 Q What I'd like to do, if I could, please, I'd like to
13 talk with you about a few things. Okay?

14 A All right.

15 Q And I'd like to talk with you about what the
16 situation was at the police station on
17 September 21st, 2005 when this alleged statement that
18 Mr. Meadors has been talking with you about, when
19 they claim that was taken. Okay? I'd like to talk
20 with you about what was going on at the police
21 station. I'd like to talk with you about where you
22 were as far as your own state of mind goes. Okay?
23 And we may talk about a couple of other things, but I
24 want to start there. All right.

25 Now, you indicate that you had had a

1 relationship with Stanley. And, indeed, I think
2 you've testified that you were three or four months
3 pregnant at that point in time, correct?

4 A Yes.

5 Q That's by that point in time, I mean, September 2005.
6 And that was Stanley's child?

7 A Yes.

8 Q You were aware that Stanley was involved then with a
9 woman named Renata Williams?

10 A Yes.

11 Q Had you had occasions to have conversations with
12 Stanley about the fact that he had a relationship
13 with her and a relationship with you?

14 A Yes.

15 Q And that would be not unusual for two people to
16 discuss something like that, right?

17 A (Nods head affirmatively).

18 Q Would it be fair for me to characterize the way you
19 felt about it as not happy that he was involved with
20 Renata?

21 A I was not happy.

22 Q Okay. And you expressed that to him, I take it,
23 right?

24 A Yes.

25 Q Okay. You had some resentment towards him at that

1 point in time because of that, correct?

2 **A** Yes, I did.

3 **Q** He wouldn't leave Renata?

4 **A** No, he would not.

5 **Q** And that wasn't sitting well with you at that point
6 in time, was it?

7 **A** No, it wasn't.

8 **Q** Now, this incident happened, the killings in this
9 case, happened September 4. So that's about two and
10 a half weeks before September 21st when the police
11 had you in to talk with you. Okay. Were you aware
12 of what kind of actions the police were taking during
13 that period of time? Had word gotten to you about
14 them shaking -- well, them discussing the case with
15 other people in the area?

16 **A** Yes.

17 **Q** Okay. And the discussions they were having, did word
18 get to you that they were taking the forms of fairly
19 intimidating discussions going on?

20 **MR. MEADORS:** Objection. Hearsay.

21 **THE COURT:** Sustained.

22 **Q** Was your impression, your own impression that the
23 police were intimidating people about this case?

24 **A** Yes.

25 **Q** So that was your state of mind?

1 **A** Yes.

2 **Q** Okay. And as far as you were concerned, do you
3 remember -- if you can, do you remember when the
4 police first had contact with you about this case?

5 **A** I guess the day of the statement.

6 **Q** The day of the statement, to the best of your memory,
7 that's when it was?

8 **A** (Nods head affirmatively)..

9 **Q** Okay. And how did that contact take place?

10 **A** I actually contacted them because I heard that they
11 were looking for me.

12 **Q** Okay. So you heard that they were looking for you.
13 How did that make you feel?

14 **A** Uncomfortable.

15 **Q** Uncomfortable. Why did it make you feel
16 uncomfortable?

17 **A** I mean, I was pregnant. Who wants to get locked up
18 when they're pregnant?

19 **Q** You were concerned about being locked up?

20 **A** (Nods head affirmatively).

21 **Q** Why were you concerned about being locked up?

22 **A** Excuse me?

23 **Q** Why were you concerned about being locked up?

24 **A** Because after I got in there it was just okay until
25 after the statement was started to be gave and then

1 they got hostile, mentioning other females that were
2 locked up.

3 Q Did you know that other females had been locked up in
4 this case?

5 A Not until they mentioned it.

6 Q Okay. Well, we're moving a little bit to how you
7 were feeling after the statement. But we're moving
8 to the second part which is how you were feeling when
9 you got there. First of all, do you remember what
10 time of day or night it was that you got down to the
11 police station, roughly?

12 A Sometime in the afternoon.

13 Q Sometime in the afternoon you think. Okay. And did
14 you take yourself down there or did they come down
15 and get you?

16 A I'm not sure.

17 Q Okay. Now, when you were talking with the police,
18 how long were you down there at the station for? Do
19 you remember?

20 A A few hours.

21 Q A few hours? And how many different police did you
22 speak with?

23 A I don't know. It was several of them in the room at
24 the time.

25 Q Okay. Well, that gets to my question. The statement

1 that was given, you were sitting in the room when the
2 statement was given?

3 **A** Yes.

4 **Q** And there were several police officers. Is that
5 correct?

6 **A** Yes.

7 **Q** Did the police -- were they all in there the whole
8 time, or did they come in and then some leave and
9 come back in, or were they all there the whole time?
10 Or do you remember?

11 **A** Some would leave, come back in.

12 **Q** Were some of them nice to you, speak kindly to you,
13 and then others of them kind of get in your face?

14 **A** Pretty much. Some of them were nice.

15 **Q** I'm sorry. Go ahead.

16 **A** Some of them were nice.

17 **Q** Have you ever heard the phrase "good cop, bad cop"?

18 **A** (Nods head affirmatively).

19 **Q** Would it be fair to characterize what was happening
20 to you in that room was getting "good cop, bad cop"?

21 **A** That would be.

22 **Q** Okay. Now, and this is on September 21st. Do you
23 remember the police being the source of the
24 information regarding contact with Blue that's in the
25 statement? You didn't know anything about that,

1 right?

2 A I don't know --

3 MR. MEADORS: It calls for speculation.

4 THE COURT: Overruled.

5 Q You didn't know anything about any contact between
6 Stanley and some guy named Blue, correct?

7 A No, I didn't.

8 Q Okay. So, if the police had had occasion like the
9 day before -- well, you didn't know anything about
10 that. The police in this case talked with you and
11 told you things about the case, didn't they?

12 A Yes.

13 Q Did they supply you with information about this case?
14 Correct?

15 A Yes.

16 Q What would their attitude be if you told them you
17 didn't know something in response to one of their
18 questions?

19 A They were persistent, you know. I was supposed to
20 know something I guess because I had a relationship
21 with Mr. Oliver.

22 Q Okay. Would they accept the fact that you'd tell
23 them "I don't know" and just move on to something
24 else?

25 A No.

1 Q Okay. Now, this process took several hours you've
2 said?

3 A Two to three hours.

4 Q Two to three hours? Okay.

5 MR. MEADORS: Your Honor, can we approach?

6 (Whereupon, a bench conference is had)

7 Q So I believe your testimony was that the police
8 didn't respond -- how should I put it -- didn't
9 respond favorably to your not having the answer for
10 their questions. Is that correct?

11 A Yes.

12 Q Now, do they have a video camera sitting in this
13 interview room so they would record what went on
14 between you and them?

15 A No, they did not.

16 Q Okay. And I don't know. Did they have a little tape
17 recorder put on the table?

18 A No, they did not.

19 Q So that they could start it and say this statement
20 begins at this time and runs 'til this time and stop
21 it and it would be a record of everything that went
22 on in that room between them and you?

23 A To my knowledge, no, they did not.

24 Q So they put you in a situation where it's going to
25 end up being what you have to say about what went on

1 there against what they have to say what went on
2 there, right?

3 **MR. MEADORS:** Objection. Pitting.

4 **THE COURT:** Overruled. Go ahead.

5 **Q** That's the situation you're in, right?

6 **A** Yes.

7 **Q** There is no independent record of what went on there,
8 such as a tape recorder or a video recorder, right?

9 **A** Not that I saw.

10 **Q** Okay. Well, ma'am, maybe there is. And you
11 indicated that at some point in time, about a year
12 ago, you went ahead and made another statement, wrote
13 out a statement and had it notarized. Is that
14 correct?

15 **A** Yes.

16 **Q** And why did you do that?

17 **A** Because I have common sense to know I've given
18 statements before and the first one wasn't written in
19 my hand and I wanted something written in my hand.

20 **Q** And this statement that you've been testifying about,
21 the one from September 21st, that's not in your
22 handwriting, right?

23 **A** No, it is not.

24 **Q** And your testimony is that you were not on
25 September 21st given an opportunity to review it,

1 correct?

2 A No.

3 Q By review it, I mean you didn't have a chance to go
4 ahead and read what was being written down?

5 A I didn't read it.

6 Q Okay. Did you want to drag out the process there in
7 the police department any longer than the two or
8 three hours it had already taken?

9 A No, I did not.

10 Q And if I understand your testimony on direct,
11 regardless of what the statement says about you
12 receiving a copy, and you didn't deny that the bottom
13 of it --

14 A I signed it but I did not receive the copy. I left.

15 Q Okay. You never received a copy of it. Now, beg the
16 Court's indulgence one moment. Let me show you a
17 document, ma'am, and ask if you recognize it, please?

18 A Yes. That is the statement I wrote.

19 Q Can you take a look and make sure it's complete?

20 A Yes.

21 Q It is?

22 A (Nods head affirmatively).

23 MR. STRICKLER: At this point in time I'd like
24 this marked for I.D., sir.

25 MR. MEADORS: Your Honor, could we have a copy?

1 Your Honor, can we have a copy?

2 **MR. STRICKLER:** Be happy to as soon as I finish
3 getting it stapled at the request of Madam Court
4 Reporter.

5 (WHEREUPON, Defendant Oliver's Exhibit No. 1 is
6 marked for identification.)

7 **Q** Now, what has been marked as Defendant Oliver's 1 for
8 I.D. at this point, this is notarized with the date
9 of --

10 **MR. MEADORS:** Your Honor, I'm going to object to
11 asking anything off this unless it's offered in
12 evidence.

13 **THE COURT:** Overruled.

14 **Q** Let me pass that to you. That document has a date on
15 the last page with a notary seal?

16 **A** Yes.

17 **Q** Okay. And this was notarized June 15th, 2006?

18 **A** Yes.

19 **Q** Okay. Now, this document reflects, if I understand
20 your testimony on direct, the truth about your
21 knowledge in this case, correct?

22 **A** Yes.

23 **Q** Now, at the time you gave this notarized statement,
24 at the time you wrote it out -- first of all, this
25 document, Defendant Oliver's 1, is in your

1 handwriting?

2 **A** Yes, it is.

3 **Q** Did anyone else write these words down for you?

4 **A** No, they did not.

5 **Q** Did anyone else write down words and then not let you
6 review them?

7 **A** No, they did not.

8 **Q** And this document, as I understand your testimony on
9 direct, reflects the truth about the situation?

10 **A** Yes, it does.

11 **Q** Okay. And the truth about the situation as you've
12 testified here in court is that you were several
13 months pregnant with Stanley's child, correct?

14 **A** Yes.

15 **Q** That you were upset with Stanley because of the
16 ongoing relationship he had with Renata and his
17 refusal to end that relationship, correct?

18 **A** Yes.

19 **Q** And as you testified, as a result of that you were
20 very emotional --

21 **A** Yes, I was.

22 **Q** -- at that point? You testified to that during
23 direct examination, correct?

24 **A** Yes.

25 **Q** And the truth of the situation, as you testified to

1 on direct, is that the investigators were putting
2 words in your mouth, correct?

3 A Yes.

4 Q And the truth of the matter is that you don't know
5 anything about what the killings on Mildred Avenue,
6 correct?

7 A No, I don't.

8 Q You did watch the news?

9 A Yes, I did.

10 Q So I guess you picked up some information about that.
11 But as far as knowledge of your own, you don't have
12 any?

13 A No, I do not.

14 Q Okay. And the truth of the matter is, as you
15 testified to on direct, that when you saw Stanley he
16 was acting normal?

17 A Yes.

18 Q Right?

19 A (Nods head affirmatively).

20 Q And you do agree that you went to the Red Roof Inn?

21 A Yes, I do.

22 Q You testified to that on direct?

23 A (Nods head affirmatively).

24 Q Okay. The truth of the matter is that Stanley made
25 no statements to you about being involved in the

1 murders when you all were staying at the Red Roof
2 Inn, just as you testified on direct? You didn't
3 know anything about it, right?

4 A No, I did not.

5 Q June 15th, 2006, how were you feeling? I mean, how
6 were you feeling about Stanley at that point in time?
7 How were you feeling about the statement that you'd
8 given? Sorry. Let me ask you just one question at a
9 time. How were you feeling about the statement that
10 the police had claimed you made in this case? How
11 were you feeling about that on June 15th of 2006?

12 A I was upset because I didn't know how serious the
13 situation had gotten.

14 Q And why did you decide to go ahead and reduce your
15 thoughts, your memories of the events of
16 September 2005, why did you decide to reduce those
17 and put them in the form of the affidavit that you're
18 referring to, you have in front of you?

19 A Again, I did not know how serious the situation was.
20 So I decided to tell the truth.

21 Q And that document reflects the truth?

22 A Yes, it does.

23 Q Correct? And it reflects what you've gotten up here
24 and testified to this jury about as far as what
25 actually happened --

1 A Yes.

2 Q -- in September of 2005, correct?

3 A (Nods head affirmatively).

4 Q Thank you, ma'am. Answer any questions --

5 THE COURT: Mr. Milling.

6 Q -- they may have.

7 MR. MILLING: Thank you, Your Honor. May it
8 please the Court.

9 CROSS EXAMINATION

10 BY MR. MILLING

11 Q Good afternoon. My name is Jonathan Milling. I
12 represent Mr. Dominic Gallman. We've never met, have
13 we?

14 A No, we have not.

15 Q Never spoken?

16 A No, we have not.

17 Q I didn't ask you to write a statement?

18 A No.

19 Q You send me a statement?

20 A No, I did not.

21 Q Okay. I want to I guess ask you first off one thing
22 that you testified to in direct. You have not been
23 allowed to sit here in the courtroom during the
24 trial, have you?

25 A No, I have not.

1 Q Okay. Is that what you mean when you said you're not
2 here in the courtroom?

3 A Yes.

4 Q And you didn't know at that point in time whether or
5 not your statement was present in the courtroom?

6 A No.

7 Q Is it now?

8 A Yes, it is.

9 Q Okay. The statement that Mr. Meadors was asking you
10 questions about, is that your handwriting?

11 A No, it is not.

12 Q Did you write it?

13 A No, I did not.

14 Q Is that your signature at the bottom?

15 A It's my signature.

16 Q Did you read it before signing it?

17 A No, I did not.

18 Q Did you get a copy of it?

19 A No, I did not.

20 Q Okay. When you sat down with law enforcement, did
21 you have any independent knowledge or -- let me back
22 up. Prior to sitting down with law enforcement, did
23 you have any independent knowledge about the Mildred
24 Avenue murders?

25 A From what I saw on the TV and the news; but other

1 than that, no.

2 Q Did law enforcement share additional information with
3 you about that murder?

4 A A little bit.

5 Q Okay. Did they suggest to you what they thought
6 happened?

7 A Pretty much. I was also taken to another crime
8 scene.

9 Q Okay. Did they attempt to put words in your mouth?

10 A Yes.

11 Q Okay. You didn't talk with my client, Dominic
12 Gallman, Labor Day weekend of '05?

13 A No, I did not.

14 Q Okay. And he never made any statements to you about
15 that?

16 A No.

17 Q Nothing further.

18 **THE COURT:** Mr. Delgado.

19 CROSS EXAMINATION

20 **BY MR. DELGADO**

21 Q Ms. Robinson, you said that the police officers were
22 very insistent on getting some of their questions
23 answered?

24 A Yes.

25 Q Were they also persistence in getting you to make a

1 statement?

2 A Yes.

3 Q You told them you didn't know anything about it?

4 A (Nods head affirmatively).

5 Q Do you know what the Richland Memorial Hospital is
6 really called, ma'am?

7 A No, I don't.

8 Q It's called Palmetto Richland. It's been that name
9 for about five or six years. Would you even know
10 that, dear?

11 A No.

12 Q You don't know North Main Street from Atlas Road, do
13 you?

14 A No, I don't.

15 Q Let's talk about Ken Joy for one second. Ken Joy ran
16 a business at [REDACTED] Tremain Street, didn't he?

17 A Yes, he did.

18 Q The name of that business was called Advantage
19 Building Systems. Isn't that right?

20 A Yes.

21 Q Advantage Building Systems did among other things
22 maintenance work, correct?

23 A Yes, they did.

24 Q That's what you called him as doing. That's what you
25 characterized him as doing; that is, Ken Joy?

1 A Yes.

2 Q Ken Joy at that address of [REDACTED] Tremain Street had
3 not only his office in one of those apartments but he
4 also had another apartment right next to it, correct?

5 A Yes.

6 Q Because sometimes some of his crew didn't have a
7 place to stay, right?

8 A Yes.

9 Q Ken Joy would operate out of [REDACTED] Tremain Street for
10 his labor crews, correct?

11 A Yes.

12 Q As a matter of fact, you a time or so either would
13 hang out there or you may have even spent the night
14 there at that apartment, correct?

15 A Yes.

16 Q Ain't nothing wrong with it. I'm simply saying you
17 did that, right?

18 A Yes.

19 Q Now, not only did Ken use that as an office, but he
20 had vans to take the work crews. Correct, ma'am?

21 A Yes.

22 Q He had ladders --

23 MR. MEADORS: Your Honor, objection. He's
24 testifying.

25 MR. DELGADO: He opened the door when she said

1 he works.

2 **THE COURT:** All right. Go ahead.

3 **MR. DELGADO:** Thank you.

4 **Q** He had all the types of things that a maintenance
5 contracting company has, right?

6 **A** He kept the supplies in one apartment.

7 **Q** Exactly. As a matter of fact, his cellphone, would
8 it be fair to say, it was kind of a communal
9 cellphone?

10 **A** Yes, it was.

11 **Q** As a matter of fact, you may have used that cellphone
12 from time to time, right?

13 **A** Yes.

14 **Q** Like maybe other folks may have used that cellphone,
15 correct?

16 **A** Yes.

17 **Q** Because some of his people, they don't have -- I'm
18 sorry?

19 **A** A lot of us didn't have phones.

20 **Q** So whose phone would you use?

21 **A** We'd use Ken's.

22 **Q** Ken provided not only a phone. He'd provide
23 transportation from time to time?

24 **A** Yes, he did.

25 **Q** Because that's what a good employer does?

- 1 **A** Yes.
- 2 **Q** So when he either took you or Stanley, took you and
3 Stanley to the Red Roof Inn, that's not unusual, was
4 it?
- 5 **A** No, it was not.
- 6 **Q** By that I mean it may have been the first time he
7 ever took you, but he took folks places all the time,
8 didn't he?
- 9 **A** Yes.
- 10 **Q** All right. Let's talk about your statement to the
11 police on September the 21st of 2005. Right?
- 12 **A** (Nods head affirmatively).
- 13 **Q** Mr. Mitch Wilkerson, do you remember that gentleman
14 being a Caucasian fellow?
- 15 **A** Yes.
- 16 **Q** All right. Quiet?
- 17 **A** I don't remember if he was quiet.
- 18 **Q** All right. Come off to you as nice?
- 19 **A** Yes.
- 20 **Q** Okay. Listened intently to what you were saying?
- 21 **A** (Nods head affirmatively).
- 22 **Q** But it was more than just Mr. Wilkerson in and out of
23 that room, right?
- 24 **A** Yes, it was.
- 25 **Q** Describe that room for our ladies and gentlemen of

1 the jury. Tell them about what that room is like?

2 A It was basically a conference room that had -- the
3 news was actually on television at the time I was
4 giving my statement. So they were flashing different
5 segments about the murders at the time that I was
6 actually giving my statement.

7 Q While you were in the room?

8 A Yeah. The television was on. This was a conference
9 room.

10 Q Did you, Ms. Tatanisha Robinson, feel that you could
11 have left that room? Honestly?

12 A Honestly, I don't think I could have.

13 Q And the reason for that was what?

14 A For the simple fact that, you know, I don't think
15 they would have just let me leave that easily.

16 Q Would it be fair to say, and I'm not talking about
17 physically intimidated, but you felt psychologically
18 intimidated? Would that be fair?

19 A Yes.

20 Q That they were asking you things that you knew or you
21 didn't know about?

22 A I didn't know about them.

23 Q Okay. Specifically, you didn't know that two
24 other -- your testimony when the solicitor was asking
25 you questions, you didn't even know that two other

1 females had been locked up, did you?

2 A I did not.

3 Q How would you learn that?

4 A I mean, basically from what they were, you know,
5 telling me. You know, it's either give the statement
6 or you can be the third.

7 Q They said that to you?

8 A In a nonchalant way.

9 Q How did you take it?

10 A I just gave the statement because I didn't want to
11 get locked up.

12 Q Was that statement true?

13 A No, it was not.

14 Q When you made the statement, when you said over and
15 over again; my friend, the solicitor, "Well, that's
16 in the statement", is it in the statement?

17 A It's in the statement.

18 Q Is it true?

19 A No, it is not. I can't even remember the statement.

20 Q You had -- you wrote back in, gosh, June of 2005. Is
21 that right?

22 A Yes.

23 Q You even had this notarized. Correct, ma'am?

24 A Yes, I did.

25 Q Is that a law firm that helped you notarize your

1 signature?

2 **A** I believe she works with a law firm.

3 **Q** If you know this law firm or this firm, Valencia,
4 Sullivan & Williams, would you remember that?

5 **A** It's --

6 **MR. MEADORS:** Your Honor, objection. If he
7 would like to offer it, I have no objection. But
8 he's reading from a document that's not in evidence.

9 **THE COURT:** Just ask her a question about it,
10 not the way it's been asked.

11 **MR. DELGADO:** I understand. You're right.

12 **Q** Did you go to a person, a notary?

13 **A** Yes.

14 **Q** At a law firm?

15 **A** Yes.

16 **Q** Somewhere in Maryland?

17 **A** Yes.

18 **Q** Prince George's County I think?

19 **A** Yes.

20 **Q** All right. And tell these folks again why you felt
21 compelled, Tatanisha Robinson, to make this?

22 **A** Again, because I did not know the seriousness of this
23 case until after the fact.

24 **Q** Did you ever say in this statement that they brought
25 up a lot of the things that you didn't even know

1 about?

2 A Yes, they did.

3 Q Did you apologize to Ken --

4 MR. MEADORS: Your Honor, objection. He's got
5 it marked on the statement and is referring to it.

6 MR. DELGADO: I'm sorry. Let me just ask her --
7 okay.

8 Q In this statement 2005 -- excuse me, ma'am.

9 A I believe I apologized to both of them.

10 Q Why, dear?

11 A Because I realized both of them had families. And,
12 you know, because I had a problem with one of them, I
13 shouldn't have said what I said or agreed to sign
14 something.

15 Q And in truth, you felt that Ken for some reason was
16 aligning himself with Stanley and trying to keep
17 Stanley away from you and his responsibility to you
18 and your child?

19 A Yes.

20 Q Right?

21 A (Nods head affirmatively).

22 Q But that was --

23 A That wasn't the case.

24 Q I'm sorry?

25 A That wasn't the case.

1 Q Just one second, please. Your Honor, I don't think I
2 have any other questions. Thank you, Ms. Robinson.

3 **THE COURT:** Redirect.

4 **MR. MEADORS:** Just very briefly.

5 REDIRECT EXAMINATION

6 **BY MR. MEADORS**

7 Q Just a few more questions, Ms. Robinson. At some
8 point in your testimony did you say you were mad at
9 Solo, so that's why you gave the wrong statement
10 about him being with Renata? I think Mr. Strickler
11 asked you. You were upset that he was with Renata?

12 A Yes.

13 Q Okay. And is that one of the reasons you gave this
14 information on him to start with?

15 A I wouldn't say give, just agreed to what was said.

16 Yes.

17 Q But then also somebody asked you, and you said the
18 police were threatening you?

19 A Yes.

20 Q So that's another reason you gave some of this
21 information?

22 A (Nods head affirmatively).

23 Q Just yes or no? Please answer.

24 A Yes.

25 Q And you can explain. Were you mad at K?

1 A No, I was not.

2 Q Were you mad at Dominic Gallman?

3 A No, I was not.

4 Q Yet in this statement, 184 I.D., you put in there
5 what they had told you, what they had said to you,
6 correct?

7 A I was actually disturbed that they were trying to
8 keep Stanley away from me and his child.

9 Q But in State's 184 for -- this one, you put in here
10 what Dominic and K had told you regarding these
11 murders, didn't you?

12 A No. I did not put anything in there.

13 Q It's included in this statement, right?

14 A I don't even remember that statement.

15 Q Well, you refer to it in your second statement of
16 June 15th, 2000 (sic). You refer back specifically
17 to some things in this statement when you're writing
18 this statement a year later, don't you?

19 A Mm-hmm (affirmative).

20 Q How can you do that if you don't remember it?

21 A Because I simply -- this statement was written over a
22 year ago.

23 Q Right. But in that you remembered this statement
24 because you reference it in here, correct?

25 A Mm-hmm (affirmative).

1 Q Specifically, a lot of it, right?

2 A Mm-hmm (affirmative).

3 Q So you could remember it in June 2006?

4 A Mm-hmm (affirmative).

5 Q And when did you -- you remembered this statement
6 then, 184, the one you gave --

7 A Mm-hmm (affirmative).

8 Q -- in June, but you don't remember any of it now?

9 A (Shakes head negatively).

10 Q I mean, you didn't want to come back here for this
11 trial, did you?

12 A No. I was happy and content with my life.

13 Q Mr. Delgado asked you about some cellphone numbers.
14 What did you say about Ken Joy's cellphone?

15 A It's been several times I've used his phone.

16 Q Do you remember his number?

17 A No, not right offhand.

18 Q You said some other folks used it?

19 A A lot of people used it.

20 Q Do you know who?

21 A I mean, it would take all day. I mean, if somebody
22 needed to use the phone and they asked him, he let
23 them use the phone.

24 Q Do you know what kind of phone it was?

25 A At this point, no; I do not remember.

1 Q And then Mr. Delgado, one of them asked you about two
2 females that were locked up. What two females were
3 locked up?

4 A Um --

5 Q Maybe it's Mr. Delgado. I'm sorry if I'm wrong.

6 A Excuse me? Well, I mean, as far as what I know from
7 what I was told, Renata Williams and I guess it was
8 Shequitta, Shequitta whatever.

9 Q That Shequitta was locked up?

10 A Mm-hmm (affirmative).

11 Q You're saying you were told that?

12 A Yes.

13 Q And just a few more questions. What's the name of
14 this law firm?

15 A I'm not really sure of the name. I just know her
16 name.

17 Q And how do you know her?

18 A Someone in Maryland. I went and had it notarized,
19 wrote it and had it notarized.

20 Q How did you know to go to this law firm?

21 A Well, I wanted it notarized. I needed somebody with
22 a notary. I just went in general.

23 Q Has anybody told you to go get this notarized?

24 A No. Common sense told me to go get it notarized.

25 Q Had anybody requested you write this statement?

1 A No.

2 Q Nobody did?

3 A No.

4 Q But then you sent it, correct?

5 A Yes.

6 Q And where did you send it?

7 A To Stanley Oliver.

8 Q And you were concerned about it, correct, concerned
9 about your first statement you had given?

10 A Yes.

11 Q And why did you send it to Stanley Oliver?

12 A To give to his lawyer.

13 Q And did you ever send it to me? Did you send it to
14 the police?

15 A You and I just met, Mr. Meadors.

16 Q That's not true. Didn't we meet in Pageland a month
17 or so ago?

18 A Okay. I haven't been home a month. Like you said, a
19 month or so ago.

20 Q And at that time you didn't want to talk to me,
21 correct?

22 A No, I did not.

23 Q You said I'd have to go through your attorney,
24 correct?

25 A Yes.

1 Q We had a nice conversation, didn't we?

2 A Yes.

3 Q About your mama?

4 A Yes.

5 Q I didn't treat you mean, did I?

6 A No.

7 Q We had a very nice conversation, correct? I didn't
8 threaten you?

9 A I mean, okay.

10 Q But you refused to talk to me about this case,
11 correct?

12 A I had an attorney that you could speak to.

13 Q And that was after I made contact. When I first
14 contacted you on the phone, you didn't have an
15 attorney, correct?

16 A No, I did not.

17 Q You got an attorney after that?

18 A Yes, I did.

19 Q When I saw you and your mom in Pageland, it's at that
20 point you had an attorney, correct?

21 A Yes, I did.

22 Q How did you get that attorney?

23 A I went looking for an attorney.

24 Q Did somebody suggest that attorney to you? Did you
25 tell me and Mr. Dog Austin who had suggested that

1 attorney to you?

2 A Who?

3 Q Mark Austin. I call him Dog.

4 A No.

5 Q Did you tell us that somebody had referred
6 Mr. Nettles to you?

7 A I called Mr. Delgado in reference to finding an
8 attorney. He already told me he was representing
9 someone and he referred me to Bill Nettles.

10 Q Mr. Delgado referred you to Mr. Nettles?

11 A Yes.

12 Q Beg the Court's indulgence. Thank you. That's all.

13 **THE COURT:** Recross?

14 **MR. STRICKLER:** Beg the Court's indulgence.
15 Thank you, sir. May it please the Court.

16 RECROSS EXAMINATION

17 **BY MR. STRICKLER**

18 Q Just a couple of questions, Ms. Robinson, please. He
19 just finished talking with you about contacting
20 Mr. Nettles. I believe he said you didn't want to
21 testify in this matter, right?

22 A Yes.

23 Q And you contacted an attorney because you didn't want
24 to testify in this matter, correct?

25 A Yes.

1 Q And you were concerned about testifying in this
2 matter because you didn't want to get charged with
3 any kind of criminal offenses by the State for coming
4 here and telling the truth when the truth is
5 different from what the statement that you gave or
6 that they took and wrote down back in 2005, right?

7 A Yes.

8 Q Okay. So your concern was that if you came to court
9 and testified as you've testified today about what
10 the truth was that the State would prosecute you for
11 testifying differently from the statement from 2005,
12 right?

13 A Yes.

14 Q Okay. And as a result of that, before you would
15 testify, you had to get guarantees from the State of
16 South Carolina that they would not prosecute you,
17 right?

18 A Yes.

19 Q You got a guarantee from the State of South Carolina,
20 correct?

21 A Yes.

22 Q The Solicitor's Office. You got a guarantee from the
23 Attorney General's Office, correct?

24 A Yes.

25 Q You got a guarantee from the U.S. Attorney for South

1 Carolina for federal prosecution about this, right?

2 **A** Yes.

3 **Q** You were concerned enough about the fact that if you
4 came in here and told the truth in this court that
5 the State would then try to put you or try to
6 prosecute you for a criminal offense that you refused
7 to testify to until you got guarantees that they
8 would not prosecute you, right?

9 **A** Yes.

10 **Q** Okay. That's why you got in touch, why you ended up
11 speaking with Mr. Nettles, right?

12 **A** Yes, it is.

13 **MR. MEADORS:** Objection.

14 **MR. STRICKLER:** Thank you. That's all I have.

15 **THE COURT:** Anything?

16 **MR. MILLING:** Nothing further, Your Honor.

17 RECROSS EXAMINATION

18 **BY MR. DELGADO**

19 **Q** Mr. Austin, stand up. This is the gentleman that
20 came with Mr. Meadors to your mother's home in
21 Pageland?

22 **A** Yes, it is.

23 **Q** Do you know this fellow played football at the
24 University of South Carolina? Stand up, Mark. This
25 guy right here?

1 **A** Mm-hmm (affirmative).

2 **Q** He came with Mr. Meadors to your home?

3 **A** They didn't come to my home, but they came to where I
4 was living, to my house.

5 **Q** I'm sorry?

6 **A** They didn't come exactly to my home.

7 **Q** They came to some place where you were located in
8 Pageland?

9 **A** Yes.

10 **Q** These two fellows, because after -- and you had told
11 them that you had had, already had an attorney,
12 didn't you?

13 **A** Yes, I did.

14 **Q** Let's tell these folks --

15 **MR. MEADORS:** No, sir. Objection. Objection.

16 **THE COURT:** Well, it's cross examination.

17 **Q** Ms. Tatanisha Robinson, is there some sort of
18 nefarious scheme between me and you to get you an
19 attorney?

20 **A** No, it is not.

21 **Q** Before you called me on the phone about a month or so
22 ago, had you and I ever met?

23 **A** No, we had not.

24 **Q** Had we ever talked by phone?

25 **A** No, we have not.

1 **Q** Why did you call me?

2 **A** I just heard you were a good lawyer.

3 **Q** Thank you, dear. I appreciate that. And as a result
4 of that, what did I do for you?

5 **A** You referred me to Mr. Nettles.

6 **Q** Is he a good lawyer, too?

7 **A** Yes, he is.

8 **Q** Charge you a big fee, has he? Thank you. That's
9 all.

10 **MR. MEADORS:** Your Honor, based on Mr.
11 Strickler's, I'd like to ask one last question.

12 **THE COURT:** No, sir.

13 **MR. MEADORS:** You took the Fifth --

14 **THE COURT:** No, sir.

15 **MR. MEADORS:** I thought you said okay.

16 **THE COURT:** No, sir.

17 **MR. MEADORS:** Judge, could we approach, just
18 respectfully?

19 (Whereupon, a bench conference is had)

20 **THE COURT:** All right, ma'am. You may come
21 down. May this witness be excused?

22 **MR. STRICKLER:** Without objection from Mr.
23 Oliver.

24 **MR. MILLING:** No objection, Your Honor.

25 **THE COURT:** Without objection, you're free to

1 go, ma'am. Thank you very much. All right, counsel.
2 Just for scheduling purposes, let me talk to you.

3 (Whereupon, a bench conference is had)

4 **THE COURT:** All right, ladies and gentlemen.
5 Let's take -- I was going to say -- well, I think I
6 still can say it -- take our morning break since it's
7 five minutes 'til 12. Let's take about a ten-minute
8 break. The State tells me there's some short
9 witnesses that we could perhaps get in before lunch,
10 try to keep the trial moving. So just go to the jury
11 room. Again, don't discuss the case among yourselves
12 while you're in the jury room. We'll call you in
13 about ten minutes.

14 (Jury out at 11:58 a.m.)

15 **THE COURT:** Mr. Milling, will it satisfy you if
16 Ace sits over there? Could he be the third balancing
17 law enforcement officer?

18 **MR. MILLING:** I don't know whether he can be
19 fair and impartial, Judge.

20 **MR. MEADORS:** I'd object to that, Judge.

21 **THE COURT:** Stand at ease ten minutes.

22 (Whereupon, a break is taken)

23 (WHEREUPON, State's Exhibit No. 186 is marked
24 for identification.)
25

1 (WHEREUPON, State's Exhibit No. 187 is marked
2 for identification.)

3 (WHEREUPON, State's Exhibit No. 188 is marked
4 for identification.)

5 **THE COURT:** The State ready to proceed?

6 **MS. MCDUFFIE:** We are, Your Honor.

7 **THE COURT:** Bring the jury, please.

8 (Jury in at 12:14 p.m.)

9 **THE BAILIFF:** Your Honor, the jury is present.

10 **THE COURT:** Thank you. All right, Solicitor.
11 Call your next witness.

12 **MS. MCDUFFIE:** Your Honor, the State calls
13 George Nicholson.

14 GEORGE NICHOLSON, after being duly sworn,
15 testifies as follows:

16 **THE CLERK:** Thank you. Please have a seat in
17 the witness stand and state your full name for the
18 record.

19 **THE WITNESS:** My name is George Nicholson.

20 DIRECT EXAMINATION

21 **BY MS. MCDUFFIE**

22 **Q** Good afternoon, Mr. Nicholson. Mr. Nicholson, would
23 you please tell the Court where you're employed?

24 **A** With AT&T in Columbia.

25 **Q** And what are your duties with AT&T?

1 A I'm sorry. Will you repeat that?

2 Q What are your duties with AT&T?

3 A I'm in the asset protection department. I'm the
4 asset protection manager for South Carolina which is
5 basically internal affairs with the phone company and
6 also the custodian of records for the telephone
7 company for matters like courts.

8 Q And in September of 2005, BellSouth is now a part of
9 AT&T?

10 A Yes, it was.

11 Q So at that time you were the custodian of records for
12 BellSouth?

13 A I was.

14 Q And then subsequent to that, it has now been changed
15 to AT&T?

16 A That's correct.

17 Q I'm going to show you what's been marked as State's
18 Exhibit 188. Do you recognize this?

19 A Yes, ma'am, I do.

20 Q And can you identify that for the court, please?

21 A Well, these are copies of records from my company
22 that were subpoenaed. And the top is a listing of a
23 telephone number, who that number belonged to at a
24 specific time. And the remaining sheets are a list
25 of the telephone calls to and from that number back

1 in September of 2005.

2 Q And are these records kept in the ordinary and
3 regular course of business?

4 A Yes, ma'am, they are.

5 Q Mr. Nicholson, could you please tell the Court what
6 the subscriber information is for that phone number?

7 A The telephone number was (803)779-6080. The customer
8 was Renata Williams. I'm not sure I'm pronouncing
9 the first name properly.

10 Q And can you please tell us what address that phone
11 was registered to?

12 MR. STRICKLER: Your Honor, at this point in
13 time it hasn't been admitted. I would object.

14 MS. MCDUFFIE: Your Honor, the State would move
15 Exhibit No. 188 into evidence.

16 THE COURT: Any objection?

17 MR. STRICKLER: The objection was because that
18 -- those records, I have no objection to the records.
19 They've been marked on, hand markings, something I'm
20 sure did not come from his company in that fashion.

21 THE COURT: I assume you're right. All right.
22 Any other objection?

23 MR. MILLING: We would have the same objection,
24 Your Honor.

25 THE COURT: Anything from Mr. Joy?

1 **MR. DELGADO:** The same objection.

2 **MS. MCDUFFIE:** Subject to redaction, the State
3 would move 188 into evidence.

4 **THE COURT:** All right. Subject to redaction,
5 any notes made on those records.

6 **MR. STRICKLER:** Thank you, sir.

7 (WHEREUPON, State's Exhibit No. 188 is admitted
8 into evidence.)

9 **Q** Mr. Nicholson, can you please tell us what address
10 that phone was registered at?

11 **A** [REDACTED] Howell Avenue in Columbia.

12 **Q** And once again, the phone number of that telephone?

13 **A** (803)779-6080.

14 **Q** And can you please tell us what date those phone
15 records cover?

16 **A** They begin just after midnight on September the 2nd,
17 and the last call was on September the 11th at 23:41
18 which would be 11:41 p.m.

19 **Q** Thank you, Mr. Nicholson. Please answer any
20 questions the defense has.

21 **MR. STRICKLER:** Just a couple of things very
22 briefly, Your Honor.

23 CROSS EXAMINATION

24 **BY MR. STRICKLER**

25 **Q** Good afternoon, sir.

1 **A** Hello.

2 **Q** My name is Doug Strickler. I'm here representing Mr.
3 Oliver. Just you testified that the records cover
4 the period from September 2nd through 23:41 on
5 September the 11th, correct?

6 **A** Yes, sir.

7 **Q** Okay. And those records relate to calls both
8 originating from the listed number and being made to
9 the listed number. Is that correct?

10 **A** Yes, sir.

11 **Q** And if we were interested in frequencies of calls
12 between that number and some other telephone number,
13 okay, what you have then or what you have supplied
14 the courts pursuant to subpoena wouldn't be able to
15 tell us what the frequency of calls might have been
16 in early August of 2005, correct?

17 **A** No, they would not.

18 **Q** Or mid-August?

19 **A** No, they would not.

20 **Q** Correct? In fact, it could go on and on. But the
21 only thing they would tell us as far as frequency of
22 calls would be this period of time between
23 September 2nd and September 11th, correct?

24 **A** Yes. That's correct.

25 **Q** All right. Thank you very much, sir. That's all I

1 have.

2 CROSS EXAMINATION

3 **BY MR. MILLING**

4 **Q** To follow up on that Mr. Nicholson, you don't know
5 who actually was the individual making the calls or
6 receiving the calls, do you?

7 **A** I do not.

8 **MR. DELGADO:** I have no questions. Thank you.

9 **THE COURT:** Redirect?

10 **MS. MCDUFFIE:** None, Your Honor. May this
11 witness be excused?

12 **MR. STRICKLER:** Without objection, sir.

13 **THE COURT:** You may come down, sir. Thank you
14 very much. The witness is excused without objection.
15 Call your next witness.

16 **MS. MCDUFFIE:** Your Honor, the State calls David
17 Ide.

18 DAVID IDE, after being duly sworn, testifies as
19 follows:

20 **THE CLERK:** Thank you. Please have a seat in
21 the witness stand and state your full name for the
22 record and spell your last name.

23 **THE WITNESS:** My name is David Ide. Last name
24 is I-D-E.

25 DIRECT EXAMINATION

1 **BY MS. MCDUFFIE**

2 **Q** Good afternoon, Mr. Ide. (Mr. Ide, where are you
3 employed?

4 **A** Suncom Wireless.

5 **Q** And what are your duties with Suncom?

6 **A** Custodian of records.

7 **Q** I'm going to show you what's been marked as State's
8 Exhibit 186. Please see if you recognize that?

9 **A** Yes, I do.

10 **Q** And can you please tell the Court what these are?

11 **A** That's subscriber information. It's also call detail
12 records.

13 (Pause)

14 **MR. DELGADO:** Thank you.

15 **Q** Mr. Ide, are these records kept in the ordinary
16 course of business?

17 **A** Yes, they are.

18 **MS. MCDUFFIE:** Your Honor, the State would move
19 State's Exhibit 186 into evidence subject to any
20 redaction.

21 **MR. STRICKLER:** Yes, sir. The only objection I
22 have to them, assuming there's a foundation laid that
23 they're relevant to this case, is that they do have
24 external things recorded on them.

25 **THE COURT:** All right.

1 **MR. MILLING:** The same objection, Your Honor.

2 **MR. DELGADO:** Your Honor, I submit to the Court
3 that they are going to be relevant to the State's
4 case against Ken Joy. Absolutely.

5 **THE COURT:** All right. Admitted into evidence
6 subject to redaction.

7 (WHEREUPON, State's Exhibit No. 186 is admitted
8 into evidence.)

9 **Q** Mr. Ide, can you please tell the Court what number
10 those phone records are for?

11 **A** (803)238-7294.

12 **Q** And when did that number become valid with Suncom?

13 **A** March 22nd, 2004.

14 **Q** And was there another number before that that the
15 customer had?

16 **A** Yes. The number was changed on September 16th, 2005.
17 The old number was (803)463-2210.

18 **Q** So until September 16th of 2005 the number was
19 463-2210?

20 **A** That's correct.

21 **Q** And then after that it was changed to what?

22 **A** To (803)238-7294.

23 **Q** And what are the dates that those phone records
24 cover?

25 **A** September 2nd, 2005 until September 23rd, 2005.

1 **MS. MCDUFFIE:** Thank you, Your Honor. No
2 further questions.

3 **THE COURT:** Cross examination.

4 CROSS EXAMINATION

5 **BY MR. STRICKLER**

6 **Q** Good or afternoon, Mr. Ide. How are you?

7 **A** How you doing?

8 **Q** Just a couple of things.

9 **A** Sure.

10 **Q** You said subscriber information. That would be
11 information regarding whose phone it was, right?

12 **A** That's who the name I have who actually is the
13 subscribed name who owns the account.

14 **Q** All right. And then call details. That would record
15 date and time the calls were received to that number,
16 I take it?

17 **A** It would show incoming and outgoing calls, yes.

18 **Q** And outgoing calls?

19 **A** Yes.

20 **Q** Okay. It doesn't show or it can't tell you who
21 placed a call to that number?

22 **A** It wouldn't. It would still be in the name of the
23 person. Just as it would show -- it just shows the
24 number who made the call and who received and placed
25 the call.

1 Q Right. And in the same vein, it can't tell you who
2 answered the phone at that number?

3 A No. Not specifically what individual, no.

4 Q Thank you, sir. That's all I have.

5 CROSS EXAMINATION

6 **BY MR. MILLING**

7 Q Very briefly, Mr. Ide. The call detail shows a
8 length of the called numbers, correct?

9 A Yes.

10 Q And even if no one answers the call, it still
11 reflects as a call made with a shorter length?

12 A If the call is not connected or hasn't been answered,
13 it's not going to show up on all these call records.

14 Q It's not going to show up at all on there?

15 A No. These are only call records that have been
16 answered, connected.

17 Q What if it goes into voice mail?

18 A It doesn't show up on here.

19 Q It doesn't show up on there either?

20 A No.

21 Q Okay.

22 **THE COURT:** Yes, sir.

23 CROSS EXAMINATION

24 **BY MR. DELGADO**

25 Q Mr. Ide, how you doing?

1 A Good, sir.

2 Q Mr. Ide, the subscriber name for State's Exhibit 186,
3 do you have that item in front of you?

4 A Yes, I do.

5 Q That's a woman by the name of Victoria Deas, D-E-A-S.
6 Correct, sir?

7 A Yes.

8 Q Sir, I'm sorry. Suncom is who you worked for or work
9 for now?

10 A Yes. That's correct.

11 Q Does Suncom have different packages for individuals
12 that will buy your services?

13 A They have different, yeah, rate plan services, yes.

14 Q Rate plan?

15 A Yes.

16 Q If my credit were such that I would qualify for your
17 various -- the best rate plan, does that mean I
18 couldn't use a Suncom phone?

19 A I mean, we offer prepaid services. Not necessarily.
20 No. I mean, you can try to get -- there are services
21 for anybody, you know.

22 Q Right. Because you're in business, you want to make
23 yourself available?

24 A Yes.

25 Q If somebody asked Victoria Deas to go get a telephone

1 that they wanted to use, would your records there
2 show whether it was Victory Deas or someone else who
3 paid the bill?

4 A I mean, we would have records of, you know, payment
5 history. If it was a different credit card with a
6 different name on it, yes, that could be possible.
7 Yes.

8 Q During that whole period of time, was that phone ever
9 changed before 463 -- excuse me. I'm sorry, sir. I
10 may not have heard it correctly. Is it 463-2217 or
11 2216?

12 A 463-2210.

13 Q 10. I apologize. And that phone was changed on
14 September the 16th?

15 A Yes.

16 Q Does it ever show that it was changed even before
17 September the 16th?

18 A Not that I can tell right here.

19 Q Because your records --

20 A It doesn't look like it is, no. Because (803), no.
21 No, it would not have been changed before.

22 Q And that's because you don't have anything before
23 September the 5th?

24 A We would have said. If there was another number
25 change, we would have notated it on here or written

1 it down.

2 Q And that first number was (803)238-7294?

3 A Yes. Uh-huh (affirmative).

4 Q When was that number given to Ms. Deas?

5 A March -- well, yeah. Well, the old, 803-463-2010,
6 was effective on March 22nd of 2004, and it was
7 changed to -- it was changed on 9-16-05 to the
8 (803)238-7294.

9 Q Before March 22nd, 2004, had that phone ever been
10 changed?

11 A No, it hadn't. No, it was not.

12 Q At least your records don't show that?

13 A Based on my records, no.

14 Q That's all. Thank you very much, sir. Thank you,
15 Your Honor.

16 THE COURT: Redirect?

17 MS. MCDUFFIE: No, Your Honor.

18 THE COURT: All right. You may come down, sir.
19 Thank you very much. May this witness be excused?

20 MR. STRICKLER: Without objection, sir.

21 MR. MILLING: Without objection.

22 MR. DELGADO: No objection.

23 THE COURT: You're free to go, sir. Thank you
24 very much.

25 MS. MCDUFFIE: Your Honor, the State calls Dan

1 Jensen.

2 DAN JENSEN, after being duly sworn, testifies as
3 follows:

4 **THE CLERK:** Thank you. Please have a seat in
5 the witness stand and state your full name for the
6 record.

7 **THE WITNESS:** Dan Jensen.

8 DIRECT EXAMINATION

9 **BY MS. MCDUFFIE**

10 **Q** Mr. Jensen, where are you employed?

11 **A** For Sprint Nextel.

12 **Q** And where are you based out of?

13 **A** Kansas City, Kansas.

14 **Q** What are your duties with Sprint Nextel?

15 **A** We respond to law enforcement regarding subpoenas,
16 search warrants and court orders and from time to
17 time testify in court to those records.

18 **Q** And are you a custodian of records for Sprint Nextel?

19 **A** Yes.

20 **Q** I'm going to show you what's been marked as State's
21 Exhibit 187. Do you recognize that?

22 **A** Yes, I do.

23 **Q** Can you please tell us what those are?

24 **A** These are call detail records for a phone that uses
25 the Sprint network.

1 Q Mr. Jensen, will you please tell us the phone number
2 those phone records are for?

3 A Phone number (803)479-2583.

4 MS. MCDUFFIE: Your Honor, the State would move
5 187 in evidence.

6 MR. STRICKLER: Without objection, sir.

7 MR. MILLING: No objection, Your Honor.

8 MR. DELGADO: No objection.

9 THE COURT: Without objection.

10 (WHEREUPON, State's Exhibit No. 187 is admitted
11 into evidence.)

12 Q Mr. Jensen, can you tell us the subscriber
13 information for that phone number?

14 A No, I cannot.

15 Q And why can you not tell us that?

16 A This is a resaler phone. That is, the phone is owned
17 by a different company, and we do not carry the
18 subscriber information on this phone.

19 Q But you do carry the call detail?

20 A Yes, we do.

21 Q And those records are kept in the ordinary course of
22 business?

23 A Yes.

24 Q No further questions.

25 THE COURT: Cross examination.

1 **MR. STRICKLER:** No, sir. Thank you.

2 **MR. MILLING:** Nothing, Your Honor.

3 **MR. DELGADO:** Nothing from Ken Joy.

4 **THE COURT:** You may come down, sir. This
5 witness be excused?

6 **MR. STRICKLER:** Without objection, sir.

7 **MR. MILLING:** No objection.

8 **MR. DELGADO:** No objection.

9 **THE COURT:** Without objection. Next witness.

10 **MR. ROSS:** The State would call Jay Russell.

11 JERRY A. RUSSELL, after being duly sworn,
12 testifies as follows:

13 **THE CLERK:** Thank you. Please have a seat in
14 the witness stand and state your full name for the
15 record.

16 **THE WITNESS:** My name is Jerry Allen Russell.

17 **MR. ROSS:** One moment, Your Honor. It might
18 speed things up.

19 (WHEREUPON, State's Exhibit No. 189 is marked
20 for identification.)

21 (WHEREUPON, State's Exhibit No. 190 is marked
22 for identification.)

23 (WHEREUPON, State's Exhibit No. 191 is marked
24 for identification.)
25

1 (WHEREUPON, State's Exhibit No: 192 is marked
2 for identification.)

3 (WHEREUPON, State's Exhibit No. 193 is marked
4 for identification.)

5 (WHEREUPON, State's Exhibit No. 194 is marked
6 for identification.)

7 (WHEREUPON, State's Exhibit No. 195 is marked
8 for identification.)

9 DIRECT EXAMINATION

10 **BY MR. ROSS**

11 **Q** Investigator Russell, where are you employed?

12 **A** I'm employed with Forest Acres Police Department.

13 **Q** How long have you been employed there?

14 **A** About two years.

15 **Q** What's your position there?

16 **A** I am a criminal investigator. I run the crime scene
17 unit.

18 **Q** Where were you employed before that?

19 **A** Richland County Sheriff's Department.

20 **Q** What was your position there?

21 **A** A crime scene analyst.

22 **Q** Were you working then September 7th, 8th, 9th, 10th
23 timeframe of 2005?

24 **A** Yes, sir.

25 **Q** As a crime scene investigator?

1 A That's correct.

2 Q Did you have an occasion to attend the autopsy of
3 Desiree Tankee Felder?

4 A Yes, sir, I did.

5 Q Where was that autopsy held?

6 A It was held in Newberry.

7 Q Okay. Did you collect some items during that
8 autopsy?

9 A Yes, sir.

10 Q I hand you what's been marked as State's Exhibit
11 No. 189. Do you recognize that item?

12 A Yes, sir.

13 Q What is that?

14 A It's a three slides that were actually collected by
15 the pathologist: A rectal, vaginal, oral cavity swab
16 for sperm identification. Then it was turned back
17 over to me.

18 Q Were you present during the autopsy?

19 A Yes, sir.

20 Q And you collected those items at the autopsy?

21 A Yes, sir.

22 Q And then what did you do with those items?

23 A Bring the items back from Newberry back and submit
24 them in evidence. They were actually placed in the
25 freezer here, or at Richland County.

1 Q What was the date that you collected the items?

2 A I collected these on the 8th of September '05.

3 Q And when did you turn them in at the Sheriff's
4 Department?

5 A They were turned in on the 9th.

6 Q Were they in your care, custody and control?

7 A That's correct.

8 Q From the 8th to the 9th?

9 A Yes, sir.

10 Q Did you tamper with them in any way?

11 A No, sir.

12 MR. ROSS: Your Honor, I'd ask that State's
13 Exhibit No. 189 be admitted.

14 MR. STRICKLER: Without objection, sir.

15 MR. MILLING: No objection.

16 MR. DELGADO: No objection, Your Honor.

17 THE COURT: All right. Without objection.

18 (WHEREUPON, State's Exhibit No. 189 is admitted
19 into evidence.)

20 Q State's Exhibit No. 190, do you recognize that?

21 A Yes, sir.

22 Q What is that?

23 A It's two envelopes containing victim's fingernails,
24 an envelope containing the victim's head hair, an
25 envelope containing victim's pubic hair, and one pair

1 of gray metal earrings.

2 Q And were those items collected during the autopsy?

3 A Yes, sir.

4 Q The same date, September 8th?

5 A Yes, sir.

6 Q And when did you under those items into the Sheriff's
7 Department?

8 A On September 9th.

9 Q The same question: Did you alter or tamper with them
10 in any way?

11 A No, sir.

12 MR. ROSS: Your Honor, I'd offer State's Exhibit
13 No. 190.

14 MR. STRICKLER: Without objection, sir.

15 MR. MILLING: No objection.

16 MR. DELGADO: No objection from Ken Joy.

17 THE COURT: Without objection.

18 (WHEREUPON, State's Exhibit No. 190 is admitted
19 into evidence.)

20 Q I hand you State's Exhibit No. 191. Do you recognize
21 that item?

22 A Yes, sir.

23 Q What is that item?

24 A It's a bullet fragment collected at the autopsy which
25 I in turn took into custody on the 8th and placed it

1 in my locker, and it was turned over to evidence on
2 the 9th of September.

3 Q Tamper with it in any way?

4 A No, sir.

5 MR. ROSS: Your Honor, I'd offer State's Exhibit
6 No. 191.

7 MR. OLIVER: That's without objection, sir.

8 MR. MILLING: No objection.

9 MR. DELGADO: No objection from Ken Joy.

10 THE COURT: No objection.

11 (WHEREUPON, State's Exhibit No. 191 is admitted
12 into evidence.)

13 Q State's Exhibit No. 192, do you recognize that item?

14 A Yes, sir.

15 Q What is that item?

16 A This item was also something I collected. It
17 contains one swab each from the rectal, vaginal and
18 oral cavities for semen analysis, one envelope with
19 four swabs for vaginal -- from the vagina for DNA,
20 two envelopes with two swabs each from the rectal and
21 oral cavities for DNA which I collected at the
22 autopsy, were collected by the pathologist, turned
23 over to me and in my custody from the 8th to the 9th
24 when they were turned into evidence.

25 Q Tamper with them in any way?

1 **A** No, sir.

2 **MR. ROSS:** I offer State's Exhibit 192 into
3 evidence.

4 **MR. STRICKLER:** Without objection, sir.

5 **MR. MILLING:** No objection.

6 **MR. DELGADO:** No objection from Ken Joy.

7 **THE COURT:** Without objection.

8 (WHEREUPON, State's Exhibit No. 192 is admitted
9 into evidence.)

10 **Q** If you look at items State's Exhibit 193 and 195, do
11 you recognize those items?

12 **A** Yes, sir.

13 **Q** And what are those items?

14 **A** One was a blue dress that was removed from the victim
15 and a blue pair of underpants also removed at the
16 autopsy there in Newberry. I took custody of those.

17 **Q** Did you turn those into the Sheriff's Department?

18 **A** Yes, sir. They were placed in a drying cabinet which
19 is in a secure environment and then turned into
20 evidence.

21 **Q** Tamper with them in any way?

22 **A** No, sir.

23 **MR. ROSS:** Your Honor, we'd offer those items,
24 193 and 195, into evidence.

25 **MR. STRICKLER:** Which is which? I'm sorry.

1 Just for reference.

2 MR. ROSS: 193 would be the dress. 195 would be
3 the underpants.

4 MR. STRICKLER: That's without objection, sir.

5 MR. MILLING: No objection.

6 MR. DELGADO: Without objection.

7 THE COURT: Without objection.

8 (WHEREUPON, State's Exhibit No. 193 is admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 195 is admitted
11 into evidence.)

12 MR. ROSS: That's all the questions I have, Your
13 Honor.

14 THE COURT: Cross examination.

15 CROSS EXAMINATION

16 BY MR. STRICKLER

17 Q Good afternoon, sir.

18 A Ged afternoon.

19 Q While you were with the Sheriff's Department, you
20 attended the autopsy in this case. And when you
21 attend an autopsy, you generate a report?

22 A That is correct.

23 Q Reflecting what you did at that autopsy, correct?

24 A Correct.

25 Q You all have those things. You've got a computerized

1 system at the Sheriff's Department, right?

2 A Yes, sir.

3 Q All right. So you make a record of your attendance
4 to the autopsy?

5 A That's correct.

6 Q Correct? And as part of that record you reflect when
7 you attended the autopsy, correct?

8 A That's correct.

9 Q And then it reflects that you collected various items
10 and what type of analysis that you thought needed to
11 be done on those items, correct?

12 A That's correct.

13 Q As in DNA analysis or semen analyst, et cetera, for
14 the swabs that were collected from the victim?

15 A Correct.

16 Q All these sort of things that were collected at the
17 autopsy are very common things to be collected at an
18 autopsy, correct, sir?

19 A That's correct, sir.

20 Q And then to examine the dress and underwear for
21 foreign hair, fibers, any other kind of trace
22 evidence, right?

23 A That's correct.

24 Q And you make a record of that and record it and keep
25 that record as part of the case file, correct?

1 **A** That's correct. A record is made depending on who
2 does the analysis.

3 **Q** All right. That's the procedure that's followed at
4 the Sheriff's Department?

5 **A** That's correct.

6 **Q** Correct?

7 **A** Yes, sir.

8 **Q** That's to go ahead and document what you do and when
9 you do it, right?

10 **A** Correct.

11 **Q** Among other things. Your record reflects that when
12 you arrived at the autopsy it was approximately 1:00
13 in the afternoon and you were there for -- yeah --
14 for approximately an hour. You were done by 2:00 in
15 the afternoon. Is that correct?

16 **A** That's correct.

17 **Q** And it reflects the date this occurred on, right?

18 **A** That's correct.

19 **Q** Okay. Thank you very much. That's all I have.

20 **MR. MILLING:** Thank you, Your Honor. May it
21 please the Court. Very briefly.

22 CROSS EXAMINATION

23 **BY MR. MILLING**

24 **Q** Good afternoon, Officer Russell.

25 **A** Good afternoon.

1 Q Beg the Court's indulgence for one moment. Officer,
2 is this the envelope that you put State's 191 in?

3 A Yes, sir, it is.

4 Q Is that your signature down at the bottom?

5 A That's a firearms analysis signature. It was turned
6 directly over to him from my evidence locker.

7 Q Okay. Can you tell whether or not this envelope has
8 ever been opened?

9 A My original seal appears to be on the outside. Once
10 it goes from me, it may go to another, like firearms.
11 It may go to trace. Each one will open and reseal
12 that via chain of custody.

13 Q Okay. And that's how it works. Whenever someone
14 opens something that you've sealed, they've got to
15 seal it back in their own envelope, correct?

16 A No. Well, most of the times it will go back in the
17 same envelope. It will just be resealed with
18 evidence tape, forwarded on to whatever division.

19 Q It will have their signature on it?

20 A Yes, sir.

21 Q You didn't do any of the testing in this case,
22 correct?

23 A Yes, sir.

24 Q Your sole involvement was attending the autopsy?

25 A Right.

1 Q Correct?

2 A I did fingerprint a bullet fragment. A round was
3 submitted through what we call E.I.N. there at the
4 Sheriff's Department. That was actually turned in by
5 someone else. I believe it was a shell casing.

6 Q Okay. But you didn't do anything to this?

7 A No, not to that. No, sir.

8 Q Okay. Nothing further, Your Honor.

9 MR. DELGADO: I don't have any questions of
10 Mr. Russell.. Thank you.

11 THE COURT: Redirect.

12 REDIRECT EXAMINATION

13 (WHEREUPON, State's Exhibit No. 196 is marked
14 for identification.)

15 BY MR. ROSS

16 Q I hand you State's Exhibit No. 196. Do you recognize
17 that item?

18 A Yes, sir.

19 Q Is that what you were referring to when Mr. Milling
20 was talking about a bullet or a bullet fragment?

21 A That's correct, sir.

22 Q What is that item?

23 A This is actually a .32 caliber, appears to be an
24 unfired round, that was collected by Investigator
25 Jones, submitted to evidence; and in turn, when I was

1 assigned E.I.N., I was actually going out picking up
2 evidence and bringing it up and processing it.
3 That's when I received it from the evidence room,
4 processed it for latent fingerprints resulting in
5 negative prints, and it was returned to evidence.

6 Q Okay. And you don't know how this item -- do you
7 know how this item was turned in?

8 A No, sir. I just know Investigator Jones turned it in
9 and this is on the list to be processed.

10 Q It wasn't collected at an autopsy?

11 A No, sir. No, sir.

12 Q It was not collected at the crime scene by you?

13 A No, sir.

14 MR. ROSS: Your Honor, I'd offer State's Exhibit
15 No. 196.

16 MR. STRICKLER: And at this point it has no
17 relevance to this case, Your Honor.

18 MR. ROSS: Your Honor, they asked about it.

19 MR. STRICKLER: I didn't ask about it.

20 MR. ROSS: On cross.

21 MR. STRICKLER: I'm sorry. I apologize.

22 THE COURT: Any other objections other than
23 relevance?

24 MR. STRICKLER: Well, and foundation.

25 THE COURT: Well, the foundation has been laid

1 appropriately. Anything?

2 **MR. MILLING:** Your Honor, we would have the same
3 objection.

4 **THE COURT:** Mark it for identification.

5 **MR. ROSS:** Yes, sir.

6 **Q** Just to be clear, you printed this item?

7 **A** Yes, sir.

8 **Q** And no prints were found?

9 **A** That's correct.

10 **Q** That's all the questions I have.

11 **MR. STRICKLER:** I have no questions.

12 **THE COURT:** Anything further?

13 **MR. MILLING:** Nothing, Your Honor.

14 **MR. DELGADO:** Nothing, Judge.

15 **THE COURT:** All right. You may come down. May
16 the witness be excused?

17 **MR. STRICKLER:** Without objection, sir.

18 **MR. MILLING:** No objection.

19 **MR. DELGADO:** Without objection, sir.

20 **THE COURT:** You're free to go, sir. Thank you
21 very much. All right, ladies and gentlemen. I think
22 we'll take our lunch break at this time. I ask you
23 to be back in the jury room at 2:00. Again, don't
24 discuss the case among yourselves when you return to
25 the jury room or with anyone else over the lunch

1 hour. We'll see you at 2:00. Thank you very much.

2 (Jury out at 12:51 p.m.)

3 **THE COURT:** We'll stand at ease until 2:00. Let
4 me just for scheduling purposes, let me -- approach
5 the bench, please.

6 (Whereupon, a bench conference is had)

7 **THE COURT:** The State ready to proceed? Well, I
8 don't know. It's 2:00.

9 **MS. MCDUFFIE:** We are, Your Honor.

10 **THE COURT:** All right. Call your next witness.
11 I'm sorry. Let me get the jury.

12 **MR. STRICKLER:** If I may, sir?

13 **THE COURT:** Yes, sir.

14 **MR. STRICKLER:** While they're out I would like
15 to revisit briefly the issue of closing arguments.

16 **THE COURT:** Yes, sir.

17 **MR. STRICKLER:** Now that I've had an opportunity
18 to review a little more in depth at the lunch break
19 State v. Crowe and the case that it relies on, State
20 v. Huckey, Huckee (phonetic), the 1885 opinion.

21 **THE COURT:** Relying on 1796 procedure.

22 **MR. STRICKLER:** Yes, sir. Indeed, as best I can
23 figure it. There are a couple of things that I would
24 just point out to the Court in support of the fact
25 that should we elect not to offer any evidence,

1 should -- by "we", I mean Mr. Oliver; I'm sorry -- we
2 should be entitled to the final argument.

3 In this case it indicates Mr. Huckey or Huckee
4 and one Paris Bailey were jointly indicted for
5 burglary and larceny. I regard that as two people
6 indicted on the same indictment, which is not the
7 case here. Okay.

8 If you turn to -- this to me is an example of an
9 opinion that is drawn at one point in time and has
10 just been roughly applied ever since, and without,
11 sitting down and thinking about it. The final
12 paragraph, it discusses referring to Blackson, and it
13 gets that it's been held -- this is really
14 interesting to me. It has been --

15 **THE COURT:** You talking about Huckey or Crowe?

16 **MR. STRICKLER:** Huckey. The final paragraph in
17 Huckey where it looks like it quotes v. Sims, 16 SC
18 487. "It has been held that this court cannot
19 declare error in the refusal of the Circuit judge to
20 permit more than one counsel for defendants to cross
21 examine a witness for the State, although the several
22 defendants were represented by different counsel."

23 So the logic that the Court relies on is founded
24 on the same logic that would say that not only can we
25 not preserve our right to close based on whether or

1 not we introduce evidence, we don't even have a right
2 to cross examine the witnesses. Again, the statement
3 is: "It's been held this court cannot declare error
4 in the refusal of the Circuit judge to permit more
5 than one counsel for defendants to cross examine a
6 witness for the State, although the several
7 defendants were represented by different counsel."

8 Now, that clearly is not the standard and habit
9 and practice of this court these days. I mean, it
10 never has been during my watch. So, I mean, you have
11 that as an example of the law that's being applied,
12 and for the same reasons the court goes on to say we
13 can't say it's error that you give up your right to
14 reply testimony or final testimony where one of the
15 defendants introduces evidence.

16 Well, you know, that's not much of a reason by
17 me because it's clearly not the law now. I mean, if
18 I examined neither a defendant, neither Mr. Milling
19 nor Mr. Delgado is precluded from examining the
20 defendant.

21 So, I raise it now simply because, one, I think
22 we should be entitled to final argument should we
23 choose not to introduce any evidence. And, two, I
24 raise it now because it has an effect on what I do
25 from now on. I mean, should I know that I will not

1 be able to not be answered by the State in closing
2 argument, then I will probably have to assure that I
3 have numbers of witnesses present at some point. I'm
4 trying to figure out exactly what point that would
5 be.

6 I don't know whether anyone else has anything to
7 say about that. So I would seek a ruling from the
8 Court in this regard. I'm under the understanding
9 that we have not given up the right to final closing.

10 **THE COURT:** Any other counsel?

11 **MR. DELGADO:** Yes, sir. Your Honor, I think
12 generically the law is known as the Jellis rule.
13 J-E-L-L-I-S is the name of the Applicant. I believe
14 that case goes back to 1938, somewhere in that era.

15 Since that time the Supreme Court has noted what
16 is or is not the presentation of evidence. There was
17 a recent case where an appellate was ruled against
18 that he asked the court to allow a jury view. The
19 court held that that was not the introduction of
20 evidence. The Court of Appeals or the Supreme Court
21 reversed that.

22 There was, I believe it was the Foye case --
23 F-O-Y-E, Ms. Court reporter -- that allowed where the
24 demonstration of a tattoo from the defendant standing
25 at defense table without placing him on the stand was

1 not as well.

2 I would submit, Your Honor, that the most
3 important part of this is, if the State has relied on
4 the case of State v. Crowe and Wright decided
5 April 21st, 1972, one of the headnotes talks about:
6 "Upon trial, the defendants jointly indicted". Well,
7 I think, Your Honor, as the Court may now know, he is
8 not charged with the same substantive offenses. He's
9 charged with accessory before the fact and accessory
10 after the fact. Obviously we have to be indicted to
11 go to trial, but he is not jointly indicted with
12 those defendants.

13 **THE COURT:** Well, would it be your opinion that
14 your client should be treated differently in the
15 sense that your client should be given the
16 opportunity to argue last if your client does not
17 choose to introduce any evidence; but by the same --
18 in the same breath, the other two defendants are
19 bound by the introduction of evidence by one or the
20 other since they were jointly indicted? Is that your
21 position?

22 **MR. DELGADO:** I can answer one of those two
23 questions. That is, my client deserves to be able to
24 present no testimony and argue last. Relative to my
25 colleagues and their respective positions, all I can

1 tell Your Honor is that Crowe and Wright talked about
2 jointly indicted. If they are jointly indicted,
3 that's what that would relate to.

4 **THE COURT:** That's what I'm referring to. All
5 right. Anything from the State other than what
6 your --

7 **MR. MEADORS:** I think, Your Honor, we do rely on
8 State v. Crowe.

9 **THE COURT:** Yes, sir. I think you do.

10 **MR. MEADORS:** Yes, sir. Without question. And
11 I think jointly indicted can be indicted regarding
12 the same incident. It doesn't necessarily say it has
13 to be the same charges. This is indicted in the same
14 crime, different roles, but all indicted regarding
15 the September 4th murders where the body was on
16 Donald and the other two bodies on Mildred Avenue.

17 And it clearly says if one of the jointly
18 tried -- and I think it's significant those were
19 jointly tried. If a defendant introduces evidence,
20 the State is entitled to close last. That's been
21 done. They're jointly tried. Evidence was admitted
22 by one of them. And I think according to Crowe, and
23 it's still good law I'm informed, that's still the
24 law, and we think we ought to be able to close last.

25 **THE COURT:** All right.

1 **MR. DELGADO:** Your Honor, I'm certain you
2 haven't heard the end of this. I mean, I'm not
3 prepared completely to argue to you. But I guess if
4 we look at Crowe, that headnote talks about would
5 there be an independent basis for Ken Joy to be tried
6 separately from these other two? And that's in truth
7 exactly what could have happened.

8 **THE COURT:** Well, I'm looking at the case. I'm
9 not looking at the headnote.

10 **MR. DELGADO:** Yes, sir.

11 **THE COURT:** I'm looking at Judge Anderson's
12 comments. And the nuts and bolts of South Carolina
13 substantive and procedural law in which he doesn't
14 address the definition of jointly indicted. But he
15 says in a criminal prosecution -- and this -- and
16 like I say, this is not in quotations -- in a
17 criminal prosecution where a defendant is separately
18 tried and introduced no testimony, he is entitled to
19 closing argument to the jury. However, where
20 defendants are jointly indicted -- it doesn't say
21 anything about tried; it says jointly indicted and
22 either one of them introduced evidence, the State is
23 entitled to closing argument, stating State v.
24 Huggin. And he says in Crowe the rule was properly
25 applied by the trial judge in denying the defendant

1 the right to be allowed to give closing argument to
2 the jury.

3 Now, that's probably the extent of the holding
4 of case law in this state. So, I'll take it under
5 advisement. Mr. Strickler, I understand your
6 position. I'll have to -- I'll just let you know in
7 the morning. That's about as good as I can --

8 **MR. STRICKLER:** Yes, sir. Thank you.

9 **MR. MEADORS:** Can I have one follow-up, too?
10 Just to follow up on that, I know Mr. Delgado
11 mentioned they could have been tried separately.
12 It's like if we chose to go forward with all three of
13 them and that brings Bruton problems which we have to
14 deal with and we have, they chose to go forward.
15 There was not one request for a severance. And that
16 kind of like goes both ways. That's the way it goes
17 both ways. If somebody introduces something, it
18 applies to all of them.

19 **MR. DELGADO:** Well, Your Honor --

20 **THE COURT:** Anything further?

21 **MR. DELGADO:** Yes, sir. With all due respect,
22 when this case was continued in October and November,
23 the solicitor on that Friday afternoon; in fact,
24 maybe even said it to you in chambers, that they were
25 not going to proceed against Mr. Joy.

1 **MR. MEADORS:** No, sir. That's not true.

2 **THE COURT:** Well, it's not relevant to this
3 discussion --

4 **MR. DELGADO:** All right. Fine.

5 **THE COURT:** -- as to what was said in chambers a
6 month ago.

7 **MR. MEADORS:** That was totally out of context.

8 **THE COURT:** Mr. Strickler, you are on your feet
9 for a reason.

10 **MR. STRICKLER:** I have nothing further on that.

11 **THE COURT:** You just prefer to be on your feet.
12 Ready for the jury?

13 **MR. ROSS:** Yes, sir.

14 **THE COURT:** Bring the jury.

15 (Jury in at 2:19 p.m.)

16 **THE BAILIFF:** Your Honor, the jury is present.

17 **THE COURT:** Thank you very much, ladies and
18 gentlemen. I hope you had a pleasant lunch. We're
19 now ready to continue with the trial. Solicitor,
20 call your next witness.

21 **MR. ROSS:** The State calls Lieutenant Steven
22 Curtis.

23 STEVEN CURTIS, after being duly sworn, testifies
24 as follows:

25 **THE CLERK:** Thank you. Please have a seat in

1 the witness stand and state your full name for the
2 record.

3 **THE WITNESS:** Steven Curtis.

4 DIRECT EXAMINATION

5 **BY MR. ROSS**

6 **Q** Lieutenant, where are you employed?

7 **A** I'm employed with the South Carolina State Law
8 Enforcement Division or SLED.

9 **Q** And what's your position at SLED?

10 **A** I'm currently assigned as a lieutenant in the
11 internal affairs section.

12 **Q** Did you have occasion to process some evidence in
13 this case lab number L-05-10492?

14 **A** Yes, sir, I did.

15 **Q** And what type of examination did you conduct at that
16 time?

17 **A** Well, at that time I was assigned to the crime scene
18 latent print section and received a couple of items
19 of evidence that the requests were to process a
20 barrel from a handgun and two cartridge casings.
21 They wanted them processed for latent prints and then
22 sent on to the firearms section for ballistic
23 testing.

24 **Q** And so your position at that time was fingerprint
25 identification among other things?

1 **A** Yes, sir. Processing items for evidence; and then if
2 able to develop latent fingerprints, then to try to
3 identify them to a person.

4 **Q** If you could tell the Court and ladies and gentlemen
5 of the jury a little bit about your background and
6 training towards being able to conduct those type of
7 analyses in fingerprint identification?

8 **A** I've been a police officer in South Carolina for
9 approximately 23 years. And during that time I have
10 been assigned to a crime scene unit at the Richland
11 County Sheriff's Office for a number of years. And
12 then after being promoted to a detective and moving
13 on to Richland County, I went to work for SLED and
14 worked for eight years in their crime scene latent
15 print section.

16 I have approximately 200 hours worth of training
17 classes that deal with the collection, processing of
18 evidence for latent prints and then taking those
19 latent prints and doing comparisons to try to
20 identify the person that left those prints on items
21 of evidence.

22 **Q** And have you lifted prints before as part of your
23 duties in crime scene investigation?

24 **A** Yes, sir, I have.

25 **Q** Have you got any idea approximately how many times

1 that would be?

2 **A** Oh, thousands and thousands. I mean, I've done a
3 total, over my 23 years, approximately ten, strictly
4 being assigned to a crime scene unit either at the
5 Richland County Sheriff's Office or SLED. So that's
6 an everyday process that in those positions. So I
7 would just say thousands and thousands. I can't give
8 you a --

9 **Q** And --

10 **A** It's not a small amount.

11 **Q** I'm sorry. I didn't mean to cut you off. Have you
12 had an opportunity to also take prints that were
13 either lifted by yourself or someone else and compare
14 those to known prints? Have you done that as well?

15 **A** Yes, sir, I have.

16 **Q** And approximately how many times have you done that?

17 **A** Comparisons, again, thousands and thousands. I mean,
18 you're looking at, if you're able to develop a print
19 on a piece of evidence, then you evaluate it. Is it
20 sufficient enough to make an identification? And
21 then either if there's a suspect provided or if it's
22 run through a computer system or a computer data base
23 it gives you a possibility of someone and then do the
24 comparison. So I've done that several thousand times
25 as well.

1 Q Have you been qualified as an expert in Circuit
2 courts to testify on fingerprint identification
3 before?

4 A Yes, sir, I have.

5 Q Approximately how many times?

6 A I'd say approximately 20 times.

7 MR. ROSS: Your Honor, I'd offer Lieutenant
8 Curtis as an expert in the area of fingerprint
9 identification.

10 MR. STRICKLER: I have no Voir Dire for the
11 lieutenant, sir.

12 THE COURT: Voir Dire or objection?

13 MR. MILLING: No Voir Dire, Your Honor.

14 MR. DELGADO: Nothing for Lieutenant Curtis.

15 THE COURT: All right. You may proceed.

16 Q Lieutenant, I am looking at your report. I'm looking
17 at SLED items. Let's start with SLED item number 4.
18 Was that item submitted for comparison; or not
19 comparison, but for the lifting or possible lifting
20 of fingerprints?

21 A Yes, sir. That was a -- it was listed as a Glock
22 barrel from a handgun. That was submitted on
23 September the 7th according to the log-in sheet. It
24 was brought out to SLED headquarters to the forensic
25 laboratory.

1 Q Handing you State's Exhibit No. 149-D, do you
2 recognize that item?

3 A Yes, sir. This is one of the -- this is a barrel
4 from a Glock handgun. And on the packaging on the
5 exterior of this envelope and then on the sealed
6 plastic envelope are my item number, the case number
7 that SLED assigned that and my initials.

8 Q Okay. And did you examine that item?

9 A Yes, sir, I did.

10 Q For fingerprints?

11 A Yes, sir.

12 Q And did you find any fingerprints?

13 A No, sir. I was not able to develop any usable latent
14 prints on that item.

15 Q Okay. And explain to the jury what you mean by that,
16 usable latent print?

17 A In processing items for fingerprints you've got to
18 have a certain amount of the print there and it's got
19 to be of a quality and a quantity to where that you
20 actually have enough to where you can compare the
21 print lifted from an item, compare it with an inked
22 card; when you ink the palm or fingers of someone's
23 hands, they're rolled on a piece of paper, and then
24 be able to look at the two to see if you can identify
25 characteristics within both the latent or unknown

1 print and the inked or known print.

2 And if you've got a sufficient number of ridges
3 and minutia or characteristics within those ridges,
4 where ridges will stop or split in two, the size and
5 the shape of the ridges and where they flow, those
6 are some of the characteristics I'm looking for.

7 So you've got to have -- there is no specific
8 quantity as far as size, but you've got to have
9 enough of the print there to do a good comparison.
10 And in this instance, in processing the gun barrel,
11 there wasn't enough sufficient there for me to be
12 able to lift and be able to use it to do a comparison
13 with.

14 Q If you could also explain to the jury a little bit
15 about how a print is left on a surface and why
16 sometimes -- they've heard a little bit of testimony
17 about this before -- but a little bit about why a
18 print is left on a surface sometimes versus others?

19 A Well, a latent fingerprint is actually an impression
20 of the ridges on the inside of your hands, your
21 fingers, your palms. And it's mostly comprised of
22 sweat and some oils. And a lot of it depends upon
23 the condition of a person's hands. If a person has
24 recently washed their hands, they may not leave a
25 print if they touch something. If a person works

1 with their hands, somebody, a carpenter, a brick
2 mason is going to have rough palms and fingers from
3 the type of work they do, they may not leave a print.

4 And just in general, just because you touch an
5 item doesn't mean that you're going to leave a print.
6 They're very fragile. They, like I said, consist of
7 oils and waters from the sweat, residue and stuff on
8 your fingers. And when you touch the item you'll
9 leave no impression of those ridges. So if your
10 fingers, your hands are not in good shape or you're
11 not particularly, you know, exuding sweat or oils, or
12 if the item itself is rough or wet or any number of
13 reasons may cause you not to leave a print.

14 Finding a fingerprint in a good condition to
15 make a comparison is probably the exception rather
16 than the rule. There's a lot of factors in there.
17 You know, the hands, the item touched, the
18 environment. You know, like if someone touches an
19 automobile or something, if it's been raining or
20 extremely hot or particularly windy, the water, the
21 moisture inside the print that's left there will
22 evaporate pretty quickly. It just depends upon those
23 three factors and the condition that they're in when
24 they come into contact with each other.

25 Q We'll probably skip this step. But when you examined

1 that item, what did you do to try to lift the prints
2 off of that barrel?

3 **A** All right. Well, first I would take it and visually
4 examine it. Do I see any ridge detail in the
5 fingerprints just visually looking at it? In this
6 instance I didn't. So what I did was I put this in a
7 chamber and used cyanoacrylate or superglue which
8 when heated it causes it to fume. And the fumes will
9 stick to the item, to the moisture on an item. And
10 they simply enhance the prints. Like this, the gun
11 barrel itself, is black. So the superglue fumes will
12 leave a white, looks like a white dusting on the
13 item. And it will enhance the prints, make them more
14 visible if there are any there. And it also adheres
15 them to the surface which makes them a little more
16 stable.

17 So I looked at it. I didn't see anything
18 visually. I put it in a tank and superglued it. I
19 saw a bit of ridge detail. I took it and used a dye
20 stain called N.B.D. that we have in the laboratory
21 which simply makes the superglue residue fluoresce a
22 little bit and then took an alternate light source
23 and looked at it. Sometimes that will enhance it,
24 make it look better.

25 And in this instance it didn't improve the few

1 ridges that I had on there. So then I took black
2 powder and attempted to lift it. But there just --
3 there was very little ridge detail on this item
4 though.

5 Q Moving on to SLED items number 5 and 6, did you also
6 examine those items?

7 A Yes, sir. Those were two shell casings. They were
8 listed as .40 caliber Winchester shell casings. And
9 I went through the same process with those as well.

10 Q I hand you State's Exhibit No. 149-B and 149-E. Do
11 you recognize those two items?

12 A Yes, sir, I do. The same situation. The exterior
13 packaging on the envelopes and then the interior
14 plastic bags that are sealed bear my item number, my
15 lab number and my initials on those.

16 Q And did you process those shell casings the same way
17 as you just testified about the barrel?

18 A Yes, sir, I did. I looked at them visually; and then
19 if nothing is observed, then run them through the
20 cyanoacrylate and then the alternate light source and
21 then the black powder again.

22 Q And were you able to identify any prints on those
23 shell casings?

24 A No, sir. I didn't get any ridge detail at all.
25 There was no trace of fingerprints on those shell

1 casings at all.

2 Q That's all the questions I have, Lieutenant. Answer
3 any questions the defense might have for you.

4 MR. STRICKLER: May it please the Court, sir?

5 THE COURT: Yes, sir.

6 CROSS EXAMINATION.

7 BY MR. STRICKLER

8 Q Good afternoon, Lieutenant. How are you, sir?

9 A Mr. Strickler, all right.

10 Q You've been referring to some notes up there as
11 you've been testifying?

12 A Yes, sir.

13 Q And could I take a quick look at them?

14 A Sure.

15 Q Thank you.

16 A That's my worksheet from where I did the exam in the
17 laboratory.

18 Q And then you have what's called a forensic services
19 lab request?

20 A Yes, sir.

21 Q Okay. That's a document that's used in SLED to --

22 A Yes, sir. That's where the -- whoever is submitting
23 the evidence would fill out that and when they're
24 logging it in give a little background material on
25 the case.

- 1 Q And then you have a SLED laboratory evidence
2 inventory sheet, correct?
- 3 A Yes, sir. That's where they list each item that they
4 want --
- 5 Q As it comes into SLED?
- 6 A Yes, sir.
- 7 Q And then it gets assigned SLED lab numbers and then
8 gets forwarded on to the various places?
- 9 A Yes, sir.
- 10 Q Be it you or ballistics or serology or wherever?
- 11 A Yes, sir.
- 12 Q There are a number of services conducted out at SLED?
- 13 A Yes, sir.
- 14 Q To put it mildly?
- 15 A Yes, sir.
- 16 Q Okay. And so the process at SLED is that as soon as
17 the evidence -- well, sometimes SLED is actually
18 involved in being on the scene doing investigations
19 themselves, right?
- 20 A Yes, sir.
- 21 Q But it also acts as a support agency for -- that is
22 my term -- but for law enforcement agencies around
23 the state, correct?
- 24 A That is correct.
- 25 Q Regardless of which way it's operating in a

1 particular case, when the evidence gets to SLED, it's
2 logged in?

3 A Yes, sir.

4 Q Okay. And it is accounted for, it is documented, and
5 then it forwarded on to wherever the various work
6 needs to be done, correct?

7 A That's correct, yes.

8 Q So once an item of evidence hits SLED, you can track
9 when it got there, right?

10 A Yes, sir.

11 Q You can track where it went?

12 A Yes, sir.

13 Q You can track when it went from one place to another
14 place, correct?

15 A Yes, sir.

16 Q When it -- and when it ends up, if that's the case,
17 ends up going back to some other law enforcement
18 agency?

19 A Once it's done, it would be returned to whatever
20 agency, there should be a record of that as well.
21 Yes, sir.

22 Q So you document those things and you keep track of
23 them, right?

24 A Yes, sir.

25 Q And, in fact, in this case you did your work on --

1 what is it -- item 147D. I didn't get the item
2 number on the shell casings?

3 **A** Item 4 was the gun barrel and items 5 and 6 were the
4 two shell casings. Or our numbers.

5 **Q** Your numbers?

6 **A** Yes, sir.

7 **Q** I was just going to say. Here is the possibility of
8 confusion. When you say 4, 5 and 6, those are
9 internal item numbers that SLED generates?

10 **A** Yes, sir.

11 **Q** Right?

12 **A** Yes, sir.

13 **Q** And when we're talking about 149-D, these are numbers
14 that are assigned here in this courtroom, right?

15 **A** That's correct.

16 **Q** We're talking about a .40 caliber gun barrel and a
17 couple of .40 caliber shell casings, correct?

18 **MR. ROSS:** Your Honor, objection. It's not a
19 .40 caliber gun barrel. He didn't testify to that.

20 **Q** I'm sorry. Glock gun barrel. My apologies.

21 **A** No. That's all right.

22 **Q** Glock gun barrel and .40 caliber shell casings?

23 **A** Yes, sir.

24 **Q** And, in fact, in this particular case you did your
25 work as far as printing these items?

1 **A** Yes, sir.

2 **Q** And then they were forwarded on to another department
3 in SLED. Is that correct?

4 **A** Yes, sir. To the firearms department.

5 **Q** Firearms. Ballistics. It went to a fellow by the
6 name of, I think it was Dan DeFreese, went out there
7 and looked at them?

8 **A** Yes, sir. He was the agent assigned to it.

9 **Q** So, while you can tell us that they didn't have any
10 prints or any usable prints in the case of the barrel
11 and no prints at all in the case of the shell
12 casings, Mr. DeFreese can tell you whether
13 something -- tell us something about the caliber of
14 the gun barrel and whether or not the shell casings
15 could be associated with the gun barrel. He may be
16 able to tell us that, correct?

17 **A** That is correct. Yes, sir.

18 **Q** We need to wait to hear from him or someone in
19 ballistics to talk about those issues, right?

20 **A** That is correct, sir. Yes, sir.

21 **Q** Thank you very much, sir.

22 **THE COURT:** Questions.

23 **MR. MILLING:** Thank you, Your Honor. May it
24 please the Court.

25 CROSS EXAMINATION

1 **BY MR. MILLING**

2 **Q** Agent Curtis, I just want to make sure that I
3 understand. You printed these three items, the Glock
4 barrel and two .40 caliber shell casings?

5 **A** That is correct. Yes, sir.

6 **Q** No identifiable prints, correct?

7 **A** That is correct.

8 **Q** So you don't have any testimony to offer here today
9 identifying anyone to be associated with those three
10 items?

11 **A** That is correct.

12 **Q** Nothing further.

13 **MR. DELGADO:** I have nothing for him at this
14 time.

15 **THE COURT:** Redirect?

16 **MR. ROSS:** No, Your Honor.

17 **THE COURT:** All right. You may come down. May
18 the witness be excused?

19 **MR. STRICKLER:** Yes, sir. Without objection,
20 sir.

21 **MR. MILLING:** No objection.

22 **MR. DELGADO:** No objection.

23 **THE COURT:** Without objection. Next witness.

24 **MS. MCDUFFIE:** Your Honor, the State calls Ken
25 Davis.

1 KEN DAVIS, after being duly sworn, testifies as
2 follows:

3 **THE CLERK:** Thank you. Please have a seat in
4 the witness stand and state your full name for the
5 record.

6 **THE WITNESS:** I am Ken Davis.

7 DIRECT EXAMINATION

8 **BY MS. MCDUFFIE**

9 Q Good afternoon, Mr. Davis.

10 A Hey.

11 Q Mr. Davis, where are you currently employed?

12 A I was at Austin Woods as maintenance supervisor.

13 Q Where are you employed now?

14 A Oh. I have my own business.

15 Q Doing what?

16 A Painting.

17 Q And in September of 2005, where were you employed?

18 A Austin Woods, maintenance supervisor.

19 Q And what is Austin Woods?

20 A It's an apartment complex.

21 Q Located in Richland County?

22 A Yes. It's on Garners Ferry.

23 Q And as maintenance supervisor at Austin Woods, did
24 you have a chance to come in contact with Mr. Kenneth
25 Joy?

1 **A** Yes, I did.

2 **Q** And how did you meet Mr. Joy?

3 **A** He was our painter that we used.

4 **Q** And so he would -- when tenants moved out, he
5 would --

6 **A** Oh, yeah. I would give him apartments to paint and
7 he would have his crew paint them.

8 **Q** And sometime in September of 2005, did Mr. Joy submit
9 some invoices to you?

10 **A** He submitted them to the manager and he gave me a
11 call to see if I could rush his money up.

12 **Q** He needed his money?

13 **A** Yeah. He needed his money.

14 **MR. DELGADO:** Your Honor, with all due respect
15 to my young friend, she's placing words in the
16 gentleman's mouth. Just --

17 **THE COURT:** It's leading. Just don't lead the
18 witness.

19 **Q** How much in invoices did Mr. Joy submit?

20 **A** It was a total of like \$30,000.

21 **Q** And you mentioned a minute ago that he called you?

22 **A** Yes, he did.

23 **Q** And why did he give you a call?

24 **A** To see if I could rush his invoices to get his money.
25 And I told --

1 Q What did you tell him?

2 A I told him that I had no control over that, that was
3 up to the management.

4 Q And did Mr. Joy say anything else to you?

5 A He said that he was in a little bit of trouble. And
6 then I said, "yeah, I saw on the news."

7 Q And was anything else said?

8 A That was it.

9 MS. MCDUFFIE: No further questions at this
10 time.

11 THE COURT: Cross examination.

12 MR. STRICKLER: Nothing from Mr. Oliver.

13 THE COURT: Mr. Gallman.

14 CROSS EXAMINATION

15 BY MR. MILLING

16 Q Good afternoon. My name is Jonathan Milling. I
17 represent Mr. Dominic Gallman in this case.

18 A Okay.

19 Q You indicated that Mr. Joy had done work for your
20 company in the past, correct?

21 A Yes.

22 Q Over how long a period of time?

23 A I was only there for two years, and I've known him
24 for two years.

25 Q And so he had been doing work for you all during that

1 period?

2 A Yes.

3 Q And in 2005 he submitted about \$30,000 worth of
4 invoices?

5 A Yes.

6 Q Okay. Now, you've got your own business now, right?

7 A Right.

8 Q You've got good customers and people who you've just
9 done work for recently, correct?

10 A Right.

11 Q People who you've done business for an extended
12 period of time, you give them a little bit of leeway,
13 right?

14 A Yes.

15 Q Is it consistent for somebody to contact -- in your
16 opinion, in your experience, is it consistent for
17 somebody to contact a good customer when they've got
18 plenty of money?

19 A Yes.

20 Q It is consistent?

21 A Mm-hmm (affirmative).

22 Q Okay. Nothing further.

23 THE COURT: Mr. Delgado.

24 MR. DELGADO: Thank you, Your Honor.

25 CROSS EXAMINATION

1 **BY MR. DELGADO**

2 **Q** Mr. Davis, how are you, sir? Mr. Davis, you were the
3 maintenance supervisor at Austin Woods?

4 **A** Right. Correct.

5 **Q** You left that when approximately?

6 **A** Approximately shortly after probably about two
7 years -- shortly after I talked to Ken Joy.

8 **Q** Oh, is that right?

9 **A** Yes, sir.

10 **Q** You own your own business now?

11 **A** Yes, I do.

12 **Q** You do maintenance -- or excuse me -- painting now?

13 **A** Yes.

14 **Q** You do painting at the same sorts of apartment
15 complexes as Austin Woods?

16 **A** Yes, I do.

17 **Q** Do you do it right there at Austin Woods?

18 **A** No.

19 **Q** At other apartment complexes?

20 **A** Yes.

21 **Q** How long a period of time before September of 2005
22 did you know Ken Joy?

23 **A** I didn't.

24 **Q** You didn't know him at all?

25 **A** Hmm-mm (Negative).

1 Q You'd never met him before, sir?

2 A No.

3 Q You knew his company, did you not? Advantage
4 Building Systems?

5 A I knew of his company, yes.

6 Q They had been doing work at Austin Woods for how
7 long?

8 A From what I was told, --

9 Q Sure.

10 A -- they would have been doing it for like four or
11 five years, something like that.

12 Q They would do -- when a tenant leaves Austin Woods,
13 if there is damage or just normal wear and tear or
14 the walls get dirty, somebody is probably going to
15 paint it again?

16 A Right.

17 Q If the rugs get torn up or ripped up or something,
18 somebody is going to put a new floor in or rugs?

19 A Correct.

20 Q Do you ever remember Ken Joy or Advantage Building
21 Systems coming out and doing that in a whole variety
22 of apartments out there at Austin Woods?

23 A No, I do not.

24 Q He was employed or his company was employed for four
25 or five years doing something at Austin Woods?

1 A Yes.

2 Q Would that have included possibly, sir, even
3 repainting your parking lots out there when your
4 stripes and your parking areas get faded or that kind
5 of stuff?

6 A Yes. They did do that.

7 Q All right. Okay. And you said that he called you by
8 phone?

9 A Yes.

10 Q All right, sir. And he said that he had some \$30,000
11 that he wanted to see if he could get from you all?

12 A Yes.

13 Q Right, sir?

14 A Yes, sir.

15 Q Do you know for how long a period of time that
16 \$30,000, how long a period of time that would
17 constitute for his work at Austin Woods?

18 A I'm not sure of the period of time.

19 Q Okay. If I told you it was about \$15,000 a month is
20 what he was generally billing, would you know that to
21 be fair? If you know.

22 A No, I would not.

23 Q Okay. All right, sir. He called you and asked if he
24 could -- if you could facilitate speeding that up.
25 Would that be fair?

1 A No, it wouldn't.

2 Q Oh, okay. Did you not just say to the solicitor that
3 he called me to rush it up?

4 A Yeah. He wanted to see if I could talk to the
5 manager or whatever.

6 Q I understand. And I wasn't trying to trick you.
7 That's what I'm asking you about.

8 A Oh, okay.

9 Q And he said he was in a bit of trouble, right?

10 A Yes, sir.

11 Q And you said, "yeah, I saw"?

12 A "Yeah. I saw him on the news."

13 Q Yes, sir. He was on TV, wasn't he?

14 A Yes, sir.

15 Q The police wanted him, didn't they?

16 A Yes.

17 Q He was calling you, knowing that -- when you said
18 "yeah, I saw it", he acknowledged to you, "yeah, I
19 know that I'm wanted", right?

20 A Yes.

21 Q He was trying to get money before he was arrested by
22 the police. Would that be fair?

23 A Yeah. I guess so.

24 Q All right. Let me ask you this. Can you tell our
25 jury whether or not either Ken Joy or Advantage

1 Building Systems has ever been paid for the monies
2 that were outstanding?

3 **A** No.

4 **Q** Would you know that?

5 **A** I could not. I have no idea.

6 **Q** Would you know whether or not that's what you call an
7 account receivable, right?

8 **A** Right.

9 **Q** When you have to bill somebody or that's still due?

10 **A** Yes.

11 **Q** You don't know whether that money they still be due
12 Ken Joy or Advantage Building Systems?

13 **A** Yeah. I do not know.

14 **Q** Thank you very much. That's all.

15 **THE COURT:** Redirect?

16 **MS. MCDUFFIE:** No, Your Honor.

17 **THE COURT:** All right. You may come down, sir.
18 May this witness be excused?

19 **MR. STRICKLER:** Without objection, sir.

20 **MR. MILLING:** I have no objection.

21 **MR. DELGADO:** No objection.

22 **THE COURT:** Without objection, you're free to
23 go, sir. Thank you very much.

24 **MR. ROSS:** The State calls David Collins.

25 **COURT REPORTER:** I'm sorry. Who did you call?

1 **MR. ROSS:** The State calls David Collins.

2 **COURT REPORTER:** Thank you.

3 DAVID J. COLLINS, after being duly sworn,
4 testifies as follows:

5 **THE CLERK:** Thank you. Please have a seat in
6 the witness stand and state your full name for the
7 record.

8 **THE WITNESS:** David Jeffrey Collins.

9 DIRECT EXAMINATION

10 **BY MR. ROSS**

11 **Q** Investigator Collins, where are you employed?

12 **A** I'm employed by the Richland County Sheriff's
13 Department.

14 **Q** And how long have you been employed there?

15 **A** I've been employed by the Richland County Sheriff's
16 Department since September of 2002.

17 **Q** And did you examine a piece of evidence in this case,
18 a projectile that's marked State's Exhibit No. 191?
19 Did you examine this evidence back in September of
20 2005? Do you recall that?

21 **A** Yes, I do. I did examine a fired bullet that was
22 submitted to me in September of 2005. Actually I
23 initially received it from Investigator Jay Russell
24 on September 8th of 2005. And I began my examination
25 on that date.

1 Q Could you give the Court and the jury a little bit
2 about your background and training as it relates to
3 firearms identification?

4 A I am employed by the Richland County Sheriff's
5 Department as a forensic firearms and tool marks
6 examiner. And as a part of that, my responsibilities
7 involve the microscopic comparison and examination of
8 various types of firearms-related evidence. Those of
9 you who watch CSI or shows of that nature may be
10 familiar with the term of ballistics examiners and
11 things of that nature. That is part of what my job
12 is.

13 I became involved in this field in 1990 when I
14 went to work for the State Law Enforcement Division,
15 commonly known as SLED, and where I received my
16 explaining as a firearms and tool marks examiner
17 through that agency. The training program lasts for
18 approximately two and a half years.

19 After becoming certified by SLED as a firearms
20 examiner, I was certified by them, began a case load
21 of my own and began testifying in court as an expert
22 witness in firearms and tool marks examinations and
23 firearms identification.

24 Also after completion of my formal training at
25 SLED I have undertaken continuing education and

1 training in my field in the form of various schools,
2 to include armorer's courses provided by firearms
3 manufacturers to shooting scene reconstruction
4 schools that I completed recently and also to attend
5 training seminars given annually by our professional
6 association which is the Association of Firearms and
7 Tool Marks Examiners or AFTE. Through that
8 association I continue to receive training on a
9 regular basis.

10 Q Investigator, approximately how many firearm types of
11 identifications have you made of shell casings from a
12 certain type to see if it comes from a certain type
13 of firearm or shell casings to see if they match each
14 other or projectiles that came from a certain type of
15 firearm, those types of things? Approximately how
16 many examinations do you think you have made in those
17 areas?

18 A Very approximately, through just looking at the
19 individual examinations, it would have to be in the
20 thousands.

21 Q Have you been qualified as an expert in firearms
22 identification in Circuit court before?

23 A Yes. I have been qualified in the Circuit courts of
24 South Carolina as an expert in firearms examination
25 and firearms identification in excess of 200 times.

1 I've also qualified in the state courts of Georgia
2 and middle Carolina and the Federal Court system and
3 the military court system.

4 **MR. ROSS:** Your Honor, we'd offer him as an
5 expert in the area of firearms identification.

6 **THE COURT:** Any Voir Dire?

7 **MR. STRICKLER:** Your Honor, I'll stipulate to
8 Mr. Collins' expertise.

9 **MR. MILLING:** No objection.

10 **MR. DELGADO:** No objection to Mr. Collins.

11 **THE COURT:** All right.

12 **Q** Did you -- handing you State's Exhibit No. 191, let
13 me see if you recognize that item?

14 **A** I recognize the container as being one that's marked
15 as containing the bullet that I examined, and also
16 the seal on the outside of the container bears my
17 initials and the date upon which it was sealed.

18 **Q** And what date did you make examination on this?

19 **A** Examinations on evidence of this type may be ongoing,
20 especially if a firearm is not received that we can
21 microscopically compare this with to determine if
22 that firearm did fire it. In this case all I had was
23 a fired bullet. And my examinations started on the
24 8th of September in 2005, and actually I completed my
25 examination the following day, on the 9th, and issued

1 my report.

2 Q Okay. Tell the jury what you did as pertaining to
3 this particular case with that projectile?

4 A This particular case was somewhat different than the
5 standard case that I would work. Normally I would
6 have evidence brought to me in the Richland County
7 Sheriff's Department laboratory and would examine it
8 there. I was requested to have this particular item
9 of evidence compared with other bullets from another
10 case, and those items of evidence were at the SLED
11 forensics laboratory.

12 So after contacting my associates at SLED
13 forensics laboratory I had the individual who had
14 custody of this item which was Investigator Jay
15 Russell who was with us at the time at Richland
16 County bring it to me at the SLED laboratory. And
17 then he transferred it to my custody there. And then
18 I took it up and we examined it in the SLED
19 laboratory initially with a SLED examiner, and then I
20 took it back to the Richland County lab where I
21 completed my examinations.

22 Q And who was that examiner at SLED?

23 A It was Dan DeFreese.

24 Q All right. And tell the jury a little bit about that
25 examination, how that went with you and Agent

1 DeFreese?

2 A Well, Agent DeFreese and I examined this particular
3 bullet and compared it with some bullets that he had
4 from another case. And then we were able to as a
5 result of this conclude that this bullet had been
6 fired by the same gun that fired one of the bullets
7 that he had in his possession.

8 Q Looking at State's Exhibit No. 149, there's some
9 projectiles that are in there. I believe you did a
10 comparison of the one bullet that we just talked
11 about with items 8 and 9 from SLED, item numbers 8
12 and 9?

13 A Yes. This package is labeled as containing items 7,
14 8 and 9 from SLED. This package is labeled as
15 containing item 10.

16 Q And you made a comparison with SLED items 8 and 9.
17 And what was your analysis, looking at those items?

18 A At the time my examination of these items was
19 restricted to just those items, just SLED's items 8
20 and 9 and my item 1 which would have been the bullet
21 that I had received there from our case. And based
22 on microscopic comparisons of the fired bullet that I
23 had versus the two from SLED, I was able to
24 conclude -- actually I was able to conclude and it
25 was confirmed or verified by the SLED examiner --

1 that the bullet that I submitted had been fired by
2 the same gun. If I can refer to my report just for a
3 moment. It had been fired by the same gun that fired
4 item 8.

5 My comparisons with the item 9 bullet yielded in
6 conclusive results largely due to the condition of
7 the bullets. Sometimes when you receive bullets that
8 have been shot into a victim, they are bent and
9 damaged. If they're there for a period of time, body
10 fluids may have a chance to corrode actually the
11 surface of the bullet. And that was what happened in
12 this particular case. Some corrosion that was
13 present on the surface of the bullet hindered my
14 ability to render a positive conclusion versus SLED
15 item 9.

16 What we're essentially doing here is looking at
17 microscopic scratch marks of the surfaces of the
18 bullet that are placed there by the firearm when the
19 bullet is fired down the barrel of the gun. No two
20 firearms are going to leave the exact same series of
21 scratch marks on the surface of the bullet. This is
22 due to the fact that there are defects in the inside
23 of that barrel that are unique in their placement to
24 that particular gun. And so the scratch marks they
25 leave on a bullet that's fired through that barrel

1 are as unique to that bullet and that firearm as, for
2 instance, a fingerprint is to a person.

3 What I'm doing is I'm examining the two items
4 side-by-side under what we call a comparison
5 microscope. We're looking for areas where these
6 markings match. In this case I was able to conclude
7 that item 1 from my case and item 8 from the SLED
8 case were fired from the same gun.

9 Q And item 1 in your case has been previously
10 identified as a projectile from the autopsy of
11 Desiree Felder. Item 8 that you were just talking
12 about, SLED item 8, that has previously been
13 identified as a projectile from the autopsy of George
14 Batie. Did you compare SLED items 8 and 9 with each
15 other, or did Agent DeFreese?

16 A Agent DeFreese would have done that.

17 Q All right. And did you all look at these items
18 basically at the same time?

19 A Yes. We looked at them at the same time under the
20 same microscope.

21 Q And did you all come to the same conclusion?

22 A Yes, we did.

23 Q So I'll just ask Agent DeFreese further questions
24 about it. That's all the questions I have for you at
25 this time.

1 **MR. STRICKLER:** May it please the Court, Your
2 Honor?

3 **THE COURT:** Yes, sir.

4 CROSS EXAMINATION

5 **BY MR. STRICKLER**

6 **Q** Good afternoon, Mr. Collins.

7 **A** Good afternoon.

8 **Q** Just a few questions, if I could, please, sir. And I
9 am referring to this document right here, make sure
10 we're on the same page as far as your report goes?

11 **A** Yes, sir.

12 **Q** Okay. Thank you. As I understand it, and last
13 first, you made arrangements to go out to SLED and
14 have this item transported out to SLED. Then you met
15 with Mr. DeFreese out at SLED, compared the item you
16 had in your possession, the bullet that was recovered
17 at the autopsy of Ms. Felder, with two bullets or
18 bullet fragments that he had in his possession that
19 had been recovered by CPD during the investigation
20 they had, correct?

21 **A** That is correct.

22 **Q** And your conclusion, with which he agrees as I
23 understand it, is that the item you had was fired by
24 the same weapon as the items that he -- well, as item
25 8 that he had which is one of the bullets; and item 9

1 was inconclusive because of the condition of the
2 bullet. Right?

3 A Yes. Item 9 was inconclusive in comparisons with my
4 bullet, item 1. Yes, sir.

5 Q Right. Now, if I understand you correctly, you then
6 returned to the Sheriff's Department and did some
7 further testing as far as this bullet goes. Unless I
8 have the order of sequence inverted, I thought you
9 determined it afterwards?

10 A Yes, sir. That is correct.

11 Q All right. And that was analyzing just the item that
12 you had possession of, right?

13 A Yes.

14 Q By "you" I mean the Richland County Sheriff's
15 Department.

16 A That's correct. I was concluding my examination of
17 mine with one bullet.

18 Q And if I understand your report, your conclusion was
19 that the bullet that you had was most consistent with
20 bullets found loaded in some .38 Special and/or .357
21 Magnum caliber ammunition?

22 A That is correct.

23 Q Okay. All right. Now, I take it that you use
24 language precisely when you use it in these reports.
25 And the language you use is most consistent with

1 bullets found loaded in some .38 and .357. Can you
2 explain to us, please, what you mean by the term
3 "most consistent with"?

4 A Certainly. In many cases if you're examining a
5 bullet that is relatively intact, you could look at
6 the diameter of the bullet. You can look at the
7 weight and the design characteristics in that bullet
8 and may be able to determine fairly precisely what
9 caliber of ammunition that bullet originated from.

10 In this particular case the bullet was badly
11 damaged as I received it. There are certain design
12 characteristics present on the bullet that were
13 consistent with what you would expect to find on
14 bullets chambered for -- or excuse me -- manufactured
15 for .38 caliber revolver type ammunition. That
16 includes .38 Special, .357 Magnum. And there are
17 other .38 caliber revolver projectiles that are
18 available on the part. However, you can also look at
19 the total weight of the projectile that you had and
20 sometimes eliminate some of those from being likely
21 candidates.

22 In this particular case there are some design
23 features on the bullet that were most consistent with
24 what we typically see when you combine that with the
25 weight of the projectile with a .38 special .357

1 Magnum caliber. However, due to the damaged
2 condition of this bullet, I could not positively
3 determine that that was the source caliber. There
4 could be other types of .38 or even some 9-millimeter
5 caliber ammunitions, as they share a common bullet
6 diameter, that could have this bullet loaded into it.
7 Although that would be unlikely in my opinion, the
8 .38, I could not exclude that possibility.

9 Q And that's why you use the terminology "most
10 consistent with"?

11 A That is correct.

12 Q I mean, had you been able to be specific, you would
13 have said so?

14 A Or "consistent with".

15 Q "Consistent with"?

16 A Yes, sir.

17 Q Okay. So if I understand your testimony correct --
18 and certainly correct me if I'm wrong -- you're of
19 the opinion it's most consistent with bullets of a
20 .38 special or a .357. You could not rule out the
21 possibility that it could be 9-millimeter ammunition?

22 A I couldn't rule that out. I could never rule that
23 possibility out in this case based on the condition
24 of the evidence.

25 Q Could it -- and I assume that there is a window

1 there, because you had also talked about the bullet
2 weight. So I would assume that if you get much above
3 a 9-millimeter you could rule that out just on the
4 weight of the ammunition?

5 A This particular bullet as I received it weighed 113
6 grains. And it has obviously lost some weight due to
7 damage and impact. Parts of it are missing. So it
8 weighed -- all I can state from my examination is it
9 weighed more than 11 grains in its intact condition.
10 How much more I do not know.

11 9-millimeter ammunition can weigh anything from
12 just over 100 grains up to 147 grains. So it fits in
13 the window of possibly a 9-millimeter or possibly
14 some other calibers. So based on that information, I
15 can't exclude 9-millimeter as a possibility.

16 Q Thank you very much.

17 CROSS EXAMINATION

18 **BY MR. MILLING**

19 Q Mr. Collins, good afternoon. My name is Jonathan
20 Milling. I represent Mr. Dominic Gallman in this
21 case. If I heard you correctly, and please correct
22 me if I misheard you, but did you testify on direct
23 that oftentimes what you're asked to do in your
24 forensics capacity is to compare bullets that you
25 receive to firearms that you receive?

1 **A** It's then a direct comparison. What you're actually
2 doing is comparing the bullet that you received with
3 a test fired bullet that I have for identification
4 from the gun.

5 **Q** Okay.

6 **A** You're also, you know, comparing like items of
7 evidence. What we do if we actually receive a
8 firearm in the laboratory that they want to
9 determine, for instance, if it was what fired the
10 evidence bullet in that case, I would take that
11 firearm and after taking photos about its condition
12 and photographing it, I would then test fire it to
13 obtain those test bullets that I use on microscopic
14 comparison.

15 **Q** In that circumstance though you're relying upon I
16 guess other law enforcement officers to gather the
17 evidence and bring it to you?

18 **A** That is correct.

19 **Q** And if they don't have that, you're not able to make
20 that type of a comparison?

21 **A** That is correct.

22 **Q** Now, in this case you did state that you had the two
23 different bullets that you compared, I guess the
24 three different bullets that you compared, 8 and 9
25 from SLED and your item 1, correct?

1 **A** Correct.

2 **Q** You looked at that under a comparison microscope?

3 **A** Yes. The same procedure that you would use for
4 comparing an evidence bullet with a test firing from
5 an evidence handgun; you would use to compare
6 evidence bullets with one another to determine if
7 they were fired by the same gun.

8 **Q** Okay. Did you all by chance take any pictures or
9 anything like that of the similar characteristics
10 that we could look at?

11 **A** I have some photographs. I have some very poor
12 photocopies of my photographs in my case file.
13 However, the photographs are merely taken as a matter
14 of photos from your case file. We never render a
15 conclusion, whether positive or inconclusive or
16 negative, based on information in a photograph. It's
17 always based on actual direct examination through
18 optics of the microscope.

19 **Q** Okay. Nothing further.

20 **MR. DELGADO:** I have nothing for Mr. Collins,
21 sir.

22 **THE COURT:** All right. Redirect?

23 **MR. ROSS:** No.

24 **THE COURT:** Thank you very much. You may come
25 down. May the witness be excused?

1 **MR. STRICKLER:** Without objection.

2 **MR. MILLING:** No objection.

3 **MR. DELGADO:** No objection.

4 **MR. ROSS:** The State calls Dan DeFreese.

5 FRANK D. DEFREESE, after being duly sworn,
6 testifies as follows:

7 **THE CLERK:** Thank you. Please have a seat in
8 the witness stand and state your full name for the
9 record. And if you'll please spell your last name.

10 **THE WITNESS:** My name is Frank Dan DeFreese.

11 That's D-E, capital, F-R-E-E-S-E.

12 DIRECT EXAMINATION

13 **BY MR. ROSS**

14 **Q** Agent DeFreese, where are you employed?

15 **A** I work for the South Carolina Law Enforcement
16 Division.

17 **Q** How long have you been employed there?

18 **A** For 40 years.

19 **Q** That's a long time, Agent DeFreese.

20 **A** It is.

21 **Q** What's your position at SLED?

22 **A** I'm currently assigned within the forensic services
23 laboratory to the department where we do the
24 identification of firearm and tool mark evidence.

25 **Q** If you could, Agent DeFreese, give the jury -- they

1 just heard Investigator Collins -- a little
2 background; but if you could give background on
3 yourself as far as how it relates to firearms
4 identification?

5 **A** All right, sir. I am a graduate of the University of
6 South Carolina in Columbia but my main training in
7 the fields of firearm and tool mark identification
8 occurred at SLED. I was employed in January of 1967
9 and I started at that time of course an instruction
10 that lasted about two and a half years. I studied
11 the techniques of firearm and tool mark
12 identification under Lieutenant Millard Cate who
13 established the SLED laboratory when SLED itself was
14 established in 1947.

15 After I completed my period of training I began
16 accepting cases to analyze on my own and testify as
17 to the results which I've been doing since 1969. And
18 I've testified in courts throughout this state and in
19 Federal Courts as an expert.

20 **MR. ROSS:** Your Honor, we offer Agent DeFreese
21 as an expert in the area of firearms identification.

22 **MR. STRICKLER:** Your Honor, I'm happy to
23 stipulate to Mr. DeFreese's expertise.

24 **MR. MILLING:** No objection.

25 **MR. DELGADO:** As am I, Your Honor.

1 **THE COURT:** All right. You may proceed.

2 **Q** Agent DeFreese, did you have occasion to examine some
3 items of evidence connected with this case, I believe
4 SLED items 4, 5, 6, 7, 8, 9 and 10?

5 **A** Yes, sir, I did.

6 **Q** Let's start off with item 5 and item 6, sir.

7 **A** Yes, sir.

8 **Q** And those are going to be State's Exhibits 149-E and
9 149-B. 149-B is a .40 caliber shell casing found at
10 Mildred Avenue address in a closet. And 149-E is
11 going to be a shell casing found on a couch at
12 Mildred Avenue. Could you look at those two items,
13 see if you recognize those?

14 **A** Yes, sir. I recognize these.

15 **Q** Before we talk about what you did with those
16 particular items, what do you do in the general end
17 of firearms identification when we're talking about
18 these items that you examined in this case? How do
19 you make a -- how do you do an examination? What are
20 you looking for and how do you make a comparison?

21 **A** Well, under the general field of firearms
22 identification, we do many things. But the most
23 asked for examination is that of bullets and
24 cartridge cases with an eye toward identifying a
25 fired bullet back to the gun barrel in which it was

1 fired or identified, a fired cartridge case or shell
2 from a shotgun back to the gun in which it was fired.

3 The identification of the bullet is based on the
4 fact that inside the barrel or rifled firearm, rifled
5 firearms include rifles and pistols and revolvers.
6 There are a series of spiraling grooves that are put
7 there to impart spin on the bullet as the bullet is
8 being forced through the barrel and out of the gun.

9 The spin is imparted on the bullet much in the
10 same way as a quarterback puts a spin on the football
11 to keep it from tumbling end over end. That is, the
12 rifling enhances the accuracy of the projectile. But
13 at the same time that the projectile is being gripped
14 by the barrel it's being marked by the barrel. The
15 barrel leaves a signature on each and every bullet
16 that's fired in that barrel.

17 And when the bullets are recovered in
18 sufficiently good condition; that is, when they're
19 not damaged, we can identify a particular bullet back
20 to a particular gun barrel. Similarly, when a
21 cartridge is fired within a firearm, a great deal of
22 pressure is built up inside the cartridge case which
23 is used to propel the bullet out of the gun.

24 While that high pressure exists in a cartridge
25 case, the cartridge case is being forced against

1 other surfaces in the gun, as much as the breach
2 face, the cartridge case is also marked by structures
3 within the firearm such as the firing pin and the
4 extractor or ejector, all of which can leave unique
5 tool marks on the cartridge case that can in many
6 instances be sufficient to identify the fired
7 cartridge case as being fired in a particular
8 firearm.

9 Typically where we have a firearm we'll test
10 fire the firearm and obtain known cartridge cases and
11 bullets that that gun fired and then we'll do a
12 side-by-side microscopic comparison of the marks to
13 determine if the same marks are present on both
14 specimens.

15 In some cases of course we don't have the
16 firearms. Then we can compare evidence bullets or
17 evidence cartridge cases with each other to see if
18 the same unique markings are present and where they
19 are. We can conclude that both cartridge cases or
20 both bullets were fired by the same firearm.

21 Q Did you have a firearm in this case to compare
22 anything to?

23 A No. We had a piece of a firearm but we did not have
24 an entire firearm.

25 Q Okay. Going back to items 5 and 6, you did examine

1 those items?

2 **A** I did.

3 **Q** And what type of examination did you conduct on those
4 items?

5 **A** I did a side-by-side microscopic examination of the
6 markings present on these items.

7 **Q** Did you determine the caliber of those shell casings?

8 **A** Yes, sir.

9 **Q** And how did you do that?

10 **A** Actually it's marked on the cartridge case. The
11 cartridge case is head stamped and the head stamp
12 indicates they're .40 caliber Wesson cartridge cases.

13 **Q** Have you examined those two items?

14 **A** I concluded that matching breach face impressions
15 were present on both Exhibits 149-B and 149-E, and
16 from that I concluded that both of these cartridge
17 cases were fired by the same firearm.

18 **Q** Okay. So we've got two shell casings at a scene both
19 fired by the same firearm?

20 **A** Yes, sir.

21 **Q** But you didn't have the firearm to compare those
22 casings to?

23 **A** No, sir, I didn't.

24 **Q** All right. Just for the jury's information, can a
25 .40 caliber bullet be fired in another caliber type

1 weapon, 9-millimeter, .38?

2 A A .40 caliber cartridge could not be fired in a
3 9-millimeter Luger caliber barrel because the .40
4 caliber cartridge is too big to fit in a 9-millimeter
5 Luger barrel.

6 Q Okay. Can a .40 caliber bullet be fired from a .38
7 weapon, .38 caliber weapon?

8 A Not normally, no.

9 Q Let's go to, there was an item 1 Investigator Collins
10 talked about?

11 A Yes, sir.

12 Q From the Richland County Sheriff's Department case?

13 A Yes, sir.

14 Q That also he did an examination with you on your
15 items 8 and 9?

16 A Correct.

17 Q Well, I tell you what. Before we get -- let's save
18 that for last. You did an examination of item 10,
19 fired bullet container marked Kevin Miller?

20 A Yes, sir. My SLED item 10.

21 Q I believe that's going to be State's Exhibit 149C.
22 And you examined in that. And did you make a
23 comparison with any of the other items in the case?

24 A I did. Item 10 was one among four submitted bullet
25 specimens in the SLED case. Item 7 and item 10 were

1 both consistent in their diameter and their weight
2 and their construction with being either a .40 Smith
3 and Wesson caliber or .10-millimeter auto caliber
4 bullets. Similar bullets are used in both
5 cartridges.

6 Q And your item 7 is a fired bullet from the George
7 Batie autopsy I believe?

8 A That's correct. It was received in the container
9 that was marked George Batie number one.

10 Q And I believe it would be contained in the bag which
11 is marked 149A, State's Exhibit 149A?

12 A Yes, sir. That bag contains my items 7, 8 and 9.

13 Q So just looking at item 7 and just looking at item
14 10, --

15 A Yes, sir.

16 Q -- can you tell whether those items were fired from
17 the same firearm?

18 A I did an examination toward that end, but I was not
19 able to positively determine that those two bullets
20 were fired by the same gun barrel. They both had the
21 same class characteristics; that is, they were both
22 the same caliber, they both had the same type
23 rifling. To the extent that I could examine them
24 they were the same. But neither specimen was well
25 marked, and there just were not enough identifying

1 markings on them to conclude that they were both
2 fired by the same gun barrel to the exclusion of all
3 other similar firearms.

4 Q I know this is an obvious question. There's no way
5 to figure out whether that .40 caliber shell casing
6 matches up with item 7 projectile?

7 A That's correct. I can't -- I can't tell that for
8 sure.

9 Q Only if you had the actual firearm that fired item 7,
10 the projectile, and .40 caliber shell casing could
11 you --

12 A Well, even if I had the right firearm, assuming they
13 were all fired by one gun, I still couldn't tell, for
14 instance, that the item 7 bullet came out of, you
15 know, a particular cartridge case. But I could -- if
16 I had the right firearm and they were all fired by
17 the same firearm, I could say that they were all
18 fired by the same firearm.

19 Q Okay. And item 7 is consistent with a .40 caliber
20 weapon?

21 A Yes.

22 Q All right. And item 10 is consistent with a .40
23 caliber weapon?

24 A That's correct.

25 Q All right. Okay. Now let's go back to items 8, your

1 items 8, 9 and the Richland County Sheriff's
2 Department 1.

3 A Yes, sir.

4 Q What tape of examinations did you make on those
5 items?

6 A I did a side-by-side microscopic comparison of the
7 item 9 bullet. Item 9 was a complete bullet. What I
8 refer to as item 8 had fragmented into two jacket
9 fragments and a lead core fragment. Now, all three
10 of the fragments were consistent with having been
11 parts of one bullet, but only the largest jacket
12 fragment, the largest piece of bullet jacket could be
13 identified because it was the only one that had
14 sufficient markings. And I was able to determine
15 that the large bullet jacket fragment in my item 8 --

16 Q And that is a part of a projectile from the George
17 Batie autopsy?

18 A That's correct. It was among the materials in
19 State's Exhibit 149A.

20 Q All right.

21 A But I was able to identify the large jacket fragment
22 with the item 9 bullet. So I was able to match the
23 largest marked piece of item 8 with the item 9
24 bullet. The bullet or jacket fragment just did not
25 have enough markings on it to tell, and the bullet's

1 core was never actually marked because it never
2 actually came directly in contact with the rifling in
3 the barrel. The jacket encapsulates the core so that
4 only the jacket is really directly marked by the gun
5 barrel.

6 Q Okay. You might have said this but let me just get
7 this straight. Items 8 and 9, what conclusions did
8 you make as far as those two items?

9 A Those two items were both fired by the same gun
10 barrel. That is, the largest fragment in item 8, the
11 large jacket fragment, and the item 9 bullet I can
12 say were both fired by the same gun barrel.

13 Q And those two items, because I'm sure the jury is
14 having a hard time keeping this straight, both of
15 those items are bullets or bullet fragments from the
16 George Batie autopsy?

17 A That's correct.

18 Q And what caliber weapon or weapons would have fired
19 those bullets?

20 A Those bullets were consistent with either .38 Special
21 caliber or .357 Magnum caliber bullets because
22 similar bullets are loaded into both of those
23 cartridges and because .357 Magnum caliber firearms
24 are capable of firing .38 Special caliber ammunition.

25 Q Could you put a .357 in a .38?

1 **A** No, sir.

2 **Q** So it only goes, a .38 special can go in a .357?

3 **A** It's designed so that the .38 Special is the old
4 cartridge and is not loaded to as high a pressure or
5 as high a velocity as .357 Magnum. So .357 Magnum
6 was designed to be where the cartridge case is longer
7 to allow a one-way interchange. The one-way
8 interchange is you can shoot .38 Specials or .357
9 magnums in a .357 Magnum caliber firearm but you
10 cannot put a .357 Magnum caliber cartridge into a .38
11 special caliber firearm.

12 **Q** And Investigator Collins testified previously just
13 concerning item number 1 that -- and we'll get to
14 that in a second. But I just want to ask you about
15 items 8 and 9. We talked about item number 1 because
16 the item was so damaged that it was most consistent
17 with a .38, .357, but he couldn't rule out a
18 9-millimeter. What is your opinion on items 8 and 9
19 as far as what caliber would have fired those
20 bullets? Could a 9-millimeter have fired those based
21 on the condition that you found those items?

22 **A** It's not impossible for those bullets to have been
23 fired in a 9-millimeter. However, the observable
24 physical characteristics of the two bullets that I
25 had were consistent with .38 Special and .357 Magnum

1 in their construction in that they had a structure
2 called a crimping cantalour which is not normally
3 provided for 9-millimeter Luger caliber bullets.

4 The crimping cantalour, it's a nurled area into
5 which the cartridge case is forced so that the
6 cartridge case rips the bullet very, very well.
7 Because in revolvers, as you shoot there is a
8 tendency for the bullet, unfired bullets that are
9 also in the cylinder to sort of go forward because
10 the recoil of the gun is going backwards and the
11 recoil tends to force the bullets out. That's why
12 revolver cartridges typically have crimping
13 cantalours provided for their jacketing bullets, to
14 give the cartridge case a really good grip on them.

15 In the case of pistol ammunition, that's not
16 normally needed. In fact, a lot of pistol ammunition
17 actually head spaces or controls the position of the
18 cartridge case on the mouth of the cartridge case so
19 it's frequently inappropriate to crimp them. So
20 while I can't rule out the 9-millimeter absolutely,
21 one is consistent totally with a .38, .357 and the
22 other one is not.

23 Q Okay. Let's talk about the Richland County Sheriff's
24 Department item 1. You compared that item with these
25 other items in this case. And what was your opinion

1 about that?

2 A I found individual markings.

3 Q And let me stop you right there. And item 1 is a
4 projectile from the Desiree Felder autopsy?

5 A Correct.

6 Q Go ahead.

7 A I found individual matching markings on that bullet
8 on the Richland County item 1 bullet and on the large
9 bullet jacket fragment in my item 8. From that I was
10 able to conclude that my item 8 bullet and the
11 Richland County bullet fragment were both fired by
12 the same gun barrel.

13 Q Okay. But you've got 1 compared to 8?

14 A Correct.

15 Q 8 is compared to 9?

16 A Correct.

17 Q But there's not enough markings on item 1 and item 9
18 to link those two?

19 A Correct. If all I had were just my item 9 and the
20 Richland County item 1, I wouldn't be able to
21 identify the two of them with each other because of
22 where the damage occurred on them. They're both
23 damaged specimens. But the item 8 bullet contains
24 sufficient overlapping markings on it so that I was
25 able to identify all three of them as coming from the

1 same gun barrel even though I couldn't directly
2 identify my item 9 with Richland County item number
3 1.

4 Q So number 1 and 8 fired from the same firearm?

5 A That's correct.

6 Q Number 8 and 9 fired from the same firearm?

7 A Correct.

8 Q So all three must be fired from the same firearm?

9 A Yes, sir.

10 Q What was the difference between how a .38, .357
11 caliber weapon operates in general versus a
12 9-millimeter type weapon?

13 A Many if not most of the .38 Special and .357 Magnum
14 caliber firearms are revolvers. There are some
15 rifles. There are some pistols in those calibers.
16 Pump. The overwhelming majority of all the firearms
17 produced in those calibers are revolvers.
18 9-millimeter firearms, there are also all types of
19 9-millimeter produced. Even there are some revolvers
20 in 9-millimeter caliber. But the overwhelming
21 majority of all 9-millimeter Luger firearms are
22 pistols. At least the firearms that we see.

23 A semi-automatic pistol is a type of handgun
24 that uses part of the energy of the combustion of the
25 cartridge to cycle and function the firearm. That

1 is, it uses some of the recoil energy usually to
2 extract and eject a fired cartridge case and fire a
3 bullet every time the trigger is pulled. So with a
4 semi-automatic type firearm, be it a pistol or rifle
5 or what have you, one pull of the trigger will yield
6 one fired bullet and one fired cartridge case which
7 is automatically extracted and ejected from the
8 firearm without any action on the part of the
9 shooter.

10 In the case of a revolver, a revolver is the
11 type of handgun that uses a rotating central
12 cylinder, and in that cylinder there are a number of
13 chambers. Each chamber holds one cartridge.
14 A revolver is a totally manually loaded, fired and
15 unloaded firearm. That is, all the energy that it
16 takes to function the firearm is supplied by the
17 shooter.

18 The shooter would place however many cartridges
19 the revolver has space for in the cylinder: Five,
20 six, seven, eight, however many that it happens to
21 be, close the firearm and then would either cock the
22 hammer or with a long pull of the trigger or the
23 double action would fire all of the cartridges. Then
24 the shooter would manually open the cylinder or open
25 the mechanism holding it closed and would extract and

1 eject the cartridges cases so that when a revolver is
2 fired up to the number of the capacity of the
3 cylinder it's able to fire however many shots: Five,
4 six, seven, eight or more without leaving the
5 cartridge case every time it's fired.

6 Q So if I'm holding a 9-millimeter, or a .40 caliber
7 for that matter, and I fire it, what is the action?
8 The projectile leaves the barrel and then a shell
9 casing does what?

10 A A .40 caliber or 9-millimeter Luger caliber firearm,
11 each time you pull the trigger, so long as it's in
12 operating condition, the bullet is expelled down to
13 the barrel so a bullet goes out the barrel and a
14 short time thereafter the fired cartridge case from
15 which that bullet came is extracted and ejected. And
16 then if there's fresh ammunition in the magazine, a
17 fresh cartridge is stripped out of the magazine and
18 placed in the chamber of the weapon to prepare it for
19 the next firing.

20 Q And that shell casing is a .40 caliber. But a
21 9-millimeter, how would it look, sir?

22 A Similar. Simply smaller.

23 Q It would leave the weapon and land wherever gravity
24 takes it?

25 A Somewhere. Well, it's expelled with some force from

1 the gun, but it's very difficult to tell where it
2 would be projected. But it's projected a short
3 distance from the firearm.

4 Q Holding the firearm, if I'm holding the firearm, is
5 it going to go to the right or the left initially?

6 A We don't know.

7 Q Okay.

8 A It depends on how the firearm is held; left and
9 right, up and down. It depends on how you trip the
10 firearm. It depends on too many variables typically
11 to know which way it will go.

12 Q Okay. .38 or .357, when I fire that weapon, the
13 shell casing -- I know you explained all that -- but
14 the simple version is the bullet is going to go the
15 barrel. Is any shell casing going to come out of the
16 weapon just from the firing of the gun?

17 A No. The cartridge case remains in the firearm until
18 the shooter opens the firearm and removes it.

19 Q Got to open the cylinder and eject the cartridges?

20 A In some cases the cylinder swings out to eject them
21 all or extract them all simultaneously. Other
22 designs extract them one-by-one. But in any event,
23 it requires the shooter's intervention to remove the
24 fired cartridge cases.

25 Q And you also examined item number 4 which would be

1 State's Exhibit No. 149-D?

2 A Yes, sir, I did.

3 Q And what type of examination did you conduct on that
4 particular item?

5 A Item number 4 is a pistol barrel only. Its marks
6 indicate that it's manufactured by Glock, and it's a
7 barrel for a Glock model 17 pistol and 9-millimeter
8 Luger caliber. I assembled this barrel on one of our
9 own pistols to test fire it and get bullets from this
10 barrel, bullets that I knew that it had fired for the
11 purpose of comparing them with my other bullet
12 specimens. I concluded from that examination that
13 none of the other bullet specimens were fired by this
14 pistol barrel.

15 Q All right. None of these items that we just talked
16 about, these projectiles, I think there's five
17 projectiles in the case. None of those projectiles,
18 the number 7, your number 7, the Miller projectile or
19 the number 10 Batie projectile or the number 1 Felder
20 or the 8 and 9 Batie projectiles were fired by that
21 9-millimeter gun barrel?

22 A That's correct. None of the fired bullet fragments I
23 looked at in this case were fired by this barrel.

24 Q Going back to the projectiles, the Batie number 8,
25 number 9 projectiles and the number 1 Felder

1 projectile, what type manufacturer, what
2 manufacturers would have made the type of weapons
3 that would have been most consistent with the firing
4 of those bullets?

5 A There are a number of manufacturers that use the kind
6 of rifling that I saw on the Richland County number 1
7 and on my items 8 and 9. And I prepared a list as an
8 investigative aid. There are about 17 different
9 brands of firearms that we know of and perhaps some
10 that we don't that have this land and groove
11 right-hand twist type rifling. And I'd be delighted
12 to read you the list if you want it, but it has
13 several different brands.

14 Q Then also with the number 7 and number 10
15 projectiles, those are consistent with a .40 caliber?

16 A They were.

17 Q The same thing, a list of different manufacturers
18 that may have produced those projectiles?

19 A It's a much smaller list because both of those
20 bullets have a type of rifling that we refer to as
21 polygonal rifling. The rifling instead of having
22 distinct margins has sort of round edges to it. And
23 it's a type of rifling that's typically used in Glock
24 pistols and in several other brands of pistols but
25 most possible Glocks. I'm not saying they were

1 necessarily fired by a Glock.

2 Also the markings on the cartridge cases, it
3 fired .40 caliber cartridge cases, have a firing pin
4 impression that is typical of firing pin impressions
5 on Glock pistols and on Smith and Wesson SIGMA
6 pistols. That is, instead of having a round firing
7 pin aperture, they have a rectangular firing pin
8 aperture.

9 Q Let me just try summarize here, make sure we're on
10 the same page. We've got number 7, number 10 which
11 you cannot say for sure, but consistent with a .40
12 caliber?

13 A Consistent with either .40 caliber. Can't exclude
14 10-millimeter auto.

15 Q Got two .40 caliber shell casings that you examined?

16 A Correct.

17 Q And then you've got a Felder projectile, I'm going to
18 refer to it as the Felder projectile, consistent with
19 .38 or .357?

20 A Correct.

21 Q Number 8 Batie projectile consistent with .38 or
22 .357?

23 A Correct.

24 Q Number 9 Batie projectile, Batie projectile
25 consistent with .38 or .357?

1 A Yes.

2 Q These, number 8, number 9 and number 1, all fired
3 from the same firearm?

4 A Yes, sir.

5 Q Number 7 and number 10 could have been fired from the
6 same firearm?

7 A No. Number 7, like I say, are two fired .40 caliber.
8 And number 7 and number 10 could have been. That's
9 correct.

10 Q And shell casings were fired from the same firearm?

11 A Yes.

12 Q The only thing I didn't put up, the 9-millimeter
13 Glock barrel that you examined didn't fire any of
14 these items?

15 A Yes, sir. That's correct.

16 Q That's all the questions I have.

17 **THE COURT:** Cross examination.

18 CROSS EXAMINATION

19 **BY MR. STRICKLER**

20 Q Good afternoon, Agent.

21 A Good afternoon.

22 Q I'll try to be brief. Last thing first just again.
23 This where it is up here.

24 A The Glock barrel?

25 Q It's got nothing to do with anything else you have

1 examined?

2 A Correct.

3 Q Right? You examined what were shell casings
4 recovered, per the information you had, recovered
5 from a crime scene; these two .40 caliber shell
6 cases, correct?

7 A Yes, sir.

8 Q All right. So the Glock barrel or the 9-millimeter
9 had nothing to do with shell casings recovered from
10 that crime scene?

11 A Yes, sir. That's also correct.

12 Q You examined bullets and/or bullet fragments
13 recovered from two victims from that crime scene?

14 A Yes.

15 Q So that barrel had nothing to do with the bullets
16 that killed those two gentlemen?

17 A That is correct.

18 Q Okay. And you in conjunction with Mr. Collins from
19 the Richland County Sheriff's Department examined a
20 bullet that was recovered from a victim from a
21 different crime scene?

22 A Right.

23 Q And that gun barrel had nothing to do with the death
24 of that young lady, correct?

25 A That's also correct.

1 Q All right. That's all I have on that. Now, and you
2 indicated that 8 and 9, items 8 and 9, your 8 and 9,
3 most consistent with a .38 caliber or a .357 caliber.
4 I believe you said that it could not normally have
5 been fired from a 9-millimeter Luger barrel, correct?

6 A The bullet diameter of a .38 Special and a .357
7 Magnum and a 9-millimeter Luger are very close.
8 There is only a couple of a thousands of an inch
9 difference between them. It's certainly physically
10 possible, if you could get a .38 Special caliber
11 bullet in a 9-millimeter cartridge case, it's
12 possible to fire any 9-millimeter Luger caliber
13 firearm. My opinion about the caliber has to do with
14 the structure of the bullets; that is, the way the
15 bullets were made, more so than the diameter of the
16 bullets.

17 Q Okay.

18 A In terms of diameter, you can't tell. But in terms
19 of the physical make up of the bullets, these bullets
20 were most consistent with .38's and .357's and they
21 were not consistent with 9-millimeter Luger. It
22 doesn't rule out the possibility that it couldn't
23 have occurred; for instance, if an advanced hand
24 loader were to obtain the bullets and put them in
25 something else. But it's not the kind of ammunition

1 that's normally supplied as a factory load.

2 Q All right. And you also spoke I guess about the
3 structure of the bullet, the cantalour that you're
4 referring to?

5 A The crimping cantalour. Yes, sir.

6 Q Which you said it's not normally needed or provided
7 in 9-millimeter Luger ammunition?

8 A That's correct.

9 Q Okay. It's not normally needed in pistol ammunition.
10 Is that correct?

11 A Right, sir. Most pistol ammunition, although not all
12 of it, occasionally it does occur. With pistol
13 ammunition, it's held in the magazine. Usually the
14 magazine is in the grip. And it's sort of like in
15 its own box that keeps the bullets from moving
16 forward; whereas in the case of a revolver, the front
17 of the chamber is open. And revolvers frequently
18 have considerable recoil to them. So the bullets are
19 usually crimped in revolver ammunition quite tightly
20 to keep them from backing out under recoil which
21 would cause the gun to jam.

22 Q Okay. And just again, when you say pistol, you mean
23 the semi-automatic pistol?

24 A Right.

25 Q As opposed to a revolver, correct?

1 A Right.

2 Q But you used the term "usually" as far as the
3 cantalour not being needed or seen in conjunction
4 with a pistol, with a semi-automatic. You used the
5 term "usually"?

6 A Usually. It's not an absolute. Manufacturers can
7 put whatever they want to in any of their ammunition
8 for any purpose. That's the reason I characterized
9 it as "most consistent with" and not an absolute,
10 because it isn't an absolute.

11 Q And that's all I'm trying to figure out.

12 A Yes.

13 Q Okay. Now, you indicated that -- and very clearly
14 that when you fire a revolver, unless you physically
15 take the fired shell casings out of the revolver,
16 they're not going to be left anywhere. They remain
17 in the revolver until they're removed manually,
18 correct?

19 A Yes. In the typical revolver it's manually loaded
20 and manually unloaded.

21 Q Okay. That is as opposed to a pistol or a
22 semi-automatic pistol as we're using the term which
23 automatically ejects the shell casing as it loads the
24 next shell casing, correct?

25 A That's correct.

1 Q Now, what does not follow, however, is that if a
2 shell casing has been ejected, okay, that it will be
3 found at the scene, correct?

4 A Right. The fact that it's ejected from the gun
5 certainly leaves open the possibility that it may be
6 found at the scene.

7 Q Correct.

8 A But there may be some reasons why it's not always
9 found.

10 Q It could be overlooked?

11 A It could be overlooked. It could even be carried
12 away.

13 Q Right.

14 A Yes.

15 Q So the presence or absence of a shell casing
16 associated with a .38 caliber shell or a .357 shell
17 does not in and of itself dictate that that was fired
18 by a revolver as opposed to a semi-automatic weapon?

19 A No. It's certainly a good indication that it may
20 have been, but it's not an absolute.

21 Q Okay. Thank you very much, Mr. DeFreese.

22 MR. MILLING: No questions, Your Honor.

23 THE COURT: Mr. Delgado.

24 MR. DELGADO: No questions for Mr. DeFreese.

25 THE COURT: Any redirect?

1 **MR. ROSS:** Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 **BY MR. ROSS**

4 **Q** Just to follow up with what Mr. Strickler asked you,
5 I'm going to use the easel. So if I've got two .40
6 caliber shell casings found at a scene on the floor
7 and I've got two victims found at the same scene,
8 both with projectiles that are consistent with a .40
9 caliber weapon, isn't it a good indication that they
10 were shot with the same weapon that produced these
11 .40 caliber casings?

12 **MR. MILLING:** Objection. Calls for speculation.

13 **THE COURT:** Overruled.

14 **Q** Not absolute, but is that a good indication that
15 that's what occurred?

16 **A** It certainly could have happened that way. Yes, sir.

17 **MR. ROSS:** That's all the questions I have.

18 **THE COURT:** Anything further?

19 **MR. STRICKLER:** No, sir.

20 **MR. MILLING:** Nothing.

21 **MR. DELGADO:** Nothing.

22 **THE COURT:** You may come down. Thank you very
23 much. May this witness be excused?

24 **MR. STRICKLER:** Without objection.

25 **THE COURT:** Without objection. I'm sorry.

1 **MR. DELGADO:** Without objection.

2 **MR. MILLING:** No objection.

3 **THE COURT:** You're free to go, Mr. DeFreese.

4 Thank you very much.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** All right, ladies and gentlemen.

7 Let's take a short afternoon break. We'll call you
8 in a few minutes. Just relax. And hopefully you've
9 got some refreshments in there, Mr. Bowen?

10 **THE BAILIFF:** Yes, sir.

11 **THE COURT:** Good. Don't discuss the case among
12 yourselves while you're in the jury room.

13 (Jury out at 3:49 p.m.)

14 **THE COURT:** We'll stand at ease for ten minutes.

15 **MR. MEADORS:** Judge, for our purposes, what's
16 the normal breaking time today?

17 **THE COURT:** Normal working hours. Is there
18 anything going on tonight?

19 **MR. STRICKLER:** The solicitor's party I think.

20 **THE COURT:** You getting a heads up? What time
21 does the event start?

22 (Off the record)

23 (Whereupon, a break is taken)

24 (WHEREUPON, State's Exhibit No. 197 is marked
25 for identification.)

1 (WHEREUPON, State's Exhibit No. 198 is marked
2 for identification.)

3 **THE COURT:** Mr. Milling, you want some more?

4 **MR. MILLING:** One or two might be good.

5 **THE COURT:** We've got three in the back.

6 **DEPUTY:** We've got four in the back.

7 **THE COURT:** The State ready to proceed?

8 **MR. ROSS:** Yes, Your Honor.

9 **THE COURT:** Defense ready to proceed?

10 **MR. STRICKLER:** Yes, sir.

11 **MR. MILLING:** Yes, Your Honor.

12 **MR. DELGADO:** Yes, Your Honor.

13 **THE COURT:** Bring the jury, please.

14 (Jury in at 4:10 p.m.)

15 **THE BAILIFF:** Your Honor, the jury is present.

16 **THE COURT:** Thank you very much. All right,
17 Solicitor. Call your next witness.

18 **MR. ROSS:** The State calls Christine Benson.

19 CHRISTINE BENSON, after being duly sworn,
20 testifies as follows:

21 **THE CLERK:** Thank you. Please have a seat in
22 the witness stand and state your full name for the
23 record.

24 **THE WITNESS:** Christine Benson.

25 DIRECT EXAMINATION

1 **BY MR. ROSS**

2 **Q** Ms. Benson, where are you employed?

3 **A** Richland County Coroner's Office.

4 **Q** What's your position with the Coroner's Office?

5 **A** Deputy Coroner.

6 **Q** And most of the ladies and gentlemen probably know
7 what the coroner does. But what's the Coroner's
8 Office do?

9 **A** We investigate death, basically determine cause and
10 manner.

11 **Q** There were two autopsies done in this case, one on a
12 George Batie and one on a Kevin Miller. I believe
13 both autopsies were done on September the 8th, 2005?

14 **A** It was September the 5th, 2005.

15 **Q** Oh, I'm sorry. You're right. September the 5th,
16 2005?

17 **A** Mm-hmm (affirmative).

18 **Q** What you all refer to as DNA cards or blood
19 standards, were those done on that date,
20 September 5th, 2005?

21 **A** Correct.

22 **Q** Okay. And what is a DNA card? What is that?

23 **A** It's a special card where a blood sample is taken and
24 placed on a particular card or paper.

25 **Q** Okay. And so if I say a DNA card for Kevin Miller,

1 is that blood that was taken from Kevin Miller and
2 put on that card?

3 A Correct.

4 Q All right. And the same thing with George Batie, a
5 DNA card for George Batie's blood from George Batie
6 and put on that card?

7 A Correct.

8 Q Where are those cards stored after the autopsy?

9 A After the autopsy they are kept in a drawing cabinet.
10 And then once they're dried, they're taken by myself
11 to the evidence room at the Coroner's Office.

12 Q And you all keep those in a secure location?

13 A Correct.

14 Q All right. Did you at some point take a DNA card for
15 Kevin Miller and George Batie to SLED?

16 A I did.

17 Q Okay. And what date did you take the card for Kevin
18 Miller?

19 A Kevin Miller was taken October 18th, 2007.

20 Q All right. And when was George Batie's DNA card
21 taken?

22 A October 23rd, 2007.

23 Q All right. And when you submitted those to SLED,
24 what did you have to do to submit them?

25 A What I did was I -- it's two spots on the card. So I

1 cut off one spot and placed it in a sealed bag and
2 submitted it into SLED evidence.

3 Q At log-in?

4 A Correct.

5 Q They call it evidence control now. But at log-in?

6 A At log-in, mm-hmm (affirmative).

7 Q Submitted it in a tamper proof package of some sort?

8 A Correct.

9 Q And then you said you cut it in half. You kept half
10 of the card?

11 A Kept half of the card.

12 Q On both victims?

13 A On both.

14 Q That's all the questions I have.

15 MS. LAFAVE: May it please the Court, Your
16 Honor.

17 THE COURT: Ms. LaFave.

18 CROSS EXAMINATION

19 BY MS. LAFAVE

20 Q Good afternoon, Ms. Benson.

21 A Hello.

22 Q My name is Mary LaFave. I'm one of the attorneys
23 representing Mr. Oliver.

24 A Okay.

25 Q I just have a couple of questions for you. Okay?

1 **A** Okay.

2 **Q** The date of this incident was what?

3 **A** I don't know the date of the incident. I know the
4 date of the autopsy.

5 **Q** If I said September, early part of September of 2005,
6 would that be about accurate?

7 **A** That would be about accurate.

8 **Q** As far as you know?

9 **A** Mm-hmm (affirmative).

10 **Q** And typically in your line of work when you receive
11 samples of DNA, is that when you process them?

12 **A** Not necessarily. We usually hold it at the Coroner's
13 Office unless someone requests it.

14 **Q** So the autopsies in this case were done September of
15 2005?

16 **A** Correct.

17 **Q** And at that time the DNA cards were taken?

18 **A** They were taken and submitted into evidence at the
19 Coroner's office.

20 **Q** So they were submitted into evidence in September of
21 2005?

22 **A** Correct.

23 **Q** Is it your testimony that these cards were analyzed
24 October the 18th, 2007 or 2005? I may have
25 misunderstood your prior testimony.

1 **A** 2007 they were submitted into SLED.

2 **Q** So over two years it took for the DNA cards of Kevin
3 Miller and George Batie to be submitted to SLED?

4 **A** Correct.

5 **Q** For analysis?

6 **A** Correct.

7 **Q** Is that typical?

8 **A** It could be.

9 **Q** Beg the Court's indulgence. I have no further
10 questions from this witness, Your Honor.

11 **MR. MILLING:** Nothing, Your Honor.

12 **MR. DELGADO:** I have nothing. Thank you.

13 **THE COURT:** All right. Any redirect?

14 **MR. ROSS:** No, Your Honor.

15 **THE COURT:** All right. You may come down,
16 ma'am. Thank you very much.

17 **THE WITNESS:** Thank you.

18 **THE COURT:** May this witness be excused without
19 objection?

20 **MS. LAFAVE:** Without objection, Your Honor.

21 **MR. MILLING:** No objection.

22 **MR. DELGADO:** No objection.

23 **THE COURT:** Next witness.

24 **MR. MEADORS:** Jason Brown.

25 **JASON BROWN,** after being duly sworn, testifies

1 as follows:

2 **THE CLERK:** Thank you. Please have a seat in
3 the witness stand and state your full name for the
4 record.

5 **THE WITNESS:** My name is Jason Brown.

6 DIRECT EXAMINATION

7 **BY MR. MEADORS**

8 **Q** Good afternoon, Mr. Brown.

9 **A** Good afternoon, Mr. Meadors. How you doing?

10 **Q** I'm fine. Mr. Brown, if you would just speak into
11 this. These ladies and gentlemen of the jury have to
12 hear you, and Madam Court Reporter just has to take
13 everything down. So if you'd just be sure to speak
14 in here so they can hear you, please, sir. Were
15 you -- Mr. Jason Brown, please tell these ladies and
16 gentlemen of the jury about you? Where are you from?

17 **A** I was born and raised here in Columbia, South
18 Carolina.

19 **Q** Where did you go to school?

20 **A** I went to school at Dreher, Spring Valley and
21 Northeast.

22 **Q** When did you get out of high school?

23 **A** In the tenth grade when I caught my first charge. It
24 was for carjacking and attempted armed robbery. I
25 went to prison.

1 Q And what year was that, Mr. Brown?

2 A That was in 1996.

3 Q Now, how long were you in prison then?

4 A Two years, from '96 to '98.

5 Q And had you all gotten what we call a split sentence?

6 A Yes, sir. I got five years probation along with my
7 two-year sentence.

8 Q So you got out and you were on probation after your
9 two years?

10 A Yes, sir.

11 Q Okay. And you served some time in prison. What did
12 you do when you got out?

13 A I came home. I enrolled in prison -- I mean, excuse
14 me. I enrolled in college at Benedict. I was there
15 for about two years. I majored in business
16 administration. I had about a 3.8, between a 3.5 and
17 3.8 grade point average. And kind of got back into a
18 little bit of crime again and violated my probation
19 by not reporting and failing drug tests. I wouldn't
20 stop when the officers tried to pull me over for --

21 (Phone rings)

22 Q Hold on one second, please, sir. If you would just
23 slow down a minute here. I apologize. When you went
24 into Benedict, you said you had done pretty good on
25 your grades. Did you also do anything else at

1 Benedict? Were you doing a work study or anything?

2 A Yeah. A work study in the English department.

3 Q And I think you then started to say, did you get in
4 trouble again?

5 A Yeah, I did. Because the work study only paid like
6 whenever we had time to work inbetween classes. So
7 the money really wasn't very good. So I ended up
8 selling marijuana at school on the campus and started
9 smoking marijuana. I was failing drugs tests for my
10 probation. So when I did that, I stopped reporting.
11 And they violated me for it and sent me back to
12 prison.

13 Q Fell back into some of your old habits?

14 A Yeah, a lot of them.

15 Q Didn't have enough money, so you started selling?

16 A All the way over again.

17 Q And did you have other charges in addition to -- tell
18 them what specific charges led to your probation
19 violation along with marijuana?

20 A Failure to stop for a blue light and siren and
21 illegal possession of a firearm by a person who is
22 under 21.

23 Q Had you also -- and I don't even know -- had you also
24 failed some drug tests?

25 A Yeah, I did. For cocaine and marijuana.

1 Q So what was your sentence then you got on your
2 probation violation and those charges?

3 A Three years for the failure to stop for blue light
4 and siren, mandatory five years for being in
5 possession of an illegal firearm by a person under 21
6 because I'm a convicted felon, and a full five-year
7 revocation for the probation.

8 Q A full five years?

9 A Yes, sir.

10 Q All right. So how long -- and you remember the
11 sentence and what you're charged with. I mean,
12 that's etched in your brain, isn't it?

13 A Yes, sir.

14 Q And how long did you serve on that sentence?

15 A Four and a half.

16 Q So from when to when was your sentence?

17 A From May of 2000 'til March 1st of 2004.

18 Q Let's go from March 2004 in Mr. Jason Brown's life.
19 What did you do after that?

20 A Came home and I started pursuing a career in music.
21 I'm a musician by trade. So I decided I was going to
22 start writing music, being a rapper and things of
23 that nature. And that didn't work out very good
24 either. So later on I started falling back into more
25 of my old habits, drugs, getting into guns and drugs

1 which led me going back to prison currently, right
2 now.

3 Q Prior to that -- you're out now again. You said you
4 had a -- I don't know if you said. You tried to do
5 something in music?

6 A Yeah. My music career, I wanted to be a rapper and
7 inspiring like everybody else.

8 Q Had you had a family at this point?

9 A Yes, sir. I had one daughter and had another one on
10 the way.

11 Q Was there money sufficient then in your mind to meet
12 your family's needs?

13 A No. Never.

14 Q Also did you have an occasion to work anywhere when
15 you got back out of jail this time?

16 A Yeah. I got a legal job at Zaxby's out on Clemson
17 Road for almost close to a year. But that was like
18 6.25. I ended up living with my girl's mom. Then I
19 went from her house to my sister's house and back and
20 forth inbetween there. I wanted my own. I wanted my
21 own money and I wanted to live and be an adult by
22 myself. So instead of continuing with the legal job,
23 I went back to the illegal route.

24 Q You went back to the what?

25 A Illegal route.

1 Q And specifically that time, what were you in prison
2 for then? What did you plead guilty to?

3 A Attempted armed robbery and armed robbery.

4 Q And what was your sentence on that?

5 A Ten years, 85 percent.

6 Q And when was that sentence, date to date?

7 A June 15th of 2006.

8 Q Okay. And you pled guilty when?

9 A June 15th, 2006.

10 Q And you got a ten-year sentence?

11 A Yes, sir.

12 Q And it's 85 percent?

13 A Yes, sir.

14 Q But the prior time when you were sentenced, you got
15 revoked in full, you served your time here in the
16 state pen, correct?

17 A Yes, sir.

18 Q Now, when were you arrested for this last set of
19 charges? What you're in for now, when were you
20 arrested?

21 A September 20th, 2005.

22 Q September what?

23 A 20th.

24 Q 2005. And where did you go when you were arrested?

25 A Alvin S. Glenn Detention Center.

1 Q The Alvin S. Glenn Detention Center?

2 A Yes, sir.

3 Q Now, did you know Stanley Oliver? Do you know

4 Stanley Oliver?

5 A Yes, sir, I do.

6 Q Can you tell the ladies and gentlemen of the jury how
7 long you've known Stanley Oliver?

8 A Ten years, from around '96 'til present day.

9 Q So, is it fair to say you -- how often would you see
10 him during those ten years?

11 A I saw him every time of my incarceration and a few
12 times on the street in 2004 and 2005.

13 Q Now, when you come into the Alvin S. Glenn Detention
14 Center -- may we approach briefly?

15 **THE COURT:** Yes, sir.

16 (Whereupon, a bench conference is had)

17 Q You get in the Alvin S. Glenn Detention Center on
18 these armed robbery charges September when?

19 A September 20th, 2005.

20 Q You said you've known Stanley Oliver for ten years,
21 correct?

22 A Yes, sir.

23 Q Prior to September 20th, 2005?

24 A Yes, sir.

25 Q Can you remember when you had seen Stanley Oliver

1 prior to that date?

2 A Prior to that time, the time before that
3 incarceration at Alvin S. Glenn was we were on Grand
4 Street in an apartment complex. He came through and
5 wanted to buy some weed with a bag of quarters.

6 Q Buy some weed with a bag of quarters?

7 A Yes.

8 Q And where was that?

9 A That was on Grand Street.

10 Q And prior to that when did you see him?

11 A Prior to that I saw him in Heartbreakers, in a strip
12 club down on Bush River where I was performing.

13 Q Heartbreakers, bag of quarters; and then the next
14 time you saw him was?

15 A In the detention center.

16 Q Alvin S. Glenn. And just as a timeframe, when you
17 saw him at Heartbreakers, when was that?

18 A That was in April of 2004.

19 Q And the incident with the bag of quarters was when?

20 A That was in March of 2005.

21 Q Let's go to Alvin S. Glenn, September 2005. Did you
22 see Stanley Oliver there?

23 A Yes, sir, I did.

24 Q And was there a time when you roomed with him?

25 A Yeah. We were roommates together in the Hotel room,

1 in the Hotel dorm.

2 Q H what?

3 A H-36.

4 Q Is that the name of the dorm?

5 A Yes.

6 Q Do you remember the room?

7 A Yes. 36.

8 Q You just said that. I'm sorry. Did Stanley Oliver
9 talk to you about the incidents we're here all about?

10 A Yes, he did.

11 Q Just generally to start with, what did Stanley
12 Oliver, Stanley Oliver tell you about this incident?

13 A He said that he and another individual had robbed a
14 house on Mildred Avenue where two people had been
15 shot and killed and another person was taken to
16 another location and they too were killed for an
17 undisclosed amount of money and a lot of cocaine.

18 Q And at what time in 2005 did Stanley Oliver tell you
19 this?

20 A This was in October.

21 Q Of 2005?

22 A Yes, sir.

23 Q Now, specifically, if you can, did Stanley Oliver
24 tell you how he got in the house?

25 A Yeah. He said that there was a lady that used to

1 live there that went and rang the doorbell, and when
2 the guy came, and opened the door that he and another
3 individual rushed the door open and blowed their way
4 in.

5 Q What, if anything, did Stanley Oliver tell you about
6 whether or not he looked for anything in the house?

7 A Yeah. He said that he went through and ransacked the
8 house looking for money, drugs or anything that was
9 of value, looking through shoeboxes and all kinds of
10 clothes under the beds, under the couches,
11 everything.

12 Q What, if anything, did he tell you about if there was
13 any other individuals in the house and what they were
14 doing while he was doing that?

15 A He said the other individual was holding the gun on
16 the two men that were in the house and keeping them
17 at bay with gunpoint.

18 Q What, if anything, did Stanley Oliver tell you about
19 whether or not the person at this house told them
20 where the money was?

21 A He didn't say that the person who owned the house
22 told them where it was. He said that he had to start
23 beating him and the man refused to tell him where it
24 was. He kept beating him with the gun.

25 Q What, if anything, did Stanley Oliver tell you about

1 a gun he may or may not have used?

2 A He said he was beating the man with his .40 caliber.

3 Q Did he mention any other kind of gun?

4 A Yeah. A .38 revolver.

5 Q What, if anything, did Stanley Oliver tell you about
6 whether he'd found any money or cocaine in the house?

7 A Yeah. He said he found an undisclosed amount of
8 money and a lot of cocaine.

9 Q Tell he tell you how much cocaine?

10 A No. It was just a lot of it.

11 Q Did he tell you about how much money?

12 A Somewhere in the range of around 50 grand, something
13 like that.

14 Q What, if anything, did Stanley Oliver tell you about
15 whether he had done anything else in the house?

16 A He said after he finished with beating the man he
17 went through and wiped off everything he felt like he
18 touched and went through and cleaned up and got
19 everything out of there that he felt like he had put
20 his hands on and wiped it off and took everything
21 with him.

22 Q I asked you generally earlier. What, if anything,
23 did Stanley Oliver tell you about the two individuals
24 in the house? What had happened to them?

25 A Well, the lady went back outside, got back in the

1 car. The guy was still in there holding them at
2 gunpoint.

3 Q And what, if anything, did he tell you happened to
4 the two men that were in the house?

5 A The two men that were in the house, one was shot and
6 the other one was eventually killed later on.

7 Q What, if anything, did Stanley Oliver tell you he did
8 after he left Mildred Avenue?

9 A He said he left with another individual and a lady
10 and they rode to a parking lot to a wooded area and
11 forced her out by gunpoint and walked in the woods.

12 Q What, if anything, did Stanley Oliver tell you
13 happened after that?

14 A He said that he told her to get on her knees, and the
15 other person that was with him tried to hand him the
16 .38, and he nudged it back to him and told him
17 that -- he didn't say it in words but made a gesture,
18 either he is going to finish her or he was going to
19 do him. And she was on her knees and praying and
20 crying and begging. And the other person shot her.
21 He told her, "Lord, please forgive me", and shot her.

22 Q The other person?

23 A Yeah.

24 Q What, if anything, did Stanley Oliver say where he
25 was standing when the woman got shot?

1 **A** Standing behind her.

2 **Q** What, if anything, did Stanley Oliver tell you
3 happened after that, after he left the wooded area?

4 **A** He said he and the other person went back to his
5 girlfriend Renata's house and watched the news.

6 **Q** What, if anything, did he tell you was done with the
7 clothes?

8 **A** He said they put in a bunch of trash bags and Renata
9 took them and did something with them, got rid of
10 them.

11 **Q** What, if anything, did Stanley Oliver tell you about
12 whether or not there were any suspects?

13 **A** He said there wouldn't be any because nobody didn't
14 tell on nobody else, nobody knew nothing, nobody
15 could say nothing, the people who knew anything about
16 it were dead.

17 **Q** What, if anything, did he say about fingerprints?

18 **A** That he had -- they had left one of them in the house
19 of his. And he was saying that there was an
20 explanation for that because he could have been there
21 and bought something from the man. Since the man
22 deal with drugs and he deal with them, that was a
23 perfect explanation of how it possibly got there.

24 **Q** What type of gun, if any, did Stanley say he used on
25 the folks in the house?

1 A A .40 caliber.

2 Q Was it just the two of you all in Hotel 36?

3 A Yes, sir.

4 Q After you got this information from Stanley Oliver,
5 what did you do?

6 A I contacted law enforcement.

7 Q Did they come right over?

8 A No.

9 Q You said this conversation happened when?

10 A In October.

11 Q When did law enforcement talk to you?

12 A December 22nd.

13 Q December 22nd?

14 A (Nods head affirmatively).

15 Q Did you give them a statement then?

16 A Yes, sir, I did.

17 Q Do you know Dominic Gallman?

18 A No.

19 Q Do you know Kenneth Joy?

20 A No.

21 Q Did you have an occasion to talk, or did Stanley
22 Oliver talk to you again about this case?

23 A Yeah. He spoke to me one other time about it when he
24 had heard something about a discovery about Mike and
25 Blue and Renata signing statements on him. And he

1 was totally livid about it.

2 Q That Mike, Renata and Blue had given a statement on
3 him?

4 A Yeah.

5 Q And you said he was livid about it?

6 A Yeah. He was highly upset.

7 Q And what did Stanley Oliver tell you about that?

8 A They are going to be dead, that dead men can't tell
9 no tales. He was upset that they had betrayed him
10 and wanted somebody to do something to them, anybody.
11 He said his brother Mike had aids and that he didn't
12 like the fact that he was lasting or that he was
13 living and he wanted something done to him
14 immediately, ASAP. He felt like Renata had betrayed
15 him, that something should be done to her, that he
16 was too good to her.

17 Q Did he tell you where Renata lived?

18 A Yeah. Palmetto Terrace.

19 Q Did he tell you whether or not it would be easy to
20 get her?

21 A Yeah. Walk up to the door and ring the doorbell and
22 shoot her in the face. She's a big girl, unquote.

23 Q That's what he told you?

24 A (Nods head affirmatively).

25 Q Did he ask you whether or not he knew anybody would

1 do it?

2 A Yeah, he did.

3 Q Did he ask you if you would do it?

4 A Yeah, he did.

5 Q What did you tell him?

6 A I told them that if I got out of jail before he did
7 and got from up under these charges that I would.

8 Q Would you have done that?

9 A No.

10 Q What, if anything, did he say about the amount of
11 money he would give somebody if they did this?

12 A That he would pay close to 5, 10 grand to anybody
13 that could get their hands on them. All he didn't
14 want them to do was come to court and testify.

15 Q And who specifically did he ask to be killed?

16 A Renata, Blue and Mike.

17 Q When was that? When did he tell you that?

18 A This was after Christmas, actually the first Monday
19 after Christmas.

20 Q So it would have been in Christmas 2005?

21 A Mm-hmm (affirmative).

22 Q And did you have an occasion to relay this to law
23 enforcement?

24 A Yeah. I called them that time. They came right away
25 that time.

1 Q When did you plead guilty?

2 A June 15th, 2006.

3 Q Did you get any help on those?

4 A Actually, believe it or not, you are one of the
5 solicitors that came for one of my witnesses and were
6 pushing for more time.

7 Q Did I represent the victim?

8 A Yes.

9 Q Tell these ladies and gentlemen of the jury why you
10 called law enforcement after this first statement and
11 why you called law enforcement after this second
12 statement and why are you here today?

13 A There comes a time when you've got to draw a line,
14 where you're got to end certain things. I'm no
15 angel. I've been a criminal for the majority of my
16 life. Who is to say that one day I decide to want to
17 go out here and get that one big break in the
18 criminal record and now I'm the big drug dealer on
19 the block. Who is to say they won't go after me,
20 too? I've got kids. Somewhere you've got to say
21 that's enough.

22 And whenever you start even killing innocent
23 bystanders and women, you've got to say that's
24 enough. I have done a lot of wrong, but I ain't
25 never really hurt nobody. Anybody I've ever taken

1 anything from, they're still here, living and
2 breathing. That was a terrible thing. You can't
3 come back from that. That's why I did what I did.

4 **Q** Is the Stanley Oliver you've known for ten years and
5 the Stanley Oliver that told you these statements, is
6 he in the courtroom?

7 **A** Yes, sir, he is.

8 **Q** Would you please point him out for these ladies and
9 gentlemen?

10 **A** Right there.

11 **MR. MEADORS:** We'd like the record to reflect
12 he's pointed to Stanley Oliver beside Mr. Strickler.

13 **THE COURT:** The record will so reflect the
14 witness identified the defendant, Oliver.

15 **Q** Beg the Court's indulgence. Mr. Brown, thank you.

16 **A** You're welcome.

17 **THE COURT:** Cross examination.

18 **MR. STRICKLER:** Your Honor, I'd move to cross
19 examine him tomorrow.

20 **THE COURT:** Sir?

21 **MR. STRICKLER:** I'd move to cross examine him
22 tomorrow. It's a quarter to 5 at this point in time.
23 The solicitor waited until after 4:00 in the
24 afternoon to put up a major State's witness and we've
25 been here all day.

1 **MR. MEADORS:** Your Honor, if we can approach.

2 We started at 4:00. It's just --

3 **THE COURT:** Just wait a minute.

4 **MR. MEADORS:** He's talking.

5 (Whereupon, a bench conference is had)

6 **THE COURT:** Your motion is denied.

7 **MR. STRICKLER:** Thank you, sir.

8 CROSS EXAMINATION

9 **BY MR. STRICKLER**

10 **Q** Mr. Brown, you are currently a resident of the
11 Allendale Correctional Institution, correct?

12 **A** No, sir. That's incorrect.

13 **Q** No? I'm sorry. Where are you housed?

14 **A** Stevenson Correctional Institution.

15 **Q** I'm sorry. Say it again?

16 **A** Stevenson Correctional Institution.

17 **Q** Where is that located?

18 **A** That is located on Broad River Road.

19 **Q** Okay. How long have you been there?

20 **A** Approximately 36 hours.

21 **Q** How long?

22 **A** Just got there yesterday morning at 10:00.

23 **Q** Okay. And prior to there, being there, where were
24 you housed?

25 **A** Allendale Correctional Institution.

1 Q All right. Thank you very much, sir. How long had
2 you been at Allendale CI prior to that?

3 A Since April 28th, 2006.

4 Q And once you're done with providing the assistance
5 that you're here to provide to this court, where will
6 you go?

7 A Stevenson Correctional Institution.

8 Q Okay. And you will then be housed at Stevenson, or
9 will you return to Allendale?

10 A I was already moved from Allendale before any of this
11 even came up.

12 Q 46 hours ago?

13 A I didn't even know I was going to be here this
14 morning. You knew before I did.

15 Q Now, I'm trying to get your prior record straight
16 here. If I understand it correctly, you were
17 convicted on December 22nd, 1997 for carjacking,
18 correct?

19 A Correct.

20 Q Okay. Receiving a sentence of ten years suspended on
21 two and five years probation?

22 A That's correct.

23 Q Did you have an attorney at that time, sir?

24 A Yes, sir. Glenn Walters out of Orangeburg.

25 COURT REPORTER: I'm sorry. Who?

1 **A** Glenn Walters out of Orangeburg.

2 **COURT REPORTER:** Thank you.

3 **Q** And then subsequent to that you testified, what was
4 it? Failure to stop and possession of a pistol under
5 21, right?

6 **A** April of '99.

7 **Q** How about a court date of May 26th, 2000?

8 **A** That's when I actually went to court for that.
9 Caught the charge April of '99.

10 **Q** April of '99, the failure to stop. And then April of
11 2000 on the pistol charge. So it wasn't that you
12 were arrested on both of them at the same time. You
13 were arrested in '99 on the failure to stop, I guess
14 got out of jail, right?

15 **A** Mm-hmm (affirmative).

16 **Q** And 2000 arrested on the pistol charge and went to
17 court May 26th of 2000, right?

18 **A** That's also correct.

19 **Q** And that's where you picked up three years on the
20 failure to stop and five on the pistol charge?

21 **A** That's correct, sir.

22 **Q** Okay. And then I guess about the saw time, as far as
23 that carjacking that you'd been sentenced for
24 earlier, you'd done your active time and you were out
25 on probation on that. Is that correct?

- 1 **A** That's correct.
- 2 **Q** So your probation got violated at that particular
- 3 time?
- 4 **A** Yes, sir, it did.
- 5 **Q** They put you back in how long after that?
- 6 **A** From May 21st, 2000 to March of 2004.
- 7 **Q** Did you get five years concurrent for that?
- 8 **A** Yes, sir.
- 9 **Q** To run along with the five that you got on the pistol
- 10 and the three that you got on the failure to stop?
- 11 **A** That's correct.
- 12 **Q** So, in essence, you got three on the failure to stop,
- 13 five on the pistol charge and five years probation.
- 14 So you got -- and they all ran together. So you got
- 15 a five-year sentence then, right?
- 16 **A** Yes, sir.
- 17 **Q** And you get out of prison, when was it?
- 18 **A** March the 1st, 2004.
- 19 **Q** Out 3-1-04. Okay. Now, the original carjacking
- 20 charge, that was out of Sumter, right?
- 21 **A** Yes, sir, it was.
- 22 **Q** Okay. Failure to stop for a blue light was Richland
- 23 County?
- 24 **A** Correct.
- 25 **Q** Pistol charge was, well, City of Columbia, Richland

1 County, right?

2 A Yeah.

3 Q And then you are arrested on, let's see,
4 September 20th, 2005?

5 A That's correct.

6 Q About a year and a half after you got out of prison?

7 A That's correct.

8 Q Okay. And you're charged with attempted armed
9 robbery, right?

10 A And armed robbery. Correct.

11 Q Armed robbery and assault with intent to kill, right?

12 A Charged, correct.

13 Q Now, the assault with intent to kill, that was
14 dismissed?

15 A Correct.

16 Q All right. And you had a lawyer on those charges,
17 right?

18 A Yes, sir, I did.

19 Q Kana Rahman, something like that? Kana Johnson?

20 A Kana Johnson, yes.

21 Q Kana Johnson. Now, you talked those charges over
22 with Ms. Johnson, right?

23 A That's correct. I did.

24 Q Okay. And those charges are here in Richland County?

25 A Yes, sir, it is.

1 Q Talked with the prosecutor about that. The very
2 people that are prosecuting this case prosecuted you
3 on those, right? Well, the very Solicitor's Office
4 that prosecuted you on those cases prosecuted you on
5 them?

6 A Yes, sir, they did.

7 Q All right. And now, you were looking at ten to
8 thirty on the armed robbery charge, right?

9 A That is correct.

10 Q Okay. Now, at this point in time, back up just a
11 second. On the carjacking charge, you'd gone in.
12 You'd done five. Was that time over with, or will
13 you still have some kind of time hanging over your
14 head at that point?

15 A That's over with.

16 Q That's over with?

17 A Mm-hmm (affirmative).

18 Q Okay. You're looking at ten to thirty on the armed
19 robbery. You're looking at what? Twenty on the
20 attempted armed robbery?

21 A Right.

22 Q Right? We'll forget the other one. That got tossed.
23 The prosecutor dismissed that. Now, in talking with
24 your attorney, you ended up going to court I believe
25 you said in the summer of 2006. You gave the exact

1 date?

2 A September -- I mean, excuse me. June the 15th.

3 Q Okay. After you contacted the police and gave these
4 statements that you've testified to, right?

5 A Correct.

6 Q Okay. For which you received no consideration.
7 That's your testimony, correct?

8 A Correct.

9 Q Okay. Now, you had an attorney and you were aware
10 that the carjacking that you'd been convicted of was
11 what's called a most serious offense and that both
12 the armed robbery and the attempted armed robbery
13 that you were charged with were most serious
14 offenses, correct?

15 A Correct.

16 Q Now, and your attorney explained to you because it's
17 the law in this state that a conviction for a second
18 most serious offense the solicitor must, not may,
19 must seek a sentence of life without parole?

20 A And which they did.

21 Q Which they did. So you're doing a life sentence now
22 without parole?

23 A You say seek. You didn't say give.

24 Q Okay.

25 A That determination is up to the judge.

1 Q Your lawyer did not explain to you that the
2 Legislature says in this state that a conviction for
3 a second most serious crime the solicitor has no
4 say-so in seeking it and the judge has no say-so in
5 sentencing? That wasn't explained to you?

6 A I think that would be 24-14-30, is the South Carolina
7 penal code for that.

8 Q You're not doing a sentence of life without parole?

9 A No, sir, I'm not. I'm doing ten years at 85.

10 Q You're doing ten years at 85 percent. In other
11 words, what you are doing, because you haven't gotten
12 any assistance here, no one is helping you out, what
13 you're doing here is the minimum sentence on one
14 charge, right?

15 A On both, on two charges. They ran them concurrent,
16 ten years apiece.

17 Q You're doing the minimum -- I'm sorry. Go ahead,
18 sir.

19 A Ten years apiece.

20 Q Right. And the minimum sentence on armed robbery,
21 the minimum is ten?

22 A Correct.

23 Q There is no minimum on a ten?

24 A Zero to twenty. You're right.

25 Q Right. Right. So you got a ten-year bit out of

1 something in which the law requires you to be
2 sentenced to life without parole, but you did not get
3 any assistance from the State of South Carolina in
4 this regard. That's your testimony?

5 A Yes, sir. That's my testimony.

6 Q Okay. And you're just trying to be of assistance,
7 right?

8 A Maybe you didn't hear earlier when I sat right here
9 and told everyone that Mr. Meadors actually walked in
10 with the wife of my victim because she wanted to be
11 present for all the sentencing of me and my
12 co-defendants. She just showed up for mine. He came
13 in with Dietrich lake and actually tried to ask the
14 judge for more time. I spoke with myself to a judge,
15 Casey Manning, and he listened to my appeal. It had
16 nothing to do with the solicitor. Now, Kana and
17 Dietrich had their own conversation. That was
18 between the two of them. But in all actuality, no
19 one gave me anything for this testimony today.
20 Actually, Mr. Strickler, I'm a lot like you. I try
21 to seek justice for free.

22 Q Well, I heard you when you testified before, sir.
23 Okay. Notwithstanding any other provision of law,
24 17-25-45, upon a conviction for a most serious
25 offense, armed robbery or attempted armed robbery, as

1 defined in this section, a person must be sentenced
2 to a term of imprisonment for life without the
3 possibility of parole if that person has one or more
4 prior convictions for a most serious offense,
5 carjacking. I'll move on.

6 **A** Well, does it also state ex post facto, meaning that
7 the carjacking was back in '97 before this became a
8 most serious offense and that it doesn't hold over in
9 my new record now?

10 **Q** I won't get into a legal debate with you. That
11 argument has been made and lost at the Supreme Court.

12 **A** Thank you.

13 **Q** Okay. State v. John Purr of which I was the
14 attorney.

15 **MR. MEADORS:** Your Honor, objection.

16 **THE COURT:** Yes, sir. Sustained.

17 **Q** I'll move on. Thank you. You just wanted to go
18 ahead and testify for the reasons that you've
19 elaborated on. And that's why you have moved to set
20 aside your convictions on the armed robbery and the
21 attempted armed robbery, right?

22 **A** Move to set aside the conviction?

23 **Q** Yes, sir. You're familiar with a process called post
24 conviction relief, aren't you?

25 **A** Yes, sir, I am.

1 Q That's when you come back after the trial is over and
2 complain about the job that your lawyer did and want
3 your case reopened, right?

4 A Yes, sir, I am.

5 Q Okay. And you are familiar with a document entitled
6 2007-CP-40-3596?

7 A Yes, sir, I am. That would be mine.

8 Q That would be your post conviction relief
9 application --

10 MR. MEADORS: Your Honor, if he is going to read
11 off that, I'd ask him to make it a Defense Exhibit.
12 Otherwise he can't do it. It's not in evidence.

13 THE COURT: Identify it at this point.

14 MR. STRICKLER: I'm just asking him to do so if
15 he recognizes --

16 Q Do you recognize it?

17 A Yes.

18 Q Do you recognize it's complete? I'd just like this
19 marked for identification at this point, Your Honor,
20 please.

21 MR. MEADORS: And, Your Honor, objection. He's
22 gone beyond the scope of cross as far as these.

23 THE COURT: Overruled.

24 (WHEREUPON, Defendant Oliver's Exhibit No. 2 is
25 marked for identification.)

1 Q Beg the Court's indulgence, Your Honor, one moment.
2 So this also right now, that's what it's called.
3 It's called an application. That's the terminology
4 used with it. That is currently pending. It hasn't
5 been heard. It hasn't been ruled on. You have to go
6 to court on it, right?

7 A Correct.

8 Q You've been appointed an attorney, one Tara Dawn
9 Shurling, to represent you in this matter, correct?

10 A Correct.

11 Q And at some point in time you'll have it going to
12 court?

13 A Correct.

14 Q And a court at a different time will consider your
15 allegations in this. And what will happen is if your
16 relief is granted is that your case will be right
17 back together? You'll be -- your convictions will be
18 set aside, correct?

19 A Temporarily. Correct.

20 Q And then anything can happen as far as sentencing
21 that might happen as far as sentencing, right, sir?

22 A That also is correct.

23 Q And then any input from anywhere that might want to
24 be made can be made, sir. Correct?

25 A No.

1 Q No?

2 A What you fail to realize is this. If you're paying
3 attention to this date, you know that in order to
4 fill out a post conviction review you have to do it
5 within a year of the conviction. So if I filled this
6 out within the date that's on it, it would be June
7 the 14th of this present year. So that means before
8 I even knew that I would even be called to testify I
9 was still back in post conviction review, again with
10 no help from the State, no help from the
11 solicitation; and yet again I am still here. That's
12 a good try. You're good.

13 Q Pardon me?

14 A That was good.

15 Q Yeah. Yes, sir. And it's true that you had actually
16 been served with notice of intent to seek life
17 without parole on the charges for which you're
18 currently under sentence, correct?

19 A That's incorrect. I was never served any such
20 paperwork.

21 Q You were never served with notice of intent to seek
22 life without parole?

23 A No, sir.

24 Q Isn't it true at the bottom of 3-C, top of 3-D of
25 your post conviction relief, also which you swore to,

1 you indicate that the solicitor served the Applicant
2 with its notice of seek life without parole based on
3 carjacking?

4 **A** No. If that's what's on here, I didn't know that.
5 It ain't what I typed up.

6 **Q** 3-C, well, it's 3-C contains the word. 3-D contains
7 the other words?

8 **A** Where are you?

9 **Q** Give you a chance to review it, sir.

10 **A** You said 3-D? I'm looking at 3-D. Where are you on
11 the paper?

12 **Q** Excuse me, sir. The first two lines at the top of
13 the page, sir.

14 **A** I never typed that.

15 **Q** I'm sorry, sir?

16 **A** No. I never typed that.

17 **Q** It doesn't have a third page?

18 **A** I said no, that never took place.

19 **Q** This never took place?

20 **A** No.

21 **Q** Are you denying that that it's in your application?

22 **A** No. I'm not denying that's not in there. But you --
23 that never took -- he never gave me any type of paper
24 that I was looking at life without parole anywhere.

25 **Q** This is a sworn document on your part, correct?

1 **A** (Nods head affirmatively).

2 **Q** 6th of June 2007, sworn and subscribed by you as
3 you've testified to?

4 **A** I never signed any paperwork. Now being as though he
5 may have said something like that doesn't mean I
6 signed the actual document. All I can go off on is
7 whether my attorney told me what he said, because I
8 never spoke with him directly. And that's the reason
9 for this, because she didn't do a proper job. If a
10 man is willing to take away my life, I do believe I
11 should be able to face that man. Don't you?

12 So if he didn't come and tell me and I didn't
13 sign the paper, then I'm telling the truth. He
14 didn't tell me anything. But my attorney said the
15 life sentence was on the table. She in turn went and
16 talked to him. They spoke some more. The life
17 sentence was removed from the table but they would go
18 no less than ten because of my prior convictions.

19 **Q** But do you not deny that the state solicitor served
20 you with notice with intent to seek life without
21 parole. The statement is in your post conviction
22 relief action against you?

23 **A** I can only tell you what my attorney told me.

24 **Q** I'm asking if you can tell me whether or not the
25 statement is contained in this also. That's all I'm

1 asking you, sir.

2 A It says it right here. That's what I wrote, that
3 right there.

4 Q All right, sir. Now, let's talk. You gave two
5 statements to the police, correct?

6 A Yes, sir, I did.

7 Q You initiated contact with the police, correct?

8 A Yes, sir, I did.

9 Q Your first statement dated December 22nd, 2005, do
10 you have a copy of that statement with you?

11 A No, sir. Do you mind?

12 Q You don't? Okay.

13 A Actually there's no need for it. I know what it
14 says. But if you'd like me to have --

15 Q Well, if there's no need, we'll talk about it. And
16 then if you need to refresh your recollection, I'll
17 be happy to let you take a look at it. Okay?

18 A Thank you.

19 Q My understanding is that your statement indicates
20 that they went down there and had the girl, knocked
21 on the door to try to buy something, correct?

22 A That's correct.

23 Q All right. She indeed did knock on the door,
24 correct?

25 A That's correct.

1 Q A man opened the door. Stanley and Dominic rushed
2 in, correct?

3 MR. MILLING: Objection, Your Honor. May we
4 approach?

5 (Whereupon, a bench conference is had)

6 THE COURT: All right, ladies and gentlemen. An
7 objection has been lodged as to that last question
8 and answer. I'm going to ask you to disregard that
9 question and answer. Strike it from the record and
10 just, as I say, disregard the answer. So move ahead,
11 Mr. Strickler.

12 MR. MILLING: Your Honor, for the record, if I
13 could just address a motion outside the presence of
14 the jury after we finish.

15 THE COURT: Sure. Absolutely.

16 Q Thank you, sir. A girl went outside and got back in
17 the car?

18 A That's correct.

19 Q Right? Okay. So my understanding is from this that
20 the girl -- and this is the same girl they end up
21 referring to throughout the statement, right?

22 A Yes, sir.

23 Q The girl who isn't -- who ended up getting killed is
24 she?

25 A No.

1 Q This is all based on, according to you, what Stanley
2 Oliver told you, correct?

3 A That's right.

4 Q Now, my understanding is that Stanley Oliver told you
5 that Ms. Felder was involved in this robbery,
6 correct?

7 A I don't know anybody named Ms. Felder.

8 Q Okay. That the woman who ended up getting killed was
9 involved in the robbery, correct?

10 A All I know, it was a girl. He didn't say her name.

11 Q I'm sorry?

12 A All I know, it was a girl. He didn't say her name or
13 go into those type specifics.

14 Q I still didn't understand what you said.

15 A You want me to admit to knowing somebody that I don't
16 know. I don't know her name is Ms. Felder.

17 Q I'm not interested in having you admit to knowing
18 anyone, sir. The girl that is referenced as knocking
19 on the door to try to buy something is the same girl
20 who you referenced later on as being killed, correct?

21 MR. MEADORS: Your Honor, objection. Stanley --
22 objection.

23 THE COURT: Overruled.

24 Q Right?

25 A Yes.

- 1 Q Okay. All right. So the girl who is killed was
2 involved in getting Mr. Oliver into the house, right?
- 3 A That's correct.
- 4 Q According to your statement. She then turned around
5 and went back outside, right?
- 6 A That's correct.
- 7 Q Your testimony is that according to Stanley he beat
8 him with the butt of a .40 caliber pistol. He beat
9 him with a .40 caliber pistol, right?
- 10 A That's correct.
- 11 Q And then the white guy made some kind of move and he
12 was shot, right?
- 13 A That's correct.
- 14 Q And he was shot with a .38, right?
- 15 A That's correct.
- 16 Q Okay. And he was shot in the stomach, right?
- 17 A That's correct.
- 18 Q All right. So, Kevin Miller shot in the stomach with
19 a .38 caliber. Right? Woman ... all right. Let's
20 see. And now let me see. The clothes involved were
21 put in a trash bag and given to Renata to get rid of,
22 right?
- 23 A That's correct.
- 24 Q All right. And your testimony is that when did you
25 become Mr. Oliver's roommate in -- what was it --

1 H-36, Hotel 36?

2 A A couple of days after I first got there.

3 Q Okay. So you had been in Hotel dorm for a couple of
4 days after September 20th until December 22nd,
5 correct?

6 A Right.

7 Q You got booked in. You went to Yankee first?

8 A Correct.

9 Q You got processed. Then the first dorm you got
10 assigned to was Hotel?

11 A Correct.

12 Q The first roommate you got assigned to was Stanley
13 Oliver?

14 A No.

15 Q No? So you're in Hotel Dorm for how long before
16 Stanley Oliver becomes your roommate?

17 A About three or four days.

18 Q So if it's a couple of days at Yankee, the processing
19 dorm, and three or four days with another roommate,
20 then is it fair to say that Stanley Oliver became
21 your roommate within roughly a week of you being
22 housed at the Alvin S. Glenn Detention Center?

23 A Roughly two weeks.

24 Q Roughly two?

25 A (Nods head affirmatively).

1 Q Now, I believe in another statement, the one you gave
2 in January, January 25th, 2006, you indicate that
3 this is the one where you talk about Stanley wanting
4 to get people killed, that Stanley had gotten close
5 to \$50,000 in the robbery. Is that right?

6 A That's what he said.

7 Q Have you any idea who I am? I mean, there's no
8 reason you should. But I'm just asking you
9 questions.

10 A Do I have any idea who you are?

11 Q Mm-hmm (affirmative).

12 A You would be Mr. Oliver's attorney.

13 Q Do you know what my position is?

14 A Lawyer.

15 Q Are you acquainted with what a public defender is?

16 A Yeah. I am.

17 Q I'm a public defender. How much do you pay to get a
18 public defender?

19 A \$25 processing fee.

20 Q It's actually up to \$40 now if you're out of jail.
21 Okay.

22 A The question, Mr. Strickler?

23 Q No. I ask the questions, sir.

24 A All right.

25 Q Now, you also indicate he even told you how it would

1 be easy to go ahead and take care of Renata, walk up
2 to the Palmetto Terrace, ring the doorbell, she
3 answers the door, shoot her in the face, right?
4 That's basically what he claims?

5 A That's pretty much the gist of.

6 Q So we can dispense of evidence that that apartment
7 even has a doorbell?

8 A He didn't say anything about a doorbell. He said
9 knock on the door. That's what the statement says.
10 Knock.

11 Q Do you deny that on direct testimony you testified
12 walk to the door, ring the bell, shoot her in the
13 face?

14 A Sir, I wouldn't even know what Renata looked like.
15 All I know is I was told you go to the door, however
16 you get her there, whether it be a cat call or a
17 bullet horn, and shoot her in the face.

18 Q Well, you know, I don't want to nitpick with you
19 about details. But my question to you, sir, was; do
20 you deny on your direct testimony that you said he
21 told you walk to the door, ring the bell and shoot
22 her in the face? Do you deny you said that?

23 A Well, I don't know. If -- whatever. All I know is
24 what I was told. I told you it. You can try to
25 twist my words as much as you want. It don't make no

1 difference. It's not going to change.

2 Q Well, sir, I mean, it's a fairly straightforward
3 question. It's susceptible really to three answers.
4 I'll give you an out. Yes, I said that. No, I
5 didn't say that. Or here's the out: I don't
6 remember. Which is it what you testified to?

7 A I'd have to see it on paper.

8 Q No. The question is about what you testified to -- I
9 don't know -- half an hour, 45 minutes ago? Did you
10 or did you not mention ringing the doorbell?

11 A I don't remember now.

12 Q Thank you. Your answer is I don't remember. That's
13 fine, sir. Thank you very much. I don't have any
14 further questions from this witness, sir.

15 **THE COURT:** Anything further?

16 **MR. MILLING:** Thank you, Your Honor. May it
17 please the Court.

18 CROSS EXAMINATION

19 **BY MR. MILLING**

20 Q Good afternoon. My name is Jonathan Milling. I
21 represent Mr. Dominic Gallman in this case. Now, --

22 A Good afternoon.

23 Q I'm sorry?

24 A I hope you're a little bit better.

25 Q Mr. Strickler just went over certain portions of the

1 written statement that you gave to law enforcement in
2 this case, correct?

3 A (Nods head affirmatively).

4 Q And there are a couple of things that -- I don't
5 know -- that has been asked or have been asked, and
6 so I want to go over those with you. To begin with,
7 did Mr. Oliver indicate to you anything about
8 somebody by the name of Mr. McQuay?

9 A Yes, sir.

10 Q What did he say about Mr. McQuay?

11 A That him ending up being dead had something to do
12 with what went on.

13 Q Did he say that Mr. McQuay was somebody who put him
14 onto the house?

15 A He didn't go into real detail. We saw it in the news
16 that he had been found dead in his trunk.

17 Q Let me back up. Did you tell the police that
18 Mr. McQuay had put him onto the house?

19 A I don't know what he told me at the time.

20 Q Okay. Now, you also indicated in your statement --
21 and please correct me if I am wrong -- but that the
22 female was shot out in the woods, correct?

23 A That's correct.

24 Q Okay. And you indicated also in your statement that
25 Mr. Oliver said that after the shooting he and

1 another person went over to Renata's house, correct?

2 A That's correct.

3 Q Okay. And that he gave Renata the guns? Or not the
4 guns. He gave Renata the clothing to dispose of?

5 A That's correct.

6 Q Okay. You also gave a second statement, correct?

7 A That's correct.

8 Q In that second statement you indicated that Mr.
9 Oliver was angry with Renata, correct?

10 A Correct.

11 Q With Mike Allen, correct?

12 A Correct.

13 Q And with Omekas Moaney, correct?

14 A Who?

15 Q Blue?

16 A Yes.

17 Q Because they had talked to law enforcement?

18 A That's correct.

19 Q Okay. And I think also in direct testimony you have
20 indicated that you don't know my client, Mr. Gallman,
21 correct?

22 A Not personally, no.

23 Q Thank you. Nothing further.

24 **THE COURT:** Anything further from Mr. Joy?

25 **MR. DELGADO:** I have no questions.

1 **THE COURT:** No questions. Any redirect?

2 **MR. MEADORS:** Just five quick ones.

3 REDIRECT EXAMINATION

4 **BY MR. MEADORS**

5 **Q** Do you know what happened at Mildred Avenue or in the
6 woods? Do you yourself?

7 **A** No more than what I was told, no.

8 **Q** Only what you were told?

9 **A** Correct.

10 **Q** Do you remember who your roommate was? Mr. Strickler
11 asked you about who. Do you remember who your
12 roommate was prior to Mr. Oliver or what cell you
13 were in?

14 **A** I was in number 17.

15 **Q** Cell 17. You then moved in with Mr. Oliver after
16 that?

17 **A** Yes.

18 **Q** Or he moved in with you or however they do it?

19 **A** I moved upstairs with him.

20 **Q** Who decided? How did that come about that you all
21 room together?

22 **A** The young guy I was in the room with wasn't real
23 clean. He ain't liked to wash too swift and I wanted
24 to get out of there with him.

25 **Q** Can you all make a request to room with somebody?

1 A Yes.

2 Q Did you request Stanley Oliver?

3 A Nah. He requested me.

4 Q Stanley Oliver requested you?

5 A Yeah.

6 Q I think Mr. Milling asked you -- and just looking at
7 what's marked State's 197 for identification, whose
8 signature is down there?

9 A Mine.

10 Q Is that Jason Brown?

11 A Yes, sir, it is.

12 Q Mr. Milling asked you about a guy named McCue?

13 A McQuay.

14 Q I'm sorry. What is it?

15 A McQuay.

16 Q As the one who found -- he said a guy named Q -- or
17 Quay; I'm sorry -- who is the one who was found in
18 the trunk of a car on a highway put him on the house.
19 And that's what Stanley Oliver told you?

20 A Yes, sir.

21 Q Did that ring a bell with you?

22 A Yes, sir.

23 Q How?

24 A Because he was found in the trunk of a car or a
25 Cadillac going down towards Manning.

1 Q So Mr. Oliver is saying that's what put him onto the
2 house?

3 A That's what started the conversation which started
4 all this.

5 Q Those your words?

6 A (Shakes head negatively)

7 Q Who told you that?

8 A Mr. Oliver.

9 Q Now, Mr. -- and what was the date of that statement?

10 A December 22nd.

11 Q You don't need to look? You remember December 22nd?

12 A (Nods head affirmatively)

13 Q And I think Mr. Strickler and Mr. Milling asked you
14 about your other written statement. And Mr.
15 Strickler said the one where I believe you said
16 Stanley threatened to kill these folks. 198 for
17 I.D., is that your signature on there?

18 A Yes, sir, it is.

19 Q And what's the date of this statement?

20 A The 20th of January.

21 Q '06?

22 A Yes, sir.

23 Q Mr. Strickler asked you about whether you had said
24 knock or ring or knock or ring. On line 8 of this
25 statement, the first sentence in there; what, if

1 anything, does it say about -- just, can you read it?

2 A That it would be easy to get her, just knock on the
3 door.

4 Q And what?

5 A Shoot her in the face.

6 Q So knock, not ring?

7 A Knock.

8 Q Was there any doubt in your mind what he wanted you
9 to do once you got to the door?

10 A No.

11 Q And who was your solicitor on your last charges?

12 A Dietrich Lake.

13 Q Dietrich Lake. And when is the first time you met
14 me?

15 A The first time I met you was -- well, I didn't
16 actually meet you. We didn't speak but we were in
17 the courtroom.

18 Q When did I actually first meet you in person?

19 A At Allendale about two --

20 Q A couple of months ago?

21 A Yeah.

22 Q I came to see you?

23 A Correct.

24 Q That's the first time we had talked?

25 A Correct.

1 Q And during that conversation did we talk and realize
2 that I was standing with the victim trying to get you
3 more time?

4 A Yes, sir.

5 Q The victim was upset?

6 A Yes, sir, she was.

7 Q And I was representing the victim?

8 MR. STRICKLER: Objection. Leading.

9 THE COURT: Yes, sir.

10 Q Who was I representing?

11 A You were representing Jeb Cunningham. But actually
12 his wife came in his place with a letter that he had
13 written.

14 Q That's all. Thank you.

15 THE COURT: Anything?

16 MR. STRICKLER: Nothing.

17 THE COURT: Anything?

18 MR. MILLING: Nothing further, Your Honor.

19 THE COURT: All right. You may come down, sir.

20 Thank you very much. May this witness be excused?

21 MR. STRICKLER: Certainly, sir.

22 MR. MILLING: No objection.

23 MR. DELGADO: Yes, sir.

24 THE COURT: All right, ladies and gentlemen.

25 That will conclude the testimony for the day. I'll

1 ask you to be back in the jury room at 9:30 in the
2 morning. We'll continue with the trial. Again,
3 don't discuss the case among yourselves when you
4 return to the jury room or with anyone else over the
5 evening hours. Again I caution you about press
6 reports. I don't know if there are or will be any,
7 but I will ask you to not look at or watch any press
8 reports of this trial. Have a pleasant evening.
9 We'll see you at 9:30.

10 (Jury out at 5:26 p.m.)

11 **THE COURT:** All right, Solicitor. Just for
12 scheduling purposes, how are we moving along with
13 the -- I'll get to you in just a minute.

14 **MR. MILLING:** Yes, sir.

15 **MR. MEADORS:** Beg the Court's indulgence. I can
16 be specific. Your Honor, I think it's fair to say
17 one, two, three, four, five, six, even, eight, some
18 officers, pathologist and then the continuation of
19 the SLED for the DNA I think is -- correct? And one,
20 two, three, four, five, six, seven, eight. I think I
21 can safely say we have eight more witnesses. I don't
22 think any of them will be as long as any we've had.

23 **THE COURT:** All right.

24 **MR. MEADORS:** I think that's a fair statement.

25 **THE COURT:** Mr. Milling.

1 **MR. MILLING:** Thank you, Your Honor.

2 **THE COURT:** For the record.

3 **MR. MILLING:** For the record, at this point in
4 time we would move for a mistrial based upon the
5 reference in Mr. Strickler's question to my client
6 being involved with this case based on the statement
7 which was made which Mr. Brown in this case. I think
8 Mr. Strickler's question was something to the effect
9 of, in reading or questioning Mr. Brown about this,
10 he said, "The man opened the door and Stanley and
11 Dominic rushed in."

12 We have taken very careful, painstaking efforts
13 to try and keep any Crawford or Bruton materials out
14 of this case. This just opens the door. I don't
15 think any instruction that you can give can cure
16 this. I have no right or no ability to examine Mr.
17 Oliver as to this statement. I would submit that the
18 jury now has been -- the cat's out of the bag, so to
19 speak, Your Honor. So we would move based upon the
20 prejudice that my client has suffered and that no
21 charge can cure this problem.

22 **THE COURT:** All right. Well, I gave a curative
23 instruction. I feel that's sufficient. And I must
24 respectfully deny your motion. Anything further
25 today?

1 **MR. MEADORS:** No, sir.

2 **THE COURT:** 9:30.

3 (Whereupon, the proceedings are concluded for
4 the day, to be reconvened tomorrow morning)

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Wednesday, December 12, 2007

THE COURT: The State ready to proceed?

MR. ROSS: Yes, Your Honor.

THE COURT: Defense ready to proceed?

MR. STRICKLER: Yes, sir.

MR. MILLING: Yes, Your Honor.

MR. DELGADO: Yes, Your Honor.

THE COURT: All right. At this time I advised the defense that I would make a ruling as to the order of final arguments. But after reviewing again the Huckey case and the Crowe case and as I indicated yesterday a brief article by Judge Ralph King Anderson, Jr., and the South Carolina Court of Appeals wherein he indicates that the -- as I read I think into the record yesterday, "In a criminal prosecution where a defendant is separately tried and introduces no evidence, he is entitled to closing argument. In a jury trial, however, where defendants are jointly indicted, if either one of them introduces evidence, the State is entitled to the closing argument."

Now, there might be some argument that only two of the defendants, that being Mr. Gallman and Mr. Oliver, were jointly indicted, and that Mr. Joy was indicted on a separate occasion. It is certainly

1 factual that they are all involved in a joint trial.
2 So I don't see any difference between Gallman and
3 Oliver in this respect. There may be some difference
4 in the proceedings against Mr. Joy, but all three
5 defendants are being tried for acts arising out of
6 events that occurred on or about September 4th, 2005.

7 And even putting aside for a moment the
8 procedural posture of this case and the fact that
9 both Huckey and Crowe are the basis for Judge
10 Anderson's opinion, if I look at the evidence that
11 was submitted on behalf of Mr. Gallman, it goes
12 directly to the credibility of the witness, Omekas
13 Latrell Moaney, as to all three defendants; or, I
14 mean, as to the State and their prosecution of all
15 three defendants.

16 In other words, it's not a specific -- it's not
17 directed specifically at Mr. Gallman or does not
18 apply simply to Mr. Gallman. It applies to Mr.
19 Moaney's credibility as to the entire State's case.

20 So I think in that respect the evidence itself,
21 since it is or may be considered to be damaging to
22 the State, I think that evidence -- I don't think I
23 can consider any of the three defendants separately
24 in trying to determine the order of final argument.

25 So I think that the -- since the evidence itself

1 to me could be, at least in the eyes of the jury,
2 damaging to the State as to all three defendants, I
3 feel that evidence is substantial enough to warrant
4 the invocation of the rule that is stated by Judge
5 Anderson, that the State is entitled to closing
6 argument as to all three defendants.

7 Now, anything further before we bring the jury?

8 **MR. DELGADO:** Your Honor, I would like to be
9 heard on that. I don't want to have to take the time
10 now. I think we've still got a good many witnesses.
11 But I really have an argument about that that I need
12 placed on the record.

13 **THE COURT:** Go ahead, because it may influence
14 the further prosecution of your case.

15 **MR. DELGADO:** Thank you. Your Honor, first
16 there's probably not a trial lawyer in South Carolina
17 that appreciates Ralph King Anderson more than this
18 one. I enjoyed his tenure here in the Fifth Circuit
19 for years.

20 I think Judge Anderson's recitation of what
21 Crowe stands for might be misapplied in this case.
22 First, Your Honor, the right to make a closing
23 argument is a substantial right, the denial of which
24 the Supreme Court has said in both Rodgers and
25 Mouzon, that being a 1997 case and a 1997 case.

1 Those cites are Rodgers, and that spelled
2 R-O-D-G-E-R-S, 269, pages 24 through 25, that's in
3 1977. And State v. Muzon, M-U-Z-O-N, 326, South
4 Carolina 199, and that's in 1997. They said that the
5 denial of that substantial right is reversible error.

6 With that as a backdrop, it's fundamentally
7 unfair to disallow Ken Joy's rights to make the last
8 closing when he has placed no evidence. If the
9 State -- if Judge Anderson relies on the Crowe
10 decision, careful reading of that, Your Honor, shows
11 that the narrow holding by Justice Lewis in making
12 that decision was not whether or not you could deny
13 him the right.

14 What it says, Your Honor, at, I believe that's
15 going to be at page 268, my copy from the solicitor
16 from Westlaw, that's going to be on page 8 of the
17 ten-page decision. The headnote at least starts at
18 the paragraph at page 12. The holding is very
19 narrow. The holding says: "Where individuals are
20 jointly indicted." Now, I'll argue that in just one
21 second.

22 The only thing that Mr. Crowe asked for in his
23 petition was a right to a separate trial. He was not
24 asking for just that. He was asking, if you read the
25 decision, it asks for a separate trial.

1 **THE COURT:** To start with.

2 **MR. DELGADO:** Exactly. Now, when Justice Lewis
3 decided the case, what he decided was simply that
4 issue when he said it affords no ground upon which to
5 order separate trials. But he goes on to say, "The
6 right of defendants to argue to the jury can be
7 adequately protected in a joint trial." I think what
8 he is very clearly saying is you can have a
9 bifurcated trial.

10 First of all, Your Honor, Ken Joy is not
11 indicted with these other two gentlemen. He is
12 indicted for completely different crimes, completely
13 different number, completely different elements of
14 the charge that the State must present.

15 Where that is the case, because this individual
16 is -- to be candid, we're in uncharted waters and
17 this is as far as we've had any hesitation about
18 that. But where this case, where this right is so
19 substantial to Ken, I submit to the Court that that
20 holding, even Judge Anderson probably never had to
21 review the facts of this case or a case like this.
22 We're not really co-defendants, but you have
23 co-defendants charged on completely different things,
24 not only different indictments, different indictment
25 number.

1 I submit to the court, Your Honor, that Crowe
2 allows this Court to bifurcate closing arguments. I
3 can't speak for any --

4 **THE COURT:** I don't want you to attempt to.

5 **MR. DELGADO:** Good. That's all I need. Thank
6 you, sir.

7 **THE COURT:** Thank you. Any reply from -- well,
8 I'm sorry.

9 **MR. STRICKLER:** Well, and as to Mr. Oliver, I
10 think I expressed myself yesterday. And I would join
11 in the argument Mr. Delgado made. And just as to the
12 position I took yesterday, I think the record will
13 reflect that I discussed the issue of whether or not
14 anyone was jointly indicted in this case. We've got
15 examples of joint indictments in evidence in this
16 case, that being Mr. Moaney who was jointly indicted
17 with who knows how many people in one federal
18 indictment, a bunch of them on a conspiracy charge
19 and then some 26 indictments or counts on the same
20 indictment for different substantive acts in
21 furtherance of the incident.

22 **THE COURT:** Well, what's the difference in --
23 what is your -- I mean, I see a differentiation as to
24 Mr. Joy. Mr. Delgado has made that clear. But I
25 fail to see it with regard to Mr. Oliver or Mr.

1 Gallman. When you say jointly indicted, they're
2 indicted at the same time for the same crime.
3 They're just not on the same piece of paper. Is
4 that --

5 **MR. STRICKLER:** Well, I would submit that
6 jointly indicted means jointly indicted. That means
7 indicted in the same indictment. There's nothing to
8 prevent the State from doing that.

9 **THE COURT:** Well, okay. All right.

10 **MR. STRICKLER:** And clearly he hasn't deduced
11 any evidence at this point in time. Clearly his
12 substantial rights, all the arguments are to
13 reiterate what Mr. Delgado said; but he has the same
14 substantial rights to that argument as anyone else.

15 **THE COURT:** Well, of course neither of your
16 clients are being denied final argument. It's just
17 the order of the final argument --

18 **MR. STRICKLER:** Yes, sir.

19 **THE COURT:** -- that is being discussed. So,
20 make that a part of the record. Anything from the
21 State?

22 **MR. MEADORS:** Just very briefly, Your Honor. We
23 think they all benefited from the Defense Exhibit as
24 far as it going to the credibility of Omekas Moaney
25 also known as Blue. So they reaped that benefit. I

1 just -- all the other cases when a defendant is
2 separately tried and introduces no evidence, he is
3 entitled to the last closing argument.

4 I think it's clear, respectfully, as Your Honor
5 has ruled, that in jointly tried cases, and I think
6 that's what it's talking about because the other
7 cases say separately tried. Here it's jointly tried.
8 If any evidence is offered by one they lose their
9 right to a final argument. I just think it's clear
10 with the reference back to the other cases, Your
11 Honor.

12 **THE COURT:** All right. Well, the ruling stands.
13 And both Oliver and Joy have reserved their
14 objections. And they may be right; I may be wrong.
15 Let's move ahead. Ready for the jury?

16 **MR. ROSS:** Yes, Your Honor.

17 **MR. STRICKLER:** Yes, sir.

18 **MR. MILLING:** Yes, Your Honor.

19 **MR. DELGADO:** Yes, sir.

20 **THE COURT:** Bring the jury, please.

21 (Jury in at 10:14 a.m.)

22 **THE BAILIFF:** All the jury is present, Your
23 Honor.

24 **THE COURT:** Thank you very much. Good morning,
25 ladies and gentlemen. We'll get started here. All

1 right, Solicitor. Call your next witness. We've
2 been busy, ladies and gentlemen. I assure you of
3 that.

4 **MR. ROSS:** The State calls Patti Ruff.

5 **PATTIE B. RUFF,** after being duly sworn,
6 testifies as follows:

7 **THE CLERK:** Thank you. Please have a seat on
8 the witness stand and state your full name for the
9 record.

10 **THE WITNESS:** My name is Pattie Brelling Ruff,
11 R-U-F-F.

12 **DIRECT EXAMINATION**

13 **BY MR. ROSS**

14 **Q** Ms. Ruff, where are you employed?

15 **A** I am employed with the South Carolina Law Enforcement
16 Division, which is more commonly known as SLED.

17 **Q** How long have you been employed there?

18 **A** Approximately 24 years.

19 **Q** What's your position at SLED?

20 **A** I am an evidence technician.

21 **Q** And how long have you been doing that?

22 **A** Sixteen years.

23 **Q** If you could, give the jury a little bit of your
24 background and training as regarding evidence
25 processing?

1 **A** I was trained by analysts who have all been qualified
2 as experts in the courtroom. I have processed over a
3 thousand cases, maybe several thousand cases. I have
4 testified approximately 60 times. I've attended
5 numerous workshops and seminars.

6 **Q** You have been qualified as an expert in South
7 Carolina Circuit courts?

8 **A** Yes, sir, I have.

9 **Q** And when you refer to the approximately 60 times, is
10 that what you were referring to? Testifying?

11 **A** Yes, sir. Not every time. But, Yes, sir.

12 **MR. ROSS:** Your Honor, I'd ask that Ms. Ruff --
13 we'd offer her as an expert in the area of evidence
14 processing.

15 **THE COURT:** Any Voir Dire or objection?

16 **MR. STRICKLER:** I have no objection. I'd just
17 like to define the area of evidence processing a
18 little.

19 **MR. ROSS:** I can have her explain what it is.

20 **THE COURT:** Sure.

21 **Q** Explain what evidence processing is?

22 **A** My duties include the actual collection of DNA
23 evidence, body fluids epithelial skin cells and hairs
24 and fibers. For example, if there is a body fluid
25 that I'm looking for, there is different techniques

1 that we use maybe with like an alternate light
2 source. There may be some chemical tests that we do
3 that all result in what we call presumptive tests.
4 It doesn't mean that it's conclusive, but it means
5 that it's the possibility of either blood, semen,
6 possibly saliva or anything like that. And then it's
7 sent to the DNA department where they actually do the
8 comparison and the final analysis.

9 **MR. ROSS:** Your Honor, we'd offer her as an
10 expert in the area of evidence processing related to
11 what she just testified to.

12 **MR. STRICKLER:** May I have just a couple of Voir
13 Dire, please, sir?

14 **THE COURT:** Absolutely. Go ahead.

15 CROSS EXAMINATION

16 **BY MR. STRICKLER**

17 **Q** Good morning, Ms. Ruff.

18 **A** Hi.

19 **Q** In addition to -- I take it evidence processing is
20 not solely confined the DNA, correct?

21 **A** That is correct.

22 **Q** You get other articles of evidence in and there are
23 procedures or protocols for how you would process for
24 other types of evidence, such as trace evidence,
25 correct?

1 A The only evidence that I process for trace would be
2 fibers.

3 Q Fibers. And what other types of evidence do you
4 process for other than DNA?

5 A For body fluids and hair.

6 Q And hair?

7 A Mm-hmm (affirmative).

8 Q Okay. All right. Thank you very much. I have no
9 objections, Your Honor.

10 MR. ROSS TWO: No objection.

11 MR. DELGADO: No objection.

12 THE COURT: You may proceed.

13 DIRECT EXAMINATION

14 BY MR. ROSS

15 Q Ms. Ruff, when you get items into SLED to be
16 processed, you talked about various techniques that
17 you use to do that. If you're looking for blood, you
18 use certain techniques for that. If you're looking
19 for fibers, you use certain techniques for that; that
20 type of thing. So it depends on what you're looking
21 for as to what technique that you use. Would that be
22 fair?

23 A That's correct.

24 Q Okay. In this case you examined several items. And
25 I just want to talk about the items that were

1 collected from the Mildred Avenue crime scene. And
2 that's going to be your items 41, 42, 43, 44 and 45.
3 And I think the evidence that you processed from that
4 is State's Exhibit -- or the cuttings and those types
5 of things that you processed from those items is
6 State's Exhibit 155?

7 **A** Yes, sir. This is my heat-sealed pouch. It has my
8 initials and the date on the outside.

9 **Q** And I think items 44 and 45 are swabs?

10 **A** That I collected. Yeah. It was beer cans that I
11 collected, swabs from the beer cans.

12 **Q** Okay. And for the record, those were swabs collected
13 from State's Exhibit 171 which is in evidence?

14 **A** Mm-hmm (affirmative).

15 **Q** And 41, 42, 43 would be cuttings from items contained
16 in State's Exhibit 170 which is in evidence. Looking
17 at State's Exhibit 155, do you recognize that?

18 **A** Yes, sir. I recognize this. It has my initials on
19 the outside and the date across the top. And these
20 are envelopes that I created where I collect my
21 samples. And I put them in envelopes such as this
22 and then I send them to the DNA department for
23 testing.

24 **Q** And those are the items that you collected after
25 processing Exhibits 171 and 170. Is that right?

1 **A** That's the Coors Lite beer can, two Coors Lite beer
2 cans.

3 **Q** Right.

4 **A** Okay.

5 **Q** And then --

6 **A** And then this is the 41, 42, and 43, State's Exhibit
7 170, the white paper towels.

8 **MR. ROSS:** Okay. Your Honor, we'd offer State's
9 Exhibit 155 at this time.

10 **MR. STRICKLER:** May I see it?

11 **THE COURT:** Any objection?

12 **MR. STRICKLER:** My understanding is it went
13 further on in SLED. So I don't know the chain has
14 been established.

15 **MR. ROSS:** I'm just putting it in. I'm going to
16 tie that up. I'm just putting it in so that she can
17 testify as to what she did.

18 **MR. STRICKLER:** Subject to the chain being
19 proven, Your Honor, certainly no objection.

20 **MR. MILLING:** The same objection, Your Honor.

21 (WHEREUPON, State's Exhibit No. 155 is admitted
22 into evidence.)

23 **Q** I'm going to use your item numbers. Item 41 was -- I
24 think you then broke it down further?

25 **A** That's correct.

1 Q 41 was what type of item that you processed?

2 A One section of paper towel.

3 Q And then what was 42?

4 A It was another one section of paper towel.

5 Q All right. And 43?

6 A Several sections of white toilet tissue.

7 Q And 44 was what?

8 A One Coors Lite beer can.

9 Q And then 45?

10 A Was one Coors Lite beer can.

11 Q And then when you -- tell the ladies and -- let's
12 start with 41, 42 and 43.

13 A Mm-hmm (affirmative).

14 Q What type of evidence were you looking for on those
15 items, and how did you process it? And then what did
16 you find?

17 A Well, the request on this was, like any type of DNA
18 that I could possibly find on it, the first thing I
19 would naturally do was to look for dark stains which
20 could possibly be blood. I did not see any stains on
21 the paper towels or anything that appeared to be
22 blood. So I didn't do any testing for that.

23 The next step I did was, I use an alternate
24 light source which is kind of similar what you
25 probably know as a black light. You turn the room

1 completely black. The body fluids such as saliva,
2 urine, semen and mucus, other things fluoresce. I
3 would circle those areas. I don't have a presumptive
4 test that I can do for saliva or mucus or anything
5 like that. The only presumption chemical test that I
6 have is for semen.

7 On this thing what I did is, since I didn't have
8 a test for those samples, I just went ahead and
9 selected the areas that fluoresced and made cuttings.
10 I give them a sub item. Like item 41, I had item
11 41.1 was a cutting for any possible DNA. And for
12 item 42 which was another section of paper towel, I
13 did the same thing. I didn't see anything that
14 appeared to be blood or any hairs on these items.

15 I made four cuttings for any possible DNA, that
16 which would have been 42.1, 42.2 and 42.2.3. On 43 I
17 once again did not see anything that appeared to be
18 blood. There were several areas that fluoresced. So
19 I cut, made three cuttings: 43.1, 43.2 and 43.3. On
20 the beer cans --

21 Q Let me stop you right there.

22 A Okay.

23 Q So you had one cutting from item 1?

24 A That's correct.

25 Q And three cuttings from 42. And you would label

1 those .1, .2, .3. And then three cuttings from 43
2 and also .1, .2, .3?

3 **A** That's correct.

4 **Q** Okay. And you're not saying there is DNA material on
5 there. You're just saying, here is what I found, I'm
6 sending this to the DNA lab for them to then extract
7 what might be DNA?

8 **A** That is correct.

9 **Q** Okay. Okay. Let's look at 44 and 45.

10 **A** Okay. These were beer cans. And usually what we
11 call like ownership, we may want to find out who was
12 possibly drinking this beer or put their mouth on the
13 can. So we kind of zoom in on the area around where
14 the person would put their mouth. So I swabbed the
15 openings of the cans which would have been 44.1 for
16 the first can and 45.1 for the second can and sent
17 the swabs up to the DNA department. And once again,
18 I didn't do any presumptive testing. This was just
19 for the possibility of any skin cells or any body
20 fluids.

21 **Q** And then the .1, 2, 3 that I've got listed up there,
22 those are the little packets that are contained in
23 this heat-sealed package?

24 **A** That is correct.

25 **Q** And then also the .1 for 44 and 45, those are the

1 swabs from the beer can. And those are contained in
2 this heat-sealed pack?

3 A That is correct.

4 Q Okay. You collect it, put it in the envelopes. And
5 then how does it get from you to the DNA lab?

6 A I handed this heat-sealed pouch directly to the
7 analyst, Ken Bogan.

8 Q Okay. Answer any questions the defense has for you,
9 Ms. Ruff.

10 MR. STRICKLER: May it please the Court, sir.

11 CROSS EXAMINATION

12 BY MR. STRICKLER

13 Q Good morning, Ms. Ruff.

14 A Good morning.

15 Q Have you brought any documents with you to refer to?

16 A I'm sorry?

17 Q Have you brought any documents with you to refer to
18 during your testimony?

19 A Yes, sir. I have a copy of my work sheet and my
20 report.

21 Q Could I take a quick look at those, please?

22 A Sure.

23 Q Thank you. There you are, ma'am. Thank you.

24 A Mm-hmm (affirmative).

25 Q Just a couple of things quickly. Now, you indicated

1 during your testimony that you were requested on the
2 items 41, 42, 43, the paper towels and the toilet
3 tissue, to look for any evidence of DNA, correct?

4 A That's correct.

5 Q Okay. Now, when evidence comes to SLED, it's
6 initially logged in, correct?

7 A That is correct.

8 Q Okay. And a record is kept of when it arrives,
9 correct?

10 A That's correct.

11 Q Who has brought it and who has logged it in, correct?

12 A That is correct.

13 Q And at that point in time there's an indication made
14 as to what testing the person who brought it wants to
15 have done on that evidence, correct?

16 A That is correct.

17 Q Okay. That's all recorded. And that comes on to
18 you. That's how you know what people want done on
19 particular evidence. Is that right?

20 A At times. Sometimes it's not clear. I may have to
21 call the investigator. Or, you know, if you read the
22 incident report, there might be something a little
23 bit different.

24 Q Okay. And then when the items come to you, you keep
25 a record of what you do as far as the testing that

1 you have conducted. You generate a report reflecting
2 the results of the testing that you did, correct?

3 **A** That's correct.

4 **Q** And that's to preserve a record of what you've done
5 and have a record available for reference later of
6 what you've done, correct?

7 **A** That is correct.

8 **Q** Okay. And you indicated that when you were done
9 doing the testing you described for this jury that
10 you directly handed these evidence items that you've
11 testified about to Mr. Ken Bogan, correct?

12 **A** That is correct.

13 **Q** And he works for SLED, too. Correct?

14 **A** Yes, sir. He's a analyst.

15 **Q** A DNA analyst. Now, you testified about a few terms.
16 How many items did you look at total in this case?

17 **A** Approximately 25.

18 **Q** Now, you indicated that the only presumptive test
19 that you have is one for the presence of semen,
20 correct?

21 **A** And blood.

22 **Q** And blood. You testified regarding semen. I was
23 going to ask you about blood. I assumed you didn't
24 mention the presumptive test for blood because you
25 hadn't visualized any blood, so there was no need to

1 run the presumptive test, right?

2 A Right.

3 Q So there is a presumptive test for blood but no need
4 to run it in this particular case, correct?

5 A Right.

6 Q But had there been on the items that you looked at
7 something that could be blood, you would have run a
8 presumptive test on that, correct?

9 A That is correct.

10 Q And then forwarded items on for further testing by
11 the DNA department, correct?

12 A That's correct.

13 Q Okay. And these tests that you did, the evidence
14 processing that you've described, the procedures that
15 you're to carry out, those are contained in a
16 protocol that SLED has?

17 A Yes, sir, it is.

18 Q Okay. And a protocol is a listing, a step-by-step,
19 if you will, procedure that you need to follow as
20 you're conducting a particular test that you're
21 doing. Is that right?

22 A That is correct.

23 Q Okay. And you make sure that you adhere to that
24 protocol in all the work that you do, right?

25 A That is correct.

1 Q Okay. Thank you very much, ma'am.

2 A Mm-hmm (affirmative).

3 MR. MILLING: No questions, Your Honor.

4 MR. DELGADO: I have no questions. Thank you.

5 THE COURT: Redirect?

6 MR. ROSS: No, Your Honor.

7 THE COURT: You may come down, ma'am. Thank you
8 very much. May this witness be excused?

9 MR. STRICKLER: Without objection.

10 MR. MILLING: No objection.

11 MR. DELGADO: No objection.

12 THE COURT: Without objection.

13 MR. ROSS: John Barron.

14 JOHN C. BARRON, after being duly sworn,
15 testifies as follows:

16 THE CLERK: Thank you. Please have a seat in
17 the witness stand and state your full name for the
18 record.

19 THE WITNESS: My name is John C. barren,
20 B-A-R-R-O-N.

21 DIRECT EXAMINATION

22 BY MR. ROSS

23 Q Investigator Barron, where are you employed?

24 A Richland County Sheriff's Department.

25 Q What's your position there?

1 **A** I am a DNA analyst.

2 **Q** And how long have you been doing that for Richland
3 County?

4 **A** Almost three years.

5 **Q** And did you do that type of work before?

6 **A** Yes, I did. I did that also for South Carolina Law
7 Enforcement Division, otherwise known as SLED.

8 **Q** And how long did you work there?

9 **A** Since 1999 in DNA. But I did other types of forensic
10 science prior to that.

11 **Q** Okay. At SLED?

12 **A** Correct.

13 **Q** How long were you at SLED?

14 **A** Since 1975.

15 **Q** Give the jury and the Court a little bit about your
16 background and training in DNA analysis?

17 **A** I have a bachelor of science degree in microbiology
18 from Clemson University. I also have a few
19 postgraduate courses in DNA and statistics from the
20 University of South Carolina. I was part of a
21 training program to initialize a special type of DNA
22 testing called PCR DNA testing at SLED as it
23 initiated in 1999. I became qualified about six
24 months later there and testified in court in the
25 state of South Carolina approximately 20 times.

1 In March of 2004 myself and another person from
2 SLED came over to Richland County and set up the DNA
3 laboratory there. Since that time I've probably
4 testified maybe five or six times for Richland County
5 in their cases here in this courtroom up until this
6 present time.

7 **Q** And approximately how many cases have you processed
8 for DNA?

9 **A** Processed for DNA?

10 **Q** (Nods head affirmatively)

11 **A** Oh. Probably several thousand.

12 **Q** Have you testified as an expert in the Circuit Court
13 in South Carolina before?

14 **A** Yes, I have.

15 **Q** Approximately how many times?

16 **A** In DNA?

17 **Q** Yes, sir.

18 **A** Probably about 20, 25 times.

19 **MR. STRICKLER:** Your Honor, we'd offer him as an
20 expert in the area of DNA analysis.

21 **THE COURT:** Voir Dire or objection?

22 **MR. STRICKLER:** No objection, sir.

23 **MR. MILLING:** No objection, Your Honor.

24 **MR. DELGADO:** No objection.

25 **THE COURT:** You may proceed.

1 Q Explain to the jury, because I think there might be
2 some confusion, because there's testimony about SLED
3 doing some things and Richland County doing some
4 things. Explain the difference between what Richland
5 County does and what SLED does as far as why there's
6 two different things?

7 A Well, we process evidence that originates in Richland
8 County. SLED would deal with other law enforcement
9 agencies that might be within Richland County, like
10 the Columbia Police Department or the Forest Acres
11 Police Department. But if the evidence originates in
12 Richland County under the Richland County Sheriff's
13 Department's jurisdiction, then our laboratory would
14 do it. If it's other than that, then SLED would do
15 it.

16 Q And that's because Richland County has its own DNA
17 lab?

18 A Correct.

19 Q Does the Columbia Police Department have a DNA lab?

20 A No. They use the SLED lab.

21 Q Okay. There's been testimony in this case about two
22 different crime scenes. There's a city crime scene
23 and there's a Richland County crime scene. So the
24 evidence that you processed would have been from the
25 Richland County crime scene?

1 A That's correct.

2 Q Okay. This is the Desiree Felder crime scene. I
3 think on your report she is referred to as Desiree
4 Tankee. But it's Desiree Tankee Felder.

5 A Okay.

6 Q You also have also -- and the jury has heard about
7 the SLED item numbers, and I've put those up on the
8 poster there. Let's talk about your item numbers. I
9 think everything is in evidence that you processed
10 except for State's Exhibit 194. I think you would
11 have been looking at State's Exhibit 189. If you
12 could take a look at that.

13 A Yes. I handled this evidence. State's Exhibit 189
14 is slides from this particular victim, rectal slides,
15 vaginal and oral slides.

16 Q Okay. State's Exhibit No. 190?

17 A State's Exhibit 190 is fingernail scrapings from this
18 same victim, her head hair, pubic hair standard and
19 also some earrings. But I did not examine the
20 earrings. But the other items did come through and
21 are on my report.

22 Q And State's Exhibit 192?

23 A State's Exhibit 192 is swabs. The other exhibit was
24 slides. These are swabs from the vaginal, oral and
25 rectal areas of her body.

1 Q And then would you have also looked at State's
2 Exhibits 193 and 195?

3 A Yes. Yes. This is the victim's clothing. And I
4 recognize my evidence tape with my initials on it.

5 Q And then looking at State's Exhibit 194, did you
6 collect anything from that clothing?

7 A This is an envelope containing some hairs that were
8 collected from the clothing that I sealed separately
9 and placed back in the box.

10 MR. ROSS: Your Honor, we'd offer State's
11 Exhibit 194, just hairs from the clothing and the
12 evidence.

13 MR. STRICKLER: Without objection, sir.

14 MR. MILLING: No objection, Your Honor.

15 MR. DELGADO: No objection, Your Honor.

16 THE COURT: Without objection.

17 (WHEREUPON, State's Exhibit No. 194 is admitted
18 into evidence.)

19 Q Did you look at I guess what would be called a rape
20 kit or items that were collected from the autopsy to
21 look for evidence of sexual assault?

22 A That's correct. That's what these slides and these
23 swabs and these hair samples were for.

24 Q Okay. Using your item numbers, what item numbers
25 would that have been?

1 A Well, item 1 on my report is evidence collected at
2 autopsy that contained vaginal slides and swabs, oral
3 slides and swabs, rectal slides and swabs, fingernail
4 scrapings of the left and right hand, head hair and
5 pubic hair.

6 Q And analyzing those items, did you find any evidence
7 of sexual assault?

8 A I did not.

9 Q And were you able to extract DNA from certain items
10 that you examined?

11 A Yes.

12 Q And which items were those that you extracted DNA
13 from?

14 A I extracted DNA from her fingernail scrapings, from
15 her known pubic hair and from pubic hair that was
16 recovered from her panties, and two blood stains that
17 were on her denim dress.

18 Q Okay. Before we talk about that, talk about what DNA
19 is and just in laymen's terms what DNA is and how
20 it's used forensically to make identification?

21 A Yes. DNA is an acronym, deoxyribonucleic acid. It's
22 a long chain molecule found in the nucleus of the
23 cells in your body. It is unique to you. Each DNA
24 molecule is the same throughout your body. So the
25 DNA in your blood, the DNA in your saliva, the DNA in

1 your hair, DNA in your tissues, in your nails is all
2 the same and it's unique to you.

3 So that being the case, it's become valuable for
4 human identification. It's also valuable in medical
5 research and other aspects as well. But as far as we
6 are concerned, it is with human identification. So
7 we take parts of the DNA molecule that are unique to
8 you and we copy it. We develop a profile. And we
9 compare it to the evidence, DNA that is developed
10 from evidence. If a known sample from an individual
11 matches DNA from the evidence, then we say that the
12 DNA belongs to that person.

13 Q So just for an example, if you pricked my left hand
14 and got a drop of blood and pricked my right hand and
15 got a drop of blood, would those two blood droplets
16 have the same DNA profile?

17 A They would.

18 Q Okay. So when you talk about profile, what does that
19 mean? What does profile mean?

20 A A profile is the -- the DNA from each of those
21 samples that is developed, we copy portions of the
22 DNA molecules. And they are sized. In other words,
23 how big is that fragment at that location? And the
24 sequence of these sizes is expressed in unit values,
25 numbers, if you will. And so those numbers then

1 become a sequence of numbers which in essence is your
2 DNA profile. And your sequence of numbers will be
3 unique to you and won't match anyone else in the
4 world.

5 Q So if you have the full DNA profile using that
6 sequence of numbers, that's only going to belong to
7 me?

8 A That's correct.

9 Q And you said your item 2 is going to be fingernail
10 scrapings?

11 A That's correct.

12 Q And item 4?

13 A 4 is a known pubic hair of the victim.

14 Q 14?

15 A Is the denim dress of the victim.

16 Q And then you took --

17 A I took two cuttings of blood stains that were on the
18 dress.

19 Q 15.1?

20 A And 15.1 was a hair that was recovered from the
21 panties. The panties were also examined for evidence
22 of seminal fluid which would indicate sexual assault.
23 None was found on the panties.

24 Q So you tried to develop a DNA profile from items 2,
25 4, 14 and 15.1?

1 A Correct.

2 Q And were you able to do that?

3 A I was able to develop a DNA profile from these items.

4 The fingernail scrapings themselves contained an
5 incomplete profile. However, it was enough of the
6 profile to indicate that it belonged to the victim.

7 Q Okay. So you can use -- if you have a partial
8 profile, you can use that to exclude others?

9 A Correct.

10 Q And is that what you're doing with a partial profile
11 in this case on the fingernail scrapings?

12 A That's correct.

13 Q Okay. So the known profile is your item number 4?

14 A Correct. In this particular case, you know, at an
15 autopsy, they collect a blood sample, or they try to.
16 Sometimes they're not able to. It's depending on the
17 condition of the body. Then we can go to the other
18 parts of the body to use as a known DNA sample. I
19 attempted to use the oral sample since there was no
20 semen on it, but I was not able to develop any DNA
21 from that. So then my next choice was to go to the
22 known pubic hair sample, and I was able to develop a
23 complete female's DNA profile from that which would
24 be from the victim since this is her pubic hair.

25 Q Okay. So knowing what the profile for 4 is tells you

1 what the profile for Desiree Felder is?

2 **A** That's correct.

3 **Q** Okay. And then looking at 14 and 15.1, were you able
4 to develop profiles from those items?

5 **A** Yes, I was. I developed a complete profile from the
6 two blood samples that were on the dress and also
7 from the hair from the panties and they matched the
8 victim.

9 **Q** Okay. And you said again on the fingernail
10 scrapings, those are partial profiles. But even
11 though you don't have the complete profile, those
12 also contained her DNA, not someone else's DNA?

13 **A** That's right. Every single allele, is what you call
14 each size fragment, match that of the victim. And I
15 was not able to give an allele of every single DNA
16 locus, but of those that I did, they all matched the
17 victim. Plus, it was female DNA. And in fingernail
18 scrapings we usually get the person's DNA from whom
19 we scrape the fingernails. But what we're hoping is
20 a mixture of perhaps the perpetrator's DNA as well.
21 In this case there was no other person's DNA other
22 than this female's DNA that matched the victim.

23 (WHEREUPON, State's Exhibit No. 199 is marked
24 for identification.)

25° **MR. DELGADO:** Without objection.

1 **MR. ROSS:** Your Honor, it's State's Exhibit 199,
2 without objection, I believe.

3 **MR. STRICKLER:** Correct, sir.

4 **MR. DELGADO:** No objection.

5 (WHEREUPON, State's Exhibit No. 199 is admitted
6 into evidence.)

7 **Q** I hand you State's Exhibit 199. Is that a report you
8 did?

9 **A** Yes. This is a copy of my report.

10 **Q** Then contained in that report do you outline the DNA
11 profiles for the items we just went over, the 1, 4,
12 14 and 15.1?

13 **A** Yes. Page 3 of my report has a table with the
14 numbers for each locus, and that series of numbers
15 then would be the DNA profile.

16 **Q** Investigator Barron, that's all the questions I have
17 at this point.

18 **MR. STRICKLER:** May it please the Court, sir.

19 CROSS EXAMINATION

20 **BY MR. STRICKLER**

21 **Q** Good morning, sir.

22 **A** Good morning.

23 **Q** I'd like to talk with you about a few things, if I
24 could, please. What's been introduced in evidence is
25 a report dated September 26th, 2007, correct?

1 **A** Correct.

2 **Q** Okay. And you initially generated a report in this
3 matter on March 3rd, 2006, correct?

4 **A** That's correct.

5 **Q** The difference, if I read them correctly, the
6 difference in these two reports is that March 3rd,
7 2006 you had not done the testing on the known pubic
8 hair that was submitted in this case. Is that
9 correct?

10 **A** That's correct.

11 **Q** All the other findings are the same in the two
12 reports. I take it someone came and asked you to go
13 ahead and run the additional testing on the pubic
14 hair sometime in the late fall of 2007?

15 **A** That's correct. My initial report says that I just
16 have unknown DNA from a female, hoping that perhaps a
17 blood sample would be submitted from the Coroner's
18 Office. Since that was not available, then I ran
19 that pubic hair and that then became her known
20 sample.

21 **Q** And you ran the pubic hair. What date was it?

22 **A** Sometime prior to September 26th my report was
23 issued.

24 **Q** Now, just a few general observations. Let me make
25 sure I understand your testimony. There was no

1 indication on any sample that you tested of any
2 semen, correct?

3 A That is correct.

4 Q Okay. And there was no indication on any of the
5 samples that you tested of any DNA other than Ms.
6 Felder's or the unknown female initially, correct?

7 A Nothing in there other than her DNA.

8 Q Okay. I'd like to talk with you a little bit about
9 that. You conducted in this case what's referred to
10 as PCR DNA analysis. Is that correct?

11 A That's correct.

12 Q Okay. And that's polymerase chain reaction DNA
13 analysis?

14 A Polymerase chain reaction. Yes, sir.

15 Q And there was initially another type of DNA, RFLP,
16 restriction fragment length polymorphism DNA
17 analysis. That was initially done years ago,
18 correct?

19 A Years ago. I never actually was involved in that
20 type of DNA analysis.

21 Q PCR DNA analysis has the advantage of being able to
22 take a very, very small sample and amplify it to an
23 extent that you're able to get enough of the sample
24 to go ahead and do the testing on. Is that correct?

25 A Much less material is required for PCR than was for

1 RFLP.

2 Q And actually once the material is amplified you use a
3 thermocycler to go ahead and amplify the DNA in that
4 case. Is that right?

5 A That's right.

6 Q You take a very small sample. And this is not
7 something you made up or the Sheriff's Department or
8 SLED made up. This is science, right?

9 A That's correct. Every forensic lab in the United
10 States that does DNA does the same thing.

11 Q Okay. So you use the thermocycler which is a piece
12 of equipment that -- I won't get too technical. But
13 it cycles through and reproduces the DNA. Each time
14 it reproduces it, it what? Does it double in size at
15 that point in time?

16 A Well, let's say, for instance, you have one copy of
17 DNA. When it thermocycles once, you will now have
18 two. When it thermocycles again, you will have four.
19 It doubles each time.

20 Q Right.

21 A That's the theory. But of course in practicality
22 it's probably not going to do that perfectly each
23 time.

24 Q But it thermocycles a number of times, and you end up
25 with a big enough sample that you can go ahead and do

1 testing on it, correct?

2 A That's the theory. Sometimes we don't even have
3 enough to get a complete profile, which is what
4 happened in this case with the fingernail scrapings.

5 Q Okay. And when you have the sample, you then -- and
6 this is different from the type of analysis that was
7 done early on, back in the late 80's, early 90's.
8 You then, with the PCR analysis you were doing
9 something called short tandem repeat analysis. Is
10 that correct?

11 A Well, PCR basically copies the short tandem
12 repeats --

13 Q Right.

14 A -- that are on the DNA molecule which enabled us to
15 identify an individual.

16 Q Okay. And the DNA is -- for lack of a -- in a
17 laymen's term I guess, enzymes are applied to the
18 sample which chop the DNA strands up at known
19 locations. Is that correct?

20 A That's RFLP.

21 Q That's RFLP?

22 A Right.

23 Q So you don't even get engaged in chopping in PCR?

24 A Oh, we don't chop. We copy.

25 Q You don't chop. Okay. Once you have enough to test,

1 you were looking for variations in the number of
2 repeats that you have, correct?

3 **A** That's correct. And the variations, the number of
4 repeats, causes the difference in sizes which are
5 then assigned a number based upon the size which is
6 the difference.

7 **Q** And you're not looking at the whole strand of DNA.
8 You used the word locus?

9 **A** Right.

10 **Q** And the plural of that is loci?

11 **A** That's right.

12 **Q** You're looking at a particular -- for each test that
13 you're doing, you're looking at a particular place on
14 its one strand of DNA, correct?

15 **A** That's correct. We actually look at 15 points on the
16 DNA molecule plus the sex gene. So, in essence,
17 we're copying 16 positions on the DNA molecule that
18 have variations in these short tandem repeats which
19 gives you the variations and the different sizes
20 which determines the individuality that can be made.

21 **Q** I was going to get to that.

22 **A** Okay.

23 **Q** So you don't just look one place. You look at, say,
24 15 plus the sex gene?

25 **A** 15 plus the sex gene. We want to make sure we find

1 out what the sex is of DNA.

2 Q And you've testified to that as far as this case
3 goes?

4 A That's right. All female. No male DNA in there.
5 That gives us a good clue that we're probably not
6 dealing with DNA from a perpetrator. It's all
7 victim.

8 Q Okay. And this is uniform enough that you actually
9 use a couple of kits as far as putting together the
10 testing in this case. You use -- what are the two
11 kits that you use? I forget.

12 A Well, we use an Identifiler kit.

13 Q Identifier?

14 A Identifiler. It used to be Cofiler or Profiler.

15 Q Profiler?

16 A They have now combined those kits into one kit.

17 Q So it used to be Profiler and Cofiler, and now
18 they're Identifier?

19 A Filer.

20 Q Filer.

21 A Identifiler. Right.

22 Q Filer. Pardon me. All right. And those are
23 supplied by a manufacturer, correct?

24 A Yes, they are.

25 Q Okay. And you employ those. And you are looking

1 for -- well, you testified they all came from the
2 same person. Basic genetics is, you inherit one gene
3 from mom and one gene from dad. Is that right?

4 A That is correct. You inherit one set of chromosomes
5 from mom and a set from dad. And that combination
6 makes you who you are. And it also helps us to
7 determine who your parents are if we need to as well.

8 Q In fact, on this report, this last page of it, you'll
9 see it's a bunch of numbers right here?

10 A That's correct.

11 Q And the way we know it's the same person is, if you
12 look, the numbers are all the same for each
13 particular locus, location that you test for, right?

14 A That's correct.

15 Q I mean, without understanding what it means, you can
16 just look at it. And if there are no different
17 numbers there, it's the same person, right?

18 A That's correct. That's why we make that table so
19 that laymen can look at it and say, oh, these numbers
20 are the same. So the numbers are the same.
21 Therefore, it is a match.

22 Q Now, you will find in that table actually, usually
23 you have two. That's one that you've gotten from mom
24 and one that you've gotten from dad. Occasionally
25 you'll find something where you just have one. That

1 reflects the fact that at that particular location
2 the same gene, if you will, was inherited from both
3 mom and dad. So it only shows up in one, right?

4 A That's correct.

5 Q So if you were to find 3 or 4, then you would be
6 dealing with what's called a mixed sample, correct?

7 A That's correct. And it's a common thing in
8 forensics, especially the evidence, that has a
9 mixture of more than one person's DNA present.

10 Q Now, this whole idea of getting one gene from mom and
11 one gene from dad, that's something of recent
12 development?

13 A No.

14 Q It goes back hundreds of years?

15 A That's correct.

16 Q It has been scientifically tested for hundreds of
17 years?

18 A Yes, it is.

19 Q It has been scientifically proven for hundreds of
20 years?

21 A That's correct.

22 Q Okay. You testified about your background. Is there
23 something that you can refer to or that's referred to
24 as the scientific method?

25 A Yes.

1 Q Okay. Are you familiar with that concept?

2 A Yes.

3 Q I mean, --

4 A Yeah.

5 Q -- what's involved in the scientific method?

6 A Well, it's a very broad term. So I can talk about
7 many things involving the scientific method.

8 Q How is something established as a scientific fact?

9 A Well, it's theorized to begin with. Experiments are
10 done to prove or disprove a theory. And then it's
11 repeated by peers in the scientific area to see
12 whether or not the science is valid. And if it's
13 repeatable and the scientists that are performing the
14 tests are reputable and have good credentials to do
15 the testing and they get the same results, get the
16 same criteria each time, then we can say that the
17 test is valid and something that you can use to do
18 research, to use as identity in courts of law as far
19 as DNA is concerned.

20 This test was of course validated by many
21 different scientists and has since been, like I said,
22 been used in -- well, PCR DNA has been used in the
23 courts since 1998 I believe. The other type of DNA
24 testing was initiated in Great Britain in 1985 or
25 '86, somewhere in that area.

1 Q So, as a general proposition, you come up with a
2 theory. This is moving away from DNA in specific.
3 But you come up with a theory. You publish that
4 theory, right?

5 A Well, you can publish your theory. You can -- if the
6 report becomes accepted -- you have to have
7 experimentation to back up the theory.

8 Q The results that your theory predicts have to be
9 replicated?

10 A That's correct.

11 Q Correct? Other people have to take your theory, do
12 their own testing, get the same results, right?

13 A Right.

14 Q It has to be discussed among the scientific
15 community, and there has to be a general consensus
16 among the scientific community, correct?

17 A Correct.

18 Q Your theory has to be put to the test of empirical
19 tests. You have to sit down and generate the
20 information and the data to support your theory,
21 correct?

22 A That's correct.

23 Q I'm not talking about you. I'm using you in the
24 generic sense. And all that has been done as far as
25 DNA testing goes, correct?

1 A That's correct.

2 Q All right. This is not some wild pie-in-the-sky
3 concept?

4 A No. As a matter of fact, it's been used to prosecute
5 as well as to free individuals.

6 Q Yes, sir.

7 A It's accepted pretty much in the scientific community
8 and in law enforcement as well.

9 Q And the one thing that's not contained in what's
10 marked as State's 199 is what's usually contained in
11 one of those reports; and that is when you get a
12 match, if you will, when your questioned items agree
13 with your known sample. In this case when the
14 fingernail scrapings and the cuttings and the hair,
15 et cetera, all agree with the known pubic hair in
16 this case, normally what one sees is a frequency
17 estimate, correct?

18 A We don't publish frequencies when all the DNA matches
19 the victim. We just say there is no DNA unlike the
20 victim's found.

21 Q Okay. And you do that. Is that contained as part of
22 the protocol that you follow at the Sheriff's
23 Department?

24 A That is correct.

25 Q Okay. And the protocol, that is a step-by-step,

1 fairly detailed procedure, correct?

2 A Correct.

3 Q Outlining each and every stage of the process that
4 you go through as far as your testing goes, right?

5 A Testing, as well as, you know, procedures we follow.
6 We report that as well.

7 Q It will cover what you need to do and how you need to
8 report any anomalies that come up during the course
9 of the testing, any problems in the testing, correct?

10 A Most of them.

11 Q Yeah. It tries to cover all of them?

12 A There's always something new that comes along.

13 Q Right. And you need to have that, right?

14 A Correct.

15 Q National Academy of Sciences says you need to have
16 that in order to go ahead and operate in this field,
17 right?

18 A Well, in fact, I just completed an audit. We get
19 audited every year to make sure that we do follow --
20 that our reports and our procedures follow the
21 protocols we've outlined. So it's good scientific
22 method, it makes for consistency in your laboratory,
23 and it accredits your laboratory as being something
24 you can depend on the results.

25 Q Okay. When you come up in those cases when we're not

1 dealing with the -- it all is the known person and
2 you just report that, you come up with a frequency
3 estimate, correct?

4 A Well, we use -- we publish frequencies when the
5 unknown sample or unknown DNA is developed that does
6 not match a victim from the victim's evidence
7 herself. And then if we were to match that to
8 another person, then we would want to know how
9 frequent is that profile because that has
10 implications to being that person, which, you know,
11 would threaten his liberty as far as, you know, being
12 convicted.

13 Q And you would end up in a situation like that with
14 having a statement such as likelihood of an unrelated
15 individual in the population matching this profile as
16 one in billions or trillions or quadrillions,
17 whatever the numbers are, correct?

18 A Our laboratory states the frequency of that profile
19 how often would you expect to find it in the
20 population, which would be expressed one in a number,
21 if you will.

22 Q Okay. And those, if you get a match across all 15
23 loci that you test. Okay?

24 A Well, you can actually publish a frequency and you'
25 get less than 15 because each locus has its own