ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOHN FITZGERALD KENNEDY,

APPELLANT

APPELLATE CASE NO. 2013-002621

RECORD ON APPEAL

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State of South Carolina

County of Anderson

In the Court of General Sessions

State of South Carolina,	)	
	)	
Plaintiff,	)	2012-GS-04-2002
	)	
-vs-	)	
	)	December 2 - 5, 2013
John Fitzgerald Kennedy,	)	
	)	
Defendant.	)	Transcript of Record
	)	

B E F O R E:

The Honorable J. Cordell Maddox, Judge

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

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Attorney for the State

Andrew Potter, Esquire
Attorney for the Defendant

Renee H. Tollison
Circuit Court Reporter

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Juror#	Name	Race	Sex	Strikes Crt	Strikes Pl	Strikes Def.	Accept
134	Paul A. Todd	W	M		X		
15	Grace J. Bobo	W	F				X
135	Susan C. Vaughn	W	F				X
94	Kyle R. Merritt	W	M			X	
122	Melissa l. Sanders	W	F			X	
92	Joyce A. McIntosh	B	F				X
37	Lori A. Davis	W	F				X
105	Zachary R. Odell	W	M		X		
8	Nancy J. Bear	W	F			X	
120	Gabriel E. Royster	W	M			X	
47	Holly M. Gambrell	W	F				X
148	Ann Marie Wirfs	W	F			X	
50	Roy Gilbert	B	M		X		
68	Tonya M. Jones	W	F			X	
23	Anthony B. Calderone	W	M				X
147	Laquetta A. Winfield	B	F				X
112	Rachel A. Ramsey	W	F			X	
116	Melinda H. Richey	W	F			X	
100	Richard R. Mullins	W	M			X	
63	Brandon K. Jackson	W	M				X
2	Vicki I. Anderson	W	F			X	
24	Becky F. Campbell	W	F				X
60	Davison H. Hughes	W	M				X
38	Christopher T. Dean	W	M				X
46	Cheryl A. Froman	W	F				X
102	Linda S. Nations	W	F			X	
117	Connest F. Roberts	B	F		X		
5	Randell G. Atkins	W	M			X	
34	David L. Crowe	W	M				X

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for **Defense**.

1 **December 2, 2013**

2 (WHEREUPON, State's Exhibit Number 1 was marked for
3 identification.)
4 (WHEREUPON, court convened with all parties present,
5 and the following proceedings were had commencing at
6 approximately 10:12 a.m.)
7 THE COURT: Okay. Are you ready to call your
8 case?
9 MS. HUEY: Yes, sir, Your Honor.
10 THE COURT: Yes, ma'am.
11 MS. HUEY: Your Honor, the State calls the
12 State versus John Fitzgerald Kennedy charged with murder,
13 2012-GS-04-2002.
14 THE COURT: All right. Ladies and gentlemen,
15 we're getting ready to select the jury in the State
16 versus John Fitzgerald Kennedy. It's an indictment for
17 murder. I'm going to tell you if you're selected for a
18 jury what I'm reading from. But I will tell you now that
19 this is an indictment. In our court system, every case
20 begins with an indictment. The Defendant in this case
21 has pled not guilty which means that he is innocent until
22 proven guilty. This indictment is literally just a piece
23 of paper. You never consider an indictment as evidence.
24 And if you're selected for the jury, you're going to hear
25 me say that at least three times. But I do want to tell

1 you that while it is an official document, it is merely
2 an allegation at this point.
3 All right. Ladies and gentlemen, what I'm going to
4 do first is I'm going to ask the lawyers to stand up,
5 introduce themselves and any potential witnesses they
6 have sitting at the table with them, and also the
7 Defendant. I'm going to ask you to look very carefully
8 because after they stand up, I'm going to ask you if
9 you've ever been represented by these lawyers in the
10 past, if you're a close personal friend or if you have
11 any close business or personal relationship with either
12 the lawyers, the Defendant, or any of the witnesses that
13 may be at the stand -- at the table. Then I'm going to
14 read a fairly long list of witnesses, and I'm going to
15 ask you the same question.
16 So, yes, ma'am?
17 MS. HUEY: May it please the Court. My name is
18 Catherine Huey. I'm an Assistant Solicitor here in
19 Anderson County. At the table with me Brent Simpson and
20 Stan Ashley of the Anderson County Sheriff's Office. And
21 also Brantley Haigler with the Solicitor's Office as
22 well.
23 THE COURT: Yes, sir?
24 MR. POTTER: May it please the Court. My name
25 is Andrew Potter, Andy. I'm a member of the Anderson

1 County Bar. This is Mr. John Kennedy who is my client.
2 And seated with me also and will be with me all day is
3 Ms. Kendra Gurley. She's my paralegal.
4 THE COURT: All right. Ladies and gentlemen,
5 has anyone on the panel ever been represented or are you
6 currently represented by either of the attorneys for the
7 State or the Defendant? Or do you have any close
8 business or personal relationship with the lawyers?
9 All right. Yes, ma'am, give us your name and
10 number. Don't tell me too much.
11 THE JUROR: Chesa J. Campbell. I'm number 25.
12 And I know Mr. Haigler and both detectives.
13 THE COURT: Okay. If you were selected for a
14 jury, would your relationship with those parties create a
15 problem for you?
16 THE JUROR: No, sir.
17 THE COURT: All right. Can you render a
18 verdict in this case based only on the evidence that you
19 hear in the courtroom and not let your relationship
20 interfere with that duty?
21 THE JUROR: Yes, sir.
22 THE COURT: Okay. Okay. Thank you.
23 MR. POTTER: May it please the Court?
24 THE COURT: Yes, sir.
25 MR. POTTER: Can I approach real quick?

1 THE COURT: Yeah.

2 MR. POTTER: Thank you.

3 (WHEREUPON, a bench conference was held off the

4 record.)

5 THE COURT: Ma'am, I don't mean to embarrass

6 you at all, but where do you work?

7 THE JUROR: I work for Foothills Alliance Child

8 Advocacy Center.

9 THE COURT: Okay. Because of that and because

10 of the relationship, I'm going to let you go. It's not a

11 problem -- and we all trust you -- but we don't want to

12 create a problem.

13 THE JUROR: Thank you.

14 THE COURT: Thank you.

15 Yes, ma'am. Give us your name and number.

16 THE JUROR: Connest Roberts, juror number 107.

17 THE COURT: Okay. Yes, ma'am.

18 THE JUROR: I worked with the Defendant in late

19 '80s, '85.

20 THE COURT: You worked with the Defendant in

21 the '80s?

22 THE JUROR: Yes.

23 THE COURT: Would that relationship back then

24 -- would that prevent you today from rendering a verdict

25 based only on what you hear in the courtroom?

1 THE JUROR: No.

2 THE COURT: And can you render a verdict and

3 put that relationship aside?

4 THE JUROR: Yes. I haven't seen him since

5 that.

6 THE COURT: All right. Thank you. That's the

7 way to do it. We need to know it -- more is better.

8 Yes, ma'am?

9 THE JUROR: I'm Tonya Jones, juror number 68.

10 I do know Detective Ashley, and I also went to high

11 school with -- it was Townsend at the time.

12 THE COURT: Okay. All right. Would that fact

13 prevent you from being fair and impartial in this case?

14 THE JUROR: No, sir.

15 THE COURT: And can you render a verdict based

16 only on the evidence that you hear in the courtroom and

17 put those relationships aside?

18 THE JUROR: Yes, sir.

19 THE COURT: Okay. Thank you.

20 All right. Now, I asked about the lawyers. Does

21 anyone in this case know any of the witnesses that were

22 introduced or the Defendant, or do you have any close

23 business or personal relationship or you're related by

24 blood or marriage to any of those parties?

25 (No response)

1 THE COURT: All right. Ladies and gentlemen, I
2 have to read you a list of witnesses. This is a list of
3 potential witnesses in this case. I'm not saying that
4 all of these people are going to testify, but they
5 potentially could testify. After I read this list, I'm
6 going to ask you the same question. Are you related by
7 blood or marriage, or do you have any close business or
8 personal relationship with any of these parties?
9 Brent Simpson with the Anderson County Sheriff's
10 office; John Glenn, Anderson County Sheriff's Office;
11 Chris Pridemore, Anderson County Sheriff's Office; Chris
12 Wilson, Anderson County Sheriff's Office; Niki Gregory,
13 Anderson County Sheriff's Office; Justin Richey, the
14 Anderson County Sheriff's Office; McKindra Bearden with
15 the Anderson County Sheriff's Office; Stan Ashley with
16 the Anderson County Sheriff's Office; Brandon Dunn who
17 used to work with the Anderson County Sheriff's Office.
18 Kimberly King, James Evans, Margaret Conwell, Julie
19 Moore, Ron Curry, Sharon Bowyer who works with Anderson
20 County 9-1-1, Jan Johnson who works with MedShore,
21 Heather Pressley, Rebecca Hanley, Nakie Davis, Todd Caron
22 with the Anderson County Sheriff's Office, Amy Stephens
23 with SLED, Betty Butler with SLED, Ashley Bell with SLED,
24 Patricia Crooks with SLED, Courtney Smith with SLED,
25 Nikki Hughes with SLED, Sheree Brown with SLED, Catherine

1 Leisy with SLED or Dr. Brett Woodard who is a forensic
2 pathologist.
3 MS. HUEY: Judge, I'm sorry. There was a typo.
4 It should be Josh Glenn with the Anderson County
5 Sheriff's Office, number two.
6 THE COURT: Oh, okay. Instead of John Glenn,
7 Josh Glenn. Thank you.
8 MS. HUEY: Yes, sir.
9 THE COURT: Does anyone on the panel have any
10 close business or personal relationship with any of these
11 witnesses, or are you related by blood or marriage to
12 those witnesses?
13 Yes, ma'am?
14 THE JUROR: Brianna Shaver, number 125. I have
15 a personal relationship with Joshua Glenn.
16 THE COURT: With who?
17 THE JUROR: Joshua Glenn. I also work closely
18 Sharon Bowyer at the Anderson County Sheriff's Office.
19 THE COURT: Okay. In what capacity?
20 THE JUROR: I'm a 9-1-1 dispatcher.
21 THE COURT: Oh, you are?
22 THE JUROR: Uh-huh (affirmative).
23 THE COURT: Okay. Well, I'll let you go this
24 week since we've got -- what was your number again?
25 THE JUROR: 125.

1 THE COURT: Okay. Thanks for all you do.
2 125 is excused because of her work.
3 Anyone else?
4 (No response)
5 THE COURT: Does anyone need me to repeat any
6 of those names?
7 (No response)
8 THE COURT: All right. Ladies and gentlemen,
9 is there any member of the panel or your immediate family
10 or any close business or personal relationship, now or
11 previously employed by any local, state or federal law
12 enforcement agency or any governmental agency involving
13 law enforcement or prosecution of crimes? If so, please
14 stand.
15 Yes, ma'am. Give us your name and number?
16 THE JUROR: Anne Marie Wirfs. My father was a
17 lieutenant in Washington, D.C.
18 THE COURT: How long ago was that?
19 THE JUROR: He passed away five years ago.
20 THE COURT: Okay.
21 THE JUROR: He retired.
22 THE COURT: Okay. Due to the fact that your
23 father was involved with that, would that prevent you
24 from being fair and impartial in this case?
25 THE JUROR: Would that prevent me? No.

1 THE COURT: Okay. Can you render a verdict
2 based only on the evidence that you hear in this
3 courtroom?
4 THE JUROR: Yes.
5 THE COURT: Okay.
6 MADAM COURT REPORTER: I didn't get her name.
7 THE COURT: Give us your name and number again.
8 I'm sorry.
9 THE JUROR: 148, Anne Marie Wirfs.
10 THE COURT: Okay. Thank you.
11 Yes, sir.
12 THE JUROR: I have a son-in-law who's a deputy
13 sheriff in Lee County, Georgia.
14 THE COURT: Okay. Give us your name and
15 number.
16 THE JUROR: 133, James Thurmond.
17 THE COURT: And your son-in-law?
18 THE JUROR: Yes.
19 THE COURT: All right. Will that fact prevent
20 you from being fair and impartial in this case?
21 THE JUROR: No.
22 THE COURT: And can you render a verdict based
23 only on the evidence that you hear in this courtroom?
24 THE JUROR: Yes.
25 THE COURT: Okay. Thank you, sir.

1 Yes, sir?

2 THE JUROR: Anthony Calderone, number 23. My

3 brother's a parole officer in Michigan.

4 THE COURT: Okay. Will that fact prevent you

5 from being fair and impartial in this case?

6 THE JUROR: No, sir.

7 THE COURT: And can you render a verdict based

8 only on the evidence that you hear in this case?

9 THE JUROR: Yes, sir. I also have two brother-

10 in-laws who are -- one's parole, one's probation. And my

11 brother was a postal inspector for the United States

12 Government.

13 THE COURT: Okay. But can you still render a

14 verdict based only on the evidence ---

15 THE JUROR: Yes, sir.

16 THE COURT: --- that you hear in this

17 courtroom?

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you, sir.

20 Is there any member of the panel who contributes

21 money to any organization that lobbies on behalf of an

22 injured party's rights or for harsher punishment for

23 offenders or any group that provides assistance to

24 injured parties of assault, criminal sexual conduct, home

25 invasion, burglary or any other offense, including South

1 Carolina Law Enforcement Officer's Association, the South
2 Carolina Trooper's Association, the Fraternal Order of
3 Police or any other organization rendering assistance to
4 law enforcement? If so, please stand.
5 THE JUROR: I have given to the troopers ---
6 THE COURT: Okay. Give us your name and number
7 first.
8 THE JUROR: Vicki Anderson, number 2.
9 THE COURT: Okay. And you've given money to
10 the South Carolina Troopers?
11 THE JUROR: Yes, but not lately.
12 THE COURT: Okay. Will that fact ---
13 THE JUROR: No, sir.
14 THE COURT: --- prevent you from being fair and
15 impartial?
16 THE JUROR: No, sir.
17 THE COURT: Okay. Thank you, ma'am.
18 Yes, sir?
19 THE JUROR: Anthony Calderone. My wife has
20 donated to law enforcement in general, also to the fire
21 department.
22 THE COURT: Okay. Can you still render a
23 verdict based only on the evidence that you hear in the
24 courtroom?
25 THE JUROR: Yes, sir.

1 THE COURT: Thank you, sir.

2 Does any member of the panel, other than the two who

3 have stood up, contribute money to or volunteer time to

4 any injury party's assistance organization?

5 (No response)

6 THE COURT: I think I've asked five. Has any

7 member of the panel or your immediate family ever been

8 injured as a result of any crime? If so, please stand.

9 THE JUROR: Vicki Anderson, number 2.

10 THE COURT: Come up here and speak to me, if

11 you would, off the record.

12 (WHEREUPON, the following was held on the record in

13 the presence of the jury panel, but out of the

14 hearing of the jury panel.)

15 THE COURT: What happened?

16 THE JUROR: My brother was twenty years old.

17 He's deceased now. He died about a year ago. And he was

18 beaten up by a gang of boys and had brain damage the rest

19 of his life.

20 THE COURT: Okay.

21 THE JUROR: Forty-four years.

22 THE COURT: Would that prevent you from being

23 fair and impartial?

24 THE JUROR: No, it wouldn't.

25 THE COURT: Okay. And You can render a verdict

1 based only on the evidence you hear in the courtroom?
2 THE JUROR: Yes, sir.
3 THE COURT: Any questions?
4 THE JUROR: It's been a long time ago.
5 THE COURT: You said forty-seven years ago.
6 THE JUROR: About forty-five.
7 THE COURT: Okay. Thanks.
8 (WHEREUPON, the following was held on the record in
9 open court.)
10 THE COURT: Has any other member of the panel
11 been a victim or your close or immediate family been a
12 victim of a crime, a violent crime? If so, please stand.
13 Yes, ma'am, come up here, if you would.
14 I'm trying to jump ahead so I don't have to come
15 back down here. I know what's coming.
16 (WHEREUPON, the following was held on the record in
17 the presence of the jury panel, but out of the
18 hearing of the jury panel.)
19 THE COURT: Give us your name and number here?
20 THE JUROR: Carmen Agarenzo, juror 1.
21 THE COURT: Okay. Tell us what happened.
22 THE JUROR: My ex-husband tried to kill me.
23 THE COURT: Oh, okay. How long ago was that?
24 THE JUROR: Six years.
25 THE COURT: Okay.

1 THE JUROR: He's still in prison.
2 THE COURT: Oh, he's still in prison? So he
3 was charged with it?
4 THE JUROR: Convicted of assault and battery
5 with a deadly weapon.
6 THE COURT: Okay. Would that prevent you from
7 being fair and impartial in this case?
8 THE JUROR: No.
9 THE COURT: Do you think you can render a
10 verdict based only on the evidence that you hear in this
11 courtroom and put that aside?
12 THE JUROR: Yes, sir.
13 THE COURT: Okay.
14 MR. POTTER: I'm sorry?
15 THE COURT: She said, yes. But her husband,
16 her ex-husband, was convicted for assault and battery
17 with a deadly weapon.
18 You were the injured party?
19 THE JUROR: (Nodded head up and down in the
20 affirmative)
21 THE COURT: And that was six or seven years
22 ago?
23 THE JUROR: Uh-huh (affirmative).
24 THE COURT: All right. You're sure that won't
25 be a problem?

1 THE JUROR: Uh-huh (affirmative).

2 THE COURT: Okay. Thank you.

3 (WHEREUPON, the following was held on the record in

4 open court.)

5 MS. HUEY: Judge?

6 THE COURT: Oh, one more. Sorry.

7 (WHEREUPON, the following was held on the record in

8 the presence of the jury panel, but out of the

9 hearing of the jury panel.)

10 THE COURT: Yes, ma'am. Give us your name and

11 number?

12 THE JUROR: Melinda Richey, number 116.

13 THE COURT: Okay. Yes, ma'am?

14 THE JUROR: I was a teller. I was held -- a

15 gun pointed me and, you know, he wanted money back in '93

16 probably.

17 THE COURT: Where was that?

18 THE JUROR: Where? In Simpsonville.

19 THE COURT: Okay. Do you think that would

20 create a problem for you this week?

21 THE JUROR: Uh-uh (negative).

22 THE COURT: Can you render a verdict based only

23 on the evidence that you hear in this courtroom?

24 THE JUROR: Yes.

25 THE COURT: Put that aside?

1 THE JUROR: Uh-huh (affirmative).

2 THE COURT: Okay. Thank you.

3 (WHEREUPON, the following was held on the record in

4 open court.)

5 THE COURT: Come on up. Sorry about that.

6 (WHEREUPON, the following was held on the record in

7 the presence of the jury panel, but out of the

8 hearing of the jury panel.)

9 THE COURT: Give us your name and number.

10 THE JUROR: Susan McKee, 93.

11 THE COURT: Okay. Yes, ma'am?

12 THE JUROR: In 1982 my home was broke in. Does

13 that count?

14 THE COURT: Well ---

15 THE JUROR: It won't bother me.

16 THE COURT: Okay. So you can render a verdict

17 based only on the evidence that you hear in the

18 courtroom?

19 THE JUROR: Yes.

20 THE COURT: Okay. No, you're good.

21 Her house was broken into in 1982, but it won't

22 bother her.

23 (WHEREUPON, the following was held on the record in

24 open court.)

25 THE COURT: Has any member of the jury panel

1 ever witnessed a crime, a violent crime? If so, please,
2 stand, other than those that have spoken.
3 All right. Yes, sir. Give us your name and number
4 and just tell me briefly the crime.
5 THE JUROR: James Thurmond, 133. An assault.
6 THE COURT: How long ago was that?
7 THE JUROR: It's been seven, eight years.
8 THE COURT: Okay. And would that prevent you
9 from being fair and impartial in this case?
10 THE JUROR: I don't think so.
11 THE COURT: And you can render a verdict based
12 only on the evidence in this case?
13 THE JUROR: Yes, sir.
14 THE COURT: Thank you, sir.
15 Yes, sir?
16 THE JUROR: Anthony Calderon, number 23. Armed
17 robbery.
18 THE COURT: How long ago?
19 THE JUROR: I was sixteen or fifteen, something
20 like that.
21 THE COURT: Oh, okay. Can you still render a
22 verdict based solely on the evidence that you have heard
23 in this case?
24 THE JUROR: Yes, Your Honor.
25 THE COURT: Okay. Thank you, sir.

1 Ladies and gentlemen, this case involves the
2 testimony of police officers and agents of the government
3 that work with the South Carolina Law Enforcement
4 Division. Is there any person in the jury panel who
5 feels that the fact that a member of law enforcement or
6 SLED may testify, that testimony -- do you feel that that
7 testimony would be given greater weight by you because
8 they were law enforcement officers? In other words, is
9 there anybody on the panel that tends to think that they
10 would give law enforcement officers' testimony greater
11 weight than other testimony? If so, please stand.
12 (No response)
13 THE COURT: I'm going to skip ten just because
14 I think it's -- but I'll make your voir dire part of the
15 record.
16 MR. POTTER: Thank you, Judge.
17 THE COURT: Has any member of the panel ever
18 testified in court or at a trial, hearing or deposition
19 in a criminal case? If so, please stand.
20 (No response)
21 THE COURT: Has any member of the panel ever
22 had a particularly pleasant or unpleasant experience with
23 a government agent or law enforcement officer? In other
24 words, have you had something that -- an experience that
25 caused you to question that government agency's

1 truthfulness or veracity, or have you complained about
2 it? If so, please stand. Okay.
3 THE JUROR: Your Honor, I'm not sure if this
4 qualifies or ---
5 THE COURT: Well, I'd rather have more. That's
6 why I took a minute to read it.
7 THE JUROR: Yeah.
8 THE COURT: Give us your name and number. I'm
9 sorry, Mr. Calderone.
10 THE JUROR: Andy Calderone, 23. A while back I
11 was pulled over for having an expired license tag. Come
12 to find out, I contacted my wife. She told me, you know,
13 we get the form, we pay it. She went to the Department
14 of Motor Vehicles. They said, oh, there was something
15 wrong in the paperwork and your car didn't show up
16 properly on the screen, plus the car you traded in still
17 belongs to you.
18 THE COURT: Oh.
19 THE JUROR: I asked the department if they
20 could give us something to indicate that so I could then
21 take it to the court in hopes of getting out of paying a
22 fine. They said, oh, no, we're not allowed to do
23 anything like that. And so that's what happened. I
24 don't know if it qualifies, but ---
25 THE COURT: If you're the only one that had a

1 bad problem with the Department of Motor Vehicles, I
2 could stand up on that one. I'm still arguing with them.
3 But would that prevent you from being fair and impartial?
4 THE JUROR: No.
5 THE COURT: Okay. Thank you, sir. That's why
6 I sort of blanched at that question the way -- I
7 understand why you want me to ask it. But the way it was
8 written, we'd be here all day.
9 All right. Does anyone on this jury panel know
10 anything about this case? The alleged occurrence was in
11 Anderson County on March 30th of 2012. The victim's name
12 was Claud Schaffer Scott. And that's all we know at this
13 time. That's all I know. Does anyone know anything
14 about this Defendant or this case in particular? If so,
15 please stand.
16 (No response)
17 THE COURT: Does anyone know the victim or his
18 family, Claud Schaffer Scott?
19 (No response)
20 THE COURT: Does anyone know any reason
21 whatsoever that you feel that you would not be a proper
22 juror in this case? Now's the time to speak. This is my
23 last question. Does anyone have any reason to believe
24 that they should not be selected for this jury? As I
25 said, I'd rather know more than less.

1 Yes, sir. Give us your name and number?

2 THE JUROR: James Thurmond, 133.

3 THE COURT: Yes, sir.

4 THE JUROR: Is the sentence on this possibly

5 the death penalty?

6 THE COURT: No, sir.

7 Anyone else?

8 Anything from the State, additionally from the

9 State?

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

11 THE COURT: From the Defense?

12 MR. POTTER: Nothing from the accused, Judge.

13 THE COURT: Hold on just a second.

14 Okay. Ladies and gentlemen, the way we're going to

15 select this jury -- this is a little bit different than a

16 civil case. If you've ever been up here and been

17 selected for a jury in a civil case, you know that we

18 give out a list of potential jurors. The parties then go

19 through and they strike jurors.

20 In a criminal case, you'll actually have your name

21 called out. I need you to bring all your belongings,

22 stand up and come, just come through these doors here,

23 turn around and stand. You need to understand that in

24 this state the State and the Defense in each crime,

25 alleged crime, have a certain number of strikes. In

1 other words, they can strike you from the jury for any
2 reason with the exception of religious, racial, gender.
3 There are certain statutory and common-law reasons why
4 they can't strike you. But if you're not within those,
5 one of those exceptions, they can strike you because they
6 like the kind of socks you wear. I mean, that's the
7 bottom line as long as it's not a fundamental right that
8 we have. So don't be offended if you're told to sit
9 down. If you are selected, I'll just need you to move
10 over to the jury box and have a seat.
11 Mr. Shirley ...
12 By the way, this morning -- I have no idea what Mr.
13 Shirley tells you as jurors when I'm not in here. I can
14 tell you this. It's probably not true. But other than
15 that, I get little snippets from friends that he talks
16 ugly about the judges.
17 THE CLERK: Not this morning, Your Honor.
18 THE COURT: Oh, he felt sorry for me this
19 morning because I can't breathe or move my hand.
20 THE CLERK: Yes, sir.
21 MR. POTTER: May it please the Court?
22 THE COURT: Yes, sir.
23 MR. POTTER: Six, right?
24 THE COURT: Yeah. That's what y'all got?
25 MR. POTTER: Just wanted to be sure. Six.

1 MS. HUEY: Six what?

2 MR. POTTER: Strikes.

3 THE COURT: I couldn't hear you. I'm sorry.

4 (WHEREUPON, a bench conference was held off the

5 record.)

6 THE COURT: Five and ten strikes for the

7 record. Is that correct?

8 MS. HUEY: Yes, sir.

9 THE COURT: And then one and two strikes on the

10 alternate.

11 While they're pulling that -- it takes a second --

12 one of the reasons that I try to keep as many jurors as

13 possible is that in this state in a case like this, we

14 have fifteen total strikes amongst the parties which

15 means that if you want to select twelve jurors and one

16 alternate, you're going to need close to thirty people to

17 select from. And we were getting kind of close this

18 morning. I just didn't want to get too close. And when

19 we've got criminal masterminds like that guy running

20 around -- I didn't want to leave him on. But when you've

21 been caught for illegally cutting wood ...

22 (Laughter)

23 THE COURT: You know, there's all kind of --

24 while they're doing this, there's all kinds of Internet

25 reasons to get out of jury service. I always get a kick

1 out of them because you can tell who's read the Internet.
2 And it's the same people that publish those reasons are
3 the people that think that there was somebody on the
4 grassy knoll. It doesn't help to stand up and tell the
5 judge to take your pick, pick one of them. And it
6 doesn't help to stand up and say, I don't like to do
7 court or the judges. When I go to Publix I have somebody
8 tell me -- for the last thirteen years, I've had somebody
9 tell me they didn't like me. So heck, you got to get in
10 line to do that.
11 THE CLERK: Your Honor, if it pleases the Court
12 we're ready and prepared.
13 THE COURT: Yes, sir.
14 THE CLERK: When I call your name, as the Judge
15 said, if you would please bring all your belongings with
16 you, come and stand in front of me, and turn around and
17 face the attorneys and the audience, please.
18 My first potential juror is number 134, Paul A.
19 Todd.
20 What say you for the State?
21 MS. HUEY: Please excuse this juror.
22 THE CLERK: Have a seat.
23 Juror number 15, Grace J. Bobo. Right here, please,
24 ma'am.
25 What say you for the State?

1 MS. HUEY: Please present this juror.

2 THE CLERK: What say you for the Defense?

3 MR. POTTER: Please swear Ms. Bobo.

4 THE CLERK: That way, please, ma'am.

5 THE COURT: Congratulations. You're our first.

6 THE CLERK: Juror 135, Susan C. Vaughn.

7 MR. POTTER: I'm sorry. What was that number

8 again?

9 THE CLERK: 135.

10 MR. POTTER: Thank you.

11 THE CLERK: Right here, please, ma'am. Thank

12 you.

13 What say you for the State?

14 MS. HUEY: Please present this juror.

15 THE CLERK: And what say you for the Defense?

16 MR. POTTER: Please swear Ms. Vaughn.

17 THE CLERK: That way, please, ma'am.

18 Juror number 94, Kyle R. Merritt. Right here,

19 please, sir. Turn and face the others.

20 What say you for the State?

21 MS. HUEY: Please present this juror.

22 THE CLERK: What say you for the Defense?

23 MR. POTTER: Please excuse Mr. Vaughn.

24 THE CLERK: Have a seat, please, sir.

25 Juror 122, Melissa L. Sanders.

1 What say you for the State?

2 MS. HUEY: Please present this juror.

3 THE CLERK: What say you for the Defense?

4 MR. POTTER: Please excuse Ms. Sanders.

5 THE CLERK: Thank you. Please have a seat.

6 Juror number 92, Joyce A. McIntosh. Right here,

7 please, ma'am. Thank you so much.

8 What say you for the State?

9 MS. HUEY: Please present this juror.

10 THE CLERK: What say you for the Defense?

11 MR. POTTER: Please swear Ms. McIntosh.

12 THE CLERK: To the jury box, please, ma'am.

13 Juror number 37, Lori A. Davis. Right here, please,

14 ma'am. Thank you.

15 What say you for the State?

16 MS. HUEY: Please present this juror.

17 THE CLERK: What say you for the Defense?

18 MR. POTTER: Please swear Ms. Davis.

19 THE CLERK: To the jury box, please, ma'am.

20 Juror 105, Zachary R. O'Dell. Right here, please,

21 sir.

22 What say you for the State?

23 MS. HUEY: Please excuse this juror.

24 THE CLERK: Have a seat, Mr. O'Dell.

25 Juror number 8, Nancy J. Baird. Right here, please,

1 ma'am.

2 What say you for the State?

3 MS. HUEY: Please present this juror.

4 THE CLERK: And what say you for the Defense?

5 MR. POTTER: Please excuse Ms. Baird.

6 THE CLERK: Have a seat, Ms. Baird.

7 Juror number 120, Gabriel E. Royster. Right here,

8 please, sir.

9 What say you for the State?

10 MS. HUEY: Please present this juror.

11 THE CLERK: What say you for the Defense?

12 MR. POTTER: Please excuse Mr. Royster from

13 this trial.

14 THE CLERK: Have a seat, Mr. Royster. Thank

15 you.

16 Juror number 47, Holly M. Gambrell. Right here,

17 please, ma'am.

18 What say you for the State?

19 MS. HUEY: Please present this juror.

20 THE CLERK: What say you for the Defense?

21 MR. POTTER: Please swear Ms. Gambrell.

22 THE CLERK: Have a seat, please.

23 Juror number 148, Anne Marie Wirfs. Right here,

24 ma'am. Thank you.

25 THE JUROR: Uh-huh (affirmative).

1 THE CLERK: What say you for the State?
2 MS. HUEY: Please present this juror.
3 THE CLERK: What say you for the Defense?
4 MR. POTTER: Please excuse Ms. Wirfs.
5 THE CLERK: Have a seat back in the audience,
6 please, ma'am.
7 Juror number 50, Roy Gilbert -- Gibert.
8 THE JUROR: Gibert.
9 THE COURT: Gibert?
10 THE JUROR: Gibert.
11 THE CLERK: Sorry. Right here, please, sir.
12 What say you for the State?
13 MS. HUEY: Please excuse this juror.
14 THE CLERK: Have a seat, please, sir.
15 Juror number 68, Tonya M. Jones. Right here,
16 please, ma'am. Thank you.
17 What say you for the State?
18 MS. HUEY: Please present this juror.
19 THE CLERK: What say you for the Defense?
20 MR. POTTER: Please excuse Ms. Jones.
21 THE CLERK: Juror number 23, Anthony B.
22 Calderone. Right here, please, sir.
23 What say you for the State?
24 MS. HUEY: Please present this juror.
25 THE CLERK: What say you for the Defense?

1 MR. POTTER: Please swear Mr. Calderon.

2 THE CLERK: Have a seat, please, sir.

3 Juror number 147, Laquetta A. Winfield. Right here,

4 please, ma'am.

5 What say you for the State?

6 MS. HUEY: Please present this juror.

7 THE CLERK: What say you for the Defense?

8 MR. POTTER: Please swear Ms. Winfield.

9 THE CLERK: Have a seat in the box, please.

10 Juror 112, Rachel A. Ramsey. Right here, please,

11 ma'am.

12 What say you for the State?

13 MS. HUEY: Please present this juror.

14 THE CLERK: What say you for the Defense?

15 MR. POTTER: Please excuse Ms. Ramsey.

16 THE CLERK: Have a seat, please, ma'am.

17 Juror number 116, Melinda H. Richey. Right here,

18 please, ma'am.

19 What say you for the State?

20 MS. HUEY: Please present this juror.

21 THE CLERK: What say you for the Defense?

22 MR. POTTER: Please excuse Ms. Richey.

23 THE CLERK: Juror number 100, Richard R.

24 Mullins. Right here, please, sir.

25 What say you for the State?

1 MS. HUEY: Please present this juror.
2 THE CLERK: What say you for the Defense?
3 MR. POTTER: Please excuse Mr. Mullins.
4 THE CLERK: I have that as the ninth strike for
5 the Defense.
6 MR. POTTER: Yes, sir.
7 THE CLERK: Juror number 63, Brandon K.
8 Jackson. Right here, please, sir.
9 What say you for the State?
10 MS. HUEY: Please present this juror.
11 THE CLERK: What say you for the Defense?
12 MR. POTTER: Please swear this juror.
13 THE CLERK: To the jury box, Mr. Jackson,
14 please.
15 Juror number 2, Vicki I. Anderson. Right here,
16 please, ma'am.
17 What say you for the State?
18 MS. HUEY: Please present this juror.
19 THE CLERK: What say you for the Defense?
20 MR. POTTER: Please excuse Ms. Anderson.
21 THE CLERK: Juror number 24, Peggy F. Campbell.
22 Right here, please, ma'am.
23 What say you for the State?
24 MS. HUEY: Please present this juror.
25 THE CLERK: To the jury box, please, ma'am.

1 MR. POTTER: Please swear Ms. Campbell.

2 THE CLERK: I am so sorry.

3 Juror number 60, Davison H. Hughes. Right here,

4 please, sir.

5 What say you for the State?

6 MS. HUEY: Please present this juror.

7 THE CLERK: What say you for the Defense?

8 MR. POTTER: Please swear this juror.

9 THE CLERK: To the jury box, please, sir.

10 Juror 38, Christopher T. Dean. Right here, please,

11 sir.

12 What say you for the State?

13 MS. HUEY: Please present this juror.

14 THE CLERK: What say you for the Defense?

15 MR. POTTER: Please swear Mr. Dean.

16 THE CLERK: Juror 46, Sheryl A. Roman.

17 What say you for the State?

18 MS. HUEY: Please present this juror.

19 THE CLERK: What say you for the Defense?

20 MR. POTTER: Please swear Ms. Roman.

21 THE CLERK: Take a seat in the jury box,

22 please.

23 Your Honor, that's twelve.

24 THE COURT: All right. We'll select one

25 alternate. You have one and two strikes.

1 THE CLERK: Just keep going down the list?
2 THE COURT: Yes.
3 THE CLERK: Juror number 102, Linda S. Nations.
4 What say you for the State?
5 MS. HUEY: Please present this juror.
6 THE CLERK: What say you for the Defense?
7 MR. POTTER: Please excuse Ms. Nations.
8 THE CLERK: Juror 117, Connest F. Roberts.
9 Right here, please, ma'am.
10 What say you for the State?
11 MS. HUEY: Please excuse this juror.
12 THE CLERK: Have a seat, please, ma'am.
13 Juror number 5, Randall G. Atkins. Right here,
14 please, sir.
15 What say you for the State?
16 MS. HUEY: Please present this juror.
17 THE CLERK: What say you for the Defense?
18 MR. POTTER: Please excuse Mr. Atkins.
19 THE CLERK: Juror number 34, David L. Crowe.
20 Right here, please, sir.
21 What say you for the State?
22 MS. HUEY: Please present this juror.
23 THE CLERK: What say you for the Defense?
24 MR. POTTER: Please swear Mr. Crowe.
25 THE CLERK: If you'd go that way, please, sir.

1 Your Honor, that is twelve jurors and an alternate.
2 THE COURT: Okay.
3 (WHEREUPON, Court's Exhibits 1 and 2 were marked for
4 identification only.)
5 THE COURT: All right. Ladies and gentlemen,
6 I'm going to send you back to the jury room right now
7 with Buck. You'll be back there three or four minutes,
8 then I'm going to bring you back in just for a few
9 minutes after I excuse everybody. When you come back,
10 Mr. Calderone, I'm making you foreman of this jury.
11 You'll be the only person that has to sit in one spot and
12 you'll sit right there where Ms. Roman is. And the rest
13 of you just can find your own spot. You'll always sit
14 right there as the alternate.
15 You're going to get tired of hearing me say this
16 because I will literally say this every time you're in
17 the courtroom. Do not talk about this case. When you go
18 back there for this three or four minutes, you're just
19 going to have a few minutes. I can promise you that
20 during the course of this trial, there are going to be
21 times when you're sitting back there for twenty or thirty
22 minutes, maybe even longer. And I'll explain a little
23 bit of that this afternoon. But you can never talk about
24 this case until you've heard all the evidence in the case
25 and until you've heard all the testimony and the lawyers

1 and I have given you my charge on the law.
2 So that's the only real instruction I have now.
3 Just go back and have a seat, introduce yourselves, and
4 I'll bring you back in in a second.
5 (WHEREUPON, the jury exited the open court at
6 approximately 12:32 p.m.)
7 THE COURT: Any objection to the selection of
8 the jury from the State?
9 MS. HUEY: Nothing from the State.
10 MR. POTTER: I'll have something to take up.
11 THE COURT: Well, you better do it now before I
12 let them go.
13 MR. POTTER: It's a Batson motion.
14 THE COURT: Really? Come here.
15 (WHEREUPON, a bench conference was held off the
16 record.)
17 THE COURT: All right. Ladies and gentlemen,
18 I'm going to excuse you. I would like to tell you that
19 I'm going to excuse you for the week. But theoretically,
20 there's a potential chance that you might have to come
21 back tomorrow. I can tell you that that chance is fairly
22 small. But I can't release you for the week yet. So
23 what I'm going to ask is that you call in the Clerk's
24 jury number tonight after six. We will know tonight
25 whether or not we're going to need you tomorrow. The

1 message will either be one of three things: have a great
2 week and a good Christmas and you don't need to come
3 back, call back tomorrow after six or we'll see you in
4 the morning.
5 Don't be alarmed. I know you've got surgery for
6 your child. Y'all aren't coming back. But I can't do
7 that officially until we're finished up today. We've got
8 some things we have to take up outside of your presence.
9 But I appreciate your patience this week. I
10 appreciate your putting up with the slow pace because it
11 was slower than normal. And Mr. Shirley's going to hand
12 out the jury information sheet with the number. You will
13 get a check at some point for twelve dollars.
14 Is that right?
15 THE CLERK: Yes, sir.
16 THE COURT: You get paid more than I do per
17 hour, so that's pretty good. But I know it was slow.
18 This was a lot slower than normal. It's my fault.
19 THE CLERK: This is an answering machine. So
20 if the line is busy, somebody's just gotten ahead of you.
21 So just keep dialing. We do not change the message until
22 about six o'clock. And it will be very specific. It
23 will say, it is Monday, December the 2nd, so that you'll
24 know that you've gotten the current message. And it will
25 tell you what to do.

1 (WHEREUPON, a bench conference was held off the
2 record.)
3 THE COURT: Thank y'all.
4 (WHEREUPON, the jury panel exited the open court at
5 approximately 12:32 p.m.)
6 THE COURT: Okay. Buck, you can bring them in.
7 (WHEREUPON, the jury entered the open court at
8 approximately 12:38 p.m.)
9 THE COURT: Okay. Ladies and gentlemen, let me
10 tell you, I'm going to let you go to lunch now. We've
11 got some matters that we have to, in any trial, take up
12 outside your presence. I'm going to ask that you come
13 back at three. That gives us enough time to have a
14 little lunch and also to take up all the matters we have
15 to take up. We'll start this afternoon. We're not going
16 to go too long this afternoon at this point, but we will
17 try to get started as best we can. And because of the
18 late hour, I will give you further instructions when you
19 come back at three. I have a fairly long charge. And
20 then I'll tell you a little bit about the schedule this
21 week because we've got some peaks and valleys with the
22 schedule.
23 But for now, just go have lunch. Keep your juror
24 button on. If anybody tries to contact you because of
25 your jury service, either personally or by phone, let me

1 know as soon as possible. Let one of the bailiffs know
2 and they'll let me know, and I'll take care of it.
3 That's not going to happen, but I need to tell you that.
4 But one thing I'll tell you before you go -- and I'll
5 articulate a little bit more later -- please don't try to
6 find out anything about this case. I worry about jurors
7 going home and trying to get a little extra information
8 through the Internet or their friends or whatever. Don't
9 do that. You will know more about this case than anybody
10 in the world. And anything you get outside this
11 courtroom has questionable truthfulness. So don't talk
12 about this case at all until the end of the week.
13 But go have some lunch and we'll see you back at
14 three o'clock. Back in that jury room.
15 (WHEREUPON, the jury exited the open court at
16 approximately 12:40 p.m.)
17 THE COURT: Okay. I'll see y'all all at two
18 fifteen, two thirty, and we'll take up all the matters
19 including the Batson motion. Thank y'all.
20 MR. POTTER: Thank you, Judge.
21 THE COURT: If anything works out, let me know
22 because I've got to hurry back.
23 (WHEREUPON, court stood at recess for a lunch break
24 during which State's Exhibit Numbers 2, 3, 7-A
25 through L, 9, 10, 11, 17-A, 17-B, 18-A through L,

1 19-A through C and 20 were marked for identification
2 only.)
3 THE COURT: Okay. Let's do Batson first.
4 Oh, where's our guy? Is he on the way?
5 MS. HUEY: The Defendant?
6 THE COURT: Yeah. They're going to bring him
7 up. It's going to be a second. I'll be right back.
8 (WHEREUPON, court stood at ease.)
9 (WHEREUPON, the Defendant entered the open court.)
10 THE COURT: Okay. Let's do Batson first.
11 BATSON MOTION
12 THE COURT: And there was a motion made off the
13 record, so I guess you'd better make it officially.
14 MR. POTTER: Yes, Your Honor. May it please
15 the Court.
16 THE COURT: Yes, sir.
17 MR. POTTER: Judge, you asked if I had any
18 objections or any issues in regards to the jury panel
19 that was empaneled, for lack of a better word, and I do.
20 There was -- with regards to the jury pool, we had a
21 total of three African-American males in the pool of
22 about forty-nine people, if my memory's correct, one of
23 which you excused due to a medical issue that he had with
24 family. And obviously, we have no objection with regards
25 to that. So that left a total of two African-American

1 males left on a panel of forty-nine.

2 Judge, I think one African-American male was called

3 as a potential juror in this case. I think it was juror

4 number 50. He is a fifty-eight-year-old black male. And

5 according to my notes, he did not respond to any of the

6 qualification questions or any of the questions you

7 addressed to the jury. None of the voir dire questions I

8 submitted to Your Honor did he respond in any manner. So

9 at this point in time, due to the fact that we were down

10 to two African-American males on this jury pool, it's our

11 position that the fact that the State struck this

12 particular gentleman must be shown it was done in a race-

13 neutral manner or some sort of process that indicates

14 that it was not done based upon the fact that he was a

15 black male.

16 THE COURT: All right. Have you got a race- or

17 gender-neutral reason for striking him?

18 MS. HUEY: I do, Your Honor. I have the RAP

19 sheet for juror number 50. And he has a conviction from

20 1991 for petit larceny. And while that didn't take him

21 out of the realm of actually qualifying to serve on the

22 jury, larceny is a potential motive in this murder case,

23 Your Honor. And therefore, I struck him for that reason.

24 THE COURT: Yes, sir.

25 MR. POTTER: Judge, we're talking about a

1 thirty-day minor misdemeanor from 1991. The fact of the
2 matter is if there was this issue in regards to whether
3 she thought -- that the Solicitor thought that he would
4 not be someone who would look kindly upon the State's
5 case or something of that sort, then he could have easily
6 been called up, questioned about his conviction from
7 fourteen plus years ago. And at that point in time,
8 additional questions privately could have been given to
9 him to see whether or not he could give the State as well
10 as my client a fair hearing on the trial or on the case.
11 So again, Judge, it's our position that the fact
12 that we only had two African-American males on this jury
13 panel to pull -- to choose from to start with, which I
14 don't think necessarily are consistent with regards to
15 the characteristics of our society, at least here in
16 Anderson County. So we're going to respectfully object
17 to the fact that he was struck. Thank you.
18 THE COURT: Okay. All right. I understand the
19 motion. You're protected for the record. I don't think
20 the strike and the reason for the strike was purely
21 pretextual because it involves the potential motive in
22 this case. I'm going to deny your motion for a Batson,
23 but you're protected for the record.
24 MR. POTTER: Thank you.
25 THE COURT: Okay. What else do we have before

1 we bring them in?

2 MS. HUEY: Your Honor, we have a Jackson Denno

3 hearing that we'd like to start with, a Neil Biggers

4 hearing, and then I believe the Defense wants to be heard

5 on dying declaration.

6 THE COURT: Okay. All right. Whichever one

7 you want to start with.

8 MR. POTTER: Judge, before we're going to take

9 testimony, I would ask that all witnesses on this case be

10 sequestered and admonished not to speak about the case

11 and their testimony.

12 THE COURT: Yeah. What I'm going to do, if

13 you're testifying, if you're a potential witness in this

14 case, I need you to leave the courtroom except -- we'll

15 come out and get whoever we're going to need. And

16 obviously if you're here and you hear some testimony,

17 please don't ...

18 Sir, ma'am, y'all don't talk about anything you

19 hear, okay?

20 MS. HUEY: And other than the lead

21 investigator, correct, Judge?

22 THE COURT: Right.

23 MR. HAIGLER: Stan's the first person we're

24 calling.

25 MS. HUEY: Thank you. Oh, I'm sorry.

1 Stan's the first person we're calling, Judge.
2 THE COURT: Okay.
3 (WHEREUPON, all potential witnesses exited the
4 courtroom.)
5 THE COURT: All right. What do we have here?
6 MR. HAIGLER: Your Honor, first up, I believe
7 we're going to do the Jackson Denno hearing.
8 THE COURT: Okay. That's fine. You can call
9 your first witness.
10 MR. HAIGLER: The State calls Investigator Stan
11 Ashley.
12 (WHEREUPON, the witness was duly sworn.)
13 THE COURT: Yes, sir.
14 MR. HAIGLER: Thank you, Your Honor.
15 **STAN ASHLEY,**
16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
17 IN-CAMERA EXAMINATION
18 BY MR. HAIGLER:
19 Q. Investigator Ashley, where are employed?
20 A. Anderson County Sheriff's Office.
21 Q. And were you employed there on April 1st, 2012?
22 A. I was.
23 Q. Did you have the opportunity to talk to the
24 Defendant in this case regarding taking a statement from
25 him?

1 A. I did.
2 Q. When you did this, did you advise him of his rights?
3 A. I did.
4 Q. Did you do so using a form which contains the
5 rights?
6 A. Yes. It's a written form that we have, yes.
7 MR. HAIGLER: Your Honor, may I approach the
8 witness?
9 THE COURT: Yes, sir.
10 Q. I'm going to show you what's been marked as State's
11 Exhibit 1. Is this the form that you used to advise him
12 of his rights?
13 A. It is.
14 Q. And how do you recognize that form?
15 A. I recognize it by my writing, also by my signature.
16 That's my handwriting.
17 Q. Does that form tell you what time this took place?
18 A. It does. At sixteen twenty-five hours. It would be
19 four twenty-five p.m.
20 Q. On date?
21 A. On April 1st of 2012.
22 Q. Okay. And where did this take place?
23 A. At the Anderson County Law Enforcement Center in an
24 interview room.
25 Q. Okay. Can you describe that interview room?

1 A. Yes. It's one door in and out. No window on the
2 door. A twelve-by-twelve room approximately. Carpeted,
3 beige walls, no fixtures other than the light, a light
4 switch. There's a one-way mirror on one side. Well,
5 it's a mirrored glass that you can see into but can't see
6 out. Well, you can see slightly. A wooden table,
7 Formica, and a couple three chairs.
8 Q. Okay. Was he given any food or drink while he was
9 in this interview room?
10 A. He was. When we picked him up in the holding cell,
11 myself and Detective Brent Simpson, we escorted him
12 upstairs to the second floor where the interview room is.
13 And he was offered a refreshment drink, which he -- I
14 believe we gave him a Mountain Dew. I believe he
15 requested a Mountain Dew.
16 Q. Okay. Was he allowed to go to the restroom?
17 A. He was.
18 Q. Did you go over that form with the Defendant?
19 A. I did.
20 Q. And did you make sure that he understood everything
21 on the form?
22 A. I did. It's a two-part form, Advisement of Rights
23 and the Waiver of Rights.
24 Q. And were any markings made on that form to indicate
25 that he did understand his rights?

1 A. He signed it as such. We marked it on the section
2 that he'd have the right to remain silent and anything
3 you say may be used against you in court, that he reads
4 to us to indicate that he can read and understand what he
5 reads and what he hears us say and that we're saying it
6 correct what is written.
7 Q. In your opinion, did he understand his rights on
8 that day?
9 A. Yes.
10 Q. And he was not under the influence of anything as
11 best you could tell?
12 A. As best I could tell, he was not.
13 Q. Were any threats or promises made in order to get
14 him to sign the advisory of rights?
15 A. No, it wasn't. And no promises or threats or
16 coercion. We also normally underline the word coercion
17 and go over the word coercion and what it means so that
18 he understands that we're not pressuring him or making
19 any threats or promises.
20 Q. Okay. And did the Defendant indicate to you whether
21 or not he wished to make a statement?
22 A. He indicated that he would talk to us but he would
23 not put it on paper.
24 Q. So he did not reduce the statement into writing and
25 nothing was recorded?

1 A. No.

2 Q. He just gave an oral statement to you in the

3 presence of Brent Simpson?

4 A. Correct.

5 MR. HAIGLER: Your Honor, at this time, I'd

6 like to allow Investigator Ashley to go into what the

7 Defendant actually stated to him orally.

8 THE COURT: Yes, sir.

9 MR. POTTER: Judge, I don't know if that's

10 necessarily -- I mean, the only issue that we're

11 determining at this point in time is whether or not he

12 gave a voluntary statement. I don't know if we

13 necessarily need to go into what he said.

14 THE COURT: Yeah. At this point don't worry

15 about it.

16 MR. HAIGLER: Yes, sir.

17 THE COURT: I need to make sure it's voluntary

18 and make sure it meets the number of the requirements of

19 an exception to hearsay.

20 MR. HAIGLER: Okay. I have nothing further.

21 Q. Please answer any questions that Mr. Potter has.

22 MR. POTTER: May it please the Court?

23 THE COURT: Yes, sir.

24 IN-CAMERA EXAMINATION

25 BY MR. POTTER:

1 Q. Detective, Mr. Kennedy turned himself in to you at
2 the Sheriff's office; is that correct?
3 A. Correct.
4 Q. Do you know about what time that was when he showed
5 up?
6 A. I wasn't present when he turned himself in. I was
7 notified later, shortly thereafter, on the 1st from
8 Detective Simpson to respond to the L.E.C. I was on call
9 that week.
10 Q. Okay. So he turns himself in. You and Detective
11 Simpson get a call saying somebody's here, you need to
12 talk to them. And then you go down, ride down to the
13 Sheriff's department and talk to him, correct?
14 A. Correct.
15 Q. He was placed in holding while they were waiting for
16 y'all?
17 A. He was placed in a holding cell and the log done.
18 Q. Excuse me?
19 A. A log. We have to log them in and ---
20 Q. Got you.
21 A. --- check them ever so often.
22 Q. Now, you personally picked him up from the holding
23 cell and brought him up to the interview room; is that
24 correct?
25 A. Detective Simpson and myself. I was the first one

1 there.
2 Q. Okay. So both of y'all went down and got him and
3 took him to the interview room?
4 A. Correct.
5 Q. And then the first thing you do in the interview
6 room is you sit down and you go over the Waiver of Rights
7 form; is that correct?
8 A. That's the first thing. We asked him if he needed
9 anything to drink first.
10 Q. Okay. Now, and you go over the Waiver of Rights
11 form. And you won't talk to him until he signs that
12 Waiver of Rights or if he requests an attorney; is that
13 correct?
14 A. Correct.
15 Q. At any point in time before he signed that arrest
16 warrant -- excuse me. At any point in time before he
17 signed that waiver, did he request to have an attorney?
18 A. He did not.
19 Q. All right. Now, is the interview room wired for
20 sound?
21 A. No. It wasn't at the time.
22 Q. It wasn't at the time?
23 A. Correct.
24 Q. And subsequently, it has been wired for sound?
25 A. It has.

1 Q. Okay. And it does have video capabilities now?
2 A. It does now.
3 Q. Now, you went through -- was it you personally who
4 went through the Waiver of Rights, or did Detective
5 Simpson do it or do you know?
6 A. I did it. I went through it with Detective Simpson
7 present.
8 Q. Okay. Did you read it to him, or did Detective
9 Simpson read it to him?
10 A. I read it to him.
11 Q. Okay. So is it fair to say you kind of took the
12 lead in going over the Waiver of Rights form?
13 A. That's fair to say.
14 Q. All right. And you've got two marks here. You have
15 the right to remain silent. You've got a mark there.
16 Did you make that mark?
17 A. I made that mark, those two marks.
18 Q. All right. And you made those marks while you were
19 saying that to Mr. Kennedy; is that correct?
20 A. Yes.
21 Q. Was it your intention to have him initial those,
22 those lines?
23 A. It was.
24 Q. But that didn't happen?
25 A. That didn't happen.

1 Q. Now, did you ask him if he was under the influence
2 of any drugs or alcohol, anything of that sort?
3 A. Yes. We asked him if he was all right to talk to
4 us.
5 Q. Okay. And what did he tell you?
6 A. Yeah. He was fine. He said he was good.
7 Q. Was there anything about his appearance or demeanor
8 that made you concerned that he may be under the
9 influence of anything?
10 A. No, sir.
11 Q. Okay. His eyes weren't dilated or anything of that
12 sort?
13 A. It didn't appear that he was under the influence to
14 us.
15 Q. He didn't have a smell to him?
16 A. Uh-uh (negative), no.
17 Q. After you went through the Waiver of Rights form, he
18 signs that. He signs an advisory indicating he
19 understands his rights, and then he goes further to the
20 Waiver of Rights. And that's when you -- I presume it
21 was you underlined where it says pressure or coercion.
22 You underlined coercion?
23 A. Yes, I did.
24 Q. And that's where you described to him what coercion
25 meant?

1 A. Yes.
2 Q. After he signs that, then you begin your interview;
3 is that correct?
4 A. Correct.
5 Q. All right. During the course of this interview,
6 were any threats or any type of promises made to Mr.
7 Kennedy?
8 A. No.
9 Q. Any slamming of the table? Any threats that he was
10 lying about anything made to him?
11 A. We spoke about his lying to us, but we didn't --
12 there was no slamming of books or -- everything was
13 fairly civil. He -- he was civil; we were civil.
14 Q. Okay. How big is this table?
15 A. Two foot by -- it would be that width. It'd be two
16 foot by about five foot, five feet.
17 Q. The table here in courtroom in front of the jury
18 box, you're talking about this width?
19 A. Yes.
20 Q. But not this long? A little bit longer?
21 A. No. Longer than that. About two feet longer.
22 Q. Okay. How were the chairs arranged?
23 A. We had -- he was sitting -- we were both facing -- I
24 was facing from his left side. I was at his left.
25 Detective Simpson was directly in front of him.

1 Q. Okay. So the table was between he and Detective
2 Simpson?
3 A. It was. And I had the corner across from him.
4 Q. I understand. About how far away were you?
5 A. I was probably a little further than Detective
6 Simpson inasmuch as he was straight across the table from
7 him. So I was about, I would say, five feet away from
8 him.
9 Q. Okay. At any point in time during the interview,
10 did you come closer to him?
11 A. We'd gone to get him -- got him some lunch -- you
12 know, some lunch and all, so we interacted. As far as
13 holding, I never approached him in any kind of manner.
14 Q. You didn't scoot the chair up to be a little bit
15 closer to him while you were interviewing him?
16 A. No, I don't recall that we did.
17 Q. Okay. Were you -- who was asking the questions of
18 him, you or Detective Simpson?
19 A. Detective Simpson.
20 Q. And he was the one generally in charge of talking to
21 Mr. Kennedy, correct?
22 A. He was lead.
23 Q. Okay.
24 MR. POTTER: I have nothing further.
25 THE COURT: Anything else?

1 MR. HAIGLER: No, sir, Your Honor.

2 THE COURT: Okay. Thank you, sir.

3 THE WITNESS: Yes, sir.

4 MR. HAIGLER: The State now calls Brent

5 Simpson.

6 THE COURT: All right. Let me ask you, just

7 for the purposes of -- I thought it was a statement.

8 There's no written statement?

9 MR. HAIGLER: No, sir.

10 THE COURT: How do you intend to introduce it?

11 MR. HAIGLER: We intend to allow the officers

12 who witnessed the statement to publish an oral statement.

13 THE COURT: Okay.

14 All right. Come on up.

15 (WHEREUPON, the witness was duly sworn.)

16 MR. HAIGLER: May it please the Court, Your

17 Honor.

18 THE COURT: Yes, sir.

19 **BRENT SIMPSON,**

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 IN-CAMERA EXAMINATION

22 BY MR. HAIGLER:

23 Q. Investigator Simpson, where are you employed?

24 A. I'm employed with the Anderson County Sheriff's

25 Office.

1 Q. And were you employed at the Sheriff's office on
2 April the 1st, 2012?
3 A. Yes, sir.
4 Q. And did you have the opportunity to talk with the
5 Defendant in the case regarding taking a statement?
6 A. I did.
7 Q. And you were technically the lead investigator in
8 this case, correct?
9 A. Correct.
10 Q. But when you met with him and talked to him about
11 giving a statement, Investigator Ashley read him his
12 Miranda rights; is that right?
13 A. That's correct.
14 Q. And you witnessed this?
15 A. I did.
16 Q. And did you sign the Advisory of Rights form as a
17 witness?
18 A. I did.
19 Q. And as you were in the room, did you feel as if he,
20 the Defendant, understood his rights?
21 A. Yes.
22 Q. Did he seem to be under the influence of anything as
23 far as you could tell?
24 A. Nothing that I could tell.
25 Q. And did you witness any intimidation or anything to

1 get the Defendant to sign this advisory form?
2 A. No, I did not.
3 Q. Did he ever indicate to you that he wanted to give a
4 written statement?
5 A. No. He stated that he would talk to us but wouldn't
6 put anything on paper.
7 MR. HAIGLER: I have no further questions, Your
8 Honor.
9 THE COURT: All right.
10 Yes, sir?
11 MR. POTTER: May it please the Court?
12 THE COURT: Yes, sir.
13 IN-CAMERA EXAMINATION
14 BY MR. POTTER:
15 Q. Detective, obviously you heard Detective Ashley
16 testify. Detective Ashley was the one that went through
17 the statement -- excuse me -- the waiver form; is that
18 correct?
19 A. That's correct.
20 Q. You were present while this was going on?
21 A. I was.
22 Q. And you signed as a witness in regards to the
23 Advisory of Rights as well as the Waiver of Rights; is
24 that correct?
25 A. That's correct.

1 Q. All right. Detective Ashley testified that it was
2 he and you that picked him up from the interview room and
3 took him up -- excuse me -- from the holding and carried
4 him to the interview room; is that correct?
5 A. We did it together.
6 Q. Was he handcuffed?
7 A. Yes.
8 Q. Well, when were the handcuffs taken off?
9 A. I don't believe they were taken off. We left them
10 on.
11 Q. Okay. So he was handcuffed in the front, or was he
12 handcuffed in the back?
13 A. In the front.
14 Q. All right. Did he have any shackles on the feet?
15 A. No.
16 Q. When you received a call that Mr. Kennedy had turned
17 himself in, do you recall when that was?
18 A. I don't exactly remember the time. It was shortly
19 before we got him out of the holding cell.
20 Q. Was it before twelve or was it after twelve, if you
21 can recall?
22 A. That part I don't remember.
23 Q. It was a Sunday afternoon; is that right?
24 A. I do believe it was, yes.
25 Q. All right. So the amount of time he was in the

1 holding cell, you don't have any independent knowledge of
2 how long he was there before you talked to him?
3 A. Not long, but I can't recall exactly.
4 Q. Now, Detective Ashley testified that you brought him
5 up to the interview room. And this is a twelve by twelve
6 room; is that correct?
7 A. Approximately.
8 Q. All right. There's a one-way mirror.
9 A. Right.
10 Q. Were there any other windows in that room?
11 A. No.
12 Q. And you sat down and spoke with Mr. Kennedy at a
13 table. You sat across the table from him directly facing
14 him?
15 A. Correct.
16 Q. And Detective Ashley was to Mr. Kennedy's side?
17 A. Right.
18 Q. Now, during the course of the interview after he
19 signed the Advisory of Rights and Waiver of Rights form,
20 did Mr. Kennedy ask for counsel?
21 A. No.
22 Q. Did he ever ask if he wanted counsel how that would
23 happen?
24 A. He did not.
25 Q. The whole time during the interview at no time did

1 he ask for counsel or did he ask -- or did he express a
2 desire to stop speaking?
3 A. He did not.
4 Q. Did he have any type of odor or anything like that
5 that would indicate that he may be under the influence of
6 any drugs or alcohol?
7 A. No, sir, not that I'm aware of.
8 Q. Is there any procedure they can do to determine
9 whether or not somebody is intoxicated before you start
10 talking to them?
11 A. No. We talked to him and asked him prior to the
12 advisory. And he understood and was well aware that --
13 and he told us he wasn't. You know, by his demeanor and
14 how he was talking, we assumed he was okay.
15 Q. So during the Advisory of Rights form you
16 specifically say, are you drunk, are you intoxicated?
17 Have you taking any medication or any drugs that would
18 keep you from understanding what's going on?
19 A. Prior to signing the waiver, we did.
20 Q. When you go through the Advisory of Rights form,
21 specifically Detective Ashley indicated that the first
22 statement here is, you have the right to remain silent.
23 Are you familiar with the form?
24 A. I am.
25 Q. Okay. Then there's a little dash mark there. And

1 under that it says, anything you say can be used against
2 you in court. There's another dash mark there. It was
3 Detective Ashley's intent to have Mr. Kennedy initial
4 those. Is there any reason why he didn't initial those?
5 A. I guess it was just an overlook. Normally, we do.
6 Q. It goes on further. It says, you have the right to
7 speak to an attorney -- or excuse me -- a lawyer for
8 advice before you are asked any questions and have time
9 with him -- with you during questioning. If you cannot
10 afford a lawyer, one will be appointed for you before
11 your questioning if you wish. Did you explain to him
12 that you would make a call to the public defender's
13 office or where ever if, in fact, he wanted a lawyer, to
14 see if one could be appointed for him before questioning?
15 A. No. He read and stated he understands his rights as
16 we read them to him off of that paper.
17 Q. Okay. So is it fair to say you didn't really -- you
18 didn't go outside the four corners of this piece of paper
19 in regards to explaining to him his rights?
20 A. We basically read him the sheet, and he understood
21 it and signed it.
22 Q. During the interview process when you're speaking
23 with him, did you make any threats? Did you slam any
24 books? Did you slam your fist or anything on the table
25 while you were sitting in front of him?

1 A. No, no kind of throwing or slamming books or
2 anything like that.
3 Q. Did you ask Mr. Kennedy if he had any medical
4 condition that would prevent him from understanding his
5 waiver of rights?
6 A. I did.
7 Q. Okay. And do you recall what he said?
8 A. He said he had prior medical conditions, but he was,
9 at that point in time, capable of talking with us.
10 Q. Okay. Was he more specific about what type of
11 medical condition he had?
12 A. No. He wasn't really -- it was just -- I think
13 basically he said he had some head injuries in the past.
14 But other than that, that was all.
15 Q. Did you explore that any further apart from what he
16 just told you?
17 A. No.
18 MR. POTTER: Nothing further.
19 THE COURT: Anything else?
20 MR. HAIGLER: No, sir, Your Honor.
21 THE COURT: Okay. Thank you, sir.
22 Anything else?
23 MR. HAIGLER: No, sir.
24 THE COURT: I'm real confused. And it may be
25 just me. But how do you intend again to get this in?

1 Under what theory? I mean, you're going to have a
2 detective testifying about what the Defendant said after
3 he said he wouldn't write it down?
4 MR. HAIGLER: Essentially, yes.
5 THE COURT: And ---
6 MR. HAIGLER: He was willing to talk to them.
7 He didn't want to -- after he spoke to them and they
8 asked if they wanted to put something in writing, he said
9 he didn't want to put anything into writing.
10 THE COURT: And generally, just for the
11 purposes of proffering it, what is the Detective going to
12 say that he said?
13 MR. HAIGLER: He's essentially going to say
14 that he dodged questions. He would only -- he would only
15 tell the truth when they told him what they knew. He
16 said he wasn't there. Then he says, well, we have
17 somebody that says that you were there. He says, okay,
18 yeah, I was there but just for a second. So essentially,
19 they're catching him in lies. And that's what we'd be
20 using it for.
21 THE COURT: I mean, are you trying to get it in
22 under and 804(b)(3), an exception, declarant unavailable
23 or -- I mean, I don't know how they could testify to
24 that.
25 MR. HAIGLER: Well, Your Honor, I don't --

1 honestly, I don't see it as hearsay. I don't think it
2 goes to the truth of the matter asserted. I think if he
3 was making an admission or a confession, then it would go
4 to the truth of the matter asserted. He's not. He's
5 just ---
6 THE COURT: Well, I assumed he admitted it to
7 them.
8 MR. HAIGLER: He did not admit it to him.
9 THE COURT: So he basically was evasive in
10 questioning?
11 MR. HAIGLER: That's correct.
12 THE COURT: Yes, sir?
13 MR. POTTER: Judge, the incident -- I wasn't
14 given any notice with regards to this interview that was
15 created by the officers except for what was in the
16 incident report. And Detective Simpson's version of the
17 event indicates they gave him a Mountain Dew to drink.
18 They advised him that he was there -- why he was there
19 and that they wanted to ask him some questions regarding
20 the death of his friend Claud Scott. Defendant admitted
21 coming into the residence and seeing his friend Claud
22 Scott lying on the living area and somebody had beaten
23 him. Kennedy stated that he did not hit Scott. And when
24 he had seen him, he ran out the door and ran to Highway
25 28 By-pass. Kennedy advises that he had never seen

1 Kimberly there, and he did not talk to anyone when he
2 left. When I advised Mr. Kennedy that we had a witness
3 that had seen him get into the victim's blue car and
4 leave, we had the video at Bi-Lo on South Main Street
5 where the person who left the vehicle, changed his mind
6 and said he did take the victim's car and leave and he
7 parked in the parking lot at Bi-Lo and ran away from
8 there. But he also said he did talk to Kimberly when he
9 took the car. That's in essence, I think, the statement.
10 THE COURT: And that's basically what you want
11 to get in, what he just said?
12 MR. HAIGLER: Yes, sir, Your Honor.
13 THE COURT: And what's your objection to it?
14 MR. POTTER: Well, Judge, obviously we want to
15 make sure that Miranda was complied with. I don't
16 necessarily see it coming in under the exception. It's
17 not an admission against interest.
18 THE COURT: It doesn't appear to be an
19 admission against interest. That's what I was confused
20 by. I assumed you had a written statement. I don't know
21 how you would get it in.
22 MR. HAIGLER: I think arguably it is a
23 statement against interest. He does admit to being at
24 the scene. And he's backtracking and lied. The
25 admission in itself is a statement against interest. It

1 shows that he's not being forthcoming with law
2 enforcement.
3 MR. POTTER: I don't necessarily think he was
4 lying. He just didn't mention the fact that he took the
5 car and he saw this lady. But it's not a situation where
6 he said he hit this gentleman or anything like that. He
7 denies specifically that he did.
8 THE COURT: All right. Well, here's what the
9 rules say. This is why I wanted to make sure. It says
10 that, a statement tending to expose the declarant to
11 criminal liability -- here's the problem -- and offered
12 to exculpate the accused is not admissible unless
13 corroborating circumstances clearly indicate the
14 trustworthiness of the statement. And I couldn't
15 remember whether it was and or or. Yeah, I don't think
16 that comes in. I mean, I think they can testify about
17 their questioning. I don't think they can say anything
18 that he said unless -- for the purposes of what I have
19 now, I wouldn't go there. I think that's a problem. I
20 mean, they can say he was evasive. I mean, their -- they
21 can testify as to their observations of him.
22 MR. HAIGLER: Right.
23 THE COURT: But I think you get into trouble
24 when they start testifying about what he said, assuming
25 he doesn't testify. Okay? All right. So I guess I'm

1 giving you a partial on it. Don't let them testify about
2 what he said. It'll change if he testifies.
3 MR. POTTER: I understand if the door's opened
4 down the line that it may come in.
5 THE COURT: Yeah.
6 MR. POTTER: So we will deal with that issue if
7 it comes up. But my concern is that I get to open the
8 door.
9 THE COURT: I wouldn't anybody open the door.
10 Once it's opened, everybody runs in including the cats
11 and the dogs and everybody else. But I mean, for the
12 purposes of them -- it's not really a statement, I guess,
13 is what I'm telling you. So don't get into what he told
14 them unless the door's opened. And I think it's because
15 of 804(b)(3) that it doesn't meet those requirements. I
16 mean, it's trustworthy, but it doesn't exculpate him.
17 Okay. What else we got to deal with?
18 MS. HUEY: We need to do a Neil Biggers
19 hearing, Your Honor.
20 THE COURT: Okay.
21 MS. HUEY: Your Honor, the State calls McKindra
22 Bearden.
23 MR. POTTER: Can you hold on just a second?
24 That's -- she's the one who put together the lineup?
25 MS. HUEY: Yes.

1 MR. POTTER: May it please the Court. When we
2 had ---
3 You're going to have Kimberly King testify?
4 MS. HUEY: Yes.
5 MR. POTTER: When we have Ms. King testify, I
6 would ask that my client be set outside the courtroom for
7 her testimony.
8 THE COURT: Who is she, and what's she
9 testifying to?
10 MS. HUEY: She's the eyewitness that saw the
11 Defendant coming out of the victim's trailer.
12 MR. POTTER: And she picked my guy out from a
13 photo lineup.
14 MS. HUEY: And she also knows him, but ---
15 THE COURT: Okay.
16 MR. POTTER: That's fine, but ---
17 THE COURT: All right. So on your motion, he's
18 leaving the courtroom?
19 MR. POTTER: Yes, sir. For her testimony.
20 THE COURT: I got you. As long as it's your
21 motion and he doesn't object to being here and
22 confronting her. Okay.
23 Okay. Well, let's get him out. Can y'all ---
24 MR. POTTER: Judge, may it please the Court?
25 THE COURT: Yeah.

1 MR. POTTER: I think they're going to do the
2 detective who put together the lineup first.
3 THE COURT: Okay.
4 MR. POTTER: And then do her.
5 THE COURT: Okay.
6 MS. HUEY: However we need to do it.
7 How do you want to do it?
8 MR. POTTER: However you want to do it.
9 THE COURT: You do it. Just let me know before
10 this witness comes in he's talking about.
11 MS. HUEY: Yes, sir. I will.
12 Can you get McKindra, please?
13 **MCKINDRA BEARDEN,**
14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
15 IN-CAMERA EXAMINATION
16 BY MS. HUEY:
17 Q. Investigator Bearden, you're at the Sheriff's
18 office, correct?
19 A. Yes.
20 Q. In investigations?
21 A. Yes.
22 Q. And did you become involved in the investigation of
23 a homicide that occurred at [redacted] in Anderson
24 County?
25 A. Yes, ma'am.

1 Q. All right. And in what way?
2 A. The night in question ---
3 Q. Specifically as it relates to the photo display?
4 I'm sorry.
5 A. Huh?
6 Q. Specifically as it relates to the photo display.
7 A. I created the photo lineup, presented it to the
8 witness and had her identify and sign an affidavit.
9 Q. So did you actually conduct the photo display then?
10 A. Yes. I created it and showed it to the witness and
11 signed it.
12 Q. And how many photographs were displayed?
13 A. There were six.
14 Q. And was this Defendant included in that display?
15 A. Yes, he was.
16 Q. Were the other five persons all similar in physical
17 description to the Defendant?
18 A. Yes.
19 Q. In what way?
20 A. The five persons I picked were black males, middle-
21 age, medium to dark complexion, average build, similar
22 haircuts, facial hair, noticeable scars or tattoos.
23 Q. And to whom did you show the display?
24 A. Kimberly King.
25 Q. What date did that take place.

1 A. That took place on the 30th of March, 2012.
2 Q. And do you remember about what time that was?
3 A. It was around nine thirty or ten o'clock that
4 evening.
5 Q. And where were you physically when this display took
6 place.
7 A. We were at [redacted]
8 Q. And were you inside the trailer or were you outside
9 the trailer?
10 A. We were outside in my patrol vehicle.
11 Q. And so this would have been at night already?
12 A. Yes.
13 Q. Okay. And so what is the light like in your patrol
14 vehicle?
15 A. We have aftermarket domes put inside the cars which
16 are very, very bright. And I had that. It's a patrol
17 light dome.
18 Q. And so the patrol car was lit up very well?
19 A. Very much so.
20 Q. And how did you present the display to Ms. King?
21 A. I advised her who I was. I showed her the lineup
22 and asked her if she recognized anyone in the lineup.
23 Q. Did you tell Ms. King that the person she saw at Mr.
24 Scott's home was definitely in the display?
25 A. I did not.

1 Q. Did you lead her to believe that she had to or
2 should pick someone out?
3 A. I did not.
4 Q. Did you exert any pressure on her to pick someone
5 out of that display?
6 A. I did not.
7 Q. Did you in any way influence her as to which
8 photograph to select?
9 A. No.
10 Q. Did she, in fact, select a photograph of a person
11 whom she saw at the crime scene?
12 A. She did. She identified number four and gave the
13 name as John Kennedy.
14 Q. And how certain or confident did she appear to you?
15 A. She went to his picture directly and identified him.
16 Q. Did you ask her to make any marks to indicate her
17 choice?
18 A. Yes. I asked her to circle that number that I
19 placed below the picture and sign right below it.
20 Q. All right. Ms. Bearden, I'm going to show you
21 what's been marked as State's 3 and 2. If you could take
22 a look at both of these items, please.
23 A. Yes.
24 Q. Specifically, as to State's 3, is that the photo
25 display that you showed Ms. King?

1 A. Yes, it is.
2 Q. On March 30th, 2012?
3 A. Yes.
4 Q. And is that display in substantially in the same
5 condition as when you used it and she signed it and you
6 signed it on March 30th, 2012?
7 A. Yes. This is my original signature.
8 Q. And again, will you tell the Judge how Ms. King
9 indicted who she picked out in the display?
10 A. When I showed Ms. King the photo lineup, she
11 identified the person listed number four. She said, that
12 is John Kennedy, the person that she had seen.
13 Q. And then Ms. Bearden, in reference to State's 2
14 which you also have in your hand?
15 A. Uh-huh (affirmative).
16 Q. What is that exhibit?
17 A. This is an Affidavit of Photo Identification that I
18 filled out that evening.
19 Q. Okay. And what's the purpose of that?
20 A. That's just a confirmation of where I was, the date
21 and time, and what picture that she identified as the
22 suspect and her signature and my signature.
23 Q. And again, so both of your signatures are on that
24 form?
25 A. Yes, they are.

1 Q. Okay. And the purpose of that affidavit, what does
2 it summarize?
3 A. This just summarizes the information contained or
4 what was obtained by showing the picture lineup.
5 Q. Okay. And so the affidavit is done in connection
6 with the photo display; is that correct?
7 A. It's always completed with the photo display.
8 MS. HUEY: I have no questions.
9 THE COURT: All right.
10 Yes, sir?
11 IN-CAMERA EXAMINATION
12 BY MR. POTTER:
13 Q. I'm sorry. Is it Investigator?
14 A. Yes.
15 Q. Ma'am, so you put together this photo array. What
16 source did you use? Was it the driver's license or did
17 you use the -- where did you get the pictures from?
18 A. The in-house jail system, Mug Web.
19 Q. Okay. And do you pick the photographs, or does the
20 computer do that for you?
21 A. You do. The way the system works is you put the
22 target name and pick a picture out. If they've been
23 arrested multiple times or even one time, then it will
24 pick the matching person's the same parameter. Then you
25 physically go through and choose. Because sometimes the

1 computer will put stuff in there incorrect. You'll have
2 a white female in the white males.
3 MR. POTTER: May I approach?
4 THE COURT: Sure.
5 Q. The photo array itself, may I take a look at it?
6 I'm sorry. My copy's a little dark. And this is the
7 actual photo array you used?
8 A. Yes.
9 Q. And you indicated when you testified earlier that
10 the men you chose for this photo array, you were looking
11 for similar haircuts; is that correct?
12 A. Similar, short, dark hair.
13 Q. Do you need to look at this again?
14 A. I've got it.
15 Q. Okay. I'm sorry. So you're looking for -- I'm
16 sorry. Say that again.
17 A. Similar, short hair.
18 Q. Short hair?
19 A. As opposed to dreds or long hair or Afros.
20 Q. Were you looking for anything else in particular?
21 A. Facial hair, same approximate build. You don't want
22 exactly the same, but you want similar.
23 Q. And you met with Ms. King in the patrol car; is that
24 correct?
25 A. Yes.

1 Q. Or your vehicle?
2 A. Yes.
3 Q. All right. And this was about nine-thirty or ten
4 o'clock at night?
5 A. Yes.
6 Q. Sitting in the front seat with you?
7 A. Yes.
8 Q. All right. And was this -- did you have to create
9 this at the Sheriff's office, or did you create it in
10 your vehicle?
11 A. I created it at the Sheriff's office.
12 Q. Okay. And then you drove to the scene?
13 A. Yes.
14 Q. Okay. Now, when you showed her this array, you
15 explained to her that you were going to show Ms. King a
16 photo array of the suspect in this case; is that correct?
17 A. No. I just asked her to identify the person that
18 she had seen earlier that evening.
19 Q. Okay. And those were the words you used? Please
20 identify the person that you saw earlier this evening?
21 A. I am paraphrasing because that's been two years.
22 MR. POTTER: Nothing further.
23 THE COURT: Okay. Anything else?
24 IN-CAMERA EXAMINATION
25 BY MS. HUEY:

1 Q. Ms. Bearden, but you never suggested that the person
2 that was in the photo lineup definitely was at the scene;
3 is that correct?
4 MR. POTTER: Judge, I'm going to object to
5 that.
6 THE COURT: Sustained. You can step down. I
7 understand.
8 Okay. Is your next witness the one we need to ...
9 MS. HUEY: Yes, sir, Your Honor.
10 THE COURT: Y'all approach a minute. Let me
11 ask you something.
12 (WHEREUPON, a bench conference was held off the
13 record during which the Defendant was removed from
14 the courtroom.)
15 THE COURT: Okay.
16 MS. HUEY: The State calls Kimberly King.
17 (WHEREUPON, the witness was duly sworn.)
18 THE COURT: All right. While she's coming to
19 the witness stand, just for the record, the Defendant's
20 out of the room in the hallway and can't be seen or see
21 the witness.
22 Yes, ma'am?
23 **KIMBERLY KING,**
24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
25 IN-CAMERA EXAMINATION

1 BY MS. HUEY:

2 Q. Ms. King, have you ever testified in court before?

3 A. No, ma'am.

4 Q. Have you ever been a victim or a witness to a crime

5 before other than this incident?

6 A. No, ma'am.

7 Q. How far did you go in school?

8 A. Ninth grade.

9 Q. Do you work right now?

10 A. Yes, ma'am.

11 Q. And where are you working?

12 A. The Cafe on Main Street in Jonesville, South

13 Carolina.

14 Q. Okay. Is that like as a waitress?

15 A. I cook.

16 Q. A cook?

17 A. Uh-huh (affirmative).

18 Q. Okay. What were you doing -- drawing your attention

19 to March 30th of 2012, just after five-thirty, what were

20 you doing before checking on Mr. Scott that day?

21 A. Laying down on the couch. And I went outside on the

22 porch just really -- just nothing really that day.

23 Q. And where do you live in relation to Mr. Scott? At

24 that time, where did you live?

25 A. To the right side.

1 Q. Of his trailer?
2 A. Yes, ma'am.
3 Q. Okay. So obviously close and within walking
4 distance?
5 A. Uh-huh (affirmative).
6 Q. So was it dark yet when you went to check on him?
7 A. No, ma'am.
8 Q. Was anyone else with you when you went to check on
9 him?
10 A. No, ma'am.
11 Q. Describe the trailer that Mr. Scott was living in at
12 the time.
13 A. It has a white door with a big tree in the front
14 yard, like a beige-tan color. There was a few cars in
15 the front, a camper out to the back.
16 Q. And how would you typically go to check on Mr.
17 Scott?
18 A. At least once a day.
19 Q. You would go once a day?
20 A. At least once a day. Sometimes two or three times a
21 day.
22 Q. And how would you enter his trailer typically?
23 A. Usually, the door would be open. But if not, the
24 door was always unlocked until it got dark. And I would
25 just walk in.

1 Q. All right. So when you went to check on him on this
2 particular day, who, if anyone, did you see when you got
3 to the trailer?
4 A. I saw no one when I first got there. I knocked on
5 the door. The door was locked.
6 Q. Okay. And then who, if anyone, did you see?
7 A. John came around the trailer after I knocked a
8 couple of times.
9 Q. Okay. And when you say John, do you know John's
10 full name?
11 A. John Fitzgerald Kennedy. He called himself J.F.K.
12 Q. He called himself J.F.K.?
13 A. Uh-huh (affirmative).
14 Q. All right. And was he black or white?
15 A. Black.
16 Q. And where exactly did he come from?
17 A. From behind the trailer.
18 Q. And did he say anything to you?
19 A. At first, I said, where's Schaffer? He said, he's
20 sleeping. He don't want to be bothered. I said, well, I
21 don't care. He's been sick today, and I want to go in
22 anyway. And I said, is the back door open? He said, no,
23 it's locked. So he then went back around the back. I
24 followed him. The door was actually unlocked. He locked
25 it so I couldn't get in. And he had the car key in his

1 hand.
2 Q. And what about his physical appearance? What did he
3 look like?
4 A. He was real sweaty and looked like he was out of
5 breath.
6 Q. And so how long do you think you talked to him?
7 A. Maybe a minute, maybe two minutes at the most.
8 Q. And how close were you to him when you were talking
9 to him?
10 A. About ten feet.
11 Q. And then did you see where he went when he left?
12 A. He backed up. He got into the blue, I guess a Ford
13 -- I know it was a Ford, like Escort or Concord maybe.
14 Light blue. He got into the car, backed up, pulled out
15 of the yard and went to the right towards the bottom of
16 the hill.
17 Q. So did you -- were you able to get a good look at
18 him though?
19 A. Yes.
20 Q. And I see that you wear glasses. Were you wearing
21 glasses on this particular day?
22 A. Yes, ma'am.
23 Q. And were you taking any kind of drugs, prescription
24 or otherwise?
25 A. No, ma'am.

1 Q. Under the influence of alcohol or anything along
2 those lines?
3 A. No. I was pregnant at the time. No.
4 Q. Okay. And what was your -- how far along were you?
5 A. Eight months.
6 Q. Now, you said that you saw J.F.K. or John F.
7 Kennedy. How long had you known Mr. Kennedy?
8 A. Not long at all. I just knowed (phonic) him.
9 Q. Okay. How did you know him?
10 A. Just from being around the neighborhood.
11 Q. And what, if anything, was he doing with -- you
12 called him Schaffer.
13 A. Uh-huh (affirmative).
14 Q. That's Claud Scott's nickname, correct?
15 A. Uh-huh (affirmative).
16 Q. What was Mr. Kennedy doing with Schaffer?
17 A. He had ---
18 Q. Was he staying there?
19 A. He was staying in the back in the camper.
20 Apparently, his mother had kicked him out because she'd
21 [sic] been stealing or something.
22 Q. But he'd been staying with Schaffer for a little
23 while?
24 A. Uh-huh (affirmative).
25 Q. And for how long do you think that was?

1 A. A week or two weeks.
2 Q. And again, you would check on Schaffer every day at
3 least once a day?
4 A. Yeah, at least once a day.
5 Q. And so would you see John F. Kennedy at that time?
6 MR. POTTER: May it please the Court? Judge,
7 can I approach with the Solicitor, please?
8 THE COURT: Yeah.
9 (WHEREUPON, a bench conference was held off the
10 record.)
11 Q. So backing up, Ms. King, how many times do you think
12 you had seen him over at Schaffer's or otherwise?
13 A. Six or seven times.
14 Q. Did you, yourself, have any kind of contact with him
15 over that time frame?
16 A. Not really. I mean, I'd seen him over there a few
17 times, but not really as far as associating with, no,
18 because I was scared of him. And he came over to my
19 house one night. It was like eleven o'clock at night.
20 Came over there and asked to take a shower after he knew
21 that my roommate was gone.
22 Q. So he had come to where you were staying and asked
23 to take a shower?
24 A. Uh-huh (affirmative).
25 Q. And it was just the two of you at that time?

1 A. Uh-huh (affirmative).
2 Q. And was that during the same time frame as he was
3 staying with Schaffer?
4 A. Uh-huh (affirmative).
5 Q. In the camper behind Schaffer's trailer?
6 A. Uh-huh (affirmative).
7 THE COURT: Ma'am, if you would, say yes or no
8 just so she can understand you.
9 THE WITNESS: Okay.
10 A. Yes, ma'am.
11 Q. So once you got in to check on Schaffer, what was
12 Schaffer's condition at that point?
13 A. He was very badly beaten up, and he fell back on the
14 floor after he opened up the door.
15 Q. And so once you saw that, what was your next step?
16 A. Called 9-1-1.
17 Q. Okay. And when you called 9-1-1, did you give the
18 9-1-1 dispatcher a name of who had been at Schaffer's
19 trailer?
20 A. Yes.
21 Q. And whose name did you give?
22 A. John Fitzgerald Kennedy and called himself J.F.K.
23 Q. And now, did you also then give a written statement
24 to Investigator Ashley regarding ---
25 A. Yes, I did.

1 Q. --- seeing J.F.K.?
2 A. Yes, I did.
3 Q. And then were you shown a photo display ---
4 A. Yes.
5 Q. --- by Investigator Bearden?
6 A. Yes.
7 Q. I'm going to show you what's been marked as State's
8 3. If you can take a look at that. Do you recognize
9 that photo display?
10 A. Yes, ma'am.
11 Q. And how are you able to recognize it?
12 A. I pointed out number four and circled it and signed
13 it when she showed it to me.
14 Q. Okay. And so when you say she, you met with the
15 investigator to do this?
16 A. Yeah.
17 Q. Okay. And where did that take place?
18 A. In her vehicle in front of Schaffer's house.
19 Q. Did she ever tell you that one of the persons in the
20 display was definitely who you saw at Schaffer's house?
21 A. No.
22 Q. Were you led to believe that you should pick someone
23 out, that you had to pick someone out of that display?
24 A. No.
25 Q. Did she ever suggest a photo for you to select at

1 all?
2 A. No.
3 Q. And did she influence your decision at all?
4 A. No.
5 Q. So when you were shown that photo display, did you
6 see the person whom you saw at Mr. Scott's trailer,
7 Schaffer's, on March 30th of 2012 after five thirty p.m.?
8 A. Yes.
9 Q. Okay. And who did you pick from that display?
10 A. Number four, John Kennedy.
11 Q. Did you hesitate at all in picking that out?
12 A. No.
13 Q. And once you picked Mr. Kennedy out of that display,
14 what did you then do to indicate you had picked him out?
15 A. I circled the number.
16 Q. And is your signature also on that form?
17 A. Yes.
18 Q. So is that display in substantially the same
19 condition as when you last saw it?
20 A. Yes, it is.
21 Q. And then I'm also going to show you what's been
22 marked as State's 2. Do you recognize that exhibit?
23 A. Yes, ma'am.
24 Q. Okay. And is your signature on that exhibit?
25 A. Yes, it is.

1 Q. What, if anything, does that signature indicate?
2 A. That I saw him in the house and that he left in the
3 car before I found him.
4 Q. And when you say he, who are you referring to?
5 A. John.
6 Q. John F. Kennedy?
7 A. Uh-huh (affirmative).
8 MS. HUEY: That's all I have of this witness.
9 THE COURT: Yes, sir?
10 IN-CAMERA EXAMINATION
11 BY MR. POTTER:
12 Q. Ms. King, who was your roommate at this point in
13 time?
14 A. Ron Cleary.
15 Q. Okay. So if you're looking at Schaffer's house,
16 y'all's house was to the left, correct? If you're
17 looking at it from this roadway, if you're looking at
18 Schaffer's house, your house is to the left or to the
19 right?
20 A. To the left. Like facing from the road?
21 Q. When you're standing on the road facing Schaffer's
22 house?
23 A. Yeah, it's to the left.
24 Q. All right. You're not there anymore; is that right?
25 A. No.

1 Q. Now, how long have you lived there?
2 A. I lived there off-and-on for about fifteen years.
3 Q. And how are you related to Schaffer? Are you
4 related to him in any way?
5 A. He's my step-grandfather. He was married to my
6 grandmother.
7 Q. And you said you checked on him about once a day at
8 least?
9 A. At least once a day.
10 Q. And why do you check on him once a day?
11 A. Because he was elderly and he'd been sick.
12 Q. Okay. Had he been sick that day?
13 A. Uh-huh (affirmative).
14 Q. I'm sorry. You need to say yes.
15 A. Yes. Yes, sir. I'm sorry.
16 Q. All right. Now, you came to the trailer. Did you
17 go to the front door and knock on the front door or check
18 the front door before you saw Mr. Kennedy?
19 A. Yes, I did.
20 Q. Okay. And it was locked?
21 A. Yes, it was.
22 Q. Okay. At what point -- when did you see Mr.
23 Kennedy?
24 A. After I knocked a couple of times, he came from
25 behind the trailer.

1 Q. Okay. Did he come from your side of the trailer
2 side, or did he come from the other side?
3 A. My trailer side.
4 Q. All right. And what was he wearing?
5 A. I don't remember exactly what he was wearing, but I
6 know he didn't have a shirt on because he was real, real
7 sweaty.
8 Q. I didn't understand you. Can you say that again?
9 A. I said I don't remember exactly what he was wearing,
10 but I do know he was really sweaty. His face was pouring
11 sweat.
12 Q. Okay. But you don't remember what color shirt he
13 had on?
14 A. No, I don't remember exactly what he had on.
15 Q. Do you remember if he had any long pants on or short
16 pants on or anything basically?
17 A. No, I don't remember.
18 Q. Okay. But the one thing you do remember is him
19 being real sweaty?
20 A. Yes.
21 Q. And really out of breath?
22 A. Yes.
23 Q. Okay. Nothing else unique that you saw about him?
24 A. No.
25 Q. Now, when you met with Investigator Bearden in her

1 car?

2 A. Uh-huh (affirmative).

3 Q. And she showed you the photo lineup?

4 A. Uh-huh (affirmative).

5 Q. And she handed it to you -- and was it dark out or

6 was it light out?

7 A. It was dark.

8 Q. Okay. And she had the lights on in her car?

9 A. Uh-huh (affirmative).

10 Q. Okay. And when she handed it to you she said,

11 identify the suspect you saw earlier this evening; is

12 that correct?

13 A. Yes.

14 MR. POTTER: Nothing further.

15 THE COURT: Anything else?

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

17 THE COURT: All right.

18 Thank you, ma'am. You can step down. If you would,

19 just go outside the courtroom.

20 THE WITNESS: Yes, sir.

21 THE COURT: Richard?

22 (Off record discussion)

23 THE COURT: All right. When he comes back in,

24 Richard is going to let the jury go to smoke or whatever

25 they need to do for ten minutes.

1 Okay. You can bring him back in.
2 Is that all the witnesses?
3 MS. HUEY: For the Neil Biggers, yes, sir, Your
4 Honor.
5 (WHEREUPON, the Defendant returned to the open
6 court.)
7 THE COURT: Okay. Anything I need to hear in
8 this regard?
9 MR. POTTER: May it please the Court?
10 THE COURT: Yes, sir.
11 MR. POTTER: Judge, the purpose of a Neil v.
12 Biggers hearing, I'm sure you understand, is to determine
13 whether there was any suggestiveness or undue influence
14 given to the witness when she identified the subject. I
15 think what's telling is that the witness wasn't told --
16 the witness was told specifically, identify the subject
17 you saw earlier this evening and handed that photo array
18 of six people. There was no indication that the suspect
19 may not be in that photo array. So our position is that
20 she was unduly influenced in the sense that she was in
21 essence told, the subject's in this lineup, and not given
22 -- and not told the suspect may be in this lineup, he may
23 not be in this lineup, words to those effect. As a
24 result, it comes across as being unduly suggestive in
25 regards to identifying my client.

1 THE COURT: Yes, ma'am?

2 MS. HUEY: Your Honor, first of all, the

3 witness in this case knew John F. Kennedy. She had known

4 him, saw him six or seven times at least, knew him from

5 the neighborhood. I think there's conflicting testimony

6 about what was said when she was handed the display.

7 Regardless, she picked out the display without

8 hesitation. Both persons testified that, in terms of

9 Investigator Bearden, that she did not suggest who she

10 should pick out of the display. She didn't say that she

11 had to pick someone out of the display. And then

12 certainly Ms. King testified that she was not coerced

13 into picking someone out or unduly influenced in picking

14 someone out of the display.

15 MR. POTTER: Just briefly in rebuttal, Judge.

16 Specifically, what Investigator Bearden said is identify

17 the suspect you saw earlier this evening. And that is

18 unduly influencing this witness by saying, the person you

19 saw earlier this evening is in this photo array. And

20 that is unduly suggestive, Judge. What she needs to say

21 is, I'm going to show you a lineup of pictures. There

22 may be somebody in there that you know; there may not be

23 somebody in there you know. Do not feel as if you have

24 to pick anybody out. Not, identify the suspect. That's

25 -- it's just one step away from a show up, Judge.

1 THE COURT: All right. Well, I don't think
2 it's unduly suggestive. But assuming that it was, under
3 the second prong of Biggers, I think that in the totality
4 of the circumstances, she had the opportunity to view the
5 perpetrator. She had a good view of him. She knew him.
6 And the temporal relationship between her identifying him
7 and the crime is fairly short. So even if it was unduly
8 suggestive, I think under the second prong it's
9 admissible.
10 Okay.
11 MR. POTTER: Thank you, Judge.
12 THE COURT: What else do we have, dying
13 declaration?
14 MS. HUEY: Yes, sir, Your Honor. Just briefly,
15 do you want me to summarize what the witnesses are going
16 to say?
17 THE COURT: Yeah.
18 MR. POTTER: Judge ---
19 (WHEREUPON, Mr. Potter and Ms. Huey conferred off
20 the record.)
21 THE COURT: He was in the hospital?
22 MS. HUEY: Well, Your Honor, there's several.
23 First of all, while Ms. King is on the phone with 9-1-1,
24 a neighbor, Dave Evans, comes over to help with the
25 victim until the ambulance arrives. He asks Mr. Scott,

1 who did this to you? And Mr. Scott, while he was laying
2 there bloody, barely conscious, says, a black guy named
3 John. He is transported to the hospital. During that
4 time frame, Investigator Bearden and also Deputy Brandon
5 Dunn were separately in the hospital room with the
6 victim. And the victim tells Investigator Bearden that
7 John did this to him. And then Deputy Dunn overhears the
8 victim telling medical personnel that, again, John did
9 this to him. And then Investigator Simpson, who is the
10 lead on this case, Your Honor, was notified that the
11 Defendant -- excuse me -- the victim was in poor shape
12 and was told to rush over to the hospital. He did so.
13 He was able to get a recording of the victim saying that,
14 again, it was John who did it to him. And he gave a few
15 more details than that, and that is recorded. So if we
16 need to proffer testimony, I would call the neighbor,
17 David Evans, two other law enforcement personnel as well
18 as Investigator Simpson.
19 THE COURT: But would you agree that all the
20 non-recorded statements were made to individuals ---
21 MS. HUEY: Under the stress of impending death.
22 THE COURT: --- prior to death under the stress
23 of impending death, and that in each one he said John did
24 this to me?
25 MS. HUEY: Yes, sir, in so many words.

1 THE COURT: Do you need any proffer testimony
2 assuming that's what the statements are going to be?
3 MR. POTTER: Well, I guess what I need to know
4 is if we're going to proceed under excited utterance or
5 dying declaration.
6 THE COURT: Which one?
7 MS. HUEY: Am I ---
8 MR. POTTER: I think there needs to be some
9 foundation. I think there needs to be some sort of
10 foundation established before that statement can even be
11 admitted to the jury.
12 THE COURT: Well, now, I'm assuming that he
13 died ---
14 MS. HUEY: He did, Judge.
15 THE COURT: How long did he live?
16 MS. HUEY: He died around seven a.m. the
17 following morning. So this incident occurred five
18 thirty, five forty, and then he died the following
19 morning.
20 THE COURT: Well, it seems to me that's pretty
21 much the definition of a statement given impending death.
22 I mean, I think it meets those requirements.
23 MR. POTTER: Well, in all due candor, Judge, I
24 was provided a case related to this particular incident.
25 The facts are relatively similar. I guess my position

1 is, is that in order for it to come in under dying
2 declaration, there has to be some knowledge or some sort
3 of knowledge that he's fixing to die. You know, the old
4 law school question, I'm fixing to die, John did it. You
5 know, it's -- and I think it's something that needs to be
6 proffered and ---
7 THE COURT: Well, the declarant has to believe
8 that he's dying.
9 MR. POTTER: Exactly. Now, that case that was
10 provided, the declarant did not specifically say, I know
11 I'm going to die or anything of that sort.
12 THE COURT: Right.
13 MR. POTTER: It was a kind of the totality of
14 the circumstances, if I read it correctly, where it could
15 be in essence, I guess, inferred that she knew she was
16 going to die or she was in dire straits, for lack of a
17 better phrase, and it was admitted.
18 THE COURT: He was in the hospital?
19 MR. POTTER: There was one statement made at
20 the scene to a neighbor before the E.M.S. arrived.
21 THE COURT: Okay.
22 MR. POTTER: And then there was two to three
23 statements made from the hospital.
24 THE COURT: But ---
25 MS. HUEY: And my position, Judge, is that

1 either ---

2 THE COURT: --- he had grave injuries, and he

3 never got better?

4 MS. HUEY: Correct. And I believe, Your Honor,

5 Mr. Potter's referring to State v. McHoney, 344 S.C. 85.

6 And in this particular case, it wasn't that the declarant

7 had to know that he was dying or utter that he was dying.

8 It was that you could infer it from the facts and

9 circumstances around it.

10 THE COURT: Right.

11 MS. HUEY: Surrounding it.

12 THE COURT: I would probably allow all that in,

13 quite frankly, at this point. Why don't we -- I mean,

14 I'll proffer anything or I'll take it up at the time when

15 it gets ready to come in. That might be the best way to

16 do it. That way the foundation's laid for each

17 individual thing.

18 MR. POTTER: I would be fine either way, Judge.

19 THE COURT: Yeah. Let's do it that way. When

20 it gets ready -- when you get ready to ask that question

21 -- I'm going to tell you now, something's going to have

22 to show up that I don't know to not allow it to be

23 introduced. I think it's the definition of a dying

24 declaration. But if something -- if there's testimony

25 that somebody told him he was going to do great and we'll

1 let you out tomorrow morning, that's different. And that
2 may come up during the testimony of the trial. So I
3 guess what I would ask you is before you ask that
4 question, assuming somebody doesn't blurt it out, just
5 let me know. And then we'll go off the record.
6 MS. HUEY: Okay. So then if that's the case,
7 we need to stay away from it in opening?
8 MR. POTTER: Until Your Honor's made a ruling
9 on it.
10 THE COURT: Well, that's what I'm saying. I
11 mean, I'm going to let it in unless something comes up.
12 I -- you know, assume -- you know, that's the way it is
13 with any kind of testimony. I can't imagine it not being
14 -- anything he said after the beating during a short
15 period of time, while he was under the stress of that
16 medical condition, I would think would be the definition
17 of a dying declaration. So I think you're okay with it.
18 Assuming there's not some information I don't know. And
19 again, I'm sort of stating the obvious. That could
20 happen with anything.
21 MR. POTTER: The only concern I have, Judge, is
22 sometimes you think you know what a witness is going to
23 say.
24 THE COURT: Oh, yeah.
25 MR. POTTER: And suddenly ---

1 THE COURT: That's the risk.

2 MR. POTTER: You know, my concern is that

3 proper foundation has been laid to get to the point where

4 it comes in under the rules, if at all, according to that

5 particular case. And ...

6 THE COURT: I mean, there's a risk that

7 something's going to change. That would be with any

8 testimony. I think you're okay to refer to any of that.

9 I can't imagine something coming up that -- unless you

10 have some information that somebody told him he's getting

11 better.

12 MS. HUEY: No, sir.

13 THE COURT: Okay. Under the circumstances you

14 set forth, I would let all that in, if that helps you.

15 But just for the purposes of the record, let's deal with

16 it as each of them come up since they're basically the

17 same thing except for the recording. And then, just to

18 protect the record, we'll do it each time.

19 MR. POTTER: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. POTTER: Judge, can I have -- I'm really on

22 the fence in regards to whether we need to proffer the

23 testimony before we begin. And I think I know where

24 we're headed. However, in an abundance of caution, I

25 think we need to go ahead and just proffer limited

1 testimony. Not everything, so to speak, but at least
2 limited testimony to get into the foundation.
3 MS. HUEY: I can call each witness and ask two
4 questions, I mean, to lay the foundation.
5 THE COURT: Okay. Let's do that quick. I'm
6 just a little concerned they've been sitting back there.
7 Okay. Go ahead.
8 MS. HUEY: Your Honor, the State would call
9 David Evans.
10 **DAVID EVANS,**
11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
12 IN-CAMERA EXAMINATION
13 BY MS. HUEY:
14 Q. Mr. Evans, I'm going to focus this testimony to when
15 you went over to check on Schaffer after he had been
16 assaulted. Okay? So when you got to his trailer and you
17 knelt down next to Schaffer, what, if anything, did --
18 let me back up. First of all, can you please tell the
19 Court what Schaffer's condition was at the time when you
20 went to check on him?
21 A. He was awake. He was bleeding very bad. He was
22 hurting really bad. As I said, he was covered in blood.
23 Q. He was covered in blood? And was he laying down or
24 sitting up?
25 A. Yeah, he was laying -- he was in the floor.

1 Q. He was in the floor. Okay. And so while he was in
2 this condition, did you try to talk to him?
3 A. Yes, I talked to him.
4 Q. Okay. And what, if anything, did you ask him?
5 A. I asked him was he okay. I asked him what happened.
6 And he said John, a black guy, hit me.
7 Q. And were you able to talk with him more, or was that
8 basically all he could tell you?
9 A. I was just -- actually, I was just trying to keep
10 him awake until somebody got there.
11 Q. You were trying to keep him awake?
12 A. Uh-huh (affirmative).
13 Q. So was he in and out of ---
14 A. Yeah, he was in and out.
15 MS. HUEY: That's all I have for this witness,
16 Judge.
17 THE COURT: Okay. Any questions?
18 IN-CAMERA EXAMINATION
19 BY MR. POTTER:
20 Q. Mr. Evans, when you saw Mr. Scott, was he inside the
21 trailer or was he outside the trailer?
22 A. He was inside.
23 Q. Okay. And the reason you came over, is my
24 understanding, you saw Ms. Kimberly King being upset; is
25 that correct?

1 A. My wife seen her upset. My wife told me.
2 Q. Okay. And you live across the street?
3 A. Yes, sir.
4 Q. All right. And you came over. And did Mr. Schaffer
5 Scott say anything else apart from responding to your
6 question, what happened? Apart -- I guess that's not a
7 fair question. Did he say anything else besides John, a
8 black guy, hit me?
9 A. No, uh-uh (negative).
10 Q. And he said that in response to your question?
11 A. Uh-huh (affirmative).
12 Q. Did you say anything to him besides ask him what
13 happened?
14 A. No. I just asked him what happened.
15 Q. How were you keeping him awake?
16 A. Do what now?
17 Q. How were you keeping him awake? You indicated you
18 were trying to keep him awake.
19 A. I was talking to him.
20 Q. Okay. What were you saying to him?
21 A. I kept saying, Shaffer, are you okay? I said,
22 Shaffer, stay awake. I said, we got help on the way.
23 MR. POTTER: Nothing further.
24 THE COURT: Okay. You can step down. Thank
25 you.

1 MS. HUEY: Your Honor, the State calls Brandon
2 Dunn.
3 **BRANDON DUNN,**
4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
5 IN-CAMERA EXAMINATION
6 BY MS. HUEY:
7 Q. All right. Mr Dunn, you previously worked for the
8 Sheriff's office?
9 A. Yes.
10 Q. All right. And you were working as a deputy on
11 March 30th of 2012?
12 A. Yes, I was.
13 Q. And did you have occasion to respond to AnMed
14 Hospital in reference to the victim in this case, Claud
15 Schaffer Scott?
16 A. That's correct.
17 Q. And when you got to the hospital and got to Mr.
18 Scott's room, what, if anything, did you observe?
19 A. I observed the E.R. crew in there working with him.
20 When the E.M.S. people brought him in, he had bandages on
21 covering his wounds. While I was there in the room with
22 him as they were taking the bandages off, I was snapping
23 photos of his injuries. The E.R. personnel were talking
24 to him and asked him, who did this or did they know who
25 did this or what happened to him? And during their

1 questioning him while they were taking care of him, I
2 overheard him say, John did this.
3 Q. John did this?
4 A. John, uh-huh (affirmative).
5 Q. And you were in earshot of all of this? You could
6 hear the victim telling this to medical personnel?
7 A. Yes. I was in the same room with him.
8 Q. And this was not in response to any questioning you
9 had for him?
10 A. I never asked him a single question.
11 Q. And what else did you notice while they were working
12 on him?
13 A. Just the extent of his injuries.
14 MS. HUEY: That's all I have for this witness.
15 THE COURT: Any questions?
16 IN-CAMERA EXAMINATION
17 BY MR. POTTER:
18 Q. Mr. Dunn, you arrived to the emergency room after
19 Mr. Schaffer Scott was there; is that correct?
20 A. Yes, sir. Just a few minutes before. I'm sorry.
21 It was a few minutes after he got there, I arrived.
22 Q. Okay. So after he got there from the E.M.S., you
23 rolled in?
24 A. Yes, sir.
25 Q. And your job at that point in time was to take

1 pictures; is that correct?
2 A. I was told to stand by there with him and take any
3 pictures if there were any to be taken, yes, sir.
4 Q. All right. And he was brought into a room, was
5 being worked on by the E.R. doctors, E.R. nurses and they
6 were asking him questions; is that correct?
7 A. Yes, sir.
8 Q. And that's when you heard him say, John did it?
9 A. Yes, sir.
10 MR. POTTER: Nothing further.
11 MS. HUEY: May he be excused?
12 THE COURT: Yes, sir. You can be excused.
13 Thank you.
14 MS. HUEY: And Your Honor, the State calls
15 Investigator Bearden to the stand.
16 THE COURT: You're still under oath. Thank
17 you.
18 **MCKINDRA BEARDEN,**
19 BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:
20 IN-CAMERA EXAMINATION
21 BY MS. HUEY:
22 Q. Investigator Bearden, did you have an occasion to
23 respond to AnMed Hospital on March 30th of 2012 in
24 reference to the victim in this case?
25 A. Yes, I did.

1 Q. And what was the purpose of you going to the
2 hospital?
3 A. When the call originally came in, they transported
4 the victim to the hospital. Myself and Stan Ashley,
5 Detective Ashley, were both on call. He went to the
6 incident location; I went to the hospital to meet with
7 the victim.
8 Q. And were you able to meet with the victim?
9 A. Yes, I was.
10 Q. Okay. Would you please tell the Court what
11 condition the victim was in when you saw him?
12 A. When I first got there, he had just gotten -- he had
13 arrived a couple of minutes before I got there in an
14 ambulance. So he had -- they had took him into the
15 trauma room. I followed the officers, the EMTs, into the
16 trauma room and was trying to speak with the victim as
17 they were getting set up, taking blood pressure and doing
18 the initial admissions.
19 Q. And what was the victim's condition at that point as
20 far as you could tell?
21 A. He could talk. He had a lot of gauze and stuff
22 around his head. He was bloody all over. They had an
23 oxygen mask over his face.
24 Q. And were medical personnel still working on him
25 while you were talking with him?

1 A. Yes, they were.
2 Q. And while he was in this condition, what, if
3 anything, did he say to you?
4 A. I asked him, I said, Mr. Scott, I'm Detective
5 Bearden with Anderson County Sheriff's Office. I
6 introduced myself and told him who I was. And I asked
7 him who had done this to him. And he replied -- and I
8 thought he said Josh. And I said, Josh. He said, no,
9 John. At that point in time, they had taken the gauze
10 off of his head, and that's when he coded.
11 Q. You said he coded?
12 A. Every alarm in there starting going off. The nurses
13 started yelling. When they took the rag off of his head,
14 it was exposed really badly, and all of his stats
15 dropped. And that's when they told us all to leave.
16 MS. HUEY: That's all I have for this witness,
17 Judge.
18 THE COURT: Yes, sir. Anything?
19 IN-CAMERA EXAMINATION
20 BY MR. POTTER:
21 Q. Investigator, was Mr. Dunn in the room at the same
22 time you were?
23 A. Mr. ---
24 Q. Deputy Dunn who testified earlier, was he in the
25 room with you when this statement was made?

1 A. I don't know.

2 Q. Did you have a chance to speak with Deputy Dunn

3 before you went and spoke to -- did you talk to anybody

4 before you talked to him?

5 A. There was a lot going on. And I'm sure I talked to

6 him at some point. I don't know if it was before or

7 after, but we were all in the room together.

8 MR. POTTER: Nothing further.

9 THE COURT: Okay. You can step down.

10 MS. HUEY: And then, Your Honor, one last

11 witness, Investigator Simpson.

12 THE COURT: Yes, sir. You're still under oath.

13 **BRENT SIMPSON,**

14 BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

15 IN-CAMERA EXAMINATION

16 BY MS. HUEY:

17 Q. Investigator Simpson, you were the lead investigator

18 in this particular case; is that correct?

19 A. That's correct.

20 Q. All right. And did you respond to AnMed on March

21 30th of 2012?

22 A. I did.

23 Q. And what was the purpose of that?

24 A. I had been contacted by Sergeant Chris Bussey that

25 Mr. Scott had been severely beaten about the head. And

1 when I responded, I did notice at that point in time
2 there was a nurse in the room. And that was the only
3 person there. She walked out. I walked in. At that
4 point in time, I started talking to Mr. Scott. He was --
5 I wouldn't say very alert at that point. So I waited a
6 few minutes and started talking to him and asked him, who
7 did this to you. At that point in time, he said, John.
8 Q. All right. So backing up, we've heard a lot of
9 testimony about his condition. What condition did you
10 note?
11 A. He did have a bandage partially around his head, but
12 he also had a lot of gashes in the top of his head. A
13 lot of them you could actually, you could almost see down
14 to his skull, several of those. His ear was split open.
15 A lot of bleeding.
16 Q. And so he was able to tell you that John did this to
17 him?
18 A. Yes.
19 Q. And now, were you able to record that?
20 A. I did. Using my cell phone -- that was the only
21 thing I had at that point in time. I hit the record on
22 it and presented myself, told him who I was and started
23 asking him what happened to him.
24 Q. And now, was the entire conversation with Mr. Scott
25 recorded then, or did you ask him some questions first

1 and then record?

2 A. No. Everything was recorded.

3 Q. And then once you -- once he finished talking, what,

4 if anything, happened then?

5 A. Once he finished talking, he kind of went out of

6 consciousness and never said anything else.

7 MS. HUEY: And Your Honor, we do have a

8 recording. It's not very long if you need to listen to

9 it.

10 THE COURT: I don't unless you do.

11 MR. POTTER: I mean, Judge, the only issue is

12 whether -- it's not the statement itself, the foundation

13 related to whether the statement is admitted or not. But

14 I think that's the issue before the Court right now.

15 THE COURT: Yeah. I don't need to listen to it

16 for foundation.

17 Yes, sir. Do you have any questions.

18 IN-CAMERA EXAMINATION

19 BY MR. POTTER:

20 Q. Investigator, did you have a chance to speak with

21 the nurse before she left?

22 A. No, I didn't.

23 Q. Okay. Did she say anything spontaneously before you

24 went in?

25 A. Not that I recall. She just walked out of the room,

1 and I walked in.

2 Q. Thank you. No other attending physicians or

3 anything else, just you and Mr. Scott, correct?

4 A. At that point, yes.

5 Q. All right. Now, was he in a separate room, or was

6 he in a bay?

7 A. He was in a bed.

8 Q. Okay. My question wasn't clear. Was he in like --

9 was he in the emergency department? Was he in like a bay

10 where he was easily accessible to the doctors, or was he

11 in a separate room by himself?

12 A. I don't understand what you're asking. Was he ---

13 Q. Was he in a room by himself?

14 A. I believe he was.

15 MR. POTTER: Nothing further.

16 THE COURT: Okay. You can step down.

17 MS. HUEY: That's all we have, Judge.

18 THE COURT: Okay. All right. As I said, I

19 don't see any reason why any of that two groups don't

20 come in as dying declaration, but you're protected for

21 the record with your objection to it.

22 MR. POTTER: May it please the Court?

23 THE COURT: Uh-huh (affirmative).

24 MR. POTTER: Judge, just so, as we move on,

25 when that testimony comes up, I will be objecting to it

1 to reserve those issues.

2 THE COURT: All right. That's fine.

3 Okay. Y'all want to take a ten-minute break and

4 we'll come back in and I'll charge them and start?

5 We do have the one juror that has to be in

6 Greenville at what time?

7 THE CLERK: It says five forty-five.

8 THE COURT: Okay. I mean, you want me to just

9 do my charge today, or do you want to go ahead and do

10 your opening? Are your openings long?

11 MR. POTTER: Judge, my concern is that if we do

12 opening, and then there's this long break before we start

13 the meat of the case, so to speak. And so ---

14 THE COURT: Why don't I do my charge ---

15 MR. POTTER: My preference would be opening and

16 have at it.

17 THE COURT: All right. Well, we'll do my

18 charge and give them some reason to come back, and then

19 we'll swear them in and we'll start tomorrow. We've got

20 to start at ten and that's just going to be -- I hate it.

21 I mean, that's my normal time anyway, but not for this

22 reason. I have to get dressed in the morning.

23 Let's take ten minutes and then we'll come back and

24 I'll do this.

25 MR. POTTER: Thank you very much.

1 (WHEREUPON, court stood at recess for a short
2 break.)
3 THE CLERK: Do we swear in today?
4 THE COURT: Actually, I'm going to swear them
5 in tomorrow. Nothing good can happen if I swear them in
6 today. I'll do my thing and then swear them in the
7 morning. No, never mine. Can't do that. I'm trying to
8 figure a way to not swear them in, but I'm going to go
9 ahead and swear them.
10 Okay. Y'all ready?
11 MS. HUEY: Yes, sir.
12 MR. POTTER: Yes, Your Honor.
13 THE COURT: Okay. I'll just explain to them we
14 got stuck, and we know we've got one member of the jury
15 that has a birthday and we're not going to push that. It
16 would be close. Because they've got to be in Greenville,
17 right? Okay.
18 Okay. You can bring them in.
19 (WHEREUPON, the jury entered the open court at
20 approximately 4:35 p.m.)
21 THE COURT: Ladies and gentlemen, I appreciate
22 your patience. Obviously, it's taken longer this
23 afternoon than we expected, and I'll explain a little bit
24 about that in a minute about the timing and who's
25 responsible for you having to sit back there.

1 What we're going to do this afternoon -- again, we
2 went much longer than any of us expected. But it was
3 required and mandatory, and it's my fault that y'all sat.
4 I had the choice of making you come back at four or in
5 the morning. I thought I could push it a little bit. I
6 pushed it as hard as I can, and that was as quick a I
7 could get it done.
8 Rather than make you sit and listen to a lot of
9 testimony today -- I know we have a birthday today. And
10 we've got a dinner in Greenville. I'm cognizant of that,
11 and everybody else is. So we're going to swear you in.
12 I'm going to tell you about this case and tell you about
13 your role and my role and give you my opening charge, and
14 then we'll dismiss you for the day. We'll do the
15 lawyers' opening statements in the morning at ten.
16 The other option is for me to give you the opening
17 charge, which only takes ten or fifteen minutes, and then
18 start with the lawyers opening statements. The problem
19 with that is, we're not going to get out of here before
20 five fifteen or so, and that would push anybody going to
21 Greenville.
22 Again, I'll tell you a little bit about the timing,
23 but I'll take the blame for the fact y'all sat back
24 there, and I apologize for it. I really do.
25 Okay. We'll swear you in, and then I'll tell you

1 about the case.

2 THE CLERK: If I could have you stand and raise

3 your right hand.

4 (WHEREUPON, the jury was duly sworn.)

5 PRELIMINARY CHARGE

6 BY THE COURT:

7 All right. Ladies and gentlemen, we're about to

8 begin today, and get substantially into the case

9 tomorrow, the State versus John Fitzgerald Kennedy. I

10 want to tell you two things.

11 First, I told the whole group earlier that I'm

12 reading from and will be reading from, in a few seconds,

13 an indictment. This is the indictment. You'll have it

14 with you when you begin your deliberations. You need to

15 be very aware of the fact that an indictment is literally

16 just a piece of paper that starts a case. It is the

17 process by which this whole court system begins. It has

18 no bearing on the guilt or innocence of the Defendant.

19 An indictment is issued every time there's a criminal

20 charge.

21 The Defendant in this case has pled not guilty. The

22 best way to think of it -- and it's an old way to think

23 of it. But the Defendant has about his shoulders a robe

24 of innocence or righteousness. That presumption of

25 innocence is very important. And if you think of it as a

1 robe, it's about his shoulders. It remains about his
2 shoulders. He wears it as he sits here today. And it
3 will only be removed from him if you begin your
4 deliberations and in your deliberations and find that he
5 is guilty beyond a reasonable doubt. Up until the point
6 that you find him guilty, he has that robe of
7 righteousness or that presumption of innocence about his
8 shoulders.
9 And the fact that there's been an indictment should
10 never be discussed by you. People hear the word
11 indictment and think many things. This is it. Nothing
12 mysterious about it. It's just a piece of paper.
13 Now, the indictment does set forth the allegations
14 of the State. And I'll tell you that the State is
15 alleging that John Fitzgerald Kennedy did in Anderson
16 County on or about March 30th, 2012, unlawfully and with
17 malice aforethought kill Claud Schaffer Scott by means of
18 blunt force trauma and that Claud Schaffer Scott died as
19 a proximate result thereof. That's the statutory
20 language and that sets forth the cause of murder. But
21 please never discuss the fact that he's been indicted.
22 And always remember that he has the presumption of
23 innocence about him now and will have that presumption.
24 That presumption of innocence, that phrase is thrown
25 around a lot. You hear it oftentimes on television, and

1 nobody understands it. It is a substantial right that we
2 have in this country under the state and the federal
3 Constitution. It's not something that should be taken
4 lightly. It is a very important and fundamental right
5 that we all have. And again, he will remain innocent
6 until you strip him of that innocence after you've heard
7 the testimony in this case.
8 Now, ladies and gentlemen, that leads me into the
9 first thing that I always tell every juror. Judges in
10 this state have begun to be a little bit concerned --
11 excuse me -- have grown to be concerned about the
12 influence of television. I've watched jurors now for
13 almost thirteen years. And I can tell you that if you
14 watch cases involving lawyers and judges and police
15 officers, you're going to be very disappointed if you
16 think this is going to be similar.
17 This case will not be finished in one hour with
18 twenty-two minutes worth of commercials. There's not
19 going to be an awful lot of excitement. Nobody's going
20 to yell. There won't be a whole lot of screaming unless
21 I do it. And it will not be something that you're used
22 to watching in a television or a movie.
23 The reason I tell you that is I've watched jurors
24 become frustrated over the last five or six years because
25 they've grown so accustomed to their perception of the

1 way things work.

2 This room and this process that we're beginning and
3 that you're partaking in is a very important and serious
4 process. This courtroom is a place of honor. We're here
5 to seek the truth. And that may sometimes require us to
6 go slower than you expect or want. It will require you
7 sometimes to sit in the back like you've done all
8 afternoon -- you got your first lesson on that -- while
9 we seek the truth in here outside your presence. So
10 understand that this is going to be a slower process than
11 you may like and it's going to be more time consuming
12 than you may want. I tell you that only just to warn
13 you, if you think you're in for something exciting, it's
14 probably not going to be.

15 And that leads me also to tell you that if you sit
16 back there more than you like, please blame me. I have
17 two real functions here. I'm the judge of the law. I'll
18 tell you about that in a minute. And I also am supposed
19 to control the timing and the schedule. And if you sit
20 back there, don't get mad at the lawyers. Get mad at me
21 because it's my problem.

22 Now, ladies and gentlemen, in a trial such as this,
23 you and I have very different roles. You're the judge of
24 the facts. You have to determine what the facts are in
25 this case. You do that by listening to testimony from

1 the witness stand. There are going to be documents and
2 pieces of evidence that are introduced. You'll have all
3 those with you when you begin your deliberations. But
4 you have to determine what the facts are in this case.
5 At no time should you think that I believe or
6 disbelieve a fact. In fact, if I think that something's
7 true, you should disregard it. If you think that I think
8 something's false, you should disregard it. My opinion
9 about the facts in this case means nothing. You are the
10 sole judge of the facts in this case.
11 I'm the judge of law. I'll have to determine during
12 the course of the trial what the law is based upon
13 objections that are made. And also during the course of
14 the trial, my law clerk and I will be preparing a final
15 charge on the law.
16 And after you've heard all the testimony in this
17 case, I will actually read to you the law in the case.
18 And you will take the law as I give it to you and apply
19 it to the facts as you determine them to be and reach
20 your verdict.
21 Now, you can't assume the law is something or
22 presume that the law is something. You have to take the
23 law as I give it to you and apply it to the facts. And
24 likewise, I'm not going to try to influence you, or no
25 one else will try to influence you, on what the facts

1 are.

2 Our roles never cross. I will always be the judge

3 of the law, and you will always be the judge of the

4 facts. And the only time those two roles cross is when

5 you take the law as I give it to you and apply it to the

6 facts and reach a verdict.

7 If I raise my voice, if I turn red, if you think I'm

8 angry or disbelieve a witness or don't -- or believe that

9 a witness is telling the truth, disregard it. It means

10 nothing. What I think means nothing about the facts,

11 only about the law.

12 Now, tomorrow morning we'll begin with the opening

13 statements from the parties' attorneys, or the attorneys

14 for the parties. The opening statements will not be

15 evidence, and I'll remind you of that tomorrow morning.

16 But it's an opportunity for the lawyers to tell you a

17 little bit about the case and tell you what they expect

18 to present.

19 Immediately after -- excuse me -- the opening

20 statements, we'll begin the testimony from the witnesses

21 in this case. And one of the main jobs that you have is

22 determining the credibility of the witnesses. And

23 credibility under the law in South Carolina simply means

24 believability. You have to determine whether or not you

25 believe the witnesses in this case.

1 Now, you can believe everything that a witness tells
2 you tomorrow, or you can believe nothing that they tell
3 you. You can take a portion of what a witness testifies
4 to, believe that, and disregard the remainder. You alone
5 individually have to determine whether or not you believe
6 the witnesses in this case. And that will be one of the
7 main jobs that you have, determining the credibility of
8 the witnesses as they testify.
9 I urge you to watch the demeanor of the witnesses.
10 Watch how they testify. You have to determine whether or
11 not witnesses could have seen what they say they saw.
12 And you have to also determine if witnesses have any
13 motive that might not be obvious to the other parties in
14 the courtroom. But you have to determine basically
15 whether or not they're credible.
16 After you've heard the testimony of the parties or
17 testimony of the witnesses, we'll have the closing
18 arguments, and then I'll charge you on the law. And then
19 we'll give this case to you for deliberations.
20 The State in this case has the burden of proving
21 each and every element of the crime of murder beyond a
22 reasonable doubt. Now, at the end of this case, I will
23 give you a much longer definition of proof beyond a
24 reasonable doubt. But the best way I know to tell you is
25 that beyond a reasonable doubt means that proof that

1 leaves you firmly convinced of the Defendant's guilt. I
2 know that's a little bit vague, but the State must prove
3 their case beyond a reasonable doubt. Not every doubt
4 but a reasonable doubt. And again, at the end of this
5 case, I'll read you a very long definition of reasonable
6 doubt that I think will either make it more clear or less
7 clear. I hope more clear.
8 Now, during the course of this trial, lawyers may
9 make objections. If a lawyer's going to make an
10 objection, they're going to stand up and say they object
11 and state the objection. Almost every time they do that,
12 I have to send you out of the courtroom. I promise you
13 that unless this is very extraordinary, there are going
14 to be times when you're going to be sent out of the
15 courtroom, sit back there for ten minutes, come back in
16 here, sit for two minutes and go back out for ten
17 minutes. That is the way it flows. The reason we do
18 that, we're not trying to hide anything from you. But
19 obviously, I have to make a determination while you're
20 out as to whether or not testimony or evidence is
21 admissible or not. And if it's admissible, you'll hear
22 it. If not, you won't.
23 I can tell you that after thirteen years every ten-
24 minute break turns into a twenty-minute break. And there
25 are sometimes good reasons, sometimes there aren't.

1 Please understand that we are not sending you back there
2 and going to make phone calls. We're working through
3 this case until we finish. And if you do sit back there
4 longer, there's a reason for it.
5 After all the testimony's been given, after you've
6 finished your deliberations and reached a verdict,
7 whatever it may be, I'll come back there and talk to you
8 off the record. And that'll be an opportunity for me to
9 tell you a little bit more about what's going outside
10 your presence. Don't worry about that now. You will
11 hear everything you need to hear.
12 I told you this morning, please don't go home and
13 look on the Internet about this case or look up
14 newspapers or call somebody that you know. I'm ordering
15 you and asking you not to look on the Internet, not to
16 look at any television recordings, not to read anything
17 in the paper or any other material and not to listen on
18 the radio to anything about this case. I don't know if
19 there's going to be any publicity about it. If there is,
20 please don't listen to it.
21 I hurt a very good reporter, I hurt her feelings a
22 couple of years ago when I said this, but it's true.
23 Almost everything you hear outside the courtroom is
24 false. I mean, there's some shred of truth to it. But
25 nothing good can come of you looking up more information

1 than you're going to hear in this courtroom. I will tell
2 you that if it comes to my attention that you have done
3 that -- and it usually does -- I'll have to deal with it.
4 There was a juror in Charleston that went to jail for
5 looking up some information on the Internet. It's a very
6 serious thing because, as I told you this morning, you're
7 going to know more about this case than anybody in the
8 world by the time you finish. And if you happen to go
9 outside this courtroom for information, I'll have to deal
10 with it. Please don't make me do that. I don't want to
11 do it. And the whole point of this morning, all those
12 questions, was to come up with twelve people plus an
13 alternate who promise that they would listen to the
14 testimony and render a verdict. That was the point of
15 all those questions. Can you render a verdict even
16 though you have this information? We're trying to find
17 twelve people and an alternate who will listen and render
18 a verdict based only on the testimony that they hear in
19 this case.
20 Now, Mr. Foreman, your only job at this point during
21 the course of the trial is communication with me. If you
22 have a problem or an issue while you're back there in the
23 jury room, Mr. Foreman, write that issue or problem out
24 on a piece of paper, sign your name, knock on the door
25 and give it to Buck. Buck will bring it to me. If I can

1 answer a question during the course of the trial or deal
2 with an issue, I will. If the law prevents me, I'll
3 bring you in here and tell you I can't deal with it or
4 can't answer.
5 There can be no notes during the course of the
6 trial. I know a lot of people want to take notes. You
7 can't do that. The reason is that I believe that people
8 who take notes sometimes can convince other people that
9 the notes are more true than a person's memory. And so I
10 don't allow notes in my courtroom.
11 The last thing I'll tell you is sort of the first
12 thing I told you this morning. Don't begin your
13 deliberations or discussions of this case until it's all
14 finished. For obvious reasons you shouldn't begin
15 talking about this case until you've heard both sides.
16 And you will only hear both sides once all the testimony
17 has been introduced and the closing arguments have been
18 made. For the same reason that you don't go talk to
19 other people outside the courtroom, you shouldn't talk to
20 each other about this case. This case, the State versus
21 John Fitzgerald Kennedy should never be discussed in that
22 jury room until I tell you to begin your deliberations.
23 You can do anything else that you want, but don't discuss
24 the case.
25 Now, tomorrow morning we're going to start at ten.

1 Again, I'm really sorry about this afternoon. It just
2 took us longer than we expected. We've been in here
3 working pretty solid. And I don't think that -- I'm sure
4 that won't happen again because we've taken care of most
5 of the matters that are going to come up during the
6 course of the trial that we would normally need to send
7 you out. So we've sort of anticipated problems and taken
8 care of them.
9 Now, if you have any contact, if somebody contacts
10 you about your jury service, as I told you, please let
11 Buck or Richard or I know tomorrow. Again, that's not
12 going to happen. But in the event that somebody contacts
13 you about your jury service, I want to know because I'll
14 take care of that real quick.
15 I'm obviously not in the best mood this week. It
16 would be a good time for me to sling somebody in jail for
17 messing with you. They're not going to do that. You're
18 not going to hear from anybody. Okay.
19 Any objections to what I've said or additions now?
20 MS. HUEY: Nothing from the State?
21 MR. POTTER: No, Your Honor.
22 THE COURT: Okay.
23 All right. I've rambled long enough. I will see
24 y'all at ten tomorrow. Again, don't discuss the case.
25 If you've got a problem, let your Foreman know and he'll

1 let me know. And I hope you have a good birthday. See
2 you tomorrow morning.
3 (WHEREUPON, the jury exited the open court at
4 approximately 4:54 p.m.)
5 THE COURT: Okay. Anything we need to do this
6 afternoon before we finish up?
7 MS. HUEY: No, sir.
8 MR. POTTER: We're good, Judge.
9 THE COURT: Do you -- how many witnesses do you
10 really truly believe you're going to call?
11 MS. HUEY: I believe I've whittled it down to
12 eighteen.
13 THE COURT: Okay.
14 MS. HUEY: Ish.
15 THE COURT: Ish. That's what I thought. Okay.
16 And there's nothing else we need to do? I mean, y'all
17 have talked with your clients and parties, and we're as
18 far as long as we can get right now, right?
19 MS. HUEY: Yes, sir.
20 MR. POTTER: Yes, sir.
21 MS. HUEY: Now, for planning purposes we're
22 going to start at ten?
23 THE COURT: Yeah. And I may tell them we're
24 going to go a little later in the afternoon. And
25 Wednesday, I'm rescheduling this because they're not

1 going to do anything substantial, just look at it. So we
2 won't have to leave at eleven.
3 MS. HUEY: Okay.
4 THE COURT: All right. I'll see you in the
5 morning. I'll be here early.
6 MS. HUEY: Thank you, Judge.
7 MR. POTTER: Thank you, Judge.
8 THE COURT: Thank you.
9 (WHEREUPON, court stood at recess for the day at
10 approximately 4:55 p.m.)
11 **December 3, 2013**
12 (WHEREUPON, State's Exhibit Numbers 4, 5, 6, 8, 12,
13 13-A through B, 14, 15, and 16 were marked for
14 identification only.)
15 (WHEREUPON, court convened with all parties present
16 and the following proceedings were had commencing at
17 approximately 10:29 a.m.)
18 THE COURT: I've gotten a note from the jury.
19 "Dear sir, juror number 46 has pre-op on the 16th of this
20 month and surgery on the 20th." Congratulations to them.
21 All right. I'll be in a murder trial in McCormick on the
22 16th. So I guess they're just -- well, I'm not sure what
23 that is, but I'll explain to them that we're going to
24 finish this week.
25 (WHEREUPON, Court's Exhibit Number 3 was marked for

1 identification only.)

2 THE COURT: Okay. Are we ready?

3 MS. HUEY: Yes, sir.

4 MR. POTTER: May it please the Court?

5 THE COURT: Yes, sir.

6 MR. POTTER: Judge, I've spoken with Katherine

7 in regards to some issues. She intends to call the --

8 use the 9-1-1 tape in her case-in-chief. I've got some

9 issues with that 9-1-1 tape. And I don't know if you

10 want to take that up now or if you want to take it up at

11 that point in time.

12 THE COURT: We'll take it up at that point in

13 time. Let's go ahead and we'll -- are you going to do

14 that first?

15 MS. HUEY: Your Honor, I would seek to

16 introduce it after the second witness is done testifying.

17 THE COURT: Okay.

18 MS. HUEY: So I'll lay the foundation with the

19 first and second witnesses.

20 THE COURT: I've got to take a break at ten

21 till twelve anyway. So that'll be a good time.

22 Okay. You can bring them in.

23 (WHEREUPON, the jury entered the open court at

24 approximately 9:29 a.m.)

25 THE COURT: All right. Good morning, Mr.

1 Foreman and ladies and gentlemen. Let me take up two
2 quick things. First, I got your note and that's exactly
3 the way you communicate with me about the problems on the
4 16th and the 20th. We will be finished with this case
5 this week, so that won't be a problem. But that's
6 exactly the way you should communicate with me.
7 We're going to begin this morning with the opening
8 statements from the attorneys representing the State and
9 the Defendant. I want to remind you one last time that
10 these opening statements are not evidence. They're just
11 an opportunity for the attorneys to tell you a little bit
12 about their case and what they intend to prove. The only
13 evidence you'll hear in this courtroom will come from the
14 witness stand. If you have a problem during the day,
15 just let me know.
16 All right. Yes, ma'am? Yes, sir?
17 MR. HAIGLER: May it please the Court, Your
18 Honor?
19 THE COURT: Yes, sir.
20 OPENING STATEMENT
21 BY MR. HAIGLER:
22 Ladies and gentlemen, on March the 30th, 2012,
23 seventy-six-year-old -- I'm sorry. I get a little
24 thirsty when I'm here and talking. Seventy-six-year-old
25 Claud Schaffer Scott was -- who everybody here refers to

1 Schaffer -- was brutally beaten and left for dead in his
2 own home at [redacted] here in Anderson County. His
3 attacker, John Kennedy, did not have to break into his
4 home that day because he knew that the door would be
5 unlocked. He knew this because for two weeks prior to
6 this attack he was living in a camper behind the victim's
7 trailer. Schaffer was letting him live in this camper
8 and work for him while he was trying to find a better
9 place to live. Schaffer was in the business of buying
10 and selling used cars. And because of this, the
11 Defendant knew that at times he would have a good amount
12 of cash on him.
13 March 30th, 2012 was one of those times. And while
14 Schaffer laid asleep in his recliner, John Kennedy walked
15 into his home and brutally attacked him with a skillet.
16 And when he was satisfied with the job that he'd done on
17 Schaffer, he grabbed a set of his car keys and fled the
18 scene. But not before Kimberly King saw him leaving the
19 residence, noticed that he was sweating profusely and
20 acting weird. So this let her know that something might
21 be wrong.
22 Furthermore, the Defendant did not realize that
23 Schaffer was not quite dead. And while he laid on his
24 floor with his jaws fractured, his dentures busted out of
25 his mouth, and his head split open, he was still able to

1 tell his neighbor, John beat me. And while he laid in
2 his hospital bed, he was able to tell not one, but three
3 police officers, John beat me.
4 Ladies and gentlemen, John's sitting right over
5 there at the Defense table. And throughout this trial,
6 we're going to prove that he is not only guilty of
7 brutally beating Schaffer, but that this attack resulted
8 in his death.
9 Now, each of you has been selected to determine
10 whether there is evidence beyond a reasonable doubt the
11 Defendant, John Kennedy, is responsible for the murder of
12 Claud Schaffer Scott. In order to prove this, we're
13 going to present evidence, most of which will be in the
14 form of testimony right here from the witness stand.
15 You're going to hear from the victim's neighbors, people
16 who interacted and had transactions with him, police
17 officers, SLED agents, and Dr. Woodard who performed the
18 autopsy and will tell you that the victim died of blunt
19 force trauma. And even the victim himself who was
20 recorded just hours before he died.
21 Now, when you're listening to this evidence and
22 hearing the testimony, it's important for you to keep the
23 elements of this crime in the back of your mind. As the
24 Judge told you yesterday, murder is the killing of a
25 person with malice aforethought. Malice can be defined

1 as the wrongful intent to injure another. And it
2 indicates a wicked or depraved heart intent on doing
3 wrong. In other words, it is the wrongful, evil intent
4 to take human life with no legal justification.
5 Aforethought simply means that malice must accompany the
6 act of the killing. And this evil, wicked intent does
7 not have to be formed any significant amount of time
8 before the killing. It could actually be conceived at
9 the very moment of the blow. Now, the Judge is going to
10 tell you about the elements and everything much later in
11 greater detail than I am.
12 We just want to thank you for your time and presence
13 here on this jury. We know it's not something that you
14 are excited to do, but we couldn't do it without you.
15 And this is a very important case for Schaffer Scott and
16 his family. Thank you.
17 THE COURT: Thank you.
18 Yes, sir?
19 MR. POTTER: May it please the Court.
20 THE COURT: Yes, sir.
21 OPENING STATEMENT
22 BY MR. POTTER:
23 Today the government is going to present a case to
24 you based solely upon circumstance, assumptions, and
25 speculation. Circumstance, assumption, and speculation

1 that resulted in a rush to judgment that John was guilty.
2 No one's going to come up onto the stand and sit -- swear
3 on the Bible and point at John and say, I saw John hit
4 Schaffer Scott. No one's going to say that, not one
5 witness. Instead, what the government's going to try to
6 do is create a picture by way of a puzzle. They're going
7 to use evidence and circumstances and assumptions and
8 speculation and try to put this puzzle together for y'all
9 to see. And this puzzle, ladies and gentlemen, is going
10 to be missing pieces and it's going to have ill fitting
11 pieces. And it not's going to give the complete picture
12 of who resulted -- or who killed Schaffer Scott.
13 The evidence is going to show that Mr. Schaffer
14 Scott was asleep in his house all alone when he was
15 assaulted. And he told investigator Simpson that fact.
16 Schaffer doesn't know who assaulted him. When someone is
17 asleep, sound asleep in their lounge, how do we know he
18 even came conscious after the first blow? Was he even
19 conscious after the first blow, or did that first blow
20 knock him out? Is he making an assumption of who
21 assaulted him. If he is not knocked out and rendered
22 unconscious after that first blow or the second blow, how
23 was he able to see who his attacker is? His natural
24 instinct is to protect himself because he's getting hit
25 in the head. His arms, his hands are going to be

1 blocking any chance to see who is attacking him.

2 Schaffer doesn't know who attacked him. Schaffer

3 doesn't know. He assumes it was John because John more

4 than likely was probably the last person he saw before he

5 decided to take his nap because they had been together

6 all day. And John lives with him.

7 The problem here is this. Once the investigators

8 heard John's name, the investigation started with eyes

9 wide open that slowly became blinded, focused solely on

10 John. A flawed investigation.

11 Why is it flawed? Evidence is going to show that

12 John was at the incident site and was seen by a witness

13 by the name of Kimberly King. And she'll testify. He

14 was not inside the house. She found him outside the

15 house. He was sweating and he was nervous, but he didn't

16 have any blood on him. And that's significant because

17 Schaffer was beat pretty darn hard. There's blood

18 splatter on the walls. There's blood on the lounge that

19 he was sleeping on. There's blood on the floor. There's

20 blood everywhere at the scene. But his attacker, alleged

21 attacker, didn't have any blood on him? That's a red

22 flag for an investigator. Maybe Schaffer didn't know who

23 it was that attacked him. Maybe Schaffer was mistaken.

24 I need to make sure I follow up on this.

25 Other issues. John left the scene in a car that he

1 took that was owned by Schaffer. That vehicle was
2 recovered almost within the next hour. No blood was
3 found in that car. None. How can an attacker who
4 brutally assaulted somebody with a frying pan, blood all
5 over the scene, not have blood on himself and not able to
6 transfer blood into the car using the steering wheel,
7 using the gear shift? He should have had blood on his
8 hands. Easily would have transferred that. Didn't.
9 Another red flag.
10 There was another person living with Schaffer. She
11 lived on and off. She had a boyfriend next door by the
12 name of Ron Curry. She would come live with Schaffer
13 whenever she and Ron got into an argument. Occasionally,
14 I think he would beat her, and she would come and
15 Schaffer would take her in.
16 Julie or Julia Moore knew that Schaffer was selling
17 a car that day.
18 MS. HUEY: Objection, Your Honor. May I
19 approach?
20 THE COURT: Yes, ma'am.
21 (WHEREUPON, a bench conference was held off the
22 record.)
23 OPENING STATEMENT
24 CONTINUED BY MR. POTTER:
25 Ms. Julia Moore lived with the Defendant [sic].

1 Through the investigation she was interviewed one time by
2 one investigator. We had two investigators working on
3 this case. One investigator interviewed her, not two.
4 Evidence or what they discerned through that
5 investigation determined she could not account for her
6 whereabouts from one o'clock that afternoon until one
7 thirty the following morning. And she was with Ron
8 Curry.
9 She was a resident. She had lived with Schaffer
10 Scott. She was driving a car that was owned by Schaffer
11 Scott. She and Ron were found the next day in that car.
12 And the investigators did not search that car. The
13 investigators did not interview them immediately. We
14 don't know what those individuals know or didn't know
15 about this case. We don't know if there was any evidence
16 available in that car that could have pointed towards
17 guilt of John or not John. We don't know that.
18 MS. HUEY: Objection, again, Your Honor.
19 MR. POTTER: Can I not talk about a flawed
20 investigation?
21 THE COURT: Y'all come here. Come up here a
22 second.
23 (WHEREUPON, a bench conference was held off the
24 record.)
25 THE COURT: Ladies and gentlemen, I'm going to

1 send you back to the jury room for just a second. Please
2 don't discuss the case.
3 (WHEREUPON, the jury exited the open court at
4 approximately 10:42 a.m.)
5 THE COURT: Okay. What's your objection?
6 MS. HUEY: Your Honor, my objection is that the
7 defense is going to third-party guilt.
8 MR. POTTER: Judge, may I respond?
9 THE COURT: Sure.
10 MR. POTTER: I've got a right to present any
11 type of defense on my client's behalf. Second of all,
12 I'm not pointing a finger at anybody. I am offering
13 evidence that it's a flawed investigation, that they
14 didn't search that car. There could have been evidence
15 that maybe exonerated him or could have convicted him.
16 And that's what I said to the jury. I am not pointing
17 the finger at anybody. I'm pointing the finger at the
18 investigators for not doing their job. And that's part
19 of our defense, Judge.
20 THE COURT: Well, you're coming pretty close.
21 You said that they were found in the car the next day. I
22 mean, you understand the problem with third-party guilt?
23 MR. POTTER: Judge, with all due respect, I
24 think I have a right to present a defense.
25 THE COURT: Well, you do.

1 MR. POTTER: And if you give me a moment, I
2 think I have a case that deals with this issue.
3 THE COURT: Sure.
4 MR. POTTER: State v. Holmes. It's a recent
5 case, 2006, as well as State v. Cope is what I'm going to
6 rely on. I've got an ultimate right to present a
7 defense. And part of -- I mean, Judge, part of any
8 defense is going to involve, I didn't do it, someone else
9 did. Every defense is based upon that.
10 THE COURT: Yes, ma'am?
11 MS. HUEY: But not a specific person, Your
12 Honor.
13 MR. POTTER: And I haven't said a specific
14 person.
15 THE COURT: All right. Be careful. You're
16 getting real close.
17 MR. POTTER: I understand that, Judge, but ---
18 THE COURT: I mean, you've got -- listen, let
19 me just -- here's why I sent the jury back. Y'all have
20 got to let me talk, and don't interrupt me. That's just
21 the rule. I hate it.
22 It's the way it is. I'm sorry. You're coming
23 close. Just don't go there. I mean, he can skate close
24 to the edge. He just can't go over. And if he does,
25 it's a mistrial.

1 MR. POTTER: May it please the Court?
2 THE COURT: Yes, sir.
3 MR. POTTER: You've got to understand I'm in
4 opening statement. I'm keyed up.
5 THE COURT: I understand. I'm keyed up too.
6 MR. POTTER: And the other issue, I've been
7 objected twice in front of the jury in my opening
8 statements.
9 THE COURT: If it was sort of a supercilious
10 type thing, but you're close. You're right on the edge.
11 As long as you stay on that edge, I don't have a problem
12 with it. But you just can't point to one specific
13 person. Don't do that.
14 MR. POTTER: I'm not going to do that, Judge.
15 THE COURT: Okay. Bring them back in.
16 (WHEREUPON, the jury entered the open court at
17 approximately 10:45 p.m.)
18 THE COURT: All right. You can continue.
19 MR. POTTER: Thank you, Judge. May it please
20 the Court.
21 THE COURT: Yes, sir.
22 OPENING STATEMENT
23 CONTINUED BY MR. POTTER:
24 As I was saying, potential avenues where evidence
25 may or may not have been discovered were not followed

1 through by the State, by the government, by the
2 investigators. A white Cavalier that was owned by
3 Schaffer was not searched. The red flags that point to a
4 situation where Schaffer might have been mistaken in
5 regards to who assault him were not followed through by
6 the government which leads to a flawed investigation,
7 which gets back to the situation where they're presenting
8 a case based upon circumstance, assumption, and
9 speculation. And ladies and gentlemen, that is a
10 dangerous road to go down because testimony and evidence
11 that's based solely upon circumstance, assumption and
12 speculation may and can result in an innocent man being
13 found guilty. Thank you.
14 THE COURT: All right. Yes, ma'am?
15 MS. HUEY: Your Honor, may we call our first
16 witness?
17 THE COURT: Yes, ma'am.
18 MS. HUEY: Your Honor, the State calls Kimberly
19 King.
20 **KIMBERLY KING,**
21 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
22 DIRECT EXAMINATION
23 BY MS. HUEY:
24 Q. Ms. King, how old are you?
25 A. Thirty.

1 Q. Are you currently employed?
2 A. Yes.
3 Q. Where do you work?
4 A. The Cafe in Jonesville.
5 Q. Okay. Where is that? Is that South Carolina?
6 A. South Carolina.
7 Q. Do you have any children?
8 A. Yes.
9 Q. And how old?
10 A. Eighteen months.
11 Q. One girl; is that right?
12 A. A girl, yeah.
13 Q. Now, did you know the victim in this case, Claud
14 Schaffer Scott?
15 A. Yes, I did.
16 Q. And how did you know him?
17 A. He was married to my grandmother years and years
18 ago, but he's been my grandfather ever since I've been a
19 baby.
20 Q. Okay. And so you've been in touch with him over the
21 years then?
22 A. Yes. He lived right next door to my mom.
23 Q. And what did people usually call Mr. Scott?
24 A. Schaffer.
25 Q. Schaffer? Now, when you say you lived nearby, how

1 long did you live close to Mr. Scott?
2 A. Off and on my whole life.
3 Q. Do you know how old he was?
4 A. Seventy-five, seventy-six.
5 Q. Was he working when you knew him?
6 A. No, not like a job-job. He just had like a car
7 business. He sold cars.
8 Q. He would sell cars?
9 A. Yes, ma'am.
10 Q. And how often would you see Schaffer?
11 A. At least once or twice a day I would check on him.
12 Q. And why would you check on him?
13 A. Because sometimes he would be sick, because he was
14 older and he couldn't clean his house and stuff like
15 that. So I would go over there and help him clean and do
16 chores around the house.
17 Q. And what was his health like?
18 A. Not too good.
19 Q. But did he get around?
20 A. Yeah. He could walk and stuff.
21 Q. And was he driving?
22 A. Yeah.
23 Q. Now, around the time of March 30th of 2012, was
24 anyone else staying with Schaffer?
25 A. Yes.

1 Q. And who was staying there?
2 A. Julie Moore was staying inside the trailer with him,
3 and John Kennedy was staying back in the camper behind
4 the house.
5 Q. Okay. And when you say the camper behind the house,
6 like a mobile camper?
7 A. Yeah.
8 Q. And that's where John F. Kennedy was staying?
9 A. Yes, ma'am.
10 Q. And how did you know John F. Kennedy?
11 A. I didn't really know him until he really like moved
12 in. I didn't know him, know him. I seen him around a
13 few times in the neighborhood before he moved over there.
14 But the most I've ever seen him is five or six times.
15 Maybe seven times.
16 Q. And how long was he staying in Schaffer's camper?
17 A. One or two weeks.
18 Q. And so during that one- or two-week period, is that
19 when you would have seen him?
20 A. Yes, ma'am.
21 Q. And how many times did you say?
22 A. About five or six, seven maybe at the most.
23 Q. Okay. And is John F. Kennedy in the courtroom
24 today?
25 A. Yes, ma'am.

1 Q. Could you please point him out to the jury?
2 A. Right there in the middle.
3 MS. HUEY: Your Honor, let the record reflect
4 she's pointing to the Defendant.
5 THE COURT: All right.
6 Q. Now, do you know what, if anything, John F. Kennedy
7 was doing for Schaffer while he was staying there?
8 A. I know sometimes he would work on a car, a car or
9 two every once in a while.
10 Q. And is that some of the cars that Schaffer was
11 selling?
12 A. Yes, ma'am. Before he would sell them, they'd get
13 them ready to be sold.
14 Q. Did you have any one-on-one contact with Mr. Kennedy
15 during that time frame?
16 A. Yeah. One night my roommate had left the house, and
17 I was in the house by myself. I was pregnant at the
18 time. So of course, I was not going to open up my door.
19 He come over. It was like eleven -- I don't remember the
20 exact time. But he came over. It was late. Said, can I
21 take a shower. Which Schaffer wouldn't let him take
22 showers at his house. So ...
23 Q. Okay. And so did you let him in ---
24 A. No.
25 Q. --- to your place?

1 A. No.
2 Q. And you said you were pregnant at the time?
3 A. Yes, ma'am.
4 Q. With your daughter now?
5 A. Uh-huh (affirmative).
6 Q. And so he came and knocked on your door. Was that
7 in the two-week time frame surrounding March 30th of
8 2012?
9 A. Yes, ma'am.
10 Q. It would have been that time frame?
11 A. Yeah.
12 Q. Now, drawing your attention to Friday, March 30th of
13 2012, did you check on Schaffer on that particular day?
14 A. Yeah, I did. Earlier that day and then again when
15 the accident happened.
16 Q. Okay. And earlier that day. Do you remember about
17 what time that was?
18 A. About twelve, one o'clock. Somewhere twelvish,
19 oneish. Somewhere around in there.
20 Q. You went and checked on him?
21 A. Yeah.
22 Q. Okay. And was anyone with Schaffer when you went
23 and checked on him?
24 A. Yeah. Julie was there that day. She was getting
25 ready to leave. She was getting her clothes on. John

1 was in the yard doing something to a car. And Schaffer
2 was in the house. He was real sick that day.
3 Q. You said Schaffer was sick that day?
4 A. Uh-huh (affirmative).
5 Q. And you said J.F.K. was outside; is that correct?
6 A. Yes, ma'am.
7 Q. Now, so that was around -- between twelve and one or
8 so?
9 A. Yes.
10 Q. That you checked on Schaffer first?
11 A. Yes. Yes.
12 Q. All right. And so do you remember what time you
13 checked on him the second time?
14 A. Around -- it was five, five-thirty, sixish,
15 something. I don't remember the exact time.
16 Q. What did you notice when you first went to check on
17 Schaffer at around five-thirty or so?
18 A. The front door was locked. When I got there -- the
19 door's normally either open, or if it's closed it's
20 always unlocked until it gets dark. And of course, it
21 wasn't dark yet. So immediately when I get over there, I
22 twisted the knob to see if I could just walk in. And the
23 door's locked.
24 Q. Okay. Now, when you say open, do you mean ajar?
25 A. Like open wide.

1 Q. Okay. Open wide so air comes in?
2 A. Yes, ma'am.
3 Q. Okay. Or if it was closed, it would be unlocked?
4 A. Yes, ma'am.
5 Q. And so on this particular time when you went to
6 check on him, the door was closed?
7 A. Yeah, and locked.
8 Q. And locked. And so what, if anything, did you think
9 about that?
10 A. That it was weird. So immediately I knocked on the
11 door.
12 Q. And when you were knocking on the door, what, if
13 anything, did you hear or see?
14 A. I didn't hear anything. But John Kennedy came from
15 the back of the house and said, Schaffer is asleep. He
16 don't want to be bothered.
17 Q. Okay. And what did John Kennedy look like when you
18 saw him?
19 A. He was real sweaty and just looked weird.
20 Q. And he was telling you that Schaffer didn't want to
21 be bothered?
22 A. Yes, ma'am.
23 Q. But could you tell where he was coming from?
24 A. From the back of Schaffer's house.
25 Q. From the back of the trailer?

1 A. Yes, ma'am.

2 Q. That Schaffer lived in?

3 A. Yes, ma'am.

4 Q. So what did you then do in response or say in

5 response?

6 A. I said, well, I don't care if he's asleep. I'm

7 still going in anyway. Is the back door locked? He

8 said, no. So he flies back around to the back, so I

9 follow behind him and, of course, the door wasn't locked.

10 He locked it so I couldn't go in.

11 Q. So he locked the back of the trailer so you couldn't

12 go in?

13 A. Yes, ma'am.

14 Q. And so then what did you do?

15 A. I went back around the front and started beating on

16 the door. He had the key to the blue Ford. It was a

17 car, a Ford Escort or Ford Contour. I don't remember

18 exactly which one.

19 Q. One of Schaffer's cars?

20 A. Yes, ma'am.

21 Q. And it was blue?

22 A. Yeah. And he got in the car. He left and went

23 toward the bottom of the hill. And then after that, I

24 started beating on the door. But before he left he said,

25 Kim, come on and go -- get in the car. Go to the store

1 with me. Let's just -- I said, no, I'm not going to
2 leave with you.
3 Q. Okay. So he's trying to get you to get in the car
4 with him?
5 A. Yes.
6 Q. To go to the store?
7 A. Yes.
8 Q. And leave Schaffer?
9 A. Yes.
10 Q. So how close do you think you were to John F.
11 Kennedy ---
12 A. About ten feet.
13 Q. --- during this time frame?
14 A. About ten feet.
15 Q. And you obviously got a good look at him?
16 A. Yes.
17 Q. Well, you're wearing glasses now. Were you wearing
18 glasses then?
19 A. Yes.
20 Q. Once John F. Kennedy took off in the blue car
21 belonging to Schaffer, what did you then do?
22 A. I started beating on the door, and I heard Schaffer
23 say, go away. I don't want to be bothered now. Go away.
24 I said, no, it's me, it's me. It's Kim. Open the door.
25 Open the door. So when he opens the door, then that's

1 when I see that he's beaten really bad and he just falls
2 back in the doorway. And I immediately called 9-1-1.
3 Q. Okay. So he is able to come to the door, he opens
4 the door. And you're on the porch; is that correct?
5 A. Yes, ma'am.
6 Q. And when he opens the door, does he immediately fall
7 backward?
8 A. Yeah.
9 Q. And so you -- did you ever go ---
10 A. He really just crawled to the door. It was like he
11 was on his knees when he got to the door.
12 Q. And did you ever go inside the trailer?
13 A. No, I didn't.
14 Q. Where was he in relation to the trailer? Where was
15 he exactly when he fell?
16 A. At the front door. I mean, like ---
17 Q. Right in the door?
18 A. The doorway like, you know, like a normal doorway.
19 And I mean, he didn't have a screen door or nothing.
20 When the door opens, it's just at the doorway to go into
21 the trailer. He laid from the threshold, I guess you
22 would say, down into his living room.
23 Q. Now, I know you didn't go inside. But could you see
24 into the trailer a little bit?
25 A. Yes.

1 Q. Okay. And what, if anything, did you see when you
2 looked in?
3 A. The furniture was not like it should have been. It
4 was kind of moved. You know, you could see there was a
5 hassle or whatever. There was a frying pan laying next
6 to him. His phone was laying next to him broken, and he
7 was just bloody from head to toe.
8 Q. So your first step then obviously was to call 9-1-1?
9 A. Uh-huh (affirmative).
10 Q. Was Schaffer talking to you?
11 A. Yeah. The only other thing I can remember him
12 saying is he kept calling my name, telling me to call 9-
13 1-1 and not to leave him.
14 Q. Okay. And so what you did, you called 9-1-1?
15 A. Yes, ma'am.
16 Q. Ms. King, I'm going to show you what's been marked
17 as State's 4. Could you take a look at that, please?
18 A. Yes, ma'am.
19 Q. Okay. And do you recognize that exhibit?
20 A. Yes.
21 Q. And how are you able to recognize it?
22 A. It's the 9-1-1 tape.
23 Q. Okay. And are your initials on that exhibit?
24 A. Yes, it is.
25 Q. Okay. Is that the 9-1-1 call you placed on March

1 30th of 2012?
2 A. Yes, it is.
3 Q. Does it fairly and accurately depict the call you
4 made on March 30th, 2012?
5 A. Yes.
6 Q. And in that call, do you tell the 9-1-1 dispatcher
7 that John ---
8 MR. POTTER: Objection, Judge. I think it
9 speaks for itself. She's trying to bolster this witness,
10 not to mention ---
11 THE COURT: Overruled. She can say what she
12 said to the person.
13 Q. And what did you tell the 9-1-1 dispatcher when you
14 called?
15 A. Can you repeat that again because he interrupted
16 you?
17 Q. When you called 9-1-1 on March 30th of 2012, what
18 did you tell the 9-1-1 dispatcher in terms of who had
19 left Schaffer's trailer?
20 A. John Fitzgerald Kennedy and he calls his self J.F.K.
21 Q. Now, Ms. King, while you're on the phone with 9-1-1,
22 who, if anyone else, comes to Shaffer's trailer?
23 A. David. Margaret was outside. David Evans. I think
24 the last name is Evans.
25 Q. Okay.

1 A. He was in the house. His wife was outside, and she
2 asked me was everything okay. I told her, no. I said, I
3 need help. I need help. And David immediately came
4 over.
5 Q. And he is a neighbor of Schaffer's; is that correct?
6 A. Yes. He lives across, directly across in front.
7 Q. And so a neighbor of you then too?
8 A. Yes.
9 Q. At the time?
10 A. Yes.
11 Q. So David comes over. And then what does David do
12 when he gets to Shaffer's trailer?
13 A. He gets -- I think he gets on the phone with the 9-
14 1-1 operator and they, I guess -- I'm guessing they tell
15 him to wrap his head with some towels to stop his head
16 from bleeding because his head was skeeting -- like
17 skeeting blood out.
18 Q. Okay.
19 A. And he does that. And he needed some gloves so he
20 told me -- told Margaret -- because his son's sick also,
21 and he has hospital gloves at his house. He told me to
22 tell her to get some gloves, and I did that. And she
23 brought the gloves over for us to use to keep, you know,
24 to keep the blood off of us.
25 Q. So did you see -- does David actually go in the

1 trailer with him?
2 A. Yes, ma'am.
3 Q. And he's helping Schaffer with the towels, and he's
4 wearing gloves?
5 A. Yes.
6 Q. Now, Ms. King, did you eventually give a statement
7 to law enforcement, specifically Investigator Stan Ashley
8 ---
9 A. Yes, I did.
10 Q. --- saying what you observed and who you saw on
11 March 30th of 2012?
12 A. Yes, I did.
13 Q. And in that statement, what did you tell
14 Investigator Ashley?
15 A. Everything that happened that day.
16 Q. And who, if anyone, did you name as the person you
17 saw leaving Schaffer's trailer on March 30th?
18 A. John Fitzgerald Kennedy, called himself J.F.K.
19 Q. Now, did you also meet with Investigator McKindra
20 Bearden in reference to picking someone out of a photo
21 display?
22 A. Yes, I did.
23 Q. And were you shown that photo display on March 30th
24 of 2012?
25 A. Yes. It was later on that evening.

1 Q. All right. Ms. King, I'm going to show you what's
2 been marked as State's 2 and 3. Do you recognize those
3 exhibits?
4 A. Yes, ma'am.
5 Q. Specifically as to State's 3, is that the photo
6 display you were shown on March 30th, 2012?
7 A. Yes, it is.
8 Q. And when you were shown that display, were you told
9 anyone you should pick out of that display?
10 A. No.
11 Q. Did anyone put any pressure or tell you to pick
12 someone specifically?
13 A. No, no.
14 Q. And when you were shown that display, did you see
15 the person that left Schaffer's trailer on March 30th of
16 2012?
17 A. Yes.
18 Q. Okay. And whose picture did you circle?
19 A. John, number four.
20 Q. Okay. And how did you indicate that you had chosen
21 Mr. Kennedy?
22 A. I circled the number and signed my name.
23 Q. And again, that was number 4?
24 A. Yes, ma'am.
25 Q. All right. And now I'm going to point your

1 attention to State's 2, which is the affidavit. Is your
2 signature on that affidavit as well?
3 A. Yes, it is.
4 Q. And what does that signature indicate?
5 A. That he was in the house and left when I found him.
6 He left in the car and stuff.
7 Q. And when you say he, who are you referring to?
8 A. John.
9 Q. John?
10 A. John Kennedy.
11 Q. John Kennedy. Do both of those exhibits fairly and
12 accurately depict what you signed on March 30th of 2012?
13 A. Yes.
14 Q. Have they been altered or changed in any way?
15 A No.
16 Q. And that would be State's 2 and 3.
17 Now, on March 30th of 2012 when you went to check on
18 Schaffer that second time, around five thirty or after
19 five thirty, did you see anyone other than John F.
20 Kennedy at that trailer?
21 A. No.
22 Q. Did you see anyone other than John F. Kennedy get
23 into Schaffer's blue car and leave Schaffer's trailer?
24 A. No.
25 MS. HUEY: That's all I have at this time,

1 Judge.

2 THE COURT: All right. Yes, sir?

3 MR. POTTER: Thank you, Your Honor. May it

4 please the Court.

5 CROSS-EXAMINATION

6 BY MR. POTTER:

7 Q. Ms. King, you mentioned that Schaffer was sick that

8 day; is that correct?

9 A. Yes, sir.

10 Q. Okay. Can you please tell the jury what you meant

11 by that? Was he ill in regards to an ill stomach or did

12 he ---

13 A. He just had his days where he wouldn't feel well.

14 Sometimes he'll be weaker than others because he took

15 Coumadin, which is a blood thinner. If you're familiar

16 with Coumadin, it's a blood thinner. And he, you know

17 ...

18 Q. Okay. So was it that medication that made him ill

19 to your knowledge?

20 A. Uh-uh (negative). I mean, I don't know if it was

21 the medication that made him ill or not.

22 Q. Did he have any bandages on his arms that day?

23 A. Not that I can remember.

24 Q. I'm sorry. So you don't remember seeing bandages on

25 him or anything of that sort?

1 A. Not on that day.

2 Q. Okay. Now, I ask you to look at State's Exhibit 7-

3 G. This is State's Exhibit 7-G.

4 MR. POTTER: May I approach, Judge? I'm sorry.

5 THE COURT: Certainly.

6 Q. This is a photograph. And that's Schaffer in the

7 blue shirt; is that correct?

8 A. Yes, it is.

9 Q. Okay. And on his left arm -- is that a bandage on

10 his left arm?

11 A. Looks like it.

12 Q. Looks like it. Okay.

13 MR. POTTER: Judge, may I show this to the

14 jury?

15 THE COURT: Yeah. Let me look at it first.

16 MR. POTTER: Yes, sir.

17 THE COURT: Any objection?

18 MS. HUEY: No, sir. In fact, we'd seek to

19 admit State's 7-A through L then.

20 THE COURT: Any objection?

21 MR. POTTER: No, Judge.

22 THE COURT: Okay. Without objection.

23 (WHEREUPON, State's Exhibit 7-A through L were

24 admitted into evidence.)

25 MR. POTTER: As long as they're the ones

1 seeking to admit.

2 THE COURT: Yeah, they're ---

3 MS. HUEY: Yes, sir. Yes, sir.

4 MR. POTTER: All right.

5 (WHEREUPON, State's Exhibit 7-G was published for

6 the jury.)

7 Q. So it looks -- it appears he's got a bandage on his

8 left arm?

9 A. Yes, sir.

10 Q. All right. Do you know how he got that bandage?

11 A. No, I don't.

12 Q. Okay. Because you testified you didn't -- you don't

13 remember seeing him with the bandage; is that right?

14 A. No, I don't remember.

15 Q. Okay. Typically, when you have a bandage on your

16 arm, you're bleeding. It's because you were bleeding.

17 Is that a fair statement?

18 A. I mean, nine out of ten.

19 Q. Now, you initially checked on Mr. Scott around one

20 o'clock that afternoon?

21 A. Yeah, somewhere around in that time.

22 Q. And my notes indicate there was somebody else at the

23 trailer as well as Mr. Scott?

24 A. Yes.

25 Q. Mr. Kennedy was outside the trailer?

1 A. Yes.

2 Q. But who else was in the trailer?

3 A. Julie Moore.

4 Q. Julie Moore?

5 A. Uh-huh (affirmative).

6 Q. And Ms. Moore, did she live there?

7 A. Yeah.

8 Q. And she would kind of come and go?

9 A. Yeah.

10 Q. She would stay a few days and leave; is that right?

11 A. Yeah.

12 Q. Okay. And you were living next door to Mr. Scott,

13 correct?

14 A. Yes.

15 Q. Okay. Now, when you lived next door to Mr. Scott,

16 did you live by yourself?

17 A. No.

18 Q. Who did you live with?

19 A. My roommate.

20 Q. Okay. And who was that?

21 A. Ron Curry.

22 Q. Okay. Now, let's talk a little bit about March

23 30th, that Friday. All right. You checked on him, him

24 being Schaffer, around one o'clock that afternoon?

25 A. Yes, sir.

1 Q. He was, I presume, okay?
2 A. Yes.
3 Q. Okay. And then you came back later on about five-
4 thirty, six o'clock to check on him again?
5 A. Yes.
6 Q. Okay. And you testified earlier that you came to
7 the front door and it was locked, correct?
8 A. Yes.
9 Q. And is there steps in the deck leading to that front
10 door?
11 A. Yes.
12 Q. Okay. Is that deck big enough to sit a chair on
13 where you can sit on?
14 A. I mean, it is. But the wood was kind of not good
15 enough to sit a chair on.
16 Q. Okay. And then -- so you noticed the door was
17 locked, you came down off the steps, and that's when Mr.
18 Kennedy came around the side of the trailer; is that
19 correct?
20 A. No. I was still on the porch when he came around.
21 Q. Okay. So he comes around the trailer, and that's
22 the first time you see him, right?
23 A. Yes.
24 Q. When you see him, you said he was sweating?
25 A. Yes.

1 Q. Can you remember what he was wearing?
2 A. I don't remember what he was wearing.
3 Q. So you don't know what color shirt he had on?
4 A. No, I don't.
5 Q. You don't know what color pants he had on?
6 A. No, I don't remember either.
7 Q. You don't know if he had short pants or long pants?
8 A. No, I don't remember what he had on.
9 Q. But you do remember that he was sweating?
10 A. Yes, because I was looking up at his face, trying to
11 watch my step because I was pregnant at the time as well.
12 Q. I understand. But you noticed that he was sweating?
13 A. Yes, I did.
14 Q. That was something that you found odd, correct?
15 A. Yes.
16 Q. But you didn't find anything else odd about him?
17 A. I mean, just that he was sweaty and out of breath.
18 Q. Okay. Didn't see any blood on him?
19 A. No.
20 Q. Now, you followed John around to the back of the
21 trailer?
22 A. Yes, I did.
23 Q. John went up, locked the back door, shut it and then
24 left, correct?
25 A. Yes.

1 Q. Okay. So he didn't go in there?
2 A. No.
3 Q. He just opened up the door, locked it, shut it ---
4 A. Yeah.
5 Q. --- and said, come on with me?
6 A. Come go to the store with me, Kim, come go to the
7 store with me.
8 Q. Okay. And then you came around front and began
9 pounding on the door?
10 A. Yes.
11 Q. Okay. And then you heard Schaffer inside?
12 A. Yes.
13 Q. Okay. And you called Ron, didn't you?
14 A. Huh?
15 Q. You called Ron, didn't you?
16 A. A little bit later.
17 Q. Did you not call Ron first and then call 9-1-1?
18 A. No, I did not.
19 Q. So your first call was to 9-1-1?
20 A. Yes.
21 Q. When did you call Ron?
22 A. A little bit later. I mean, I was still in his yard
23 when the cops and stuff was out there. And I -- you
24 know, and I asked him did they know anything about it
25 because I felt like they still got something to do with

1 it.

2 Q. That being Ron?

3 A. Ron and Julia, yes.

4 Q. And you thought they might have had something to do

5 with it?

6 A. Uh-huh (affirmative).

7 Q. With regards to Schaffer's condition?

8 A. Yeah.

9 Q. Okay. Do you know -- did you know where they were

10 at?

11 A. No, I didn't know where they were. They left about

12 one o'clock.

13 Q. Okay. Now, you didn't see Schaffer get assaulted,

14 did you?

15 A. No, I didn't see him get assaulted.

16 Q. Okay. And you didn't go inside the trailer?

17 A. No.

18 Q. But you looked inside the trailer?

19 A. Yes.

20 Q. Lots of blood in there, wasn't it?

21 A. Yes.

22 Q. Blood on the walls?

23 A. I didn't see nothing about no blood on the walls.

24 Q. Okay. Did you see blood on the lounge chair he was

25 on?

1 A. I don't remember that. I remember seeing him and
2 the blood on his clothes.
3 Q. Okay. Do you remember seeing blood on the floor?
4 A. I don't remember seeing blood on the floor.
5 MR. POTTER: Nothing further. Thank you.
6 THE COURT: Anything on redirect?
7 MS. HUEY: Just a couple of questions.
8 REDIRECT EXAMINATION
9 BY MS. HUEY:
10 Q. Did you see Julie Moore at the trailer just after
11 five thirty on March 30th of 2012?
12 A. No, I didn't.
13 Q. When's the last time you had seen her at Schaffer's
14 trailer?
15 A. The first time I went and checked on him.
16 Q. And that was between twelve and one or so?
17 A. Yes, ma'am. And she left in his white car, a Chevy
18 Cavalier.
19 Q. And she left in his white car?
20 A. Uh-huh (affirmative).
21 Q. And was that white car at Schaffer's trailer after
22 five-thirty when you went to check on him?
23 A. No, it wasn't.
24 Q. And you were living with Ron Curry at the time?
25 A. Yes.

1 Q. But do you know where Ron was?
2 A. No, I don't know where they were.
3 Q. Was he with Julie?
4 A. Yeah. He left with Julie.
5 Q. And what time did he leave with Julie?
6 A. He left about one, and then he came back. And then
7 he left again about four-thirty with Julie in the white
8 car again.
9 Q. At four-thirty?
10 A. Yeah.
11 Q. And did you see Ron Curry at Schaffer's trailer?
12 A. No.
13 Q. After five thirty on March 30th of 2012?
14 A. No, ma'am.
15 MS. HUEY: That's all I have, Judge.
16 MR. POTTER: May it please the Court? Just a
17 follow-up to the ...
18 (WHEREUPON, a bench conference was held off the
19 record.)
20 THE COURT: All right. You can ask one
21 question.
22 MR. POTTER: May it please the Court?
23 THE COURT: Yes, sir.
24 MR. POTTER: Thank you, Judge.
25 RECROSS EXAMINATION

1 BY MR. POTTER:

2 Q. Ma'am, one question. You testified that Ron came

3 back and left at around four thirty; is that correct?

4 A. Yes, ma'am. I mean, yes, sir.

5 Q. Excuse me. It's going to be two questions. At any

6 point in time when Ron came back, do you have personal

7 knowledge of whether he went over to Schaffer's house or

8 not?

9 A. No. He was inside our house.

10 Q. Thank you.

11 MR. POTTER: I don't have anything further.

12 THE COURT: Okay. Anything else from the

13 State?

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

15 THE COURT: Okay. You can step down.

16 MS. HUEY: Your Honor, may she be excused?

17 THE COURT: Any objection?

18 MR. POTTER: None.

19 THE COURT: All right. Without objection.

20 MS. HUEY: Your Honor, the State calls David

21 Evans to the stand.

22 **DAVID EVANS,**

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MS. HUEY:

1 Q. Mr. Evans, where do you work?

2 A. Glen Raven.

3 Q. How long have you been there?

4 A. It'll be thirteen years and three months the 28th of

5 this month, December.

6 Q. Where do you live?

7 A. [redacted].

8 Q. And how long have you been at [redacted]?

9 A. Around fifteen years.

10 Q. Did you know the victim in this case, Schaffer

11 Scott?

12 A. Yes.

13 Q. And is that what you called him, Schaffer?

14 A. Yes.

15 Q. Had he lived next door to you as long as you've been

16 there?

17 A. Yes. Uh-huh (affirmative).

18 Q. Did you know -- how often would you see Schaffer?

19 A. Probably three or four times a week out in the yard.

20 Q. Three or four times a week you what?

21 A. Out in the yard.

22 Q. Out in the yard you'd see him?

23 A. Uh-huh (affirmative).

24 Q. Were y'all close or anything?

25 A. Well, no, not really. I would just see him. It was

1 more of a neighbor. He stayed over in his yard and
2 stuff. He sold a lot of cars and stuff, so he was out
3 there messing with them.
4 Q. Did you know anything about anyone staying behind
5 Schaffer's trailer?
6 A. Yeah. There for a while, there was a guy staying
7 there.
8 Q. Okay. And did you know his name or anything?
9 A. No.
10 Q. And was he black or white?
11 A. He was black.
12 Q. A black guy?
13 A. Yes.
14 Q. How many times do you think you saw this black guy
15 at Schaffer's?
16 A. Probably three or four times.
17 Q. And what would you see him do?
18 A. He was cleaning cars for Schaffer.
19 Q. Now, drawing your attention to Friday, March 30th of
20 2012, what were you doing on this date? Do you remember?
21 A. I was at home at that time.
22 Q. And what, if anything, did you notice going on at
23 Schaffer's?
24 A. Actually, I was in the house. My wife noticed that
25 Kimberly was upset. And she come and told me -- she

1 said, there's something wrong across the street.
2 Kimberly's upset. So I said, okay. So I walked over
3 there and asked Kimberly what was going on. And that's
4 when I seen what was -- I seen Schaffer laying in the
5 floor with his feet almost out the door.
6 Q. What did you then do once you saw Schaffer in that
7 condition?
8 A. I went and asked him was he okay.
9 Q. And how did you do that? Were you standing up or
10 sitting down?
11 A. I was sort of kneeling over him. He was in the
12 floor.
13 Q. And was he -- when you say in the floor, was he on
14 his back or was he sitting up?
15 A. Yes. He was laying on his back.
16 Q. So he was laying on his back in the front area,
17 front door basically of his trailer; is that right?
18 A. Uh-huh (affirmative).
19 Q. Okay. And so you went on in and knelt down beside
20 him?
21 A. Yes.
22 Q. And when you knelt down beside him, did you ask him
23 anything?
24 A. Yeah. I asked him was he okay. And he said yes to
25 start with. And I asked him -- I said, what happened?

1 MR. POTTER: Judge, may it please the Court? I
2 do have an objection at this time.
3 THE COURT: All right. Ladies and gentlemen, I
4 need to send you out of the courtroom for just a second.
5 Please don't discuss the case.
6 (WHEREUPON, the jury exited the open court at
7 approximately 11:21 a.m.)
8 THE COURT: Yes, sir?
9 MR. POTTER: Judge, I know we've had some
10 preliminary discussions about this particular witness.
11 At this time, I'm going to make my -- I guess it's an 803
12 objection. It doesn't fall within the hearsay exceptions
13 where the declarant is either available or unavailable.
14 And that would be our objection at this time. It's my
15 anticipation he's going to say, I asked what happened,
16 and probably, this black guy, John, hit me, or something
17 along those lines.
18 THE COURT: Okay. All right. And you're
19 protected for the record, but I've ruled on it. That's
20 the dying declaration issue?
21 MR. POTTER: Yes, Your Honor.
22 THE COURT: Yeah, I've got you. I'll allow him
23 to answer that question pursuant to my previous ruling.
24 But I understand.
25 MR. POTTER: Just to protect the record -- and

1 I don't mean ---

2 THE COURT: Yeah.

3 MR. POTTER: And we're objecting that proper

4 foundation hasn't been laid.

5 THE COURT: Right. Okay.

6 MR. POTTER: Thank you, Judge.

7 THE COURT: All right. Thank you.

8 THE BAILIFF: Are you ready?

9 THE COURT: Yeah.

10 MR. POTTER: May it please the Court? Do I ...

11 (WHEREUPON, the jury entered the open court at

12 approximately 11:23 a.m.)

13 MR. POTTER: May we approach?

14 THE COURT: Yeah.

15 (WHEREUPON, a bench conference was held off the

16 record.)

17 DIRECT EXAMINATION

18 CONTINUED BY MS. HUEY:

19 Q. All right. Mr. Evans, let's back up just a little

20 bit. You were kneeling down with Schaffer?

21 A. Yes.

22 Q. He was laying on his back in the doorway?

23 A. Yes.

24 Q. And describe what he looked like.

25 A. He was covered in blood.

1 Q. Could you tell where the blood was coming from?
2 A. From his head, his arms. I mean, he was just -- you
3 really couldn't tell. He was just a bloody mess.
4 Q. And while he was in that condition and while you
5 were kneeling down next to him, I believe you said you
6 asked if he was okay?
7 A. Yeah.
8 Q. All right. And then what happened after that?
9 A. I asked him did he know me. He said -- I mean, he
10 was sort of in and out. He said yes, and then he said,
11 David.
12 Q. Okay. And then what, if anything, did you ask him
13 after that?
14 A. I asked him what had happened.
15 Q. And what did he say happened?
16 A. He said he got hit.
17 Q. Okay. And did he say who hit him?
18 A. Yes.
19 Q. And who did he say?
20 A. He said John.
21 Q. And did he say whether he's a black or white person?
22 A. He said black.
23 Q. Okay. And so what did he say in its entirety then?
24 A. When I asked him what happened, he said, John, the
25 black guy, hit me.

1 Q. Now, where was Kimberly while you were kneeling with
2 Schaffer?
3 A. She was at the front door.
4 Q. And did you eventually speak with the 9-1-1
5 dispatcher yourself?
6 A. Yes, ma'am.
7 Q. I'm going to show you what's been marked as State's
8 4. Mr. Evans, do you recognize that exhibit?
9 A. Yes, ma'am.
10 Q. Okay. And how do you recognize it?
11 A. My initials are on it where I signed and dated it.
12 Q. What do those initials indicate?
13 A. That I heard this tape.
14 Q. Okay. And is that the recording of you calling the
15 -- or speaking with the 9-1-1 dispatcher on March 30th of
16 2012?
17 A. Yes, ma'am.
18 Q. And does it fairly and accurately depict your
19 conversation with that dispatcher?
20 A. Yes, ma'am.
21 Q. Has it been altered in any way?
22 A. No, ma'am.
23 MS. HUEY: Your Honor, at this time we'd seek
24 to introduce State's 4 into evidence.
25 THE COURT: All right.

1 MR. POTTER: I do have an objection.
2 THE COURT: Okay.
3 Ladies and gentlemen, I'll send you out. This one's
4 going to take a little longer, so get comfortable for
5 about fifteen minutes. Don't discuss the case.
6 (WHEREUPON, the jury exited the open court at
7 approximately 11:26 a.m.)
8 THE COURT: While y'all are discussing that,
9 I've got to make that call. It's going to take me ten
10 minutes, so I'll be back and we'll put the objection on
11 the record.
12 MS. HUEY: Yes, sir.
13 (WHEREUPON, court stood at recess for a short
14 break.)
15 THE COURT: We're talking about the 9-1-1 tape
16 now?
17 MS. HUEY: Yes, sir.
18 THE COURT: All right. And what's your
19 objection?
20 MR. POTTER: Judge, the tape itself, I believe
21 Ms. King is quoted as saying, the man who did this is
22 J.F.K. He ransacked his house and assaulted him in the
23 head. She doesn't have any personal knowledge of that.
24 She didn't see that happening. It's just her speculating
25 on what may or may not have happened. It's misleading.

1 It's misstating the facts. It's speculative and
2 prejudicial. She doesn't have any personal knowledge of
3 these facts, and yet she's alleging it with the 9-1-1
4 operater.
5 THE COURT: We're talking about the 9-1-1
6 operator?
7 MR. POTTER: Yes, sir.
8 THE COURT: And you're only going to ask her to
9 identify the tape, right?
10 MR. POTTER: Well, she ---
11 MS. HUEY: I've already laid the foundation
12 with Ms. King. And then Mr. Evans is also on the 9-1-1,
13 which I believe I've laid the foundation for.
14 THE COURT: Right.
15 MS. HUEY: And so I would like to admit it at
16 this point. I am willing to redact some of the portions
17 Mr. Potter's referring to if that's what we need to do.
18 THE COURT: Yeah, that might be better. I
19 mean, can you do that easily?
20 MS. HUEY: I can't, not necessarily right this
21 second.
22 THE COURT: Right.
23 MS. HUEY: I can publish it through another
24 witness as long as that's the understanding.
25 MR. POTTER: The only thing -- I don't

1 necessarily have an objection to that. I guess there --
2 there is one statement that the State does want to
3 include in there.
4 MS. HUEY: Well, we would like to include the
5 fact that on the 9-1-1, Ms. King is saying John F.
6 Kennedy just left this trailer, and he left in the
7 victim's blue car. That portion, I think, should be
8 allowed.
9 MR. POTTER: And I do have an issue with that.
10 I think she's improperly bolstering the witness who's
11 already testified.
12 THE COURT: Okay. Well, I think you're
13 protected for the record. I think that portion of the
14 tape -- all she's doing is testifying about what she saw.
15 And I'll allow that part in. But if you can redact the
16 rest of it, that's easier. I mean, that just takes away
17 questions about the tape.
18 MS. HUEY: Yes, sir. I'll get with Mr. Potter
19 either at lunch or later this afternoon, and we can
20 figure that out.
21 THE COURT: Okay. But you're protected for the
22 record.
23 MR. POTTER: And it's your intent to play the
24 9-1-1 tape to the jury?
25 MS. HUEY: Not at this point.

1 MR. POTTER: Okay.

2 MS. HUEY: I will wait until we redact.

3 MR. POTTER: Okay. And then play it?

4 MS. HUEY: The redacted one.

5 THE COURT: Okay.

6 MS. HUEY: If the Court's okay with that.

7 THE COURT: All right. Who do you want to call

8 now?

9 MS. HUEY: I think he still has to cross.

10 THE COURT: Oh, okay. I'm sorry.

11 All right, sir. Come on back up.

12 (WHEREUPON, the witness resumed the witness stand.)

13 THE COURT: Sorry about that.

14 Okay. You can bring them back in.

15 (WHEREUPON, the jury entered the open court at

16 approximately 11:58 a.m.)

17 THE COURT: Ladies and gentlemen, thank you for

18 your patience on that. That was my fault. I had a phone

19 call I had to make. Quite frankly, I was talking to my

20 son in Africa. So I apologize.

21 Okay.

22 MS. HUEY: Just a couple more questions on

23 direct.

24 DIRECT EXAMINATION

25 CONTINUED BY MS. HUEY:

1 Q. Mr. Evans, aside from speaking with the 9-1-1
2 dispatcher, what can you tell us about how the trailer
3 itself looked, the area surrounding where Schaffer was
4 laying down?
5 A. It was ransacked. It was horrible. Stuff was
6 throwed (phonic) everywhere.
7 Q. And did you notice any kind of instruments or
8 anything around his head, any kind of ---
9 A. Yeah. Glenn, he was laying like -- his feet was
10 like hanging in the door, and his head was up towards the
11 coffee table. There was a frying pan laying up to the
12 right side of his head. His phone was laying in the
13 floor, what was left of it.
14 MS. HUEY: That's all I have for this witness,
15 Judge.
16 THE COURT: All right. Yes, sir?
17 MR. POTTER: May it please the Court?
18 THE COURT: Yes, sir.
19 CROSS-EXAMINATION
20 BY MR. POTTER:
21 Q. Mr. Evans, do you go by David or James?
22 A. David.
23 Q. Mr. Evans, you testified earlier you didn't know the
24 person -- the name of the person living in the camper
25 behind Schaffer's house; is that correct?

1 A. Yes.
2 Q. And you know him as being a black guy; is that
3 right?
4 A. Yes.
5 Q. And did your wife -- did she come to the house at
6 any point in time?
7 A. No. Well, yes. She brought me a pair of rubber
8 gloves.
9 Q. Say that again.
10 A. A pair of rubber gloves.
11 Q. Okay. And that was when you were inside with
12 Schaffer?
13 A. Yes.
14 Q. Okay. Did she stay long or did she wait?
15 A. No. She had to go right back because my son's got
16 traumatic brain injury, and we can't leave him alone.
17 Q. Okay. Now, inside the house where Schaffer was, it
18 was a bloody scene. Is that a fair statement?
19 A. Yes.
20 Q. Did you see blood on the walls?
21 A. No.
22 Q. Did you see blood on the lounge chair?
23 A. No. There was blood on the coffee table.
24 Q. Okay. There was blood on the floor too?
25 A. Uh-huh (affirmative).

1 Q. And on this skillet or frying pan, you saw blood on
2 that too; is that right?
3 A. I can't recall seeing blood on it, but it was laying
4 beside his head.
5 Q. Do you remember -- did you look specifically, you
6 know, at the frying pan to see if there was any blood?
7 A. No.
8 Q. So there may have been something and you just didn't
9 see it?
10 A. Uh-huh (affirmative).
11 Q. You didn't see Mr. Scott get attacked, did you?
12 A. Do what, now?
13 Q. You didn't see Mr. Scott get attacked, did you?
14 A. No.
15 Q. And you don't know when he was attacked, do you?
16 A. No.
17 Q. And you don't know if he was asleep or not when the
18 attack happened?
19 A. No.
20 Q. And when Mr. Scott said, John did it, you didn't
21 know specifically who that person was?
22 A. No, uh-uh (negative).
23 MR. POTTER: Nothing further. Thank you.
24 THE COURT: Anything on redirect?
25 MS. HUEY: Nothing on redirect, Judge.

1 THE COURT: All right.

2 Thank you, sir. You can step down.

3 Does he need to be released from his ...

4 MS. HUEY: Yes, please.

5 THE COURT: Any objection?

6 MR. POTTER: No, Your Honor.

7 THE COURT: Okay. Sir, you are released from

8 your obligation.

9 Who's your next witness?

10 MS. HUEY: I'm sorry, Judge?

11 THE COURT: Who's your next witness?

12 MS. HUEY: The next witness is the paramedic.

13 Oh, excuse me. The first responding deputy.

14 THE COURT: And that's going to be fairly

15 quick?

16 MS. HUEY: It should be fairly quick, yes, sir.

17 THE COURT: Ladies and gentlemen, we're going

18 to take a five-minute break in a few minutes, but we'll

19 hear this witness first. I promise you, it'll only be

20 five minutes.

21 Okay. You can call your next witness.

22 MR. HAIGLER: The State calls Josh Glenn.

23 (WHEREUPON, the witness was duly sworn)

24 MR. HAIGLER: May it please the Court?

25 THE COURT: Yes, sir.

1 **JOSHUA GLENN,**

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. HAIGLER:

5 Q. Deputy Glenn, where are you employed?

6 A. Anderson County Sheriff's Office.

7 Q. And how long have you worked there?

8 A. A little over -- almost four years.

9 Q. Okay. What's your position with the Sheriff's

10 office?

11 A. I'm a deputy on road patrol.

12 Q. Okay. And as a deputy on road patrol, what are your

13 responsible -- what are your primary duties and

14 responsibilities?

15 A. My primary duty is to respond to calls for service

16 in Anderson County.

17 Q. Okay. Were you working in that capacity on March

18 30th, 2012?

19 A. I was.

20 Q. Did you respond to a crime scene at [redacted]

21 that day?

22 A. I did.

23 Q. Do you remember what time -- do you recall -- I'm

24 talking about dispatch -- that you needed to respond?

25 A. I believe it was somewhere around six or six thirty

1 in the evening.

2 Q. And that's what time you were called?

3 A. That's what time I was called, yes.

4 Q. Okay. And do you know what time you arrived at the

5 scene?

6 A. Within -- I believe within five to ten minutes.

7 Q. Okay. And [redacted], is that located in

8 Anderson County?

9 A. It is.

10 Q. Okay. And what was the reason you were dispatched

11 to the scene? What did they tell you?

12 A. I was dispatched as an assault call.

13 Q. Okay. And what do you typically do when you arrive

14 on a scene when you're the first responding officer?

15 A. The first thing I do is secure the scene for safety,

16 make sure that there's no threats on the scene to any

17 other people that may be there and any others that are

18 responding to the scene.

19 Q. Okay. And did you do that on this day?

20 A. I did.

21 Q. Who all was on the scene when you arrived?

22 A. When I arrived on scene -- at that time I didn't

23 know names. So there was a white female that was

24 standing in the front yard, and then inside there was a

25 white male laying on his back in the doorway and then

1 another white male knelt down with him.
2 Q. Okay. Can you describe what the house looked like
3 when you arrived?
4 A. From the door -- I'd only stepped at that point to
5 the doorway. And the only rooms I had visible was the
6 living room and the kitchen. And it appeared to be
7 ransacked. There was items scattered throughout the
8 floor and the area, furniture area.
9 Q. Okay. And what did the assaulted victim look like?
10 A. When I saw him, he was -- like I say, he was laying
11 on his back. He was covered in blood. At that time, I
12 couldn't really tell if there was any injuries due to the
13 amount of blood that was on his body.
14 Q. Do you know about how long you were on the scene
15 before the paramedics arrived?
16 A. I'm going to say somewhere between five to ten
17 minutes.
18 Q. Did you do anything else on the scene as opposed to
19 just clearing the scene? Did you do anything to collect
20 any evidence?
21 A. I did. I went back to my car to retrieve my county-
22 issued camera and I snapped a few pictures of the area
23 where the victim was laying at.
24 Q. Is that pretty common? Have you done that before?
25 A. I have, yes.

1 Q. I show you what's been marked as State's ...
2 MR. HAIGLER: Your Honor, may I approach the
3 witness?
4 THE COURT: Yes, sir.
5 Q. I'm going to show you what's been marked for
6 identification purposes as State's Exhibit 20. Do you
7 recognize that?
8 A. I do.
9 Q. How do you recognize that?
10 A. I took this photo.
11 Q. And does that photo fairly and accurately depict the
12 scene as it was when you arrived?
13 A. Yes, it does.
14 MR. HAIGLER: Your Honor, at this time I'd like
15 for the witness to come down and publish the picture to
16 the jury.
17 THE COURT: Any objection?
18 MR. POTTER: No, Your Honor.
19 THE COURT: All right. Without objection.
20 (WHEREUPON, the witness stepped down from the
21 witness stand.)
22 MR. HAIGLER: I'm sorry, Your Honor. I've
23 never tried to work any of this stuff before. Your
24 Honor, it might be easier for him just to explain to the
25 jury what he sees in the picture and pass it around.

1 THE COURT: That will be fine. However you
2 want to do it.
3 MR. HAIGLER: Is that okay?
4 MR. POTTER: That's fine with me. It's what I
5 do.
6 Q. Deputy Glenn, can you tell the jury what they see in
7 that photo, what you observed?
8 A. Yeah. This is taken from the front porch of the
9 residence. As you can see here, there's a white male
10 victim laying at the threshold of the doorway. Behind
11 him you have to see a -- it looks like a motorized
12 scooter. Also laying underneath him on his left side is
13 a walking cane. There appears to be a towel. Also an
14 ottoman with what looks to be a clipboard that has some
15 of our paperwork on it.
16 Q. Okay. Thank you, Deputy Glenn. You can be seated.
17 (WHEREUPON, the witness resumed the witness stand.)
18 MR. HAIGLER: Your Honor, at this time, the
19 State would move to enter what's been marked as State's
20 20 into evidence.
21 THE COURT: Any objection?
22 MR. POTTER: No objection.
23 THE COURT: Okay. Without objection.
24 (WHEREUPON, State's Exhibit Number 20 was admitted
25 into evidence.)

1 MR. HAIGLER: And I have no further questions
2 for this witness, Your Honor.
3 THE COURT: All right.
4 Yes, sir?
5 MR. POTTER: Thank you. May it please the
6 Court.
7 CROSS-EXAMINATION
8 BY MR. POTTER:
9 Q. Deputy, I only have a few questions. As you
10 testified earlier, did you go into the residence and look
11 around?
12 A. I can't remember if I did initially. Now, we did --
13 once E.M.S. transported the victim, we did go through the
14 residence to clear it. I can't remember if that was the
15 first or second time. And we also cleared the area
16 behind the residence.
17 Q. Okay. And inside the area where you found Mr.
18 Scott, lots of blood in the area; is that right?
19 A. There was.
20 Q. Blood in the floor?
21 A. Yes, sir.
22 Q. Was blood splatter on the walls?
23 A. Yes, sir.
24 Q. And there was blood in the lounge chair?
25 A. Yes, sir.

1 Q. Do you recall seeing that? You didn't see the
2 attack?
3 A. No, sir.
4 Q. So the attack wasn't taking place when you arrived?
5 A. No, sir.
6 Q. All right. And you don't know when the attack
7 happened, do you?
8 A. No, sir.
9 MR. POTTER: Nothing further.
10 THE COURT: Anything on redirect?
11 MR. HAIGLER: No, sir, Your Honor.
12 THE COURT: Okay. You can step down.
13 Can he be released?
14 MR. POTTER: I have no objection.
15 THE COURT: Okay. Thank you, sir.
16 All right. Ladies and gentlemen, let me send you
17 out for just a few minutes. Please don't discuss the
18 case.
19 (WHEREUPON, the jury exited the open court at
20 approximately 12:12 p.m.)
21 THE COURT: Well, take a quick break.
22 (WHEREUPON, court stood at recess for a short
23 break.)
24 THE COURT: Okay. You can bring them in.
25 (WHEREUPON, the jury entered the open court at

1 approximately 12:22 p.m.)

2 THE COURT: Okay. You can call your next

3 witness.

4 MR. HAIGLER: The State calls Jan Johnson.

5 (WHEREUPON, the witness was duly sworn.)

6 THE COURT: Yes, sir?

7 **JAN JOHNSON,**

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. HAIGLER:

11 Q. Ms. Johnson, where do you work?

12 A. MedShore Ambulance Service.

13 Q. And what is your job title there?

14 A. Paramedic.

15 Q. And how long have you worked at MedShore?

16 A. Ten years.

17 Q. What kind of training did you receive to be a

18 paramedic, or what kind of training do you actually go

19 through?

20 A. Well, we start with E.M.T. level, and then we go to

21 intermediate, and then we go to paramedic school. And

22 then we train every month, four hours of training every

23 month. And then we take classes every two years in

24 different things.

25 Q. And what are your duties with MedShore?

1 A. I work medic five. I'm a paramedic on B shift.
2 Q. Okay. And were you working in that capacity on
3 March 30th, 2012?
4 A. I was. I was working at actually station nine, was
5 where I was at at that time.
6 Q. Okay. Were you called to respond to [redacted]
7 in Anderson County?
8 A. Yes, I was.
9 Q. Who came and responded with you?
10 A. Karen McAuliff (phonic) was my partner.
11 Q. Do you know what time you were called?
12 A. I think it was seventeen -- the call actually came
13 out at seventeen fifty-six. Was dispatched at seventeen
14 fifty-six and we were in route at the same time because
15 we were already in our truck.
16 Q. Okay. Do you know what time you got there?
17 A. Yes, sir. According to the paperwork, it says we
18 got there at eighteen oh eight. It was a good ways to
19 [redacted], so it took us a while to get there.
20 Q. Okay. And when you got there, did you come into
21 contact with the victim in this case, Claud Scott?
22 A. Yes, I did.
23 Q. Where was he when you first made contact with him?
24 A. He was laying on the floor just inside the door.
25 Q. And what did you observe?

1 A. A scene I wish I could get out of my head. He was
2 bloody, beaten, bruised. It was hard to really
3 recognize, you know, what he might have actually looked
4 like, you know, before. Swelling everywhere about the
5 face and the arms. Just about everywhere around his head
6 was bleeding. His arms were -- the side of his arms were
7 slit open. Like I said, he was -- massive trauma.
8 Q. Have you responded to other assault scenes as a
9 paramedic?
10 A. Yes, sir.
11 Q. About how many if you had to just estimate?
12 A. I wouldn't know. I think -- I couldn't begin to
13 tell you how many I've been to. I know this is the worst
14 one I've ever seen.
15 Q. Was he able to tell you what happened to him?
16 A. I didn't ask. He -- I was mainly focused on trying
17 to take care of him, trying to get him bandaged. My
18 partner and I were trying to go through the procedures of
19 what we're supposed to do to try to stop his bleeding.
20 Put him on a C-collar in case something had happened, you
21 know, with his spine. And our normal procedures with
22 trauma is to put a C-collar on and backboard and try to
23 stop the bleeding and get him into our unit and, of
24 course, to the hospital as soon as we can.
25 Q. Did he say anything to you or speak to you at all

1 while you were treating him at the home?
2 A. He was asking me about his car. He wanted to know
3 was his car outside. And I kept reminding -- you know,
4 telling him that I did not see his car. I didn't see a
5 car in the yard. That was his main -- you know, main
6 focus at the time was where his car was.
7 Q. And what, if anything, did you do to treat him at
8 the residence?
9 A. Well, we took -- we used just about every bandage we
10 had on the truck, trauma dressings. We had the whole C-
11 spine, of course, first to try to protect his neck. And
12 we have a thick trauma dressing that we took and wrapped
13 around his head. While my partner was putting the C-
14 collar around his neck -- and then, of course, we tried
15 to log-roll him, you know, as best we could, to get him
16 onto the backboard and, like I said, get him in our unit
17 as soon as we could.
18 Q. And did you transport him to the hospital?
19 A. I did.
20 Q. How was he transported?
21 A. We took him in priority, which is lights and sirens,
22 to try to get him there as quick as we could. And in
23 route I actually called the hospital and asked them to
24 call a trauma alert. That way they have x-ray equipment,
25 possibly a surgeon on the way down there. You know, it

1 kind of gets things started a little bit sooner.
2 Q. Which hospital did you take him to?
3 A. Anderson, AnMed Hospital.
4 Q. Okay. Do you know what happened to him while he was
5 at the hospital?
6 A. I stayed there briefly for a little while. We had
7 another call I had to go on later. I didn't get to stay
8 there as long as, you know, I would have liked to because
9 I would have liked to have, you know, been with him. I
10 guess you always feel like in scenes like that, you wish
11 you could have done more, you know. And you just -- I
12 guess you just -- some calls just touch you more than
13 others.
14 Q. Were you contacted and informed that the victim died
15 as a result of his injuries?
16 A. No, I was not contacted from anyone. I think I was
17 in the E.R. later, and I think some -- maybe one of the
18 nurses told me that he had passed away.
19 MR. HAIGLER: I have no further questions, Your
20 Honor.
21 THE COURT: Yes, sir?
22 MR. POTTER: Judge, we have no questions for
23 this witness.
24 THE COURT: All right.
25 Thank you. You can step down and be released.

1 THE WITNESS: Thank you.

2 MS. HUEY: Your Honor, may she be excused?

3 THE COURT: Yeah, no problem.

4 MR. POTTER: No objection.

5 THE COURT: Thank you, ma'am.

6 MS. HUEY: The State calls Brandon Dunn.

7 **BRANDON DUNN,**

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MS. HUEY:

11 Q. Mr. Brown, where are you working currently?

12 A. AmCan Transportation.

13 Q. And were you previously in law enforcement?

14 A. Yes, I was.

15 Q. Where were you working previously?

16 A. At Anderson County Sheriff's Office.

17 Q. In what position?

18 A. As a deputy sheriff.

19 Q. And how long were you a deputy sheriff for Anderson

20 County?

21 A. A little over a year.

22 Q. Were you working in that capacity on March 30th of

23 2012?

24 A. Yes, I was.

25 Q. As a deputy?

1 A. Yes.
2 Q. As a deputy, what were some of your duties and
3 responsibilities?
4 A. Just respond to calls for service, take reports for
5 crimes committed, do partial investigations on like small
6 crimes.
7 Q. And on March 30th of 2012, what was your
8 responsibility on that date?
9 A. On that day, I was called to the emergency room in
10 reference to stand by with a victim of a assault.
11 Q. The victim in this case, Claud Scott?
12 A. Yes.
13 Q. Do you know about what time you got to the hospital
14 on March 30th?
15 A. I would say it was sometime between six-thirty and
16 seven o'clock because I got called before we got out of
17 roll call to go.
18 Q. And what time is roll call normally?
19 A. It starts at six forty-five.
20 Q. And so you responded to the hospital?
21 A. Yes.
22 Q. What did you see when you first got to the hospital?
23 A. When I first got to the hospital and got to the room
24 where Mr. Scott was, the emergency personnel from the
25 emergency room was in there doing their assessments,

1 taking the bandages off. And as they were taking the
2 bandages off, I was looking at the victim's injuries.
3 Q. And what injuries do you recall him having?
4 A. Lord, there was numerous injuries. He had numerous
5 lacerations to his head, his arms. I believe he had a
6 lot of injuries to his hands, his face, his ears. It was
7 a lot of them.
8 Q. And you took photos of those?
9 A. Yes, I did.
10 Q. Now, while he was in that condition, were you able
11 to speak with him?
12 A. I never spoke to him, but I did overhear some of the
13 things he was saying to the E.R. staff as they were doing
14 their assessment and asking him questions.
15 Q. All right. So as the E.R. staff was working on Mr.
16 Scott, what, if anything, did you hear Mr. Scott say?
17 MR. POTTER: Judge, may it please the Court.
18 THE COURT: Yes, sir.
19 MR. POTTER: I do have an objection at this
20 time.
21 THE COURT: Okay. Ladies and gentlemen, I'll
22 send you out for just about two minutes. Please don't
23 discuss the case.
24 (WHEREUPON, the jury exited the open court at
25 approximately 12:33 p.m.)

1 THE COURT: Okay. Yes, sir?

2 MR. POTTER: Judge, again, my objection -- I'm

3 renewing my objections that were made when we talked

4 about this proffer evidence yesterday. It does not fall

5 within the hearsay exception. This is a statement that's

6 being made to another party, not to this particular

7 witness as well. So it's one step removed. And so we

8 would move that this statement is not admissible under

9 out-of-court evidence.

10 THE COURT: What was your question again to

11 him?

12 MS. HUEY: It was in his presence, Your Honor.

13 THE COURT: What he heard him say?

14 MS. HUEY: Yes, sir. He was there to stand by

15 with the victim to protect him essentially.

16 THE COURT: Okay. Yeah. I understand your

17 objection. It's -- because of the proffer yesterday,

18 I'll allow it.

19 Okay. You can bring them back.

20 MR. POTTER: Thank you.

21 THE COURT: Thank you.

22 (WHEREUPON, the jury entered the open court at

23 approximately 12:34 p.m.)

24 THE COURT: Thank you.

25 Yes, ma'am?

1 Q. All right. Mr. Dunn, as the E.R. staff, as they
2 were working on Mr. Scott, what, if anything, did Mr.
3 Scott say?
4 A. I overheard Mr. Scott answer one of the questions of
5 the E.R. staff when they asked him did he know who had
6 hurt him. And I overheard him tell them that John did
7 it.
8 Q. That John did it?
9 A. Yes.
10 Q. What was your next step, if anything, in reference
11 to being at the hospital?
12 A. My next step after that, I was standby with him when
13 they took him to C.T. to do an imagining of his head and
14 everything until Detective Simpson arrived. And then I
15 left at that point.
16 Q. So once an investigator came, you were then
17 relieved?
18 A. Yes.
19 MS. HUEY: That's all I have of this witness,
20 Judge.
21 THE COURT: Yes, sir, anything?
22 MR. POTTER: May it please the Court?
23 CROSS-EXAMINATION
24 BY MR. POTTER:
25 Q. Mr. Dunn, you didn't go to the scene where the

1 assault took place, did you?

2 A. No, sir, I did not.

3 Q. All right. So your only contact with Mr. Scott was

4 at the hospital?

5 A. Yeah.

6 Q. All right. And so you have no personal knowledge of

7 what the scene looked like?

8 A. No, sir.

9 Q. And you have no personal knowledge when the assault

10 took place, do you?

11 A. No, sir.

12 Q. And you have no personal knowledge whether he was

13 asleep or not when the assault took place?

14 A. No, sir.

15 Q. Thank you.

16 MR. POTTER: Nothing further.

17 THE COURT: Anything on redirect?

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

19 THE COURT: Okay. Thank you, sir. You can

20 step down and be released.

21 MS. HUEY: Thank you.

22 Your Honor, the State calls McKindra Bearden to the

23 stand.

24 **MCKINDRA BEARDEN,**

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 DIRECT EXAMINATION

2 BY MS. HUEY:

3 Q. Investigator Bearden, where are you employed?

4 A. Anderson County Sheriff's Office.

5 Q. In what position?

6 A. I'm a detective.

7 Q. And as a detective, what are some of your duties?

8 A. I'm on call every five weeks which means I respond

9 to felonies after hours. As a detective, I work white-

10 collar property and have worked Internet crimes against

11 children also.

12 Q. And were you on call the weekend of March 30th of

13 2012?

14 A. Yes.

15 Q. As such, did you have occasion to become involved in

16 the investigation of this Defendant, John F. Kennedy,

17 involving the victim, Claud Schaffer Scott?

18 A. Yes.

19 Q. And so what were some of your responsibilities on

20 that particular day?

21 A. When the call come in -- it was myself and Detective

22 Ashley were on call together as partners. When the call

23 came in, he responded to the incident location, and I

24 responded to the hospital.

25 Q. And when you responded to the hospital, what, if

1 anything, did you see when you first got there?
2 A. I arrived just a few minutes after E.M.S. had
3 arrived with the victim and made contact with them as
4 they put him in the trauma room initially. They were
5 working on him, getting his vitals. Just had started the
6 process of working on him.
7 Q. And what were you able to observe about the victim?
8 A. He was -- had been bludgeoned about the head, the
9 arms, face. He was bloody, bruised, cut up. They had a
10 lot of gauze and bandages on his head.
11 Q. Was he able to speak with you while he was in this
12 condition?
13 A. Yes, he was able to speak with me.
14 Q. And while he was in that condition, what, if
15 anything, did he say to you?
16 A. I introduced myself to him. And at that time I knew
17 his name to be Mr. Scott. And I asked him if he had
18 known who done this to him. And he did advise that he
19 did.
20 MR. POTTER: I do have an objection.
21 THE COURT: Okay. And this is the declaration
22 objection?
23 MR. POTTER: Yes, sir.
24 THE COURT: Okay. As previously said, I
25 overrule. But you're protected for the record.

1 Q. While he was in this condition and in response to
2 your question, what was he able to tell you?
3 A. He had an oxygen mask on over his face. And I said,
4 do you know who done it? And he said, Josh. And I said,
5 Josh? And he goes, no, John. I had misunderstood him,
6 but he did correct me. He said John done it.
7 Q. So you thought he said Josh, but he corrected you
8 and said John?
9 A. Yes. I was incorrect when I responded to him. He
10 had said John the previous time.
11 Q. Okay. Now, what happened after he told you that?
12 A. As I was standing there talking to him, the nurses
13 were working. And they unwrapped his head. When they
14 unwrapped, took the gauze off, all the alarms started
15 going off. He started -- all of his stats just crashed,
16 and they cleared everyone from the room in a hurry.
17 Q. Including you?
18 A. Everyone, yes.
19 Q. And was that the last time you spoke with Mr. Scott?
20 A. Yes.
21 Q. What was your next step in terms of this
22 investigation?
23 A. I went back to the office and did the search warrant
24 and photo lineup at the office.
25 Q. All right. And the photo display, who did you

1 prepare that for?
2 A. They advised me -- Detective Ashley was on scene.
3 He had a witness on scene, a Kimberly King, that had
4 observed the person at the home. And I did the photo
5 lineup for her to identify the person that she had seen
6 at the time.
7 Q. And whose picture did you need to include in that
8 photo display as a result of that?
9 A. It was John Fitzgerald Kennedy.
10 Q. Okay. I'm going to show you what's been marked as
11 State's -- oh, no, I'm sorry. Just one second. I'm
12 sorry. I'm going to show you what's been marked as
13 State's 2 -- I did it again -- and 3. Will you take a
14 look at these, please? Are you able to recognize those
15 exhibits?
16 A. Yes. This is the photo lineup, the original that I
17 put together and printed that evening and the Affidavit
18 of Photo Identification that I printed that evening at
19 the same time and also filled out on the scene with the
20 witness.
21 Q. And so when you were putting together the display,
22 what kind of characteristics are you looking for?
23 A. We have a program that's called Mug Web. And you
24 put in the suspect's name, and you can pick a picture out
25 of a lineup if they've been arrested before and in the

1 system. When you get that picture up, it'll pull up
2 similar -- you pull up similar pictures. You go through
3 and choose. What I went through to choose ---
4 Q. And -- I'm sorry. Go ahead. I apologize.
5 A. What I went through to choose would be people with
6 similar coloring as far as skin characteristics, length
7 of hair, facial hair, anything like that, the same age.
8 You want somebody within the same parameter. You don't
9 want exactly the same, but you want similar.
10 Q. Okay. Now, Ms. Bearden, you can also pull photos
11 from driver's licenses too; isn't that correct?
12 A. You can, yes.
13 Q. Now, in terms of what specific characteristics in
14 this case were you looking for in terms of physical
15 characteristics?
16 A. I was looking for a black male, middle aged, thin to
17 medium build, approximately -- I've already said medium
18 complexion. Short hair, some facial hair that looked
19 like the picture that we had of Mr. Kennedy on file.
20 Q. And now, once that display was put together, did you
21 then show that to Ms. King?
22 A. Yes, I did.
23 Q. And where did that take place?
24 A. I went to the incident location at [redacted], and
25 we were inside my patrol vehicle.

1 Q. Now, by the time you got there, was it dark already?
2 A. Yes.
3 Q. And so where was this display shown to her?
4 A. I showed it to her in my patrol car. We have dome
5 lights that are put in after market that are really super
6 bright. And I had the dome light on, and she could see
7 the pictures very clearly.
8 Q. All right. Because your patrol car is very well
9 lit?
10 A. Yes, very much.
11 Q. Because of that dome light? Okay. All right. Now,
12 did you tell her she should pick someone out of that
13 display?
14 A. No, I did not.
15 Q. Did you suggest any person in particular for her to
16 pick out of the display?
17 A. Just the person that she saw. Is the person you saw
18 on this lineup? Can you identify them?
19 Q. All right. And did she, in fact, then select
20 someone from that display?
21 A. Yes, she did.
22 Q. All right. And what did she do to indicate that she
23 selected a person?
24 A. I had numbered them one through six myself. And she
25 circled the number four and signed below it.

1 Q. And number four is who?
2 A. That is Mr. Kennedy.
3 Q. Now, in terms of the affidavit, what's the purpose
4 behind the affidavit which is State's 2?
5 A. It is just to confirm what I've shown them, the
6 reason I showed it to them and what they chose. And it's
7 just an explanation of what the picture lineup was.
8 Q. Now, are both of those exhibits -- excuse me. Are
9 your signatures on that affidavit as well?
10 A. Yes.
11 Q. Including Ms. King's?
12 A. Yes.
13 Q. All right. And both of those exhibits, are they
14 fairly and accurately depictive of what you showed Ms.
15 King on March 30th of 2012?
16 A. Yes, they're exactly the same.
17 Q. And they haven't been altered or changed in any way?
18 A. No.
19 MS. HUEY: Your Honor, at this time we'd seek
20 to introduce State's 2 and 3 into evidence and publish
21 for the jury.
22 MR. POTTER: I do have an objection.
23 THE COURT: Is it the one we addressed earlier?
24 MR. POTTER: No.
25 THE COURT: All right.

1 Ladies and gentlemen, I have to send you out for two
2 minutes. Please don't talk about the case.
3 (WHEREUPON, the jury exited the open court at
4 approximately 12:45 p.m.)
5 THE COURT: Yes, sir.
6 MR. POTTER: Judge, the main purpose of this
7 objection is the item itself. It's a photo array, and
8 it's clearly not taken from driver's license photographs.
9 These are all mug shots and which my client is one of
10 them. And I think it's unduly prejudicial. At the very
11 least under 403, prejudicial towards my guy because
12 what's going to happen is they're going to take that back
13 there and look at it, and they're going to see mug shots.
14 They're not going to see driver's license photos.
15 THE COURT: Well, how was this -- I thought it
16 was from the driver's license photos?
17 MS. HUEY: It could have been. This was from
18 mug shots in this particular case.
19 THE COURT: Let me look at it.
20 MS. HUEY: I think Ms. Bearden has it. I mean,
21 all you can see is the face, Your Honor.
22 THE COURT: All right. You're protected on the
23 record. I'll allow that in. I mean, I -- you're
24 assuming they know it's a mug shot. And you and I may
25 know it, but ---

1 MR. POTTER: Well, I think it's fair to say
2 that's not a photograph from the D.M.V. They're not in a
3 collared shirt or smiling for that matter or anything
4 like that.
5 THE COURT: Right. No, I know.
6 MR. POTTER: Yeah.
7 THE COURT: I mean, I understand. But I don't
8 know how else you'd get them?
9 MR. POTTER: Well, there might be a picture
10 that ---
11 THE COURT: There might be. I got you. You're
12 protected for the record. Okay. I'll let you put it in.
13 Bring them in.
14 (WHEREUPON, the jury entered the open court at
15 approximately 12:49 p.m.)
16 THE COURT: Yes, sir?
17 MR. POTTER: I'm sorry, Judge. I need to take
18 a matter up outside the jury's hearing.
19 THE COURT: Yes, sir.
20 (WHEREUPON, a bench conference was held off the
21 record.)
22 THE COURT: Okay. Just for the record, we had
23 a discussion off the record about the objection, and
24 we'll preserve that when we take our lunch break. But
25 your objection is preserved to that point. Okay.

1 MS. HUEY: So Your Honor, I believe where I was
2 that I seek to admit State's 2 and 3 and publish.
3 THE COURT: Right. And he's objecting and I'm
4 overruling, but I'll let you put it on the record. All
5 right.
6 MS. HUEY: So Your Honor ---
7 THE COURT: You can publish it.
8 (WHEREUPON, State's Exhibit Numbers 2 and 3 were
9 admitted into evidence and published to the jury.)
10 Q. Ms. Bearden, if you don't mind stepping down.
11 A. Okay.
12 (WHEREUPON, the witness stepped down from the
13 witness stand.)
14 Q. All right. This is State's 3. Is this the photo
15 display you showed to Ms. Kimberly King on March 30th of
16 2012?
17 A. It is.
18 Q. And again, she circled number four to indicate
19 that's who she saw leaving Mr. Scott's trailer on March
20 30th of 2012?
21 A. Yes.
22 Q. All right. And number four is who?
23 A. That is Mr. John Fitzgerald Kennedy.
24 Q. Thank you. And this is the affidavit signed by you
25 and Ms. King, State's 2. And again, this just

1 acknowledges in writing what she did?
2 A. Yes.
3 Q. As far as who she picked out of the display?
4 A. Yes.
5 Q. Okay. All right. Have a seat.
6 (WHEREUPON, the witness resumed the witness stand.)
7 MS. HUEY: That's all I have for this witness,
8 Judge.
9 THE COURT: Any questions?
10 MR. POTTER: Yes, Your Honor. May it please
11 the Court?
12 THE COURT: Yes, sir.
13 CROSS-EXAMINATION
14 BY MR. POTTER:
15 Q. Detective, how long have you been with the Anderson
16 County Sheriff's Department?
17 A. We were absorbed by Pendleton. Pendleton was
18 absorbed in 2006.
19 Q. Okay. So you were an officer in Pendleton?
20 A. Yes.
21 Q. Okay. Were you a road officer, or were you a
22 detective?
23 A. I was a road officer.
24 Q. So eventually you made your way up to -- I'm
25 assuming you go from road officer -- where do you go from

1 there?
2 A. It depends on the agency really. I've been in it
3 twenty years.
4 Q. Okay. So you've been in law enforcement twenty
5 years?
6 A. Uh-huh (affirmative), May the 9th.
7 Q. Okay. Now, you know it's important when you do
8 investigations, and when you do -- when you're
9 investigating incidents, the incident report is pretty
10 much the basic paperwork that all officers rely upon when
11 they do that?
12 A. Uh-huh (affirmative).
13 Q. Is that correct?
14 A. Yes.
15 Q. Okay. And that is the report -- it's important that
16 you include all your facts and all your information that
17 you've gathered in your investigation; isn't that
18 correct?
19 A. Yes.
20 Q. Okay. And the reason you want to have all that
21 information is you want to make sure the solicitor has
22 all the information, and also wants to make sure that
23 you've got all your information in case you have to
24 refresh your recollection; is that correct?
25 A. Uh-huh (affirmative).

1 Q. So it's important that in your incident report you
2 include everything in your investigation; is that right?
3 A. Well, that's why we do a case jacket. That's where
4 ninety percent of the information is.
5 Q. So the information is not included in the incident
6 report?
7 A. Anything that's handwritten or typed separately
8 wouldn't be able to be put into a report system.
9 Q. So what's the purpose of doing an incident report?
10 A. Your incident report documents the original
11 incident, gives you a case number and a case reference
12 for all that extra paperwork.
13 Q. And you have supplements to that incident report; is
14 that correct?
15 A. Excuse me?
16 Q. You have supplements to the incident report?
17 A. Yes.
18 Q. And you did a supplement to the incident report
19 related to this case; isn't that true?
20 A. Yes.
21 Q. Okay. And that was done, and it was provided by the
22 government to me through discovery. And you, on March
23 30th 2012 -- may I hand you a copy?
24 A. Uh-huh (affirmative).
25 MR. POTTER: Mark this as an exhibit for

1 identification purposes Defense 1. Identification only.
2 (WHEREUPON, Defendant's Exhibit Number 1 was marked
3 for identification only.)
4 MR. POTTER: May I approach, Judge?
5 THE COURT: Yes, sir.
6 Q. This is your supplemental report that was attached
7 to the incident report that was provided to me by the
8 government through discovery; is that correct?
9 A. Yes.
10 Q. All right. Give me one second. In that incident
11 report -- or excuse me -- that supplement to your
12 incident report, there's nothing in there that indicates
13 that Mr. Scott said the name Josh, is there?
14 A. No. That is my own hearing aid issue.
15 Q. I understand that. But you didn't indicate that in
16 the incident report, did you? In your supplemental
17 report, did you?
18 A. No.
19 Q. And that's an important fact in this investigation,
20 is it not?
21 A. He corrected me. I was the one that was wrong.
22 Q. There's no information in regards to the photo array
23 that you did when you left the scene. You indicated you
24 were going to do a search warrant. There's no indication
25 of how you did the photo array, is there?

1 A. The paperwork speaks for itself. I didn't document
2 like I should. I guess I should be ashamed.
3 Q. Okay. So it's not -- that information is not in the
4 incident report either, is it? The photo array
5 information?
6 A. I didn't document it in the supplement, no, I did
7 not.
8 Q. Okay. And the affidavit that you completed of Ms.
9 King, that's been admitted as State's Exhibit Number 1.
10 Excuse me. Do you have it?
11 A. I don't have it. I gave it back.
12 Q. Oh, here it is. State's Exhibit 2.
13 MR. POTTER: May I approach, Judge.
14 THE COURT: Yes, sir.
15 Q. The photo identification, this is the affidavit.
16 You completed that affidavit completely?
17 A. Yes.
18 Q. Okay. The only thing she did, Ms. King, was sign
19 her name; is that correct?
20 A. Yes.
21 Q. Okay. And there's no indication that you did that
22 in your supplemental report that you provided in the
23 incident report, is there?
24 A. No.
25 Q. Now, you went to the scene where the incident

1 occurred; is that correct?
2 A. Yes.
3 Q. Did you go inside the trailer?
4 A. No.
5 Q. You don't know when the assault took place, do you?
6 A. (No verbal response)
7 Q. You don't know when Mr. Schaffer Scott got
8 assaulted, do you?
9 A. I had the CAD call when the time it came in.
10 Q. Okay. So you don't know when the assault actually
11 took place?
12 A. No.
13 Q. All right. That's all I have. Thank you.
14 THE COURT: Anything on redirect?
15 MS. HUEY: Nothing, Your Honor.
16 THE COURT: Okay.
17 Thank you. You can step down and you can be
18 released from your subpoena.
19 All right. Ladies and gentlemen, you've been very
20 patient. I'm going to let you go to lunch. If you
21 would, be back in the jury room by two thirty. I'll give
22 you a little extra time because it's nasty outside. Have
23 a good lunch and don't talk about the case. If anybody
24 approaches you, let me know.
25 (WHEREUPON, the jury exited the open court at

1 approximately 1:00 p.m.)

2 THE COURT: Okay. Let's go back to the

3 objection and go ahead and document that. We had an off-

4 the-record conversation in which the objection was made.

5 And I'll be happy to hear from you.

6 MR. POTTER: Judge, the testimony was she took

7 the photographs from booking photos from the Sheriff's

8 department. And that's the reason for the objection of

9 it being admitted because it implies that my client has

10 been arrested before and that there's a prior record with

11 the court -- excuse me -- with law enforcement.

12 In addition to that, the photograph has Anderson

13 County Sheriff's Department written -- or Sheriff's

14 office written on top of it. It can easily be inferred

15 these are booking photographs. These are not photographs

16 taken from the D.M.V.

17 THE COURT: It says it on the pictures?

18 MR. POTTER: It says it right above the

19 pictures.

20 MS. HUEY: Just printed from her computer, Your

21 Honor.

22 THE COURT: Okay.

23 MR. POTTER: And in big bold letters, Anderson

24 County Sheriff's Office is written on there. And again,

25 Judge, I think it's highly prejudicial that those are

1 photographs that clearly are booking shots.

2 THE COURT: Okay. All right. Well -- and

3 you're protected for the record. I think it's

4 admissible. It would probably be better if it came from

5 driver's licenses, but I don't think that makes it

6 inadmissible.

7 You've got Brett Woodard at two-thirty?

8 MS. HUEY: Yes, sir.

9 THE COURT: All right.

10 MS. HUEY: And how late do you think you want

11 to go today, Judge?

12 THE COURT: I can go a little later today.

13 Whatever time you want to ---

14 MS. HUEY: We might get to a point, Judge,

15 where it's everyone but SLED. And I hate to call SLED

16 ---

17 THE COURT: No, don't get them -- no.

18 MS. HUEY: So my plan is ---

19 THE COURT: Do as much as you can without SLED,

20 and you can do them tomorrow.

21 MS. HUEY: Exactly, if that's okay.

22 THE COURT: Okay. All right. Y'all have a

23 good lunch.

24 (WHEREUPON, court stood at recess for a lunch

25 break.)

1 THE COURT: Are y'all ready?

2 MS. HUEY: Yes, sir. Dr. Woodard's in the

3 courtroom, Judge. He'll be the next witness.

4 THE COURT: All right. Let's wait on him to

5 come up.

6 All right. Anything we need to take up before we

7 bring them in?

8 MS. HUEY: Nothing from the State, Judge.

9 MR. POTTER: No, Your Honor.

10 THE COURT: Okay. You can bring them in.

11 (WHEREUPON, the jury entered the open court at

12 approximately 2:34 p.m.)

13 THE COURT: All right. Ladies and gentlemen,

14 we're going through this next witness, and then we'll

15 have to take a short break after this next witness. But

16 if you have a problem let me know. I hope you had a good

17 lunch.

18 You can call your next witness.

19 MS. HUEY: Your Honor, the State calls Dr.

20 Brett Woodard to the stand.

21 **BRETT WOODARD,**

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MS. HUEY:

25 Q. Dr. Woodard, what is your occupation or profession?

1 A. I'm a medical doctor, a pathologist by specialty
2 training.
3 Q. And what exactly is a pathologist?
4 A. The general field of pathology is a field of
5 medicine that studies disease through looking at the
6 organs of the body, both microscopically and grossly, as
7 well as looking at the fluids of the body.
8 Q. Are you also board certified in forensic pathology?
9 A. Yes, I am board certified in forensic pathology.
10 Forensic pathology is a sub-specialty in pathology that
11 deals with human injuries and their degree and capacity
12 all the way up to death and how those injuries may have
13 been produced.
14 Q. As a forensic pathologist, do you have occasion to
15 perform autopsies?
16 A. Yes, I do.
17 Q. About how many do you think you've performed over
18 the course of your career?
19 A. Approximately two hundred and fifty to three hundred
20 a year.
21 Q. And again, how long have you been doing this, Dr.
22 Woodard?
23 A. Since 1982.
24 Q. Have you ever testified as an expert?
25 A. Yes, I have.

1 Q. In forensic pathology?
2 A. Yes, I have.
3 Q. And do you remember about how many times that was?
4 A. Hundreds.
5 Q. And in the Courts of General Sessions?
6 A. In South Carolina as well as other states.
7 MS. HUEY: At this time, we would offer Dr.
8 Woodard as an expert in forensic pathology.
9 THE COURT: Any objection?
10 MR. POTTER: No, Your Honor.
11 THE COURT: All right. Without objection.
12 Q. Now, Dr. Woodard, were you working and did you have
13 an occasion to perform an autopsy on the victim in this
14 case, Claud Schaffer Scott?
15 A. Yes, I did.
16 Q. And how did you come to receive Mr. Scott?
17 A. Mr. Scott had come to the Anderson Hospital, and he
18 died after a traumatic event. He was -- I was given
19 permission by the Anderson County Coroner's Office Chief
20 Deputy Coroner, Charles Bozeman, to perform an autopsy on
21 him to determine the mechanisms, manner and cause of
22 death.
23 Q. Generally when you start an autopsy, what is your
24 general procedure?
25 A. We examine the deceased as we receive them. In this

1 case he had been hospitalized, so the original clothes he
2 had on had already been removed in the hospital. And any
3 injuries that he had on his body had been attended to by
4 the physicians who were caring for him at the hospital.
5 But we examine the outside of the body, look at the
6 injuries that are present on the outside of the body,
7 catalogue those injuries and categorize those injuries so
8 that we can later make a determination of the likely
9 mechanism by which they were produced.
10 We then proceed to open the body and look at the
11 internal injuries that are in the body and also look at
12 the general state of health that the deceased has.
13 Obviously, all of us have background health issues, and
14 this can interact with injuries.
15 Q. Is that what you did in Mr. Scott's case?
16 A. Yes, it is.
17 Q. So if you could, please start with the first
18 injuries that you note to Mr. Scott?
19 A. Mr. Scott had injuries that were over his hands and
20 this surface of the forearm. We refer to this as the
21 dorsal surface of the forearm or the back surface of the
22 forearm all the way to the levels of his elbow. He had
23 tears to the skin on his right that involved his third,
24 fourth and fifth fingers, and they had been closed with
25 sutures by the physicians. And he had large bruises with

1 tears in the skin over his arm on the right side.

2 On the left side, he had a large bruise that

3 basically extended from the elbow down to the hand, and

4 he had a tear on the third finger on the left hand,

5 again, on this back surface of the arm.

6 He had large bruises on the back part of his leg

7 behind the knee on the right side. And then we saw

8 multiple injuries on the head and face. Both of his ears

9 had large tears in the ear that had been closed by

10 surgical wounds -- by suture material. He had large

11 bruises underneath these torn injuries.

12 Significant blood had collected under the scalp and

13 had run down, so we saw bruising or black and blue

14 coloration around his eyes. He had at least ten separate

15 cuts on his forehead. But it's difficult to definitely

16 say that there weren't more tears in the skin of his head

17 than ten because they crisscross, and you couldn't be

18 sure where one started and another ended. So there could

19 have been more.

20 He had a small tear on the bridge of his nose, and

21 both his upper jaw and his lower jaw were broken. He had

22 bruises on the front part of his neck, and he had bruises

23 on the top front of his left shoulder, on the back of his

24 right shoulder and on the back of his neck.

25 Inside his body, there were no breaks in his skull

1 bone, but his brain had suffered bruising. We call this
2 contusion of the brain, and this involved both the right
3 and the left side of the brain. And his brain was
4 swollen which is a common reaction of the brain to
5 injuries. And he had fine bleeding over the surface of
6 his brain which is often associated with contusions
7 because they tear the little tiny capillaries on the
8 surface of the brain.
9 In dissecting his neck, we saw that a low cervical
10 vertebra, the last cervical vertebra -- if you ran your
11 hand down your neck right before your chest begins, the
12 little spine that sticks out on the side of that was
13 broken off. And the bone that would make up your
14 shoulder blade, the scapular was broken on the right
15 side.
16 Internally, he was a man of very poor health. He'd
17 previously had significant blood vessel disease that had
18 been medically treated. He had undergone coronary bypass
19 surgery in the past. His heart was big, almost twice as
20 large as it should have been. And he had his aortic
21 valve replaced, the micro valve. The valve in the
22 chambers below the left ventricle was diseased and non --
23 it was not functioning properly.
24 He'd previously had grafts put in in the far distal
25 portion of his aorta as it extends down through your

1 pelvis and into your legs. And at the time that we saw
2 him, he was developing gangrene of his right lower
3 extremity because of lack of blood flow.
4 He had emphysema of the lungs, and his lungs were
5 very heavy and filled with edema fluid. His muscular
6 system demonstrated that he had a fair degree of muscular
7 atrophy, more severe in the lower than the upper
8 extremities. And he had changes in his kidneys which are
9 often associated with high blood pressure and lead to a
10 degree of dysfunction of his kidneys.
11 Q. When you were finished with the autopsy, Dr.
12 Woodard, were you able to develop an opinion as to the
13 cause of Mr. Scott's death?
14 A. Yeah. Because of the trauma that he suffered, it
15 became too much for his heart with the limited blood flow
16 that his heart had. And his heart gave out on him.
17 Q. And so then the cause of death was?
18 A. Ischemic cardiomyopathy due to blunt force trauma.
19 Q. And as such, what was it ruled?
20 A. Homicide.
21 Q. Now, Dr. Woodard, backing up specifically to the --
22 I believe you testified there were at least ten
23 lacerations to Mr. Scott's head?
24 A. If not more. A minimum of ten.
25 Q. And so does that indicate that he was hit at least

1 ten times with something?

2 A. Something struck his head at least ten separate

3 times, if not more.

4 Q. If not more. Okay. And I believe you testified

5 that his jaws were broken?

6 A. That's correct. Both his upper and lower jaw.

7 Q. And would that affect his speech?

8 A. Yes. His speech would be kind of garbled. Most of

9 our enunciations and speaking patterns require movement

10 of the upper jaw and tongue. And obviously, those

11 movements would be painful with a fractured bone.

12 Q. Now, in terms of the blows themselves, upon Mr.

13 Scott being hit the first time, would he have been

14 unconscious or incapacitated?

15 A. Well ---

16 MR. POTTER: I'm going to object, Your Honor.

17 Speculative.

18 THE COURT: All right. If he knows. You can

19 ask him if he knows the answer to that.

20 Q. Do you know the answer to that question?

21 A. Yes.

22 THE COURT: Okay. Overruled.

23 A. In Mr. Scott's case, he wasn't unconscious because

24 we see evidence of activity, physical activity. He puts

25 his arms up with his hands -- and his arms in an upward

1 position to use his arms to decelerate or fend off the
2 blows that are being administered to him. And he would
3 have to be conscious to assume these positions.
4 Obviously, with repetitive blows, he may lose
5 consciousness, but the brain injury that he suffers is
6 not one that leads to an immediate coma. The coma that
7 would follow would require swelling of the brain and
8 usually take several hours or more before irreversible
9 unconsciousness or coma begins to develop.
10 Q. Okay. So when you testified regarding the injuries
11 to Mr. Scott's arms, in your opinion, what kinds of
12 injuries were those?
13 A. They're what we call defensive injuries. The
14 posturing of the extremities so that the extremities come
15 between the attack and the individual rather than
16 aggressive blows which are contained just within the hand
17 or even in people who are trained with martial arts are
18 the surfaces along the sides of the arms versus this back
19 surface of the arm.
20 Q. So in order to be able to do that, they have to be
21 awake; is that correct?
22 A. They have to be conscious.
23 Q. Now, the injury noted to Mr. Scott's -- the back of
24 his leg, I think you said under his knee?
25 A. Behind the knee, correct.

1 Q. What, if anything, would that indicate to you about
2 his posture when the attack took place?
3 A. It would only indicate that at some time either that
4 leg was raised up using a defensive posture, or as he
5 attempts to get out of the position he's in, he may have
6 struck the leg against some other object.
7 Q. Would it or could it be consistent with him being in
8 a seated position and again recoiling in a defensive
9 posture?
10 A. Absolutely.
11 Q. In terms of Mr. Scott's health, in particular the
12 gangrene in his leg, how, if at all, would that affect
13 his mobility?
14 A. Well, he had bad hardening of the arteries, the
15 peripheral extremities of his body. And that doesn't
16 just happen instantly overnight. That's a slow process.
17 The muscles atrophy for a prolonged period of time.
18 Muscles and nerves atrophy before the blood flow becomes
19 so insufficient that the tissues don't have enough blood
20 flow and the surface tissues begin to die and we see the
21 gangrene forming. So he had significant atrophy in his
22 muscles, so his mobility would have been at best poor to
23 limited. Would not necessarily mean that he would be
24 using a wheelchair, but he would need some assistance to
25 do whatever. He certainly wouldn't climb the stairs up

1 to the fourth floor of the courthouse.
2 Q. Now, in terms of while he may not have been
3 unconscious, how would his demeanor have been affected in
4 terms of being able to speak or anything along those
5 lines?
6 A. He would have been significantly dazed, much like a
7 prizefighter who's been severely struck by another
8 prizefighter. It might have taken -- because of his
9 brain injuries, it would have taken longer to bring to
10 bear the process to convey thought.
11 Q. But he would be able to do that?
12 A. Yes, he would be able to do it. He would have more
13 trouble with his movement than he would have had before
14 the attack.
15 Q. Dr. Woodard, in your opinion, the injuries that Mr.
16 Scott suffered, are those consistent with having been
17 beaten with a skillet or a fry pan?
18 A. Some sort of large, flat surface structure with a
19 curved edge to it. And a fry pan would be an excellent
20 choice.
21 Q. Dr. Woodard, once you complete the autopsy, is
22 anything saved from Mr. Scott?
23 A. Yeah. We would save evidentiary pieces of material
24 such as body fluids. And we would have given them to --
25 I believe it was the county sheriff's department.

1 Q. And in that packet, would that -- would a sample of
2 the victim's blood be included?
3 A. Yes. At that time they were taking anti-coagulated
4 tubes full of blood.
5 Q. And you would have given that to law enforcement?
6 A. That would have been the Anderson Sheriff's
7 Department representatives.
8 MS. HUEY: That's all I have for this witness,
9 Judge.
10 THE COURT: All right.
11 Yes, sir?
12 CROSS-EXAMINATION
13 BY MR. POTTER:
14 Q. Doctor, the injury to the left leg, the left knee;
15 is that correct?
16 A. Right behind the right knee.
17 Q. Excuse me. The right knee. Were you able to tell
18 when that injury occurred?
19 A. It was consistent with having occurred around the
20 same time that the attack occurred. I can't say it
21 occurred an hour before the attack or at the time of the
22 attack.
23 Q. Now, with the gangrene issues, you indicated there's
24 a fair amount of atrophy in his lower extremities,
25 correct?

1 A. That's correct.
2 Q. And that makes it more susceptible to injuries?
3 A. Because there's atrophy, it makes it more
4 susceptible with an injury to produce the gangrene, yes.
5 Q. Okay. Now, you indicated that there were injuries
6 to the back portion of his arms?
7 A. That's right. The back forearm.
8 Q. And that would have indicated to you defensive
9 injuries?
10 A. That's correct.
11 Q. So if someone's being struck, it appears as if he's
12 covering up his head to try to prevent any more blows on
13 his head?
14 A. That's correct.
15 Q. At some point in time he may have lost
16 consciousness, he may not have lost consciousness; is
17 that true?
18 A. That's correct.
19 Q. And as a result of these blows -- and in essence, if
20 I'm correct on this, the brain's kind of bouncing around
21 inside the skull; is that true?
22 A. Well, once the defensive posture is lost, then the
23 blows can strike the scalp, and the brain is then having
24 energy transmitted through the scalp, the skull into the
25 brain itself, producing whatever level of injury it

1 produces for a concussion all the way up to a contusion.
2 Q. A subarachnoid hemorrhage or something of that sort?
3 A. Well, that's all part of the contusion.
4 Q. Okay. Now, those blows could have happened before
5 the defensive position happened or after. We don't know.
6 Is that correct?
7 A. If he'd had all -- assume there were only ten, which
8 we were able to count. If he had all ten beforehand, he
9 never would have assumed a defensive position.
10 Q. You also indicated that as a result of these blows,
11 he would have been disoriented like a prizefighter?
12 A. Correct.
13 Q. Having a hard time to distinguish his environment
14 and what's going on?
15 A. He would have a hard time making judgments that you
16 would make if you were in a similar environment and had
17 been struck.
18 Q. Thank you.
19 MR. POTTER: Thank you.
20 THE COURT: Anything else?
21 MS. HUEY: That's all I have for this witness.
22 May he be excused?
23 THE COURT: Any objection?
24 MR. POTTER: No, Your Honor.
25 THE COURT: Okay. Thank you, sir. You can be

1 excused.

2 MS. HUEY: Your Honor, the State now calls

3 Chris Pridemore.

4 MR. POTTER: Judge, can we approach real quick?

5 THE COURT: Sure.

6 (WHEREUPON, a bench conference was held off the

7 record.)

8 (WHEREUPON, the witness was duly sworn.)

9 THE COURT: Yes, ma'am?

10 **CHRIS PRIDEMORE,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MS. HUEY:

14 Q. Investigator Pridemore, where do you work?

15 A. The Anderson County Sheriff's Office.

16 Q. And how long have you been with them?

17 A. Nine years.

18 Q. In what position are you currently?

19 A. Forensics investigator.

20 Q. And how long have you been a forensics investigator?

21 A. Four years.

22 Q. As a forensic investigator, what are some of your

23 duties and responsibilities?

24 A. To take digital photographs of crime scenes, recover

25 fingerprints, latent fingerprints, shoe wear impressions.

1 Anything of evidentiary value from a crime scene.
2 Q. Did you have occasion to respond to [redacted]
3 A. Yes, I did.
4 Q. And is that Anderson County?
5 A. Yes, it is.
6 Q. And what was the reason for your response?
7 A. We responded -- myself and Investigator McElrath
8 responded to process the crime scene.
9 Q. So you mentioned Investigator McElrath. Is he your
10 partner?
11 A. Yes, ma'am.
12 Q. Is that right?
13 A. Yes, ma'am.
14 Q. Okay. And is it common to work with a partner in
15 forensics?
16 A. For the larger crimes scenes, yes.
17 Q. And is that what happened in this particular case?
18 A. Yes.
19 Q. What do you typically do when you first get on a
20 crime scene.
21 A. The first thing you want to do is make contact with
22 the officer, the investigator on the scene, and get an
23 idea, a basic idea, of what kind of conflict or crime has
24 been committed so you have an idea of where to start and
25 what to look for.

1 Q. And did you do that in this case?
2 A. Yes, we did.
3 Q. All right. And who did you speak with?
4 A. When we made contact on the scene, Investigator
5 Bussey was there, Investigator Ashley was there. And we
6 made contact with them. They advised us of what they
7 had, the information they had, and we proceeded from
8 there with a search warrant.
9 Q. Okay. And so you would collect evidence as a result
10 of where the investigation had been going thus far?
11 A. Yes, ma'am.
12 Q. Okay. So tell the jury what, if anything, you
13 observed when you first got on the scene then?
14 A. The first thing I noticed when I first got on the
15 scene and started looking around is we didn't observe any
16 sign of forced entry into the residence.
17 Q. And had the residence already been taped off?
18 A. Yes, ma'am.
19 Q. And what does that tape indicate to you?
20 A. A crime scene. Do not cross.
21 Q. And so do you also then document the scene, you or
22 your partner, in terms of photographs?
23 A. Yes. Investigator McElrath took digital photographs
24 of the scene outside and inside.
25 Q. Okay. And essentially he's taking photos while you

1 are inside looking at the scene and collecting evidence;
2 is that correct?
3 A. Yes.
4 Q. So you would have seen the scene as well?
5 A. Yes.
6 Q. All right. Investigator Pridemore, I'm going to
7 show you what's been marked as State's 18-A, 18-B, 18-C,
8 18-D, 18-E, 18-G, 18-I, 18-J, 18-K and 18-L. If you
9 would, please, take a look at all of those.
10 A. (Witness complied)
11 Q. Do you recognize all of those?
12 A. Yes, I do.
13 Q. Okay. And how are you able to recognize those?
14 A. Because these are the photographs that was taken by
15 Investigator McElrath. I was there. It doesn't appear
16 anything has been altered. The first one I actually shot
17 from the road.
18 Q. Okay. We'll go over those in just one second. But
19 nothing has been changed or altered?
20 A. No.
21 Q. Substantially in the same condition as when you saw
22 the crime scene?
23 A. Everything appears to be the same. This is what we
24 found.
25 MS. HUEY: Your Honor, at this time, we seek to

1 admit those photos.

2 MR. POTTER: No.

3 THE COURT: Without objection.

4 MS. HUEY: And publish, Your Honor.

5 (WHEREUPON, State's Exhibit Numbers 18-A through L

6 were admitted into evidence.)

7 Q. If you would step down with all of those.

8 (WHEREUPON, the witness stepped down from the

9 witness stand.)

10 Q. Okay.

11 A. This roughly is a view of the trailer from the road.

12 The front door, it sits parallel with the main road.

13 Q. And this was 18-A. And so this is just a photo of

14 the outside of the trailer from the road?

15 A. Yes. From the road, it's the front of the trailer.

16 It sits parallel with the road.

17 Q. And again, shows the crime scene tape around it?

18 A. Right. Right.

19 Q. This would be 18-B.

20 A. And that's just a closeup. Basically the same thing

21 where we tried to get the numbers on the trailer to show

22 we are actually talking about the same address.

23 Q. Okay. And in terms of -- I believe you testified

24 that there were no signs of forced entry?

25 A. Correct.

1 Q. And that's typically what -- you check out the front
2 door, windows, that sort of thing?
3 A. You look at the -- correct. The windows, the doors,
4 anything that you would be able to use to gain access
5 into the residence.
6 Q. And this would be 18-C.
7 A. Actually, this picture was taken -- you can still
8 see some of the doorframe here. It's right inside of the
9 front door. When you open up the front door, this is the
10 ottoman. There was a clipboard with some papers on it.
11 You can see change, various coins laying in the floor.
12 All of this is blood up into this area. This is the
13 mobile scooter. Directly, further back from the scooter
14 is the reclining chair.
15 Q. And I see some bandaging papers and that sort of
16 thing. Did you respond to the crime scene after
17 paramedics?
18 A. Yes. They had already arrived and transported the
19 individual to the hospital.
20 Q. This would be 18-D. Will you tell the jury what
21 that is?
22 A. This is basically the paperwork that was on the
23 ottoman. It's just the Department of Motor Vehicles
24 title. Margaret Conwell was the name that was on it. If
25 you'll look, you'll see little droplets of blood all over

1 it. Actually on the clipboard itself as well. And it
2 was sitting on the ottoman when you first come in the
3 door.
4 Q. And this is 18-E.
5 A. Okay. This over here, now, is of the front door
6 area. This is the edge of the couch. The kitchen is
7 over here. This is where it looks like the struggle
8 ensued. In this area, you'll see this table is broken.
9 You'll see all the blood in this area here. If you look
10 real close right here, you'll see a deformed-looking
11 skillet and the tip of the handle of the skillet as well
12 as a broken cell phone.
13 Q. State's 18-G?
14 A. This is another view from the main front door which
15 is right here. Basically, he's standing beside the
16 ottoman and taking another picture. You'll see the
17 recliner, see the blood on the recliner, all over the
18 floor.
19 You'll see the wallet which we recovered, which was
20 right at the recliner. He had absolutely no money in it.
21 The only money that was recovered was the change and
22 stuff that's laying around.
23 There's the broken phone again, and there's the
24 skillet. You can see the handle and the broken little
25 table.

1 Okay. We'll go to the next one.
2 Q. And this would be 18-H?
3 A. That's just a closeup of the wallet itself. We had
4 flipped it open to see if we could find the I.D. inside
5 of it. I checked it for money. And like I said, it
6 didn't have any money inside of it.
7 Q. And that was the wallet that belonged to Mr. ---
8 A. It belonged to the victim, yes.
9 Q. This will be 18-I?
10 A. That's a real good shot of the skillet right here.
11 And that's where the handle was broke off of it. That's
12 the rivets.
13 Q. So that's where the handle should be where the
14 rivets are?
15 A. Correct. Correct.
16 Q. This would be 18-J?
17 A. And that would be the handle. And you can see the
18 -- that's where the rivets actually come through the
19 handle, and they're wallowed out. And they had some
20 blood stains.
21 Q. And that matched up with the skillet?
22 A. Yes, yes. And that's a piece of the broken phone as
23 well.
24 Q. All right. This would be 18-K?
25 A. This is blood spots, blood drops on the wall. This

1 is the scooter. If you are inside the residence, inside
2 the room, the front door would be here. This is the edge
3 of the recliner. The recliner sits kind of catty-corner
4 like this. And this is the wall right beside it, would
5 be basically to your left. About where your head is.
6 Q. And this is 18-L?
7 A. That one is just basically a closeup of the last
8 picture. You just are able to see the blood drops
9 better.
10 Q. And again, that's behind or next to the recliner?
11 A. Absolutely. Yeah, to the left side of it.
12 Q. All right. If you can have a seat then.
13 (WHEREUPON, witness resumed the witness stand.)
14 Q. So other than the photos, what, if anything else,
15 was collected from the scene, Investigator Pridemore?
16 A. We collected three sets of blood swabs. One set was
17 from the front doorknob on the inside. Another set was
18 from the carpet area, which was where the skillet was
19 located. And another set was from the coffee table in
20 front of the couch.
21 Q. And the purpose of collecting those swabs?
22 A. For DNA.
23 Q. And you don't test for DNA yourself? That's done by
24 another agency?
25 A. Right. We do not. We send that stuff off to SLED.

1 Q. I'm going to show you -- what was the reason --
2 first let me back up. Did you collect the skillet and
3 the handle in this case?
4 A. Yes, I did.
5 Q. And what was the purpose behind collecting those two
6 items?
7 A. When we arrived on the scene, we were advised that
8 we had a suspect. We knew the name and we knew the
9 means, the weapon. When we first went in, the skillet
10 was lying on the floor in the area that we determined to
11 be the scene. And it had blood on it, and it was --
12 obvious the shape it was in.
13 Q. I'm going to show you what's been marked as State's
14 5. I'm going to leave it in the box for the time being.
15 If you could take a look at that.
16 A. (Witness complied)
17 Q. And do you recognize that item?
18 A. Yes, I do.
19 Q. All right. And is that the skillet you collected on
20 March 30th, 2012?
21 A. Yes, it is.
22 Q. And once you collect that skillet, what do you then
23 do with that item?
24 A. If possible, you can process it. We can process it.
25 It will be sealed, placed into evidence. And if it needs

1 to be, it can be sent off to SLED or stay sealed up into
2 evidence unless some investigator needs to have it pulled
3 back out for some reason. And then they have to sign it
4 out.
5 Q. And did you do that in this case? Did you log it
6 into evidence at the Sheriff's office?
7 A. Yes, I did.
8 Q. Sealed?
9 A. Yes, I did.
10 Q. I'm going to leave that up with you for just a
11 second. I'm also going to show you what's been marked as
12 State's 6. If you could take a look at that.
13 A. (Witness complied)
14 Q. And do you recognize that item?
15 A. Yes, I do.
16 Q. Okay. And how do you recognize it?
17 A. It's the handle that I collected at the scene.
18 Q. Okay. And again, you followed the same process in
19 terms of logging that in to evidence?
20 A. Correct.
21 Q. Sealed?
22 A. Correct.
23 Q. Have either of these items been altered or changed
24 in any way to your knowledge?
25 A. Other than the SLED writing on them, no.

1 Q. Because obviously these items have been sent to
2 SLED; is that correct?
3 A. Yes.
4 MS. HUEY: Your Honor, at this time we seek to
5 admit State's 5, I believe, and -- 5 and 6.
6 THE COURT: Any objection?
7 MR. POTTER: None, Your Honor.
8 THE COURT: Without objection.
9 (WHEREUPON, State's Exhibit Numbers 5 and 6 were
10 admitted into evidence.)
11 Q. So Investigator Pridemore, if you could step down
12 again.
13 (WHEREUPON, the witness stepped down from the
14 witness stand.)
15 Q. And show the jury -- again, this would be State's 5?
16 A. This is the skillet, the one that we were looking at
17 in the viewing that had some coins in it. It was in
18 front of the TV entertainment center. You see how
19 damaged it is. There's still some blood dried on it.
20 And the rivets where the handle was.
21 Q. And then this would be State's 6?
22 A. This is the handle from that very skillet that I
23 collected. That's where the rivets went through the
24 handle. You can see how that's all walled out.
25 Q. Thank you. Now, these were collected and sent to

1 SLED, but you were unable to get any prints off these
2 items; is that correct?
3 A. Correct. Correct.
4 (WHEREUPON, the witness resumed the witness stand.)
5 Q. Investigator Pridemore, did you also enter the
6 camper that would have been next to or behind the
7 victim's trailer?
8 A. Yes. We did search the R.V. as well.
9 Q. And were you able to collect anything from that
10 particular camper?
11 A. I believe we got some miscellaneous paperwork from
12 inside that R.V.
13 Q. Where was it in relation to Mr. Scott's trailer?
14 A. If you're standing in the road looking at the front
15 of the trailer, it would be to the left and back to the
16 rear of the property, roughly -- we didn't measure exact.
17 But it was roughly, I would say, about twenty-five feet,
18 twenty-five yards. I'd say twenty-five yards. About
19 seventy-five feet total.
20 Q. Could you see the camper from the street?
21 A. Yes.
22 (WHEREUPON, State's Exhibit Numbers 21-A through F
23 were marked for identification only.)
24 Q. Okay. Investigator Pridemore, now I'm going to show
25 you what's been marked as State's 18-F as well as 21-A

1 through F. If you could take a look at all of these,
2 please.
3 A. (Witness complied)
4 Q. Are you able to recognize all of those?
5 A. Yes.
6 Q. Do those fairly and accurately depict the camper as
7 you documented it on March 30th, 2012?
8 A. It does.
9 Q. Have they been changed or altered in any way?
10 A. No, ma'am.
11 MS. HUEY: Your Honor, at this time we'd seek
12 to introduce these exhibits.
13 THE COURT: Any objection?
14 MR. POTTER: No objection.
15 THE COURT: All right. Without objection.
16 (WHEREUPON, State's Exhibit Numbers 21-A through F
17 were admitted into evidence.)
18 Q. Again, if you could step down.
19 (WHEREUPON, the witness stepped down from the
20 stand.)
21 Q. All right. This would be 18-F. Tell the jury what
22 that is.
23 A. That's just a side shot of the R.V. if you're in the
24 yard. If you were out in the road, you'd be about right
25 here looking at it because it was kind of -- not straight

1 onto the road.
2 Q. This would be 21-A.
3 A. That's just a shot of the door, of the back side of
4 the R.V. with the door open.
5 Q. 21-B. It's a little dark?
6 A. It looks like a little travel suitcase with a little
7 pull handle. It was -- as soon as you stepped inside the
8 R.V., it was in the corner of the rear.
9 Q. This would be 21-C?
10 A. That's just another shot of it before we opened it
11 up.
12 Q. And that's a closeup of the suitcase?
13 A. Yes, ma'am.
14 Q. And did you then open that suitcase?
15 A. Yes.
16 Q. All right. So this would be 21-D.
17 A. And that's what was inside when we opened it up.
18 Q. And 21-E.
19 A. That is a shot from where the suitcase is back here,
20 shooting back up towards the front, the sleeping area and
21 the actual cab part of the R.V.
22 Q. And 21-F.
23 A. This is just another shot of how clean everything
24 is. The counters. Other than the suitcase being in
25 there, it didn't appear that anybody was there.

1 Q. Now, what was your purpose for searching the camper
2 and documenting it?
3 A. We were advised that the subject, Mr. Kennedy, was
4 staying in that camper. So we, under the search warrant,
5 went in there to see if we could gather information as
6 well.
7 Q. You can have a seat.
8 (WHEREUPON, the witness resumed the witness stand.)
9 Q. And then other than some miscellaneous paperwork,
10 you were unable to collect anything else?
11 A. Correct.
12 Q. Of evidentiary value?
13 A. Correct.
14 MS. HUEY: I don't think I have anything else
15 at this time, Judge.
16 THE COURT: Yes, sir?
17 MR. POTTER: May it please the Court?
18 THE COURT: Yes, sir.
19 CROSS-EXAMINATION
20 BY MR. POTTER:
21 Q. Investigator Pridemore, is that right?
22 A. Yes, sir.
23 Q. Okay. You indicated there were no signs of forced
24 entry to the trailer where the victim was found; is that
25 correct?

1 A. Correct.
2 Q. Okay. So there were no broken windows, no broken
3 doorways, anything of that sort?
4 A. No.
5 Q. Typically, when you see forced entry, that means
6 doors were locked, the windows were locked, correct?
7 A. Correct.
8 Q. So if the door was left unlocked or left open,
9 you're not going to see any forced entry?
10 A. Correct.
11 Q. You took three blood swabs; is that true?
12 A. Yes, sir.
13 Q. All right. One was of the carpet, coffee table, and
14 the front doorknob?
15 A. On the inside, correct.
16 Q. On the inside. Okay. Well, that was my question.
17 Did you take a swab of the lounge, a blood swab of the
18 lounge that you saw in the living room?
19 A. Are you talking about the recliner?
20 Q. Yes, sir, the recliner.
21 A. No.
22 Q. Was that recliner lounge taken into evidence?
23 A. No, it was not.
24 Q. You also indicated you found a skillet and a handle
25 to a skillet?

1 A. Yes, sir.
2 Q. And you took those items in for evidence; is that
3 correct?
4 A. Correct.
5 Q. All right. And you dusted those items for
6 fingerprints; is that true?
7 A. The handle, correct. And at that point those two
8 items were sent to SLED.
9 Q. So you checked the handle for fingerprints or does
10 SLED check the handle for fingerprints?
11 A. If we can process an item, we'll go ahead and
12 process it.
13 Q. Okay.
14 A. Otherwise, we'll send it off to SLED and let them
15 look at them.
16 Q. I guess maybe you misunderstood my question. Did
17 you process the handle for fingerprints?
18 A. Yes.
19 Q. All right. And you found no fingerprints on it?
20 A. None.
21 Q. Does SLED do a separate process for fingerprints to
22 your knowledge?
23 A. I'm assuming they did.
24 Q. And you checked the skillet itself for fingerprints?
25 A. Yes.

1 Q. All right. Now, you indicated that there was blood
2 on the skillet; is that correct?
3 A. Yes, sir.
4 Q. Was there any hair or any scalp material, any skin
5 material found on that skillet?
6 A. I don't believe Investigator McElrath found anything
7 of that nature on the skillet at the time.
8 Q. Okay. Did you take the skillet, or did your partner
9 do that?
10 A. No. I physically collected the skillet.
11 Q. Okay.
12 A. And when we got back to the office, we decided to
13 process it, yes.
14 Q. I understand. So to your knowledge, no hair or any
15 type of skin or scalp material was found on that?
16 A. Correct.
17 Q. But blood was found?
18 A. Correct.
19 Q. And blood was also found on the handle as well?
20 A. Correct.
21 Q. And those items were sent to SLED for further
22 processing?
23 A. The skillet and the handle?
24 Q. Yes, sir.
25 A. Yes, sir.

1 Q. Okay. All right. You testified earlier if you're
2 looking at the house, the trailer, the R.V. was to the
3 left on the back portion of the lot; is that correct?
4 A. Yes.
5 Q. All right. And about twenty to twenty-five feet
6 away from the trailer?
7 A. Twenty to twenty-five yards. Roughly seventy,
8 seventy-five feet.
9 Q. Okay.
10 A. We did not physically measure it. That's just a
11 rough estimate.
12 Q. So when we say it's not parallel, it's kind of
13 further on back, correct?
14 A. Correct.
15 Q. Okay. Got you. Now, you got a search warrant for
16 that R.V., correct?
17 A. It was encompassed in the original search warrant.
18 Q. That's fine. Well, you searched the R.V., right?
19 A. Yes.
20 Q. You didn't take it into evidence?
21 A. No.
22 Q. All right. You searched the R.V. You didn't find
23 any blood or any bloody clothes?
24 A. No.
25 Q. You didn't find any bloody items at all? You didn't

1 find any clothes at all, did you?
2 A. No.
3 Q. So no evidence of value was located in that R.V.?
4 A. To my knowledge the only thing we recovered out of
5 the R.V. was miscellaneous papers.
6 Q. And the R.V. wasn't taken into evidence for further
7 processing?
8 A. No, sir.
9 Q. Were there any other out buildings on this property?
10 A. I believe there was a shed in the back.
11 Q. Directly behind that trailer?
12 A. Yes, sir.
13 Q. Was that searched?
14 A. I can't tell you if it was or not. At that point, I
15 was back inside. I have no idea if it was searched by
16 investigators or not.
17 Q. Is this kind of like a -- is this like a storage
18 shed where people keep their lawnmowers and things of
19 that sort?
20 A. I believe so.
21 Q. But you never went into it?
22 A. I never went into it.
23 Q. Okay. Any fingerprints inside the trailer -- well,
24 let me make sure I ask this correctly. Inside the
25 trailer itself where the incident occurred, were there

1 any search for fingerprints on any other items?
2 A. Inside of the residence?
3 Q. Yes, sir.
4 A. Okay. We checked the doorknobs for latent prints.
5 Got negative results.
6 Q. Okay.
7 A. We processed the broken cell phone, which I believe
8 had two latents on it. We sent it to the latent section.
9 I do not know whether they were matched to anyone or not.
10 We also processed the beer can from the counter. I do
11 believe it was negative as well.
12 Q. Now, was there just one beer can you found at the
13 scene, or do you recall?
14 A. I don't recall.
15 Q. Okay. Was that beer can taken into evidence?
16 A. I do believe it was.
17 Q. Was there any other liquor or alcohol bottles, cans
18 found on the scene?
19 A. I don't recall.
20 Q. You indicated that you took a swab of blood from the
21 coffee table; is that correct?
22 A. Yes, sir.
23 Q. And the coffee table wasn't taken into evidence?
24 A. No, sir.
25 Q. And there was blood spatter on the walls?

1 A. Yes, sir.
2 Q. And that blood spatter was directly to the -- if
3 you're sitting in that recliner, it would be to the left?
4 A. Correct.
5 Q. And was there a blood swab taken of that?
6 A. No, sir, there was not.
7 Q. And there are a couple of pictures on that wall.
8 Was there any blood on those pictures?
9 A. I don't recall if there was any blood droplets on
10 the frames themselves.
11 Q. But we do know there was splatter?
12 A. We definitely know there was on the wall.
13 Q. I have nothing further. Thank you.
14 THE COURT: Anything on redirect?
15 MS. HUEY: I have no further questions, Your
16 Honor.
17 THE COURT: Okay. You can step down.
18 THE WITNESS: Thank you, sir.
19 THE COURT: You can be excused.
20 MS. HUEY: Yes, sir.
21 THE COURT: Ladies and gentlemen, we're going
22 to take about a fifteen-minute break at the most. Please
23 don't discuss the case. I'll call you back in in about
24 fifteen minutes.
25 (WHEREUPON, the jury exited the open court at

1 approximately 3:26 p.m.)

2 THE COURT: Okay. How many more witnesses do

3 you have? Can we do everybody but SLED today?

4 MS. HUEY: SLED will be tomorrow, Judge.

5 THE COURT: Right.

6 MS. HUEY: We have four more, Judge, that are

7 relatively short.

8 THE COURT: Okay. Let's take a break. Let me

9 go back in here and eat real quick. I'll be right back.

10 (WHEREUPON, court stood at recess for a short

11 break.)

12 THE COURT: Okay. Are y'all ready?

13 MS. HUEY: Yes, sir, we're ready. I'm sorry.

14 THE COURT: Are you ready?

15 MR. POTTER: Yes, sir.

16 THE COURT: Okay. You can bring them in.

17 (WHEREUPON, the jury entered the open court at

18 approximately 3:47 p.m.)

19 THE COURT: All right. Ladies and gentlemen,

20 we're going to proceed forward until we finish for today.

21 I think we can get four more witnesses in, and then we'll

22 stop.

23 You can call your next witness.

24 MR. HAIGLER: The State calls Becky Hanley.

25 (WHEREUPON, the witness was duly sworn.)

1 MR. HAIGLER: May it please the Court?

2 THE COURT: Yes, sir.

3 **REBECCA HANLEY,**

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. HAIGLER:

7 Q. Ms. Hanley, where do you work?

8 A. The Peoples Bank.

9 Q. And where is that bank located?

10 A. 3009 Whitehall Road here in Anderson.

11 Q. Okay. And how long have you worked there?

12 A. About twelve years.

13 Q. And what do you do with Peoples Bank?

14 A. I'm a part-time teller.

15 Q. It sounds like kind of an obvious question, but what

16 are your duties as a teller?

17 A. Just process customer's transactions, deposits,

18 withdrawals, payments, cash checks.

19 Q. Okay. And were you working at the bank on March

20 30th, 2012?

21 A. I was.

22 MR. HAIGLER: Your Honor, may I approach the

23 witness.

24 THE COURT: Yes, sir.

25 Q. I'm going to show you what's been marked exhibits 9

1 and 10 ---

2 MR. POTTER: Brantley?

3 MR. HAIGLER: After I show it to the attorney,

4 obviously.

5 I'm sorry.

6 Q. Do you recognize these documents?

7 A. I do. I sure do.

8 Q. And what are they?

9 A. That's one of our checks that one of our customers

10 wrote someone.

11 Q. And how do you recognize those items?

12 A. Well, it has my teller validation on the back, and

13 it has my handwriting, the customer's driver's license

14 number and his address and his birth date. It looks like

15 the issue date and expiration date. It's my handwriting.

16 Q. Okay. And what does that receipt indicate?

17 A. It just indicates that I cashed this check and paid

18 out cash, fifteen hundred dollars.

19 Q. Okay. Thank you.

20 MR. HAIGLER: Your Honor, at this time, I'd

21 like to admit exhibits 9 and 10 into evidence.

22 THE COURT: Any objection?

23 MR. POTTER: No, Your Honor.

24 THE COURT: All right. Without objection.

25 (WHEREUPON, State's Exhibit Numbers 9 and 10 were

1 admitted into evidence.)

2 Q. I'm also going to show you after I show Mr. Potter

3 ...

4 (WHEREUPON, Mr. Potter reviewed photographs.)

5 Q. I'm going to show you these still photos from the

6 bank that day. Do you recognize these?

7 A. I do. Uh-huh (affirmative).

8 Q. Is that you in the photo?

9 A. It is.

10 Q. Do you remember that particular transaction?

11 A. I do. Uh-huh (affirmative).

12 Q. How do you remember it? Does anything stand out?

13 A. I remember most about seeing this story in the news.

14 And I remember making mention to my husband that I just

15 cashed a check for this man at the bank.

16 MR. HAIGLER: Your Honor, can I have the

17 witness come down and publish the checks to the jury, if

18 you don't mind?

19 THE COURT: Sure.

20 A. What do you want me to do?

21 Q. I want you to come stand down here for a second.

22 (WHEREUPON, the witness stepped down from the

23 witness stand.)

24 Q. Can you explain to the jury basically just what you

25 told me, how you recognized the check and your teller

1 number and your receipt when you cashed it?
2 A. Okay. When we cash a check, when someone presents a
3 check to us to be cashed, we look to see who it's made
4 payable to. And if we don't know them, we ask for I.D.
5 He signed it here. I recorded his driver's license here
6 and his address. This right here is our bank teller
7 validation. It's got the date and the time and our
8 branch number, my teller number and the customer's
9 account number. And this here is a cash-out that goes
10 with the check when we run it through processing. It's
11 just letting us know that it was cashed out of my drawer
12 in that amount. And it's got the same validation right
13 there.
14 Q. Okay. Thank you.
15 A. Uh-huh (affirmative).
16 (WHEREUPON, the witness resumed the witness stand.)
17 MR. HAIGLER: I don't believe I have any more
18 questions for this witness, Your Honor.
19 THE COURT: All right. Yes, sir?
20 CROSS-EXAMINATION
21 BY MR. POTTER:
22 Q. Ma'am, do you recall anything -- do you recall
23 seeing any bandages on this gentleman when he came up to
24 cash ---
25 A. I don't recall anything like that.

1 Q. Okay. So you don't recall the white bandage on his
2 right arm?
3 A. No.
4 Q. Elbow area?
5 A. Uh-uh (negative).
6 MR. POTTER: Your Honor, may I approach the
7 witness?
8 THE COURT: Yes, sir.
9 Q. Ma'am, I'm going to show you a photograph. It's
10 marked as State's Exhibit 7-G. That's the inside of your
11 bank; is that right?
12 A. Uh-huh (affirmative). Yes.
13 Q. Okay. And this gentleman right here is the person
14 who cashed the check, correct?
15 A. Uh-huh (affirmative).
16 Q. All right. Does it appear he has a bandage on his
17 -- excuse me -- his left arm?
18 A. It looks like he does. It's a little blurred. It
19 looks like he does.
20 Q. Okay.
21 MR. POTTER: Nothing further. Thank you.
22 THE COURT: Anything else on redirect?
23 MR. HAIGLER: No, sir, Your Honor.
24 THE COURT: Okay.
25 Thank you. You can step down. You can be excused

1 too.

2 THE WITNESS: Thank you.

3 THE COURT: Your Honor, the State calls Justin

4 Richey.

5 **JUSTIN RICHEY,**

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MS. HUEY:

9 Q. Investigator Richey, by whom are you employed?

10 A. The Anderson County Sheriff's Office.

11 Q. And what is your position there?

12 A. I'm an investigator with the forensics unit.

13 Q. How long have you been in forensics?

14 A. I've been in forensics for two years.

15 Q. And prior to that, where were you?

16 A. I was a detective for five years.

17 Q. What are some of your duties and responsibilities as

18 a forensic investigator?

19 A. I respond to crime scenes, attend autopsies, locate,

20 collect, photograph, and process evidence.

21 Q. And did you have an occasion to respond to an

22 autopsy performed on Claud Schaffer Scott on April 2nd,

23 2012?

24 A. Yes, ma'am.

25 Q. And did you witness that entire autopsy?

1 A. Yes, ma'am.
2 Q. And you also documented that autopsy?
3 A. Yes, ma'am.
4 Q. Once the autopsy is completed, what, if anything, do
5 you then do in terms of collecting evidence?
6 A. At the completion of the autopsy, I collect a sealed
7 autopsy packet. It is obtained during the course of the
8 autopsy.
9 Q. And what is usually in that autopsy packet?
10 A. In the autopsy packet are different specimens that
11 are obtained during the course of the autopsy. There's
12 usually a tube or a couple of tubes of blood from the
13 victim, in this case Mr. Scott. Hair, fingernails,
14 different specimens like that that are obtained.
15 Q. And once you collect that autopsy packet, what do
16 you then do with it?
17 A. After I collect the autopsy packet, I transport the
18 sealed packet from the morgue to the Sheriff's office. I
19 enter the packet into the evidence computer and create a
20 evidence barcode label, put that barcode label on the
21 evidence packet and then entered the autopsy packet into
22 the evidence refrigerator.
23 Q. And then do you have any other dealings with that
24 piece of evidence after that?
25 A. No, ma'am.

1 Q. And so it's sealed once you put it into the
2 refrigerator?
3 A. It's actually sealed at the autopsy before I ever
4 receive it. So when it goes into the refrigerator in our
5 evidence building, it goes in sealed just like I receive
6 it at the autopsy.
7 Q. And again, you did that in this case when you
8 received an autopsy packet from Dr. Woodard then?
9 A. I think it was Charlie Bozeman who was assisting Dr.
10 Woodard that I actually received the packet from.
11 Q. And the packet's sealed. In that packet is usually
12 a tube of the victim's blood; is that correct?
13 A. Yes, ma'am.
14 Q. All right. And then all of it is sealed and put
15 into your evidence room once you get back to the office?
16 A. Yes, ma'am.
17 Q. I'm showing you what's marked as State's 16. I'm
18 just going to show you what's been marked as State's 16.
19 And there is a tube in this packet. Is that consistent
20 with something you would have collected in the autopsy
21 packet?
22 A. Yes, ma'am.
23 Q. As you attended the autopsy on Claud Schaffer Scott?
24 A. That would have been inside the autopsy packet.
25 Q. Thank you.

1 MS. HUEY: That's all I have for this witness,
2 Judge.
3 THE COURT: Yes, sir?
4 MR. POTTER: May it please the Court?
5 THE COURT: Yes, sir.
6 CROSS-EXAMINATION
7 BY MR. POTTER:
8 Q. Investigator, the autopsy packet -- you attended the
9 autopsy. The autopsy packet is sealed when then handed
10 to you?
11 A. Yes, sir.
12 Q. Is it sealed in your presence?
13 A. Yes, sir.
14 MR. POTTER: Nothing further.
15 THE COURT: Okay. You can step down and be
16 excused. Thank you.
17 THE WITNESS: Thank you.
18 MS. HUEY: The State calls Chris Wilson.
19 **CHRIS WILSON,**
20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
21 DIRECT EXAMINATION
22 BY MS. HUEY:
23 Q. Investigator Wilson, where are you employed?
24 A. I'm employed with the Anderson County Sheriff's
25 Department.

1 Q. And in what position?
2 A. I work in the crime scene division.
3 Q. And how long have you been with them?
4 A. Since 2009.
5 Q. And where were you previously?
6 A. I was at Anderson. Before I came back to Anderson
7 County, Anderson City. And then I was at Greenville
8 County before that.
9 Q. Now, were you involved in the investigation of this
10 case, John Kennedy?
11 A. I was, yes.
12 Q. And what was your involvement in this particular
13 case?
14 A. I was called to the law enforcement division up on
15 the second floor to photograph the Defendant and collect
16 his clothing.
17 Q. And is that what you did in this case?
18 A. Yes, ma'am.
19 Q. I'm going to show you what's been marked as 17-A.
20 MS. HUEY: Oh, I'm sorry. Let me show it to
21 you.
22 MR. POTTER: 17-A?
23 Q. Do you recognize that exhibit?
24 A. I do, yes, ma'am.
25 Q. And how do you recognize it?

1 A. That's the picture -- one of the pictures I took.
2 Q. And does it fairly and accurately depict what the
3 Defendant looked like the 1st of April, 2012?
4 A. The night that I met him, yes, ma'am.
5 MS. HUEY: Your Honor, at this time we seek to
6 admit State's 17-A.
7 THE COURT: Any objection?
8 MR. POTTER: No, Your Honor.
9 THE COURT: Okay. Without objection.
10 (WHEREUPON, State's Exhibit Number 17-A was admitted
11 into evidence.)
12 Q. Okay. Investigator, if you don't mind stepping down
13 to publish it to the jury.
14 (WHEREUPON, the witness stepped down from the
15 witness stand.)
16 Q. And so is this a photo you took of the Defendant on
17 April 1st of 2012?
18 A. Yes, it is.
19 Q. Now, did you -- and you can have a seat.
20 (WHEREUPON, the witness resumed the witness stand.)
21 Q. Did you also collect -- when you said you collected
22 the Defendant's clothing, would it be the clothing he had
23 on him this particular day?
24 A. Yes, ma'am, that's right. The shorts and the shirt.
25 Q. I'm going to show you what's been marked as State's

1 12. Do you recognize this item?
2 A. Can I get some gloves?
3 Q. Okay. So you're able recognize this item, State's
4 12?
5 A. Yes, yes.
6 Q. Would these be the shorts that you collected from
7 the Defendant, John Kennedy, on April 1st, 2012?
8 A. They are, yes, ma'am.
9 Q. Okay. And what indicates, if anything, that you are
10 the one that collected these? If you need to look at it.
11 A. When we collect things, we take them back to the
12 office. And what we'll do is we'll enter them in to a
13 computer, and we put our name on it. It has my name on
14 the bar code label that we place on the item.
15 Q. And when you collect them, do you seal them or what
16 is done with it?
17 A. Yes. What we do is after we get them, we place them
18 in a bag. We'll label them and then we'll put the
19 evidence tape across here to seal them. And we turn them
20 in to evidence so they can be put up in a secured area.
21 Q. And then you are not responsible for transporting
22 those after that point ---
23 A. No, ma'am.
24 Q. --- to SLED or anywhere else?
25 A. Not to SLED, no.

1 Q. And does that fairly and accurately depict what you
2 collected then on April 1st, 2012?
3 A. Yes, ma'am.
4 Q. It hasn't been altered or changed as far as you
5 know?
6 A. No, ma'am, not as I know.
7 MS. HUEY: That's all I have for this witness,
8 Judge.
9 THE COURT: All right. Any questions?
10 MR. POTTER: Yes.
11 CROSS-EXAMINATION
12 BY MR. POTTER:
13 Q. It's investigator; is that correct?
14 A. Yes.
15 Q. You were called to the scene -- excuse me -- not the
16 scene. You were called to the law enforcement center and
17 you took a photograph of Mr. Kennedy, correct?
18 A. Right. Yes, sir.
19 Q. And you took his shirt he was wearing into evidence,
20 and you took his pants that he was wearing into evidence.
21 And those short pants are what you just identified,
22 correct?
23 A. Yes, sir. Right.
24 Q. All right. Were those the only clothing items you
25 took into evidence?

1 A. I'm not a hundred percent sure without seeing my
2 supplemental. I can't remember if I took his shoes and
3 his underwear.
4 Q. And his underwear?
5 A. Right.
6 Q. Okay. Because, yeah, your supplemental doesn't
7 indicate exactly what clothing items you took.
8 A. I believe it was just the shorts and the shirt.
9 Q. Got you. Now, you also took a blood swab -- excuse
10 me -- a cheek swab; is that correct?
11 A. Right, a cheek swab.
12 Q. Okay. Was any blood taken from Mr. Kennedy?
13 A. No, sir, not by me.
14 Q. There was scrapings taken from under his
15 fingernails?
16 A. Under his fingers, yes, sir.
17 MR. POTTER: Nothing further.
18 THE COURT: Anything on redirect?
19 MS. HUEY: No, sir. May he be excused?
20 THE COURT: Yes, sir, you're excused.
21 Appreciate it.
22 MS. HUEY: Your Honor, the State calls Todd
23 Caron to the stand.
24 **TODD CARON,**
25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 DIRECT EXAMINATION

2 BY MS. HUEY:

3 Q. Mr. Caron, where are you employed?

4 A. Anderson County Sheriff's Office.

5 Q. And in what position do you hold there?

6 A. Sergeant property and evidence, assigned to

7 forensics.

8 Q. Okay. So you're he sergeant over property and

9 evidence?

10 A. Correct.

11 Q. As such, what are some of your duties and

12 responsibilities?

13 A. Make sure that the evidence that's brought in by the

14 forensic technicians is properly stored, is safely put

15 away. And anything that needs to be tested requested by

16 investigators, send down to the State Law Enforcement

17 Division.

18 Q. Commonly known as ...

19 A. SLED.

20 Q. ... SLED. Okay. So you're responsible for taking

21 the items once they have been submitted into evidence,

22 actually transporting that to SLED for further testing;

23 is that correct?

24 A. Correct.

25 Q. Now, when you transport the items to SLED, where do

1 you retrieve them from typically?
2 A. Wherever they're stored.
3 Q. In your evidence?
4 A. In the evidence division, yes.
5 Q. And when you retrieve them, are these items sealed
6 or otherwise?
7 A. No. They're sealed.
8 Q. Now, did you transport items in this particular
9 case, State versus John F. Kennedy?
10 A. Yes.
11 Q. In particular, I believe there were several swabs
12 taken from the victim's residence at [redacted]
13 Would you be responsible for transporting those?
14 A. Yes.
15 Q. And then specifically, this would be State's 12.
16 Did you transport this to SLED?
17 A. Yes.
18 MR. POTTER: I didn't hear that answer.
19 MS. HUEY: He said, yes.
20 A. Yes.
21 MR. POTTER: I'm sorry. I just didn't hear.
22 A. I'm sorry.
23 Q. As well as State's 5 and 6, would you have
24 transported these to SLED, this skillet and skillet
25 handle?

1 A. Yes, ma'am.
2 Q. And then, Mr. Caron, in terms of the autopsy packet
3 that was collected from the victim in this particular
4 case, do you retrieve items from that autopsy packet to
5 transport to SLED?
6 A. Yes. We generally don't take the whole autopsy
7 packet unless a certain item is requested. In this case,
8 I separated the blood, which I noted when I separated it
9 I created -- when we enter evidence, we put a bar code on
10 it just like you'd see on this bag for tracking purposes.
11 When I separated that from the tube of blood, which
12 stayed sealed -- I just took it out of the autopsy bag,
13 the packet -- I put it into a new container, gave it a
14 new label stating that it was separated from that autopsy
15 packet to go to SLED.
16 Q. And that's what you did in this particular case?
17 A. Correct.
18 Q. So I'm also going to show you State's 16. Did you
19 also transport State's 16, which would have been a tube
20 of the victim's blood, to SLED?
21 A. Yes.
22 Q. And I don't think I named what State's 12 would have
23 been. But these would have been the shorts collected
24 from the Defendant?
25 A. Yes.

1 Q. Now, when you -- you physically drive these items to
2 SLED; is that correct?
3 A. Correct.
4 Q. And SLED is located in Columbia?
5 A. It is.
6 Q. Once you get to SLED in Columbia, what do you then
7 do with these items?
8 A. The SLED forensics folks in the log-in, they take
9 possession of them, properly log them in. They add their
10 own bar code, which is the little yellow bar code on
11 this. And they take them and send them for testing.
12 Q. So once you get to SLED, you leave these items with
13 SLED forensic techs?
14 A Correct.
15 Q. Or log-in techs?
16 A. Yeah, log-in techs.
17 Q. And then you drive back?
18 A. Yes, ma'am.
19 Q. All right. Now -- and who accepted these items at
20 SLED?
21 A. I don't have the paperwork in front of me, and it
22 could have been different people.
23 Q. But regardless, it would have been a log-in tech?
24 A. Yes, at SLED.
25 Q. And do you remember what date you transported these

1 items?
2 A. Yes. All of these items went down on -- it looks
3 like November the 8th, 2012.
4 MS. HUEY: That's all I have for this witness,
5 Judge.
6 THE COURT: Any questions?
7 MR. POTTER: No questions, Judge.
8 THE COURT: All right.
9 Thank you, sir. You can step down and be excused
10 from any subpoena.
11 Y'all, come here. I want to ask you a question
12 about tomorrow.
13 (WHEREUPON, a bench conference was held off the
14 record.)
15 THE COURT: All right. Ladies and gentlemen,
16 we've got a break in the witnesses. And rather than wait
17 on them to come up from Columbia, we're going to start
18 tomorrow at ten. We're going to get this case to you
19 tomorrow. So that means that tomorrow afternoon, we'll
20 probably argue and charge this case, which means I'll
21 charge you with the law and then you'll begin your
22 deliberations, assuming everything goes smoothly. And I
23 can knock on wood with my arm, so we'll see.
24 Have a good night. Please don't read anything,
25 listen to anything or watch anything regarding this case.

1 Please don't talk to anybody else. I know you won't.
2 See you at ten.
3 (WHEREUPON, the jury exited the open court at
4 approximately 4:14 p.m.)
5 THE COURT: Okay. I'll see y'all in the
6 morning.
7 MS. HUEY: Thank you, Judge.
8 THE COURT: I'll get here as quick as I can.
9 (WHEREUPON, court stood in recess for the day at
10 approximately 4:14 p.m.)
11 **December 4, 2013**
12 (WHEREUPON, court convened with all parties present
13 and the following proceedings were had commencing at
14 approximately 10:17 a.m.)
15 THE COURT: Did somebody put the State versus
16 Mathis up here?
17 MS. HUEY: Oh, yes, sir, Judge. Just in
18 anticipation of any defense objections, those will be two
19 cases the State's relying on.
20 THE COURT: Oh, okay.
21 MS. HUEY: Mathis and Hatcher.
22 THE COURT: That's on the chain issue?
23 MS. HUEY: Yes, sir.
24 MR. POTTER: Yes, sir.
25 THE COURT: Okay. Anything we need to do this

1 morning before we get started?

2 MS. HUEY: We need to put a couple of things on

3 the record, Your Honor.

4 THE COURT: Okay.

5 MS. HUEY: In terms of just marking exhibits

6 the bank stills would be exhibit 7-A through L. We

7 missed one. And there should not be an 8-D.

8 Is that correct?

9 MADAM COURT REPORTER: 7-D.

10 MS. HUEY: I'm sorry. 7-D.

11 THE COURT: Any objection to that?

12 MR. POTTER: No, Your Honor.

13 MS. HUEY: And Your Honor, we have redacted the

14 9-1-1 call.

15 THE COURT: Okay. Good.

16 MS. HUEY: And given that a new exhibit number.

17 The redacted version will be 4-A.

18 THE COURT: Okay.

19 And you've listened to it and everything's fine?

20 MR. POTTER: I've listened to it, Judge.

21 THE COURT: All right. We've got four

22 witnesses maybe?

23 MS. HUEY: From SLED, yes, sir.

24 THE COURT: Okay. All right. We'll do that.

25 And then about eleven fifteen I need to take a break,

1 give Cindy my key and make sure she -- she's got to go
2 sit at my house and wait on something.
3 You can bring them in.
4 (WHEREUPON, the jury entered the open court at
5 approximately 10:17 a.m.)
6 THE COURT: All right. Ladies and gentlemen,
7 again, thank you for your patience this morning. We'll
8 continue with the State's case. We're going to take a
9 break at about eleven fifteen for ten minutes. We've got
10 something we have to do outside your presence. And then
11 we'll get this case to you today.
12 All right. You can call your next witness.
13 MS. HUEY: Your Honor, the State calls Amy
14 Stevens.
15 **AMY STEPHENS,**
16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
17 DIRECT EXAMINATION
18 BY MS. HUEY:
19 Q. Ms. Stephens, now, where do you work?
20 A. I'm employed with the South Carolina Law Enforcement
21 Division, also known as SLED.
22 Q. How long have you been there?
23 A. Approximately eight years.
24 Q. What are your duties at SLED?
25 A. I'm a forensic technician in the evidence control

1 department. And our daily responsibilities are to log
2 in, package, and transfer evidence for forensic analysis.
3 Q. What steps do you take in your position at SLED to
4 ensure a proper chain of custody?
5 A. When a submitting officer walks into our office, we
6 will enter the case information into our computer system.
7 A unique lab number will be generated and that lab number
8 will follow that evidence throughout its time at the
9 laboratory.
10 Q. And did you come into any contact with the evidence
11 in this case, which would be specifically State versus
12 John Kennedy, SLED number L12-13798?
13 A. Yes, I did.
14 Q. And how did that come about, Ms. Stephens?
15 A. On November 8th, 2012, I received pieces of evidence
16 from Todd Caron of the Anderson County Sheriff's Office.
17 Q. And that was on November 8th of 2012?
18 A. That's correct.
19 Q. I'm going to specifically show you what's been
20 marked as State's 6, State's 16, State's 5 and State's
21 12. That's a big pile. Ms. Stephens, when you logged in
22 the evidence from Todd Caron with the Sheriff's office,
23 in addition to giving the evidence submitted a particular
24 lab number, a unique and specific lab number, the items
25 that are submitted, does SLED give their own numbers to

1 these as well?

2 A. Yes. Each piece of evidence is assigned an item

3 number as well.

4 Q. Okay. So in reference to SLED item number 2, what

5 was that particular piece of evidence?

6 A. This -- according to my chain of custody, it was a

7 skillet with no handle.

8 Q. And that would be State's 5? No. Excuse me. It's

9 State's 5?

10 THE COURT: State's 5?

11 MS. HUEY: Yes, sir.

12 A. That's correct.

13 Q. Okay. In reference to SLED item lab number 3, or

14 item number rather 3.

15 A. Item number 3 is a skillet handle.

16 Q. Which would be State's 6?

17 A. That's correct.

18 Q. And then SLED item number 5, which would be State's

19 12?

20 A. From the bag that's in front of me states item

21 number 5, L12-13798. But actually, when I logged it in,

22 I put it in a box with our bar code label on it.

23 Q. But that was labeled as -- what did you describe

24 that particular item as?

25 A. As SLED item number 5, which is also State's Exhibit

1 12, was a pair of multi-colored shorts from John F.
2 Kennedy.
3 Q. And then finally SLED item number 8, which would be
4 State's 16?
5 A. This item is a tube of blood from the autopsy of
6 Claud Schaffer Scott.
7 Q. So you entered additional items in, but these are
8 the ones we are focusing on today. That would be your
9 SLED item numbers 2, 3, 5, and 8. Those are the ones
10 that you submitted -- or you accepted from Todd Caron?
11 A. That's correct.
12 Q. And when you accept these items, what condition are
13 they in?
14 A. They were sealed when I received them.
15 Q. And then what do you then do with them once you
16 receive them?
17 A. Once I receive them, I will package them
18 appropriately according to our policies, and then I will
19 transfer the evidence to a storage location in our
20 evidence room.
21 Q. And is that what you did in this particular case?
22 A. Yes, it is.
23 Q. All right. And did you alter or tamper with them in
24 any way at all?
25 A. No, I did not.

1 MS. HUEY: That's all I have for this witness,
2 Judge.
3 THE COURT: All right. Any questions?
4 MR. POTTER: No questions, Your Honor.
5 THE COURT: All right. Thank you. You can
6 step down.
7 Can she be released?
8 MS. HUEY: Yes, please.
9 THE COURT: You're released. Thank you so
10 much.
11 THE WITNESS: Thank you.
12 MS. HUEY: Your Honor, the State calls Patricia
13 Crooks.
14 **PATRICIA CROOKS,**
15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
16 DIRECT EXAMINATION
17 BY MS. HUEY:
18 Q. Ms. Crooks, where are you employed?
19 A. I'm employed by the South Carolina Law Enforcement
20 Division, also known as SLED.
21 Q. How long have you been with SLED?
22 A. About thirty years.
23 Q. And what are some of your duties at SLED?
24 A. My duties at SLED entail working strictly in the
25 evidence room. I don't log in evidence. I work in the

1 evidence room itself. In that position, I pull evidence
2 that needs to be examined for forensic technicians or
3 forensic scientists.
4 Once the evidence is examined, it's returned back to
5 the evidence room. It's placed on a particular location
6 in the evidence room. And then when the agencies come in
7 that have submitted evidence, I run a program to see if
8 they have any evidence to be returned. And if so, I pull
9 the evidence and return it to them.
10 Q. And did you come into contact with any evidence in
11 this particular case, State versus John F. Kennedy, SLED
12 lab number L12-13798?
13 A. Yes, I did.
14 Q. I'm going to show you what's been marked as State's
15 6, State's 12 and State's 5. So Ms. Crooks, did you
16 retrieve evidence in this particular case?
17 A. Yes, I did.
18 Q. And for whom did you need to retrieve evidence?
19 A. For Betty Walker.
20 Q. Betty Butler?
21 A. Excuse me. Betty Butler.
22 Q. Okay. I'm sorry. For Betty Butler; is that right?
23 A. Betty Butler.
24 Q. Okay. And Betty Butler is in what position at SLED?
25 A. She's a forensic technician in evidence processing.

1 Q. And so these would be -- she would be one of the
2 persons that you would typically pull evidence for; is
3 that correct?
4 A. Correct.
5 Q. All right. Now, I'm going to draw your attention to
6 State's 5, 6, and 12, which are SLED item numbers 2, 3,
7 and 5. Did you pull these particular items for Betty
8 Butler?
9 A. Yes, I did.
10 Q. And when you pull these particular items, do you
11 open the packaging or do anything with the items
12 themselves?
13 A. No, I do not. We deal with containers, sealed
14 containers said to contain.
15 Q. So your role is simply to pull it out of evidence
16 and take it to a technician; is that correct?
17 A. They come down and pick it up. Uh-huh
18 (affirmative).
19 Q. All right. Oh, they come there and pick it up?
20 A. Uh-huh (affirmative). Correct.
21 Q. But you pull it out so it's ready for them?
22 A. Correct.
23 Q. Okay. And did you do so in this case in reference
24 to SLED item number 2, which is State's 5? If you could
25 tell the jury what that item is?

1 A. Item number 2 is one, parenthesis, one sealed box
2 containing miscellaneous described as skillet with blood
3 on it, parenthesis, no handle.
4 Q. And could you tell the jury if you pulled SLED item
5 number 3, which is State's 6. And what item would that
6 have been?
7 A. Item three 3 was one, parenthesis, one sealed, heat-
8 sealed pouch containing miscellaneous described as
9 skillet handle with blood on it.
10 Q. And then did you also pull SLED item number 5, which
11 would be State's Number 12? And if so, what was the
12 description of that?
13 A. The description of item 5 was one, parenthesis, one
14 sealed box containing clothing described as pair of
15 multi-colored shorts from John F. Kennedy.
16 Q. So you pulled these, and Betty Butler came to
17 retrieve those items; is that correct?
18 A. That's correct.
19 Q. Now, once Betty Butler is done with her processing,
20 what does she then do with them?
21 A. She transferred the evidence back to me.
22 Q. So she brings it back to you?
23 A. Yes. And that was for restocking.
24 Q. Okay. And so then did you restock these same item
25 numbers? That would be SLED item 2, which is State's 5;

1 SLED item number 3, which is State's 6; and SLED item 5,
2 which is State's 12?
3 A. Yes, I did.
4 Q. And so you would have restocked those from Betty
5 Butler?
6 A. Correct.
7 Q. And again, she brings them to you in the evidence
8 room?
9 A. That's correct.
10 MS. HUEY: Your Honor, at this time, the State
11 would move to admit State's Number 5, 6, and 12 into
12 evidence.
13 THE COURT: Any objection? Any objection?
14 MR. POTTER: Judge, I'm sorry. I'm thinking.
15 Judge, I think I may have an objection.
16 THE COURT: All right.
17 Let me send you out for about two minutes, ladies
18 and gentlemen. Please don't discuss the case.
19 (WHEREUPON, the jury exited the open court at
20 approximately 10:32 a.m.)
21 THE COURT: Yes, sir?
22 MR. POTTER: Judge, just out of an abundance of
23 caution, at this point in time, I don't know if the chain
24 is complete. We've got the evidence that's been
25 submitted to SLED, and there's been testimony that the

1 evidence was taken by another lab technician. So we've
2 got a disconnect in the chain. And it may -- further on
3 down the line through other witnesses, it may be
4 sufficient chain-wise, but at this point in time, I'm a
5 little bit concerned about chain issues.
6 THE COURT: Okay. Yes, ma'am?
7 MS. HUEY: Your Honor, the State believes that
8 it has provided a substantial chain in reference to these
9 three items. We have put up testimony that has shown
10 where these items have been throughout the processing
11 thus far. Betty Butler would have been the evidence
12 processor. She is unavailable. But Ms. Crooks can
13 testify that Betty Butler came and retrieved these items,
14 and then Betty Butler brought these items back to her.
15 THE COURT: So Betty Butler would have been the
16 middle man between these two witnesses?
17 MS. HUEY: Well, Betty Butler's the middle man
18 between Ms. Butler -- I mean, Ms. Crooks and then the DNA
19 analyst.
20 MR. POTTER: Who?
21 MS. HUEY: I'm sorry?
22 MR. POTTER: Ashley Bell?
23 MS. HUEY: Catherine Leisy.
24 MR. POTTER: Judge, may it please the Court?
25 THE COURT: Yeah.

1 MR. POTTER: Judge, my concern is that the --
2 Ms. Butler significantly changes or alters the condition
3 of these items. That's part of her job.
4 THE COURT: All right. Okay. I think you're
5 protected for the record. I think under Hatcher, the
6 State doesn't have to prove complete chain as long as,
7 you know, in the discretion of the Court it's there. I'm
8 going to -- but you're covered.
9 Okay. I'll allow it to be introduced.
10 MR. POTTER: Thank you.
11 THE COURT: Pursuant to your objection.
12 MS. HUEY: And Your Honor, just in
13 anticipation, the next witness I then will call, Betty
14 Butler did cuttings from these shorts and swabs from the
15 skillet and the handle which are then sent to Catherine
16 Leisy in DNA.
17 THE COURT: And you have Leisy here ready to
18 testify?
19 MS. HUEY: Yes, sir.
20 THE COURT: Okay. All right.
21 And again, in light of the objection, I'll admit
22 them. But you're covered for the record.
23 MR. POTTER: Thank you.
24 THE COURT: I'm assuming there's a continuing
25 objection to entry of these documents or cuttings or DNA

1 samples.

2 MR. POTTER: That's fine, Judge. I'll renew my

3 objection in full detail if necessary. But it won't be a

4 situation where we need to send the jury out or anything.

5 THE COURT: Yeah, I got you.

6 Okay. You can bring them in.

7 (WHEREUPON, the bailiff handed a document to the

8 Court.)

9 THE COURT: All right. I've got a statement

10 from the foreman that says, "One of the jurors, Lori

11 Davis, recognizes a person in the audience, worked with

12 them, and has the same last name as the Defendant."

13 MR. POTTER: We have family members in the

14 audience.

15 THE COURT: Yeah. I'll tell them not to worry

16 about that unless there's objection.

17 (WHEREUPON, Court's Exhibit Number 4 was marked for

18 identification only.)

19 THE COURT: Okay. You can bring them in.

20 (WHEREUPON, the jury entered the open court at

21 approximately 10:38 a.m.)

22 THE COURT: Okay. Ladies and gentlemen --

23 thank you, Mr. Foreman. I've discussed your issue.

24 Thank you for sending me that issue. That should not be

25 a problem. No one's going to testify. Unless there's

1 something specific that one of the jurors knows about
2 this case, it's not a problem. But thank you for doing
3 that.
4 Okay. You can continue.
5 MS. HUEY: Your Honor, so at this time the
6 State would seek to admit State's Number 5, Number 6, and
7 Number 12.
8 THE COURT: Pardon?
9 MS. HUEY: The State would seek to admit
10 State's Number 5, 6, and 12 at this time.
11 THE COURT: Okay. And they're admitted.
12 And you're protected for the record.
13 (WHEREUPON, State's Exhibit Number 12 was admitted
14 into evidence.)
15 Q. Okay. Ms. Crooks, in addition to accepting SLED
16 item numbers 2, 3, and 5 back from Ms. Butler, did she
17 also submit additional items back to you? Specifically
18 it would be SLED item number 2.1, 3.1, and 5.1 and 5.2?
19 A. 3.1 and 5.2?
20 Q. Backing up, it's 2.1, 3.1, 5.1 and 5.2?
21 A. That's correct.
22 Q. Okay. So I'm going to show you what's been marked
23 as State's 13-A, 13-B, 14 and 15. So Ms. Crooks, if you
24 could, tell the jury what SLED item number 2.1 is which
25 is labeled as State's 14?

1 A. Item number 2.1, one, parenthesis, one, parenthesis.
2 It's a sealed, heat-sealed pouch containing swab,
3 parenthesis, S, parenthesis, described as from skillet
4 bottom only, parenthesis, no handle, parenthesis.
5 Q. And if you could, tell the jury what SLED item
6 number 3.1 which is State's number 15 is described as?
7 A. Item 3.1 is one, parenthesis, one, parenthesis,
8 sealed, heat-sealed pouch containing swab, parenthesis,
9 S, parenthesis, described as from skillet handle.
10 Q. And then in reference to State's 13-A which is SLED
11 item number 5.1?
12 A. Item 5.1 is one, parenthesis, one, parenthesis,
13 sealed, heat-sealed pouch containing cutting,
14 parenthesis, S, parenthesis, described as from multi-
15 colored shorts from John F. Kennedy.
16 Q. And then finally 13, State's 13-B, which is SLED
17 item number 5.2?
18 A. Item 5.2 is one, parenthesis, one, parenthesis,
19 sealed, heat-sealed pouch containing cutting,
20 parenthesis, S, parenthesis, described as from multi-
21 colored shorts from John F. Kennedy.
22 Q. And again, these would have been items that you
23 accepted from Betty Butler; is that correct?
24 A. That's correct.
25 Q. And when you receive these items, in what condition

1 are they, sealed or ---
2 A. They were returned to me in a sealed, heat-sealed
3 pouch.
4 Q. And again, you did not tamper with these items in
5 any way?
6 A. No, I did not.
7 Q. Okay. And your role, once you receive these items
8 back, is to put them back into evidence?
9 A. Yes.
10 Q. Where you might have to hold them for somebody else?
11 A. That's correct.
12 MS. HUEY: Bear with me just one second.
13 Q. So Ms. Crooks, did you then have to pull these items
14 for someone else that works with SLED?
15 A. Yes, I did.
16 Q. Okay. So specifically, again, this would be State's
17 13-A, 13-B, 14 and 15 which is SLED item numbers 2.1,
18 3.1, 5.1, and 5.2. To whom would you have pulled those
19 for?
20 A. I would have pulled those for forensic scientist
21 Catherine Leisy.
22 Q. And did you do that in this particular case?
23 A. Yes, I did.
24 MS. HUEY: That's all I have for this witness,
25 Judge.

1 THE COURT: All right.

2 Any questions?

3 MR. POTTER: Briefly, Judge. May it please the

4 Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. POTTER:

8 Q. Ma'am, there were other items that you pulled for

9 Ms. Betty Butler besides the ones that the State has

10 indicated; is that correct?

11 A. Do you have a specific item?

12 Q. Item 1, swab from inside front door knob?

13 A. I pulled that item for Catherine Leisy.

14 Q. Okay. Item 4, fingernail scrapings of John Kennedy?

15 A. Yes, I pulled that for Catherine Leisy as well.

16 Q. All right. Item 4.2, right-hand fingernail

17 scrapings of John Kennedy?

18 A. The -- 4.2?

19 Q. Yes, ma'am.

20 A. I received that evidence from Sheree Brown who is a

21 forensic technician. And when I received it from her, I

22 placed it on a shelf in the evidence room. And then I

23 did not transfer that again.

24 Q. Okay. How about item 6, blood standard from John

25 Kennedy?

1 A. I pulled that evidence and transferred it to
2 Catherine Leisy.
3 Q. Okay. And we're going to go down a little bit.
4 Item 7.1, swabs from the gear shift of Mercury Mystique?
5 A. I also received that evidence from Sheree Brown and
6 placed it back on the shelf in the evidence room.
7 Q. How about 7.2 which is the swabs from outside
8 driver's door of Mercury Mystique?
9 A. Okay. I received that evidence from Sheree Brown
10 and restocked it in the evidence room.
11 Q. And just to refresh my recollection, Sheree Brown is
12 a lab technician at South Carolina ---
13 A. She's a forensic technician.
14 Q. Okay. Thank you.
15 MR. POTTER: Nothing further.
16 THE COURT: Anything on redirect?
17 MS. HUEY: No, sir, your Honor.
18 THE COURT: Thank you. You can step down and
19 be released from your subpoena.
20 THE WITNESS: Thank you.
21 MS. HUEY: Your Honor, the State calls Sheree
22 Brown.
23 **SHEREE BROWN,**
24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
25 DIRECT EXAMINATION

1 BY MS. HUEY:

2 Q. Ms. Brown, where are you employed?

3 A. South Carolina Law Enforcement Division, also known

4 as SLED.

5 Q. And how long have you been there?

6 A. A little over nineteen years.

7 Q. What is your position there?

8 A. I'm a forensic technician assigned to the DNA

9 department.

10 Q. As such, what are some of your duties?

11 A. Collecting evidence that's submitted to SLED for DNA

12 analysis and preparing some of the -- if it's got a blood

13 standard and stabilize it into -- make it a dry form.

14 Q. And did you come into contact with any evidence in

15 this case, specifically, State versus John F. Kennedy,

16 lab number L12-13798?

17 A. Yes, I did.

18 Q. And in this instance, did you prepare a dried blood

19 sample for the DNA analyst?

20 A. Yes, I did. Item number 6 is a blood sample drawn

21 from suspect, John F. Kennedy. And then I created item

22 6.1, and that's our dried blood standard.

23 Q. And specifically as to SLED number item number 8,

24 which would be the victim's blood, Claud Schaffer Scott?

25 A. Yes, I did. It's the blood from autopsy of victim,

1 Claud Schaffer Scott. And also I created item 6.1 [sic]
2 from that liquid blood and made it -- put it on filter
3 paper and made it a dried blood standard.
4 Q. And I'm sorry. Was that in reference to number 8?
5 A. Yes. I'm sorry. It's number 8 and item 8.1.
6 Q. And that became 8.1?
7 A. Yes.
8 Q. Okay. So tell the jury a little bit about what's
9 involved in that process though.
10 A. Yes. We get a liquid tube of blood that was drawn.
11 And I look, you know, to determine that it matches the
12 case with the case number and all. And I'll take a small
13 portion of the liquid blood and pour it on filter paper
14 so it could be analyzed. It's easier to analyze a dried
15 sample than a liquid sample. And on that filter paper,
16 it has all the information that the DNA analyst would
17 need. It has the case number, the item number and the
18 person's name that was on the tube.
19 Q. And I'm going to show you what's been marked as
20 State's 16, which includes SLED item numbers 8 and 8.1.
21 THE COURT: Catherine, would you take them ---
22 MS. HUEY: Yes, sir, I will.
23 Q. All right. Again, this is State's 16 which is SLED
24 item number 8 and 8.1.
25 A. Yes. This is the heat-sealed pouch because I

1 recognize my initials on it when I opened it up.
2 Q. And so when you retrieve this item, it is sealed
3 then?
4 A. Yes. It's sealed from when it was in the intake
5 area.
6 Q. And once you receive this item or retrieve it rather
7 from evidence, then you then open it; is that correct?
8 A. Yes. I opened it up, and I created the coin
9 envelope that's in it. That's my handwriting. And I'll
10 -- and the dried blood standard is in the coin envelope.
11 Q. And then once you are done preparing the dried
12 specimen, what do you then do with it?
13 A. It is sealed, and SLED's policy is to return it back
14 to the DNA intake. That's a location within our evidence
15 control department. And it's housed there until it's
16 ready to be analyzed.
17 Q. And is that what you did in this case?
18 A. Yes.
19 Q. And specifically in reference to SLED number 8 and
20 8.1?
21 A. Yes.
22 Q. Which is State's 16?
23 A. Yes.
24 MS. HUEY: That's all I have of this witness,
25 Judge.

1 MR. POTTER: May it please the Court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. POTTER:

5 Q. Ms. Brown, were there other items that you took to

6 prepare to have the DNA analysis done?

7 A. Sir, I cannot hear you.

8 Q. Okay. I'm sorry. Did you take any other items to

9 have prepared to have DNA analysis done on them?

10 A. No, sir. My part was only 6 and 7 [sic] that I came

11 in contact before the analysis.

12 Q. Okay. Did you come in contact with item 7.1, swabs

13 from a gear shift of a Mercury Mystique?

14 A. Let me go back and check.

15 Q. Take your time.

16 A. You said 7.1?

17 Q. Yes, ma'am.

18 A. I don't have a -- not in my records, I don't show

19 anything.

20 Q. Just so I understand, the only two items that you

21 took were item 6 and item 8, and you created item 6.1 and

22 item 8.1 and then you returned them?

23 A. That's correct.

24 Q. That's all you did?

25 A. Yes.

1 Q. Thank you.

2 THE COURT: Anything on redirect?

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

4 THE COURT: You can step down and be released

5 from your subpoena. Thanks.

6 THE WITNESS: Thank you.

7 MS. HUEY: Your Honor, the State calls

8 Catherine Leisy to the stand.

9 **CATHERINE LEISY,**

10 BEING FIRST DULY SWORN TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MS. HUEY:

13 Q. Ms. Leisy, where do you work?

14 A. I work for the South Carolina Law Enforcement

15 Division, more commonly known as SLED.

16 Q. What is your position at SLED?

17 A. I am a forensic scientist assigned to the DNA and

18 serology unit.

19 Q. And how long have you been in that position?

20 A. For almost eight years.

21 Q. What do your duties include at SLED in this

22 position?

23 A. My responsibilities include processing forensic

24 cases, generating reports based on the results and

25 conclusions drawn, and testifying to those reports as

1 necessary. I also assist in quality assurance measures
2 throughout the lab and in the training of newly hired
3 analysts.
4 Q. What is your educational background?
5 A. I have a bachelor of science degree in genetic
6 engineering from Cedar Crest College in Allentown,
7 Pennsylvania.
8 Q. How often do you analyze DNA?
9 A. As far as number of individual samples, I've
10 probably processed thousands, and I've worked on well
11 over one thousand cases.
12 Q. Have you ever been qualified and testified as an
13 expert in the fields of forensic serology and DNA
14 analysis?
15 A. Yes, I have.
16 Q. And about how many times has that been the case?
17 A. Approximately fifty times.
18 MS. HUEY: Your Honor, at this time, we would
19 offer Ms. Leisy as an expert in serology and DNA
20 analysis.
21 THE COURT: Any objection?
22 MR. POTTER: No, Your Honor.
23 THE COURT: Okay. Without objection.
24 Q. So Ms. Leisy, what exactly is forensic serology and
25 DNA analysis?

1 A. Forensic serology is the identification of bodily
2 fluids that may be found at a crime scene or on an item
3 of evidence such as semen, saliva or blood. Forensic DNA
4 analysis enables us to develop a DNA profile from a
5 biological stain left on an item of evidence and compare
6 it to the DNA profile of a known individual. We can then
7 try to determine whether or not that particular
8 individual contributed the biological material that we're
9 interested in on the item of evidence or at the crime
10 scene.
11 Q. When your lab receives cases for testing, what steps
12 are taken to ensure the integrity of those pieces of
13 evidence?
14 A. When the evidence is first submitted, it is placed
15 into plastic pouches that are then heat sealed. The
16 initials of the individual sealing the pouch are placed
17 across the seal as well as the date. As the evidence
18 moves throughout the laboratory to different departments
19 or in different storage facilities, the integrity of the
20 pouch is maintained. So once the pouch gets to me, I'll
21 be able to tell if anyone has entered the pouch and
22 potentially tampered with the evidence. If the pouch is
23 intact when it arrives to me, I know that everything is
24 secure and it was handled appropriately.
25 Q. And what is that process called, that paperwork

1 trail called?

2 A. We maintain what we call a chain of custody. It's a

3 list that shows who had custody of a particular item at a

4 particular time.

5 Q. And was that done in this particular case, State

6 versus John F. Kennedy, SLED lab number L12-13798?

7 A. Yes, it was.

8 Q. And did you, in fact, receive evidence in this

9 particular case?

10 A. I did.

11 Q. Specifically, Ms. Leisy, I am going to refer you to

12 SLED item numbers 2.1, 3.1, 5.1, and 5.2, 8 and 8.1 which

13 are State's Exhibit Numbers 14, 15, 13-A, 13-B and 16.

14 A. These were all items that I took into my custody

15 under this case number for analysis.

16 Q. All right. Now, drawing your attention specifically

17 to SLED item number 2.1 and 3.1, 5.1 and 5.2, these items

18 would have gone through evidence processing first; is

19 that correct?

20 A. That is correct.

21 Q. And who was in charge of processing this particular

22 evidence?

23 A. These items were worked on by evidence processing

24 technician Betty Butler.

25 Q. And that would have been the swabs from the skillet,

1 the swabs from the skillet handle, and then shorts
2 labeled as belonging to the Defendant, John F. Kennedy?
3 A. That's correct.
4 Q. So she processes these items first. And what is the
5 purpose of that?
6 A. The purpose of evidence processing is to identify
7 bodily fluids that may be on larger items of evidence
8 such as clothing or an item such as a skillet. If such
9 evidence is identified by our technicians, they take a
10 smaller sample of it and pass that on to us for DNA
11 analysis.
12 Q. And that's what was done in this case?
13 A. Correct.
14 Q. So she's kind of the first step in the process?
15 A. That's correct.
16 Q. So then you received the swabs from the skillet
17 which is 2.1, the swabs from the skillet handle which is
18 3.1, and then cuttings from the shorts which are 5.1 and
19 5.2?
20 A. Correct.
21 Q. And again, when you retrieved these particular items
22 were they, in fact, still sealed?
23 A. They were.
24 Q. In terms of your analysis on -- let me back up.
25 Now, in addition to those exhibits or items that came

1 from Betty Butler's analysis, did you also obtain an item
2 number from Sheree Brown?
3 A. Yes, I did.
4 Q. Okay. And specifically, that would be SLED item
5 number 8 which was then -- 8.1 was also created?
6 A. Correct.
7 Q. And again, when you received these particular items,
8 were they sealed?
9 A. They were.
10 Q. And the purpose of them going to Sheree Brown first
11 is?
12 A. The particular item that Ms. Brown worked on was a
13 vial of blood to be used as a known DNA standard. When
14 we receive a vial of blood, we pour it onto a piece of
15 sterilized paper and allow it to dry. DNA will stay more
16 stable during long-term storage once it's dried on the
17 paper than it will if you leave it in the -- leave it as
18 liquid form in the tube.
19 Q. And then once you retrieved all of these items, were
20 you then able to analyze these?
21 A. Yes, I was.
22 MS. HUEY: Your Honor, at this time, we'd move
23 to admit State's 14, 15, 13-A, 13-B and State's 16.
24 THE COURT: Any objection?
25 MR. POTTER: May it please the Court? In

1 regards to, and in reference to my earlier comments, we
2 would ask that those be incorporated.
3 THE COURT: All right. Those are incorporated.
4 MR. POTTER: Thank you, Your Honor.
5 THE COURT: Okay. It's admitted.
6 (WHEREUPON, State's Exhibit Numbers 13-A, 13-B, 14,
7 15 and 16 were admitted into evidence.)
8 Q. Okay. So Ms. Leisy, if you could then, take us
9 through the analysis you performed on those particular
10 items starting with 2.1 which would have been a swab from
11 a skillet collected in this case.
12 A. The first step that I performed on this particular
13 item was to perform what we call a presumptive serology
14 test. It's a chemical test that allows us try and
15 determine whether or not blood may be present. The
16 results of that test were positive, indicating the
17 possible presence of blood. I then went ahead with DNA
18 processing and developed a DNA profile from that item.
19 Q. And did you have something to compare this DNA
20 profile?
21 A. I did. I compared it to DNA profiles developed from
22 John Kennedy and Claud Scott.
23 Q. And what, if anything, were your results from this
24 exam?
25 A. From the swab from the bottom of the skillet, the

1 DNA profile developed matches that of Claud Scott.
2 Q. The victim in this case?
3 A. That's correct.
4 Q. All right. Specifically as to SLED item number 3.1
5 which is a swab from skillet handle?
6 A. Again, I performed the same presumptive serology
7 test. Received a positive result indicating the possible
8 presence of blood, developed a DNA profile and determined
9 that that profile also matches the DNA profile of Claud
10 Scott.
11 Q. And in reference to 3.1, are you able to develop a
12 statistic in reference to that analysis?
13 A. I am. The probability of randomly selecting an
14 unrelated individual having a DNA profile matching this
15 item is approximately one in two hundred and fifty
16 quadrillion.
17 Q. Now, drawing your attention to State's 13-A and 13-B
18 which are SLED item numbers 5.1 and 5.2, these would have
19 been the cuttings from the shorts labeled as belonging to
20 the Defendant, John F. Kennedy.
21 A. Again, I performed the same presumptive serology
22 test on both items. I received a positive result for
23 both items. I developed the same DNA profile from both
24 of these cuttings and determined that it matches the DNA
25 profile of Claud Scott.

1 Q. And again, was a statistic developed on that?
2 A. The same statistic would apply of approximately one
3 in two hundred and fifty quadrillion.
4 Q. So in other words the victim Claud Scott's blood was
5 located on the shorts labeled as belonging to the
6 Defendant, John F. Kennedy?
7 A. What I can say to that is that in my scientific
8 opinion, it's reasonable to believe that the DNA profile
9 developed and the DNA left on that item belongs to Claud
10 Scott.
11 Q. And again, that statistic was what?
12 A. Approximately one in two hundred and fifty
13 quadrillion.
14 MS. HUEY: That's all I have for this witness,
15 Judge.
16 THE COURT: Yes, sir?
17 MR. POTTER: May it please the Court?
18 THE COURT: Yes, sir.
19 CROSS-EXAMINATION
20 BY MR. POTTER:
21 Q. Ma'am, I have a report dated April 25th, 2013, where
22 it looks as if forensic serologist Ashley Bell tested
23 item 2, 3, and item 5 of SLED and they indicated blood.
24 Are you familiar with that report?
25 A. I am.

1 Q. Okay. And that was an evidence processing step, I
2 presume? They look and they determine if there was
3 blood, and then they send it to you for further analysis?
4 A. That's correct.
5 Q. Are you part of that analysis that took place in the
6 report of April 25th of 2013?
7 A. No, I was not.
8 Q. You did a report that was dated August 9th, 2013; is
9 that correct?
10 A. Yes, sir.
11 Q. Okay. Now, you also tested several swabs that were
12 provided as well?
13 A. I did.
14 Q. Okay. Item 1, swabs from inside the front doorknob;
15 is that correct?
16 A. Correct.
17 Q. Item 4, fingernail scrapings of John Kennedy?
18 A. Correct.
19 Q. Item 4.1, left-hand fingernail scrapings of John
20 Kennedy?
21 A. Yes.
22 Q. Okay. In regards to item 4.1, analysis was done on
23 that?
24 A. It was.
25 Q. And what was your determination?

1 A. In terms of the left-hand fingernail scrapings from
2 John Kennedy, the DNA profile developed is a mixture of
3 at least two individuals. The major ---
4 Q. Okay. Excuse me, Officer.
5 A. I'm sorry. The DNA profile developed from the major
6 contributor to this mixture is attributable to John
7 Kennedy. And the partial DNA profile developed from the
8 minor contributor is insufficient for reliable
9 interpretation.
10 Q. Okay. But we know -- strike that. There was also
11 4.2, a right-hand fingernail scraping of John Kennedy?
12 A. Correct.
13 Q. Was an analysis done of that item?
14 A. There was. And the DNA profile developed is
15 attributable to John Kennedy.
16 Q. Okay. And there was no other DNA attributable in
17 that item?
18 A. From 4.2, no, sir.
19 Q. Now, item 7 indicates swabs?
20 A. Yes, sir.
21 Q. Okay. And item 7.1, they're swabs from the
22 gearshift of a Mercury Mystique?
23 A. Yes.
24 Q. And you performed an analysis on that?
25 A. I did.

1 Q. And what was your determination?
2 A. I performed my initial presumptive serology test and
3 received negative results indicating there was no blood
4 present. I was able to develop a partial DNA profile
5 from this item which contained male DNA, but I could not
6 make a conclusive decision regarding the inclusion or
7 exclusion of John Kennedy or Claud Scott as a possible
8 contributor to this item.
9 Q. So there was no blood indicated?
10 A. Not based on the test that I ran, no, sir.
11 Q. Okay. And also on 7.2 there was no blood indicated
12 on the swabs of the outside driver's door of the Mercury
13 Mystique?
14 A. That's correct.
15 MR. POTTER: Nothing further. Oh, I'm sorry.
16 One more thing.
17 Q. The blood that you analyzed, is there any testing
18 that you can conduct to determine when that blood got
19 onto the particular item?
20 A. No, there is not.
21 Q. So the blood that you tested could have been placed
22 on that item a year ago or yesterday?
23 A. That's correct.
24 MR. POTTER: Nothing further.
25 THE COURT: Anything on redirect?

1 MS. HUEY: That's all I have for this witness,
2 Judge. May she be excused?
3 THE COURT: Any objection?
4 MR. POTTER: No, Your Honor.
5 THE COURT: Okay. Thank you.
6 THE WITNESS: Thank you.
7 THE COURT: Let's take our break right now, if
8 you don't mind.
9 Ladies and gentlemen, I'm going to send you back for
10 about ten or fifteen minutes, probably fifteen. Please
11 don't discuss the case, and I'll call you in in just a
12 few minutes.
13 (WHEREUPON, the jury exited the open court at
14 approximately 11:09 a.m.)
15 THE COURT: All right. For planning purposes,
16 how many more witnesses do you have?
17 MS. HUEY: We're figuring that out right now.
18 One, maybe two, Judge.
19 THE COURT: Okay. We'll take a break.
20 (WHEREUPON, court stood at recess for a short break
21 during which State's Exhibit Numbers 22 and 23 were
22 marked for identification only.)
23 THE COURT: Okay. Y'all ready?
24 MS. HUEY: Your Honor, I have something I need
25 to take up with you.

1 THE COURT: Okay.

2 MS. HUEY: The State plans to call Brent

3 Simpson next. During the duties -- as an investigator

4 during his duties, he listens to jailhouse recordings.

5 And there are two specifically in this particular case in

6 which the Defendant alleges self-defense.

7 THE COURT: Okay.

8 MS. HUEY: Which I believe is contrary to what

9 has been presented thus far. We would like to introduce

10 those and don't know if you need to hear them or ...

11 THE COURT: Well, is there any objection to

12 them?

13 MR. POTTER: Yes, Judge. First off, I haven't

14 presented a case thus far in regards to anything. I've

15 been addressing cross-examination on other issues. What

16 is alleged in these phone calls is he's talking to his

17 family trying to get counsel. And he specifically says,

18 just tell the lawyer it's self-defense. It's an attempt

19 of him to try to get a lawyer to come in and talk to him.

20 It's not a situation where he's saying, this is clearly

21 I was defending myself. I had no choice or anything

22 like. Call -- Scott gave me his -- can call Scott

23 McElhannon. It's a self-defense case. Call that lawyer

24 in Greenville and tell them it's a self-defense case.

25 It's him trying to get his family to get an attorney to

1 start working on his case. And his thinking is, tell the
2 lawyer it's self-defense at this point in time, then
3 he'll give it some consideration. It's not in regards to
4 the specific case or the facts. There's no information
5 in there saying Schaffer went after me, I had to defend
6 myself or anything like that. It's, I need to talk to a
7 lawyer. Tell the lawyer it's self-defense.
8 THE COURT: All right. Why don't you proffer
9 it. I think that's probably the thing we need to do.
10 MS. HUEY: Outside the presence of the jury,
11 correct?
12 THE COURT: Yeah.
13 MS. HUEY: Your Honor, the State calls Brent
14 Simpson to the stand.
15 THE CLERK: He's already been sworn?
16 THE COURT: Yeah, you have been sworn already,
17 right?
18 THE WITNESS: I have.
19 THE COURT: Yes, sir. You're still under oath.
20 I appreciate it.
21 **BRENT SIMPSON,**
22 BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:
23 IN-CAMERA EXAMINATION
24 BY MS. HUEY:
25 Q. Investigator Simpson, as an investigator, do you

1 have access to the recordings from the jail system?
2 A. Yes, ma'am, I do.
3 Q. Okay. Could you explain a little bit of how that
4 comes about?
5 A. We have a program on our computer that's called the
6 jail file system in which we can log in our user name and
7 the password and listen to inmates' telephone calls by
8 installing their name. And every phone call that they
9 have made from the jail pops up.
10 Q. And so prior to the inmate making a phone call, just
11 generally speaking, is there any kind of warning that is
12 issued when they're making a phone call?
13 A. Yes. Once they set up their account, they go
14 through a stage when they enter the jail. They have to
15 do a -- it's probably a five-minute setup. You have to
16 do a voice recognition setup in order to get a password
17 or PIN to use the phone. And after that, anytime they
18 use the phone, it lets them know that every call is being
19 recorded and subject to listening.
20 Q. And in addition to the warning on the recording, are
21 there any signs up at the jail indicating that they are
22 being recorded?
23 A. Yes, I believe there are.
24 Q. Now, in this particular case did you access jail
25 phone calls that John F. Kennedy made?

1 A. Yes, I did.
2 Q. And how did you -- specifically, as it relates to
3 him, how did you access those?
4 A. Through my desk computer, I log into the system and
5 put his name in. And several calls came up, and I
6 listened to each and every one of them at that point in
7 time.
8 Q. And what time did he turn -- or what day did he turn
9 himself in on this murder charge?
10 A. I believe he turned himself in on April 1st, 2012.
11 Q. And so what two calls were of significance that you
12 listened to?
13 A. There was one call on April the 11th, 2012, and I
14 don't have the date on the other one. I'll have to find
15 it for you. The others were April 5th, 2012.
16 Q. And as you listened to these recordings, were you --
17 actually -- let me back up. When the Defendant turned
18 himself in on April 1st, of 2012, did you speak with him
19 at that point?
20 A. Yes, I did.
21 Q. How long do you think you spoke with him?
22 A. It was several hours, probably five to six hours
23 total. He did -- we did offer him supper. He did eat in
24 that time frame also, so it wasn't continuous ongoing.
25 Q. Okay. And as you were listening to these

1 recordings, in addition to you having plugged his name in
2 and it pulling up the calls he made, did you also
3 recognize his voice?
4 A. I did.
5 Q. And I show you what's been marked as State's 22 and
6 23. Do you recognize these?
7 A. Yes, I do.
8 Q. And what are those exhibits?
9 A. These are recordings of the phone calls made by John
10 F. Kennedy on the jail system.
11 Q. Okay. And did you download those from your system?
12 A. Yes, I did. Also, I recorded those on a compact
13 disk.
14 Q. And for purposes of this hearing, I believe those
15 have been redacted; is that correct?
16 A. That's correct.
17 Q. All right. So in terms of anything other than that,
18 have they been altered in any other way?
19 A. No, they have not.
20 MS. HUEY: So Your Honor, at this time we would
21 want to publish these particular phone calls.
22 THE COURT: Okay. All right.
23 MS. HUEY: And just for the Court to be aware,
24 as Mr. Potter indicated, these are about twenty-minute
25 phone calls. And a lot of it is talking about him

1 wanting to get an attorney, talking to his family and
2 that sort of thing. So we've attempted to just focus in
3 on the statements he made regarding self-defense.
4 THE COURT: Okay.
5 MS. HUEY: So this would be State's 22.
6 State's 22 is April 5th, Your Honor.
7 THE COURT: Okay.
8 (WHEREUPON, State's Exhibit Number 22 was published
9 for the Court.)
10 MS. HUEY: That would be State's 22 from April
11 5th, 2012. And Your Honor, at this time, we'd like to
12 publish State's 23 from 4/11/2012.
13 (WHEREUPON, State's Exhibit Number 23 was published
14 for the Court.)
15 THE COURT: Okay. Is self-defense -- I mean,
16 this is the first time self-defense has come up. I'm
17 just kind of curious as to why it's just coming up now.
18 I mean, is it an issue?
19 MS. HUEY: Well, Your Honor, we didn't know
20 what the Defense was going to present obviously.
21 THE COURT: Right.
22 MS. HUEY: And I believe Mr. Potter opened with
23 that no one can put the Defendant inside the trailer with
24 Mr. Scott. And the Defendant's own words put him in
25 there.

1 MR. POTTER: Judge, I didn't say that. I just
2 said Mr. Scott doesn't know who assaulted him and that
3 Mr. Scott is mistaken as to who assaulted him. Judge,
4 obviously, it's fair game on rebuttal if my guy gets up
5 and testifies. Or if I present any evidence related to
6 it, I think it's fair game. However, in their case-in-
7 chief -- first off, I haven't presented a case for a
8 defense as of yet officially. Additionally, this is
9 highly prejudicial. He's trying to get his family to
10 hire a lawyer. And one way a lawyer's going to take a
11 case is if he thinks he's going to make money and he
12 thinks he can do well with it. Just tell him it's self-
13 defense. And that way, at least he'll come down here and
14 talk to me.
15 THE COURT: What would be the problem with
16 reserving it for rebuttal if he raises the issue of self-
17 defense? I mean, would that create a problem for you,
18 assuming he doesn't argue it, because you can't argue it
19 if ...
20 MS. HUEY: In terms of rebuttal, Your Honor,
21 though, that would mean he would have to put up a case.
22 THE COURT: Right.
23 MS. HUEY: Which is ---
24 THE COURT: Do you want it in assuming he
25 doesn't raise self-defense?

1 MS. HUEY: Well, my position is, Your Honor, he
2 has indicated through his opening and through cross, that
3 this is a flawed investigation, that the police are going
4 after one person and not investigating anybody else, that
5 no one -- however he wants to phrase it. But no one puts
6 him inside the trailer. And here in the Defendant's own
7 words he's saying, it was him or me.
8 MR. POTTER: If this gets admitted, in essence
9 we've got an issue here because now I've got to put my
10 guy -- I have to have my client refute that.
11 THE COURT: I tell you what, I'm not going to
12 allow it in your case-in-chief. I'll allow it in
13 rebuttal if he presents -- introducing self-defense at
14 this point without a defense creates a lot of problems.
15 But if self-defense comes up as a defense, I'll allow you
16 to introduce it.
17 MS. HUEY: And Your Honor, if I may then, again
18 -- and I objected to this in opening. But Mr. Potter has
19 been intimating that these two other people are involved
20 in this. And if that is the line he goes down in cross,
21 then he may open the door.
22 THE COURT: No, I stopped him. I think I
23 stopped him. I mean, you objected. I stopped him and
24 then he -- I mean, like I said -- as I said two days ago,
25 he's walking that thin line. But I wouldn't allow him to

1 go into third-party guilt at this point.

2 MR. POTTER: Well, may it please the Court?

3 THE COURT: Yep.

4 MR. POTTER: We do need to address that.

5 THE COURT: Okay.

6 MR. POTTER: Her witness opened up the door

7 when she said, I called Ron. I thought Ron and Julie had

8 something to do with this. And she volunteered that

9 information. It wasn't because of a question from me or

10 anything of that sort.

11 MS. HUEY: But she also testified that she did

12 not see Ron or Julie there at the time of this incident.

13 THE COURT: Well, look, the evidence is what it

14 is. Let's -- at this point, I'm not going to allow the

15 evidence of self-defense unless it is raised as a

16 defense. But I'm going to keep him inside that line as

17 self-defense. I mean, you can't just pop up with self-

18 defense.

19 MR. POTTER: That's not going to pop up, Judge.

20 MS. HUEY: All right. He's trying to avoid

21 that, Judge, because he knows how silly it is which is

22 why I want it in.

23 THE COURT: Well, y'all come here a minute.

24 (WHEREUPON, a bench conference was held off the

25 record.)

1 THE COURT: All right. Let's keep it out until
2 it comes up. If it comes up, it comes in.
3 MR. POTTER: May it please the Court?
4 THE COURT: Yes, sir.
5 MR. POTTER: Judge, if it's all right with you,
6 after Ms. Huey gets done with direct, before we start
7 cross, I want to just make sure I don't have any issues
8 with third-party guilt. So I want to kind of confirm
9 some things with you before we start cross based upon
10 what he testifies to.
11 THE COURT: Okay.
12 MR. POTTER: So if I stand up and ask for the
13 jury to be removed, that's what -- I just want to make
14 sure.
15 THE COURT: All right. Who would your next
16 witness be?
17 MS. HUEY: Brent Simpson, Your Honor.
18 THE COURT: Okay.
19 MS. HUEY: He'd be the last witness.
20 THE COURT: Okay.
21 MS. HUEY: And I do intend to publish the 9-1-1
22 call. Does that need to be addressed?
23 MR. POTTER: I've listened to it. It's been
24 redacted. Actually, she says my guy was there. I find
25 that prejudicial, but ---

1 THE COURT: Okay. Well, again, it is what it
2 is.
3 MR. POTTER: Yes, sir.
4 THE COURT: I mean, you know, you can argue.
5 All right. I'll allow that to be introduced over your
6 objection. Okay.
7 Step down for now and we'll bring you right back up.
8 Thanks.
9 THE CLERK: He has not been sworn in in front
10 of the jury.
11 THE COURT: Okay. All right. We'll do that
12 then.
13 Okay. You can bring them in.
14 (WHEREUPON, the jury entered the open court at
15 approximately 11:47 a.m.)
16 THE COURT: All right. Ladies and gentlemen,
17 as I told you two days ago, every ten minutes turns into
18 twenty. And I apologize. We were working outside your
19 presence. It took longer.
20 You can call your next witness.
21 MS. HUEY: The State calls Brent Simpson to the
22 stand.
23 **BRENT SIMPSON,**
24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
25 DIRECT EXAMINATION

1 BY MS. HUEY:

2 Q. Investigator Simpson, where do you work?

3 A. I'm employed with the Anderson County Sheriff's

4 office.

5 Q. And how long have you been with the Sheriff's

6 office?

7 A. Since 2005.

8 Q. And in what position are you in at the Sheriff's

9 office?

10 A. I'm a criminal investigator.

11 Q. As such, what are some of your duties?

12 A. Basically, we investigate mostly felonies involving

13 burglaries, thefts, frauds, assaults and homicides.

14 Q. Did you become involved in the investigation of a

15 homicide that occurred at [redacted] in Anderson

16 County?

17 A. Yes, I did.

18 Q. And in what capacity?

19 A. I was the lead investigator in the case.

20 Q. And when you're labeled a lead investigator, do your

21 duties change at that point?

22 A. I kind of oversee the whole thing at that point.

23 Q. Did you have an occasion to respond to AnMed

24 Hospital on March 30th of 2012?

25 A. Yes, I did.

1 Q. And for what purpose?
2 A. I was contacted by Sergeant Bussey at that point
3 that he was on the scene of an assault and the victim had
4 been taken to the AnMed E.R. And I responded to the E.R.
5 in an attempt to talk to him to get any information I
6 could.
7 Q. When you got to the E.R., what condition was Mr.
8 Scott in?
9 A. When I walked in, the doctors and nurses were still
10 working on him. I kind of stayed out of the room. Once
11 everybody cleared out, I walked in. And he had bandages
12 around the sides of his head. I could still see most of
13 the top. He had severe gashes in the top of his head,
14 staples, still a lot of bleeding. He was in very
15 critical condition.
16 Q. Do you remember about what time you spoke with the
17 victim?
18 A. I believe it was around -- I took a statement from
19 him. It was seven fifty-three when that statement began,
20 p.m.
21 Q. And how were you able to document this conversation?
22 A. I recorded it. The only thing I could do at that
23 point in time -- obviously he could not write. So I had
24 a cell phone with me which I used the recording feature
25 on it to record the entire interview.

1 Q. And it was just you and the victim in the room
2 together?
3 A. At that point, yes, ma'am.
4 Q. Let me show you what's been marked as State's 11.
5 If you could take a look at this, please. Do you
6 recognize that exhibit?
7 A. I do.
8 Q. And does that fairly and accurately depict and
9 represent the conversation you had with the victim Claud
10 Schaffer Scott on March 30th of 2012?
11 A. Yes, it does.
12 Q. Has it been altered or changed in any way?
13 A. No.
14 MS. HUEY: Your Honor, at this time we would
15 seek to admit State's 11 into evidence.
16 THE COURT: Any objection?
17 MR. POTTER: Yes, Your Honor.
18 THE COURT: Okay. Is this what we discussed?
19 MR. POTTER: Yes, Your Honor.
20 THE COURT: Okay. I've got to send you out for
21 two more minutes. It won't be ten this time. Please
22 don't discuss the case.
23 (WHEREUPON, the jury exited the open court at
24 approximately 11:51 a.m.)
25 THE COURT: All right. Yes, sir?

1 MR. POTTER: Judge, for the record, I know we
2 had pre-trial hearings on this particular matter. But I
3 believe this is the recording involved in the dying
4 declaration. And I understand Your Honor has already
5 ruled on my objections related to that pre-trial hearing.
6 THE COURT: Yeah.
7 MR. POTTER: I'm merely renewing those
8 objections and incorporating my arguments that I made in
9 the prior hearing.
10 THE COURT: Okay. Your objection is renewed
11 and overruled pursuant to my previous ruling.
12 MR. POTTER: Thank you.
13 THE COURT: Okay. You can bring them in.
14 (WHEREUPON, the jury entered the open court at
15 approximately 11:52 a.m.)
16 THE COURT: All right. Thanks for your
17 patience.
18 Yes, ma'am?
19 MS. HUEY: Your Honor, at this time we'd seek
20 to admit State's 11 and publish.
21 THE COURT: Okay. Pursuant to a previous
22 ruling, I'll allow you to introduce it.
23 (WHEREUPON, State's Exhibit Number 11 was admitted
24 into evidence and published for the jury.)
25 Q. Investigator Simpson, after the recording stops,

1 what happens next?
2 A. Mr. Scott fell unconscious and never opened his
3 eyes, never said anything else.
4 Q. Now, prior to meeting with Mr. Scott at the
5 hospital, did you have any information regarding a
6 potential perpetrator or any details?
7 A. The only details I was told was Mr. Scott had been
8 assaulted, and he'd been struck in the head and his
9 vehicle had been taken.
10 Q. Did you eventually learn, as the lead investigator,
11 of Kimberly King's statement?
12 A. I did.
13 Q. After you recorded the victim's statement, I believe
14 you said the victim fell unconscious?
15 A. He did.
16 Q. And he never recovered from his injuries?
17 A. No. He essentially passed away due to the injuries.
18 Q. And what time did he pass away?
19 A. I believe it was around seven twenty the following
20 morning on the 31st of March, 2012.
21 Q. What were your next steps after getting the victim's
22 statement recorded?
23 A. After that, I contacted investigator Bussey and told
24 him that I had the recording on my phone. He had since
25 explained to me Kimberly's statement, what she had seen.

1 And he also let me know that three other people had been
2 told that John F. Kennedy had assaulted Mr. Scott.
3 MR. POTTER: Objection, Your Honor.
4 THE COURT: Sustained.
5 MR. POTTER: Ask that to be stricken.
6 THE COURT: Yeah. That'll be stricken.
7 Q. Just refrain from saying what other people said. So
8 what, if anything, became of the victim's blue car?
9 A. We did locate the victim's car on March the 31st.
10 Someone contacted us, and we recovered the car at 2901
11 South Main in the Bi-Lo parking lot.
12 Q. Okay. And what kind of car was it actually? I know
13 there's a been a couple of references to the kind of car.
14 A. It's a Mercury Mystique.
15 Q. And is that the same make and model as another car
16 or the same type?
17 A. Same type as a Ford.
18 Q. Investigator Simpson, I'm going to show you what's
19 been marked as State's 19-A through C. If you could
20 please take a look at these. Do you recognize those?
21 A. I do.
22 Q. And do those fairly and accurately depict the
23 Mercury Mystique belonging to Claud Schaffer Scott that
24 was found at the Bi-Lo at 2907 South Main Street?
25 A. Yes, ma'am.

1 Q. Have they been altered or changed in any way?
2 A. No, ma'am.
3 MS. HUEY: Your Honor, at this time we'd seek
4 to introduce 19-A, B and C.
5 MR. POTTER: No objection.
6 THE COURT: Without objection.
7 (WHEREUPON, State's Exhibit Numbers 19-A, B, and C
8 were admitted into evidence.)
9 Q. Investigator Simpson, if you don't mind stepping
10 down with the photos.
11 (WHEREUPON, the witness stepped down from the
12 witness stand.)
13 Q. This is 19-A. Could you tell the jury what that
14 depicts?
15 A. This is the blue Mercury Mystique that was found in
16 the parking lot that belonged to Mr. Scott.
17 Q. And that's exactly where it was parked?
18 A. Yes.
19 Q. It hasn't been moved?
20 A. (No verbal response)
21 Q. All right. And State's 19-B?
22 A. This is just a different angle of the exact same car
23 where it was parked.
24 Q. And 19-C?
25 A. This is also the same car, just the rear view of it.

1 Q. Okay. And it had a dealer tag on it?
2 A. Yes.
3 Q. Okay. You can have a seat.
4 (WHEREUPON, the witness resumed the witness stand.)
5 Q. Now, as a result of finding the missing blue car at
6 the Bi-Lo, were you able to retrieve a video from the Bi-
7 Lo assistant manager, a surveillance video?
8 A. Yes, I was.
9 Q. What day and time -- according to that video, what
10 day and time does the blue car drive into the Bi-Lo
11 parking lot?
12 A. I think the car was driven into the parking lot on
13 March the 30th around six oh four p.m. And at around six
14 oh five p.m., a black male was seen on the video running
15 away from the car.
16 Q. Okay. Now, can you make out who it is, other than
17 it being a black male?
18 A. You can't really make out exactly who it is, but you
19 can tell it's a black male.
20 Q. And then at what time is the black male seen leaving
21 the car, running away from the car?
22 A. It was approximately six oh five, about a minute
23 later.
24 Q. I'm going to show you what's marked as State's 8.
25 I'm going to show you this. Is this the surveillance

1 video you collected from Heather Pressley for -- as a
2 result of this investigation?
3 A. Yes, it is.
4 Q. And again, it fairly and accurately depicts the
5 surveillance video taken March 30th of 2012?
6 A. That's correct.
7 MS. HUEY: Your Honor, at this time we'd seek
8 to publish State's 8 and admit.
9 THE COURT: Any objection?
10 MR. POTTER: No, Your Honor.
11 THE COURT: All right. Without objection.
12 (WHEREUPON, State's Exhibit Number 8 was admitted
13 into evidence.)
14 Q. Investigator Simpson, if you don't mind stepping
15 down. And from the TV, maybe you can point out when the
16 car is coming in.
17 (WHEREUPON, the witness stepped down from the
18 witness stand.)
19 Q. I'm sorry. Let me back up one second.
20 (WHEREUPON, State's Exhibit Number 8 was published
21 for the jury.)
22 A. Okay. This is the car coming into the parking lot
23 now.
24 Q. And that's the next shot?
25 A. Yes, it is. You can see a person getting out of the

1 car and going around to the front. You see him running
2 toward the side of the store. With this picture being
3 blown up like it is, it's kind of grainy. But that's
4 because it's smaller than the size of a computer screen.
5 You can tell that it's a black male.
6 Q. And is that the extent of the surveillance video?
7 A. Yes.
8 Q. You can take your seat.
9 (WHEREUPON, the witness resumed the witness stand.)
10 Q. Now, this Bi-Lo at 2907 South Main Street, how far
11 is it approximately from the victim's trailer at [redacted]
12 Circle?
13 A. It's approximately eight miles. It takes about
14 fifteen, sixteen minutes to drive it.
15 Q. And again, what time did the 9-1-1 call come in from
16 Kimberly King?
17 A. The call, I believe, came in at -- the first 9-1-1
18 call came in at five fifty-one p.m.
19 Q. So just under fifteen minutes after the car is seen
20 abandoned at the Bi-Lo parking lot?
21 A. That's correct.
22 Q. Now, as your part of the investigation, did you
23 obtain a recording of the 9-1-1 call placed by Kimberly
24 King ---
25 A. Yes.

1 Q. --- on March 30th of 2012 at five fifty-one p.m.?
2 A. I did.
3 MS. HUEY: Your Honor, at this time we'd seek
4 to introduce State's 4-A and publish.
5 THE COURT: Any objection?
6 MR. POTTER: I'm sorry. What was that again?
7 MS. HUEY: The 9-1-1?
8 MR. POTTER: Yes, subject to my previous
9 comments regarding this matter.
10 THE COURT: Okay. Subject to previous
11 objection, it's admitted.
12 (WHEREUPON, State's Exhibit Number 4-A was marked
13 and admitted into evidence and published in open
14 court.)
15 Q. Now, Investigator Simpson, you didn't actually go to
16 the crime scene; is that correct?
17 A. I did not.
18 Q. Did you have an opportunity to view the photos from
19 the crime scene?
20 A. Yes.
21 Q. I'm going to show you what's already been admitted
22 as State's 20 and State's 18-D. If you could take a look
23 at those photos. Now, drawing your attention to the
24 ottoman inside Mr. Scott's residence, there's a clipboard
25 on that ottoman?

1 A. Right.

2 Q. And were you able to view what was on that

3 clipboard?

4 A. Yes.

5 Q. Okay. And what was on the clipboard?

6 A. It's paperwork from the South Carolina Department of

7 Motor Vehicles to where Mr. Scott had sold a vehicle to

8 Ms. Margaret Conwell.

9 Q. And does it indicate the date that that took place?

10 A. I don't see a date on this page.

11 Q. But as a result of seeing this, did you then go

12 speak with Ms. Conwell?

13 A. I did.

14 Q. And as a result of speaking with Ms. Conwell, what

15 did you learn?

16 A. I learned that Ms. Conwell had purchased a ---

17 MR. POTTER: Judge, at this point in time I'm

18 going to object. This is, in essence, a kind of end-

19 around on hearsay.

20 MS. HUEY: May we approach, Your Honor?

21 THE COURT: Yeah.

22 (WHEREUPON, a bench conference was held off the

23 record.)

24 MR. POTTER: Judge, I'll withdraw that

25 objection.

1 THE COURT: Okay.
2 You can continue.
3 Q. Okay. So backing up, Investigator Simpson, as a
4 result of speaking with Ms. Conwell, what did you then
5 learn?
6 A. I spoke with Ms. Conwell, and she advised me that
7 she had bought a van on March the 30th around lunchtime
8 from Mr. Scott.
9 Q. So on the same day that he was killed?
10 A. Right.
11 Q. And do you know how much she paid Mr. Scott for that
12 van?
13 A. It was fifteen hundred dollars down, and she made
14 that payment by check.
15 Q. And did you get a copy of that check eventually?
16 A. Yes, I did.
17 Q. Now, were you able to tell on which bank account
18 that was drawn?
19 A. Yes. It was Margaret Conwell's account, and it was
20 drawn on the Peoples Bank.
21 Q. Okay. So as a result of it being drawn on the
22 Peoples Bank, did you then go to the Peoples Bank to try
23 and obtain surveillance stills?
24 A. Yes, I did.
25 Q. I'm going to show you what's been previously

1 admitted as State's 7-A through L. Are these the
2 surveillance stills that you obtained from Peoples Bank?
3 A. Yes, they are.
4 Q. Okay. And if you don't mind stepping down, please?
5 (WHEREUPON, the witness stepped down from the
6 witness stand.)
7 Q. I'm going to publish 7-A. Can you tell the jury
8 about what time this shot is from the parking lot of the
9 Peoples Bank?
10 A. This is March 30th, 2012. And the time is one oh
11 nine p.m. when they pull up in the car, in a blue Mercury
12 Mystique.
13 Q. And again, that's the same blue car that we've been
14 talking about that Mr. Scott owns?
15 A. Yes, ma'am.
16 Q. And this would be State's 7-B. What, if anything,
17 does that depict?
18 A. It's the same. It's one oh nine p.m. It shows Mr.
19 Scott getting out of the passenger side and John Kennedy
20 standing in front of the vehicle.
21 Q. And this is 7-C?
22 A. This photo shows one ten p.m., which shows Mr. Scott
23 about to enter the bank, and John Kennedy is in front of
24 him about to open the door.
25 Q. And this is 7-E?

1 A. This is also one ten p.m., just a few seconds later,
2 with Mr. Scott and John Kennedy entering the bank.
3 Q. 7-F?
4 A. This is a few seconds later, also one ten p.m.,
5 showing Mr. Scott coming into the bank and Mr. Kennedy
6 behind him.
7 Q. This is 7-G?
8 A. And then this is one ten p.m. Mr. Scott is walking
9 up to the bank tellers, and Mr. Kennedy is kind of
10 standing in the lobby area.
11 Q. Okay. Can you tell what he has in his hand? What
12 Mr. Scott has in his hand?
13 A. It looks like a cane.
14 Q. State's 7-H?
15 A. This is one fourteen p.m. It shows Mr. Kennedy
16 sitting in the lobby of the Peoples Bank.
17 Q. 7-I?
18 A. This is also one fourteen p.m. Mr. Scott is cashing
19 the check at the teller window with Mr. Kennedy sitting
20 in the chair in the lobby.
21 Q. 7-J?
22 A. This is a few seconds later, one fourteen p.m.,
23 where Mr. Scott and Mr. Kennedy are exiting the bank.
24 Q. 7-K?
25 A. This is one fourteen p.m., also a few seconds later,

1 showing Mr. Kennedy getting in the driver's seat of the
2 blue Mercury.
3 Q. And finally 7-L?
4 A. And one fifteen p.m. shows Mr. Scott getting into
5 the passenger's side.
6 Q. Okay. You can take a seat.
7 (WHEREUPON, the witness resumed the witness stand.)
8 Q. So these stills show that the Defendant and the
9 victim are together on March 30th of 2012 from about one
10 ten to one fifteen, give or take?
11 A. Correct.
12 Q. The afternoon of the day he was killed?
13 A. Right.
14 Q. Now, to your knowledge then, Investigator Simpson,
15 the fifteen hundred dollars that Mr. Scott received from
16 the teller at Peoples Bank on March 30th of 2012, was
17 that ever recovered in his trailer?
18 A. No, we never recovered any cash.
19 Q. Any money at all?
20 A. The only money was the change laying on the floor
21 that you see in the photos prior.
22 Q. Now, you never went to the crime scene. But as a
23 result of being the lead investigator, do you have any
24 knowledge of whether any fingerprints were developed from
25 the trailer?

1 A. No fingerprints were identified from anyone. And
2 that could be because there's several ---
3 MR. POTTER: Object. I'm going to object on
4 the speculation on why or why not there was not any ---
5 THE COURT: Yeah. Just let ---
6 MR. POTTER: I mean ---
7 THE COURT: Sustained. He can only testify
8 about what he knows.
9 Go ahead. You can rephrase it.
10 Q. In your experience have you been involved in how
11 many investigations?
12 A. Numerous.
13 Q. And how often do you find fingerprints as a result
14 of these investigations?
15 A. Very few.
16 Q. And what are some of the reasons behind that?
17 A. The person could be sweaty.
18 MR. POTTER: Again, Judge, the same objection
19 with regards to speculating in regards to ...
20 THE COURT: Well, I think he can testify to
21 that.
22 Okay.
23 A. A person could be sweaty and not get a good
24 fingerprint. Their hands could also be dry. There's
25 several different reasons why. The texture of the object

1 that is touched is not substantial for a fingerprint.
2 There's several different reasons.
3 Q. And were there any signs of forced entry at Mr.
4 Scott's trailer on March 30th, 2012?
5 A. No, ma'am.
6 Q. But there were signs of struggle?
7 A. Yes.
8 Q. Now, from all of these things that you testified to
9 today, and as lead investigator, were you able to develop
10 a time line of the events leading up to Mr. Scott's death
11 and then following his death?
12 A. Yes, ma'am, I was.
13 Q. Okay. And what was that time line?
14 A. Starting Friday, March the 30th, 2012, Mr. Schaffer
15 Scott sold a van around lunchtime that day. He then went
16 to the Peoples Bank to cash that check. That was
17 approximately one fourteen the same day he cashes the
18 check and gets fifteen hundred dollars cash back. After
19 that, Ms. King sees Mr. Kennedy sweaty, trying to get
20 away from the scene, takes Mr. Scott's car and drives off
21 in it. At that point, she goes inside and finds Mr.
22 Kennedy -- I'm sorry -- Mr. Scott in the condition he's
23 in. We also find the vehicle later in the parking lot of
24 the Bi-Lo the following day. And through the video, of
25 course, we see at six oh four p.m. is when the vehicle's

1 dropped off, which is roughly fifteen minutes after Ms.
2 King calls 9-1-1 and sees Mr. Kennedy leave. I was able
3 to record the statement on March the 30th of the victim,
4 his last statement, declaring that Mr. Kennedy did strike
5 him.
6 MR. POTTER: Objection, Your Honor.
7 THE COURT: Sustained. I mean, it stands for
8 itself.
9 Q. You were able to take a recording from the victim?
10 A. Correct. After that, the next morning around seven
11 twenty, Mr. Scott does pass away as a result of his
12 injuries from the blunt force trauma. The next morning,
13 April the 1st, Mr. Kennedy turns himself in.
14 Q. I'm going to show you what's been already admitted
15 as 17-A. Does this accurately depict what the Defendant
16 looked like on April 1st of 2012?
17 A. Yes, it does.
18 Q. Okay. And at your direction, was that the clothing
19 that was collected and then sent to SLED?
20 A. Yes, it was.
21 Q. For further testing?
22 A. Yes, ma'am.
23 Q. In particular the shorts?
24 A. Yes, ma'am.
25 Q. 17-A. And again that accurately reflects what Mr.

1 Kennedy looked like when he turned himself in on April
2 1st?
3 A. Yes, ma'am.
4 Q. Now, do you recall what color shirt he was wearing
5 at the bank earlier the day that Mr. Scott was killed?
6 A. I believe -- I know it was a different color shirt.
7 I'm not positive what color it is.
8 Q. But it was different than the one he turned himself
9 in?
10 A. Correct.
11 MS. HUEY: That's all I have at this time,
12 Judge.
13 THE COURT: Yes, sir?
14 MR. POTTER: May it please the Court?
15 THE COURT: Yes, sir.
16 MR. POTTER: Judge, there's some matters I need
17 to take up outside the jury's hearing.
18 THE COURT: Okay.
19 MR. POTTER: Additionally, I have to go the
20 bathroom.
21 THE COURT: All right. Y'all come here a
22 minute. Let me ask you a scheduling question.
23 (WHEREUPON, a bench conference was held off the
24 record.)
25 THE COURT: All right. Ladies and gentlemen,

1 I'm going to send you to lunch now. We've got about
2 twenty-five minutes worth of work outside your presence.
3 Rather than have you sit, I would ask that you be back in
4 the jury room at two fifteen, and we will get started.
5 Again, we're going to get this case to you today. But
6 we've got about forty-five minutes worth of work to do.
7 Have a good lunch. Don't talk about the case. See
8 you at two fifteen.
9 (WHEREUPON, the jury exited the open court at
10 approximately 12:35 p.m.)
11 THE COURT: Okay. You need to break right now?
12 MR. POTTER: I do, Judge.
13 THE COURT: We'll be back in ten minutes.
14 (WHEREUPON, court stood at recess for a short
15 break.)
16 THE COURT: Okay. What do we need to deal
17 with?
18 MR. POTTER: Judge, this is the issue on cross
19 as to whether or not I can get into any questions related
20 to issues of third-party guilt. May it please the Court?
21 THE COURT: Yes, sir.
22 MR. POTTER: Judge, I handed the clerk Holmes
23 versus South Carolina, a United States Supreme Court case
24 decided May 1st, 2006, wherein it dealt with the
25 exclusion of defensive evidence of third-party guilt

1 denied the Defendant a fair trial under -- I think it's
2 addressed in the State verus Gay case. Judge, I haven't
3 shepherdized this case since -- I'm of the opinion that I
4 think this is still good law. In essence, in a nutshell,
5 it says that the old rule under State v. Gay is no longer
6 applicable, that failure or denial of the Court to allow
7 the Defendant to present third-party evidence of guilt
8 denies the right to present a defense, if I'm reading
9 this correctly.
10 THE COURT: All right.
11 Yes, ma'am?
12 MS. HUEY: Well, Your Honor, we would argue
13 that it also has to be inconsistent with the Defendant's
14 own guilt. And we've had nothing to this point that
15 shows that. I'm not sure what Mr. Potter's going to try
16 and get into. And maybe we need to proffer first. But I
17 think it's going to try to elicit hearsay testimony, if
18 anything, from Investigator Simpson.
19 THE COURT: All right. Well, let's see what
20 we've got. Who do you need to call?
21 MR. POTTER: Investigator Simpson.
22 THE COURT: Okay.
23 You're still under oath. I know you know that.
24 Yes, sir?
25 MR. POTTER: Judge, can I have a quick moment?

1 THE COURT: Sure.

2 IN-CAMERA EXAMINATION

3 BY MR. POTTER:

4 Q. Investigator Simpson, there was two other people

5 that were interviewed that you didn't speak about in your

6 direct examination regarding the investigation of this

7 case; is that correct?

8 A. Correct.

9 Q. And that would be Ron Curry who was the next-door

10 neighbor of the decedent?

11 A. Right.

12 Q. As well as Ms. Julia -- is it Julia or Julie Moore?

13 Is it Julia Moore?

14 A. Julie.

15 Q. Julie Moore? And she was also -- she lived at the

16 decedent's residence as well; is that correct?

17 A. She was staying there, yes.

18 Q. She came and went? Whenever Ron beat her up, she

19 would come?

20 A. That's right.

21 Q. And stay a few days and then leave?

22 A. True.

23 Q. You found her state identification card at the

24 scene; isn't that true?

25 A. At the scene?

1 Q. Yes.
2 A. I wasn't at the scene.
3 Q. Okay. Do you know if there was a photograph of her
4 state identification card taken?
5 A. I'm not aware of one.
6 Q. All right. Now, you had an opportunity -- you
7 learned during the course of your investigation that she
8 was driving a white Cavalier that was owned by the
9 decedent, correct?
10 A. Correct.
11 Q. And that they were found, they being Mr. Ron Curry
12 and Ms. Julie Moore, the following day at a boat ramp in
13 that Cavalier; is that correct?
14 A. Correct.
15 Q. And at that point in time, you didn't hold them for
16 questioning or anything of that sort; is that correct?
17 A. We did talk with them, but they were under some sort
18 of substance at that point in time. We couldn't actually
19 take a statement from them.
20 Q. Okay. Did you talk to them, or did the deputies
21 talk to them?
22 A. Myself and investigator Ashley.
23 Q. And that was on the 31st of March?
24 A. I believe that's correct. Yes.
25 Q. Okay. Was this at the boat ramp where you spoke to

1 them?
2 A. Yes.
3 Q. Okay. And at that point in time, the vehicle was
4 taken into custody, correct?
5 A. That's correct.
6 Q. Okay. Was that vehicle searched?
7 A. It was.
8 Q. Okay. Was anything found in the vehicle?
9 A. We didn't find anything at that point.
10 Q. Was that -- excuse me. I didn't mean to cut you
11 off.
12 A. At that point, we didn't.
13 Q. Did you take it into evidence?
14 A. Yes, we did. I had it towed.
15 Q. Did you take it to the Sheriff's office for evidence
16 processing?
17 A. No. I believe it was taken to the tow yard.
18 Q. Okay. And it was turned over back to the decedent's
19 sister; isn't that correct?
20 A. Correct.
21 Q. Okay. So there was no processing of that vehicle to
22 see if there was any blood or anything like that in the
23 consistent way that you tried to process the Ford --
24 Mercury Mystique?
25 A. No.

1 Q. Now, you learned from interviews -- you subsequently
2 interviewed Julie Moore, correct?
3 A. Yes.
4 Q. And that was on April 4th, I believe; is that
5 correct?
6 A. I've got April 2nd.
7 Q. Excuse me. April 2nd. And on April 2nd, you got a
8 written statement from her; is that correct?
9 A. Yes, sir.
10 Q. All right. And based upon that information, you
11 learned that she had a prior dispute with the decedent?
12 A. Yes.
13 MS. HUEY: That would be hearsay, Your Honor.
14 Objection.
15 THE COURT: Okay. Sustained.
16 But for the purposes of the proffer, I'll allow you
17 to ask the question.
18 MR. POTTER: Thank you.
19 Q. And in your interview of Ms. Julie Moore, she was
20 aware that Mr. Schaffer was going to -- Mr. Schaffer
21 Scott was going to sell that van that day; is that
22 correct?
23 A. Yes.
24 Q. And she also told you she picked up Mr. Curry around
25 four-thirty down the road from the decedent's house; is

1 that correct?

2 A. That's correct.

3 Q. From four thirty that day until one thirty the

4 following morning, was there any way that you could

5 pursue or find or follow her whereabouts where she could

6 document where she was at during that time period?

7 A. Not at that point, I don't believe.

8 Q. Did she provide any documentation to show where she

9 had been or anything of that sort?

10 A. Not at that time period.

11 Q. You subsequently learned that she and Ron stayed in

12 a hotel room; is that correct?

13 A. Correct.

14 Q. Was a search warrant executed on those hotel rooms?

15 A. No.

16 Q. When you -- I want to back up a second. When you

17 met with them on the boat ramp -- and you indicated that

18 they seemed to be in an intoxicated state; isn't that

19 correct?

20 A. Yes.

21 Q. Okay. Did you separate them and look at their

22 clothes, look at their hands, look to see if they had any

23 blood on them or anything of that sort?

24 A. We did.

25 Q. Is that documented in your incident report?

1 A. I'm not sure if it's documented or not.
2 Q. Okay. Was the time you sat -- excuse me. Let's
3 back up a second. When you met, you and Detective Ashley
4 met with the two, Mr. Curry and Ms. Moore, was that
5 documented? I'm sorry. That's a bad question. Was
6 there anything in the incident report that indicated that
7 you met with Mr. Curry and Ms. Moore at that boat ramp?
8 A. In my supplemental?
9 Q. Yes, sir.
10 A. I believe it's in Investigator Ashley's.
11 Q. All right. In regards to your supplemental ---
12 A. I'm not sure about that.
13 Q. I've got a narrative that says, later that evening
14 road deputies find the other vehicle that the victim
15 owned parked at the Broyles Landing boat ramp. Julie
16 Moore and Ron Curry were in this vehicle. They did not
17 know the victim was dead. She told me that she uses the
18 white Chevy Cavalier often and the victim Scott allows
19 her to do it. So is that the only indication?
20 A. Yes.
21 Q. And there's nothing in here indicating that the
22 vehicle was searched. It just says the vehicle was towed
23 and turned back to the sister?
24 A. Correct.
25 Q. Now, based upon your interview, there was another

1 witness -- based upon your interview with Ms. Julie
2 Moore, there's another witness that she indicated might
3 have information related to this investigation; is that
4 true?
5 A. Yes.
6 Q. A Wendy; is that correct?
7 A. Correct.
8 Q. Has that witness ever been located?
9 A. Never located.
10 MR. POTTER: That's all I have, Judge.
11 THE COURT: Anything from the State?
12 MS. HUEY: Your Honor, I don't think I need to
13 question Investigator Simpson. I object to the entire
14 line of questioning.
15 THE COURT: Okay. Let me pull up what I found
16 at lunch. Okay. I think Holmes is still the law. But
17 the issue is whether the probative value outweighs the
18 potential adverse effects; is that right? Is that your
19 impression?
20 MS. HUEY: Yes, sir.
21 THE COURT: Both y'all's impressions?
22 MR. POTTER: Yes, Judge.
23 THE COURT: And Holmes says that it should be
24 excluded only if it has a very weak logical connection to
25 the central issue. I just -- I think -- and actually, if

1 you read the facts in Holmes, this is all sort of
2 similar. I'm not going to let you introduce that. I
3 think that's logical. The probative value just is not
4 strong enough given what I've heard. And I've looked at
5 both sides of the case according to Holmes. And not just
6 the State's case, but the Defense case is what was
7 proffered. Okay?
8 MR. POTTER: Thank you, Judge.
9 THE COURT: But y'all are protected for the
10 record.
11 Okay. Assuming the third-party guilt doesn't come
12 in, where are we as far as ---
13 MR. POTTER: I just have -- I do have questions
14 I need to do on cross.
15 THE COURT: On cross?
16 MR. POTTER: Yes, sir. But it won't be third-
17 party.
18 THE COURT: Okay. Why don't we break, be back
19 in here. We'll do cross.
20 And then will that be your last witness?
21 MS. HUEY: Yes, sir. Then we'll rest.
22 THE COURT: All right. And then you'll rest
23 and we'll do the Fifth Amendment information and then
24 figure out where we are. Okay? All right. Y'all have a
25 good lunch.

1 MR. POTTER: Two fifteen, Judge?
2 THE COURT: Huh?
3 MR. POTTER: Two fifteen?
4 THE COURT: Yeah. Two fifteen, two thirty. It
5 depends on whether I get lunch or not.
6 (WHEREUPON, court stood at recess for a lunch
7 break.)
8 THE COURT: All right. Have y'all had a chance
9 to read my circumstantial evidence? That was the only
10 thing that you said before lunch you wanted.
11 MR. POTTER: Judge, I haven't seen it. I
12 haven't seen your circumstantial evidence.
13 THE COURT: It's at the bottom. And we'll go
14 over this in more detail. But I'm more comfortable with
15 what I normally give them, but I'll make this a part of
16 the record.
17 MR. POTTER: Judge, that's all I'm asking.
18 THE COURT: I'll make it Court's Exhibit ...
19 Is that 1? No, 3.
20 MADAM COURT REPORTER: It's 5.
21 THE COURT: 5? Okay.
22 (WHEREUPON, Court's Exhibit Number 5 was marked for
23 identification only.)
24 THE COURT: All right. So we've got the cross
25 and then y'all will rest, and then we'll do the Fifth

1 Amendment stuff, right? So we'll have to take a break at
2 the end of the cross anyway.
3 Okay. Y'all ready? Everybody ready?
4 MS. HUEY: Yes, sir. I'm sorry.
5 THE COURT: Bring them in.
6 (WHEREUPON, the jury entered the open court at
7 approximately 2:29 p.m.)
8 THE COURT: All right. Ladies and gentlemen,
9 thank you. We'll continue with the ...
10 Come on back up.
11 (WHEREUPON, the witness resumed the witness stand.)
12 THE COURT: ... continue with the cross-
13 examination.
14 MR. POTTER: May it please the Court?
15 THE COURT: Yes, sir.
16 CROSS-EXAMINATION
17 BY MR. POTTER:
18 Q. Detective, Mr. Kennedy, John F. Kennedy, he turned
19 himself in to y'all's office; is that correct?
20 A. That's true.
21 Q. And photographs were taken of him at that time; is
22 that correct?
23 A. That's true.
24 Q. And I think it was Chris Walker who took those
25 photographs?

1 A. Wilson, Chris Wilson.
2 Q. And part of those photographs were of his hands,
3 correct?
4 A. Right.
5 Q. All right. And there were no injuries to his hands,
6 were there?
7 A. Not that I'm aware of.
8 Q. Okay. And what else you did is you took fingernail
9 scrapings from his hands as well, correct?
10 A. Right.
11 Q. And those were taken into property and evidence and
12 submitted to SLED; is that correct?
13 A. Correct.
14 Q. All right. And as you heard testifying -- you've
15 sat through the testimony of all the witnesses -- the
16 SLED DNA analyst indicated that there was no blood in
17 those fingernail scrapings; is that correct?
18 A. Correct.
19 Q. Now, as you testified earlier, you were the lead
20 investigator in this case, correct?
21 A. Correct.
22 Q. All right. So that means it's your rodeo, for a
23 lack of a better phrase?
24 A. Somewhat.
25 Q. Okay. You're directing the investigation. You're

1 determining what evidence to take in. You're determining
2 who to interview. You're determining what pictures need
3 to be taken and all that. You're the boss of the
4 investigation, correct?
5 A. Mostly.
6 Q. Okay. And that was because you were the on-call
7 homicide investigator at the time, correct?
8 A. Right.
9 Q. And it's protocol for the Sheriff's department.
10 You're the man that gets the job, so to speak, correct
11 ---
12 A. Right.
13 Q. --- when it happens when you're on call. Now, when
14 you received the call, the first stop you made was to the
15 emergency room to check out Mr. Scott, correct?
16 A. Correct.
17 Q. And at no time that night or the following day or
18 until today have you gone out to the crime scene; is that
19 correct?
20 A. I did go to the crime scene.
21 Q. Did you go to the crime scene on March 31st, 2012?
22 A. 31st?
23 Q. Yes. You testified that you didn't.
24 A. I didn't on the 30th.
25 Q. Excuse me. On the 30th. You didn't go to the crime

1 scene on the 30th, correct?
2 A. Correct.
3 Q. And you testified you didn't go to the crime scene
4 on direct examination; isn't that correct?
5 A. Correct, on the 30th.
6 Q. At any point in the incident report or supplements
7 did you indicate that you went out to the crime scene?
8 A. No.
9 Q. So now you're saying you went to the crime scene?
10 A. We initially did a separate search warrant for some
11 paperwork that we did not have or did not think we had
12 into evidence.
13 Q. And when was that?
14 A. That was on April 2nd.
15 Q. April 2nd?
16 A. Yes.
17 Q. The incident happened on March 30th?
18 A. Correct.
19 Q. You didn't go to the crime scene until April 2nd?
20 A. Right.
21 Q. And you're the lead investigator?
22 A. Correct.
23 Q. And you're responsible for the investigation of this
24 case?
25 A. Correct.

1 Q. And you didn't go to the crime scene until April
2 2nd?
3 A. Right.
4 Q. Did you personally interview Ms. Kimberly King?
5 A. No, I did not.
6 Q. Did you take a statement from Ms. Kimberly King?
7 A. No.
8 Q. Did you interview Mr. James David Evans?
9 A. No, I did not.
10 Q. Did you take a statement personally from Mr. James
11 David Evans?
12 A. No.
13 Q. There was testimony that Mr. Kennedy was living in
14 an R.V. on the property, and you heard that testimony?
15 A. Correct.
16 Q. That R.V. was not taken into evidence, was it?
17 A. No.
18 Q. It was not taken into evidence, and it wasn't
19 processed, was it?
20 A. No.
21 Q. At the crime scene, there were three swabs of blood
22 taken inside the trailer, the living room area; is that
23 correct?
24 A. Right.
25 Q. There was no blood swab taken from the recliner

1 where Mr. Scott said he was when he was attacked,
2 correct?
3 A. Not that I'm aware of.
4 Q. Okay. There was not a blood -- there was not a swab
5 taken of the blood splatter on the wall of the crime
6 scene, correct?
7 A. Not that I'm aware of.
8 Q. Do you know if there was a blood -- excuse me.
9 There was not a swab taken of blood on the ground -- on
10 the floor of the trailer; is that correct?
11 A. I believe there was one taken of the carpet.
12 Q. Was that submitted for SLED testing?
13 A. Yes. Three blood swabs.
14 Q. Three blood swabs? What were those three blood
15 swabs from?
16 A. One was the front door inside knob, one from the
17 carpet beside the skillet and one from the coffee table.
18 Q. And you also had a swab from the skillet as well as
19 from the skillet handle, correct?
20 A. (No verbal response)
21 Q. I'm looking at -- if you -- I'm looking at the SLED
22 report dated August 9, 2013. That's what I'm
23 referencing.
24 A. (No verbal response)
25 Q. Do you have that report, sir?

1 A. I just found it.

2 Q. And this is the one that's dated August 9th, 2013?

3 A. I have one dated August the 8th.

4 MR. POTTER: May I approach, Judge?

5 THE COURT: Yes, sir.

6 MR. POTTER: Judge, may I show the witness my

7 SLED report that has been provided by the government to

8 refresh his recollection? I guess to ask if he's ever

9 seen it, then to refresh his recollection.

10 THE COURT: You can do that.

11 Q. I'm handing you ---

12 MR. POTTER: We'll just go ahead and mark it

13 for purposes of identification only.

14 (WHEREUPON, Defendant's Exhibit Number 2 was marked

15 for identification only.)

16 Q. This is Defense Exhibit 2. Have you seen this

17 report?

18 A. Yes.

19 Q. Do you have it in your case file that you're

20 referring to right now?

21 A. Not at this point.

22 Q. Okay. So in that SLED report, there is an

23 indication that they have a swab from the inside front

24 door knob?

25 A. Right.

1 Q. They have a swab from the bottom of the skillet and
2 a swab from the skillet handle. But there was nothing in
3 there in regards to a swab from the carpet on the floor
4 and the coffee table. Do you recall that, or do you need
5 to look at it again?
6 A. Yeah, let me look at it. No, they don't show it on
7 here.
8 Q. So the swab from the carpet and the swab from the
9 coffee table were not sent to SLED, to your knowledge,
10 for testing?
11 A. I can't say it wasn't sent. I requested it to be
12 sent.
13 Q. Okay. Now, you have in front of you the SLED report
14 dated November 8, 2012, correct?
15 A. Right.
16 Q. Is that -- and that's the request for services.
17 That's what SLED uses to, in essence, intake what you're
18 delivering to them to be tested; is that correct?
19 A. I'm not aware of how they do that. I didn't take it
20 down.
21 Q. Okay. All right. So does that report indicate that
22 the swab from the coffee table and the swab from the
23 carpet were submitted?
24 A. No, this one does not.
25 Q. You didn't take the recliner into evidence, did you?

1 A. No.
2 Q. Okay. And that was the recliner where Mr. Scott
3 said he was when he was attacked, correct?
4 A. Correct.
5 Q. There was blood on that recliner, was there not?
6 A. Correct.
7 Q. Okay. And your knowledge about that is because you
8 saw the photographs?
9 A. Correct.
10 Q. Because you didn't go; is that right?
11 A. Right.
12 Q. Did you execute the initial search warrants on the
13 house and the R.V.?
14 A. No.
15 Q. Were you involved in compiling and getting the photo
16 array complete?
17 A. No.
18 Q. There's a photograph that's been submitted by the
19 government that shows -- from the bank that shows Mr.
20 Kennedy to be in a red shirt. Was that red shirt ever
21 recovered?
22 A. No.
23 Q. Was a search warrant ever executed on -- strike
24 that. When Mr. Kennedy -- when John turned himself in,
25 you took his shirt and you took his pants into evidence,

1 correct?
2 A. Correct.
3 Q. In addition to taking a photograph of him. But you
4 didn't take the shoes nor his underwear into evidence,
5 did you?
6 A. No.
7 Q. Now, we talked about how you didn't interview Mr.
8 David Evans. Were you aware that his wife had made an
9 appearance on the crime scene?
10 A. At my initial contact with Mr. Scott, no. Later on
11 I did find that out.
12 Q. Okay. Was she interviewed?
13 A. I did not interview her.
14 Q. Now, you also testified that you were able to put
15 together a rough time line in regards to what happened
16 that day, correct?
17 A. Right.
18 Q. And you testified to that on direct. Starting with
19 around twelve o'clock or thereabouts, the van was sold to
20 Ms. Conwell, I believe her name is; is that correct?
21 A. Right.
22 Q. We obviously know that the check was cashed at one
23 fourteen by Mr. Schaffer Scott because we have
24 photographic evidence of that as well as the check and
25 all of that. The next step in that time line isn't until

1 five fifty when the 9-1-1 call is made; is that correct?
2 A. That's correct.
3 Q. Okay. So we've got about four hours and change that
4 we can't account for what happened during that time; is
5 that correct?
6 A. Yes.
7 Q. Okay. You don't know when this assault took place,
8 do you?
9 A. Not the minute, no, sir.
10 Q. It could be assumed that it happened immediately
11 before Kimberly King showed up, or it could be assumed it
12 could have happened earlier; isn't that true?
13 A. I don't know.
14 MR. POTTER: I have nothing further. Thank
15 you.
16 MS. HUEY: Just a couple on redirect, Your
17 Honor.
18 THE COURT: All right.
19 REDIRECT EXAMINATION
20 BY MS. HUEY:
21 Q. Investigator Simpson, I think Mr. Potter touched on
22 your duties as a lead investigator?
23 A. Right.
24 Q. Would some of those duties include delegating tasks?
25 A. Absolutely.

1 Q. Okay. And did you do that in this particular case?
2 A. I did.
3 Q. And why do you have to delegate?
4 A. One man can't do the whole show.
5 Q. Exactly. But your role as a lead investigator is to
6 do what, to supervise the whole thing?
7 A. Right.
8 Q. And then your role is to review statements
9 collected, evidence collected and that sort of thing in
10 terms of the investigation?
11 A. Correct.
12 MS. HUEY: That's all I have, Judge.
13 THE COURT: All right.
14 Thank you, sir. You can step down.
15 MS. HUEY: Your Honor, the State rests.
16 THE COURT: All right. Ladies and gentlemen,
17 at this point in the trial, the State has rested which
18 means they've presented all the evidence they're going to
19 present. In every case at this point, we have to take a
20 substantial break. We're going to continue on today.
21 But we have a good bit of material we have to take up
22 outside of your presence. It is going to be ten after
23 before we start back. And I apologize for making you sit
24 back there. But please don't discuss the case. I'll
25 bring you back in as soon as we finish.

1 (WHEREUPON, the jury exited the open court at
2 approximately 2:46 p.m.)
3 THE COURT: Okay. Just for planning purposes,
4 do you -- what do you intend to do at this point?
5 MR. POTTER: Judge, for the record, we would
6 make a motion for a directed verdict. And I submit that
7 issue to Your Honor.
8 In regards to -- we do have -- want to renew our
9 objections. I do want to renew my objections to some of
10 the evidence that has been presented by the government,
11 namely the photo array ...
12 THE COURT: Okay.
13 MR. POTTER: ... as well as -- I want to
14 preserve the issue in regard to the chain of custody
15 issues.
16 THE COURT: So you're just renewing those
17 objections?
18 MR. POTTER: I am, Your Honor. And again, I
19 would like -- if it pleases the Court, I would like to be
20 heard again on the photo array issue.
21 THE COURT: Okay. What about witnesses? Is
22 your client going to testify?
23 MR. POTTER: Judge, he's not going to testify.
24 THE COURT: Okay. All right. Let's do the
25 Fifth Amendment rights.

1 Mr. Kennedy, come on up if you would.
2 (WHEREUPON, the Defendant approached the bar.)
3 **JOHN F. KENNEDY,**
4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
5 THE COURT: All right. Mr. Kennedy, we've now
6 reached the point in the trial where I need to explain
7 certain rights to you. Do you understand that?
8 THE DEFENDANT: Yes, sir.
9 THE COURT: And in particular I need to explain
10 to you your Fifth Amendment right under the U.S.
11 Constitution. Do you understand that no person -- under
12 the Constitution no person shall be compelled to testify
13 against themselves, and that's a substantial right that
14 you have.
15 THE DEFENDANT: Yes, sir.
16 THE COURT: Do you understand that you have to
17 make a decision freely, voluntarily, and intelligently
18 about whether or not you're going to testify?
19 THE DEFENDANT: Yes, sir.
20 THE COURT: Have you made that decision?
21 THE DEFENDANT: Yes, sir.
22 THE COURT: And are you going to testify in
23 this case?
24 THE DEFENDANT: No, sir.
25 THE COURT: Do you understand that if you don't

1 testify, that I'm going to tell the jury they can't take
2 that into account? In other words, they can't discuss
3 the fact that you haven't testified in their
4 deliberations. Do you understand that?
5 THE DEFENDANT: Yes, sir.
6 THE COURT: And do you also understand that
7 I'll do my best to charge them on the fact that the fact
8 you haven't testified can't prejudice you in any manner.
9 Do you understand that?
10 THE DEFENDANT: Yes, sir.
11 THE COURT: Now, if you did testify, you'd be
12 subject to cross-examination on anything governed by the
13 rules of evidence, specifically any record you might have
14 of certain cases. Do you understand that?
15 THE DEFENDANT: Yes, sir.
16 THE COURT: Okay. Have you had plenty of time
17 to speak to your lawyer about whether or not you're going
18 to testify?
19 THE DEFENDANT: Yes, sir.
20 THE COURT: And do you have any questions of me
21 about your rights?
22 THE DEFENDANT: No, sir.
23 THE COURT: Okay. Do you need to speak to your
24 lawyer now about whether or not you're going to testify?
25 THE DEFENDANT: No, sir.

1 THE COURT: Okay. Do you understand all the
2 rights as I've given them to you?
3 THE DEFENDANT: Yes, sir.
4 THE COURT: And have you decided whether or not
5 you're going to testify?
6 THE DEFENDANT: Yes, sir.
7 THE COURT: And what are you going to do?
8 THE DEFENDANT: I'm not going to testify.
9 THE COURT: All right.
10 Mr. Potter, anything else you need to put on the
11 record?
12 MR. POTTER: No, Your Honor.
13 THE COURT: All right.
14 And this decision is yours; is that correct?
15 THE DEFENDANT: Yes, sir.
16 THE COURT: Okay. Thank you, sir.
17 (WHEREUPON, the Defendant returned to his seat.)
18 THE COURT: All right. You want to renew your
19 objection on the photo array? And then I've got to take
20 a short ten-minute break.
21 MR. POTTER: Judge, I do. And again, I don't
22 want to belabor the point. I understand you've ruled on
23 it. But the concern I have is the character issues in
24 regards to the fact that for all practical purposes,
25 that's clearly a mug shot of six guys. They're cloaked

1 in a shroud, so to speak. They're not in regular shirts
2 or ties or what have you. And they all have surly looks,
3 as best you could say, on their faces. It really impugns
4 my client's character and clearly demonstrates that he's
5 got a prior record. I mean, I think it's -- it speaks
6 for itself. I think it's clear as the summer sun, in all
7 honesty, Judge. And I would ask -- respectfully renew my
8 objection and ask you to reconsider allowing the
9 photograph of the photo array. In addition with the
10 Anderson County Sheriff's Office written across the top,
11 I just think it's highly prejudicial, Judge, and it goes
12 to my client's character and potential criminal record.
13 THE COURT: Okay.
14 Yes, ma'am, anything?
15 MS. HUEY: Nothing further, Your Honor, no,
16 sir.
17 THE COURT: Okay. And I do understand. I --
18 look, I wish those pictures were driver's license
19 pictures too. But I don't think they're so prejudicial
20 that they outweigh any probative value they have. And I
21 think -- I'm not as concerned about the Sheriff's
22 department designation at the top, but I understand. I'm
23 going to deny your motion, but you are protected.
24 MR. POTTER: And I'd also renew my original
25 objections to -- quite honestly I can't remember --

1 whichever piece of evidence I objected to when she moved
2 to have it admitted.
3 THE COURT: Yeah, I think you're covered
4 because you objected.
5 MR. POTTER: I just want to make sure.
6 THE COURT: Okay. So you basically won't have
7 any witnesses?
8 MR. POTTER: Judge, that's our case. And
9 again, I would, for the record, renew my directed verdict
10 motion.
11 THE COURT: Okay. And just for the record,
12 that's denied as well.
13 All right. Let's take a break and then we'll come
14 back. And do y'all want to argue and charge this
15 afternoon? It's fine with me.
16 MR. POTTER: Judge, the only -- I did -- is
17 there going to be an instruction related to the dying
18 declaration in that they can make a determination of
19 credibility of that dying declaration?
20 THE COURT: I don't have that, but I'll be -- I
21 mean, I don't have a problem with it if y'all have got
22 something.
23 MR. POTTER: I was kind of hoping you'd have
24 something.
25 THE COURT: Look, I'm like you. I think

1 everybody would like to finish. I'm a little concerned
2 about them getting it at four for Mr. Kennedy's sake.
3 MR. POTTER: I'm sorry, Judge?
4 THE COURT: I'm a little concerned about them
5 getting the case at four o'clock for his sake. But y'all
6 talk about it and see what you want to do. I'll do
7 either way. Let me step back here, and then I'll be
8 back. Y'all decide what you want to do.
9 (WHEREUPON, court stood at recess for a short
10 break.)
11 THE COURT: Okay. Why don't we go ahead and
12 argue and then let me see what the time is. If your
13 closing arguments aren't too long -- I looked at my
14 charge. It's not as long -- I mean, the strange thing
15 about it is that the murder charge is fairly concise.
16 I'm a little -- I mean, I'm worried about them staying
17 late, but I'm also worried about telling them that we'd
18 get it to them today. And it's just a fine line. I
19 don't want to charge and have them leave, but argue ---
20 MS. HUEY: Judge, I just feel uncomfortable
21 with not doing it all at once. I'm happy to go ahead and
22 close and get it to them.
23 MR. POTTER: I would agree. I mean,
24 technically all evidence is closed. The case is coming
25 to you, but we just have to do the formality and you'll

1 have it tomorrow morning.

2 THE COURT: Yeah. I mean, I ...

3 MR. POTTER: Because ultimately if you don't

4 charge them today, they still won't get the case until

5 tomorrow anyway.

6 THE COURT: Right. Well, do y'all have any

7 objection to going forward? I mean, I'm more concerned

8 now about the fact that they're going to get angry that

9 they're coming back. If it was four, I'd be different.

10 But I mean, we're just caught in that middle ground.

11 Unless y'all really object, I'll just go ahead and go

12 forward.

13 MS. HUEY: Do you want to ask them, Judge, see

14 if they have a preference?

15 THE COURT: I don't mind doing that. I don't

16 mind going back there and asking the foreman to poll the

17 jury. You want me to do that? That may be the easiest

18 way to do it. It at least keeps them happy. Or I'll

19 make the decision. Do you want me to poll them?

20 MS. HUEY: Because I agree with you. I don't

21 want to make them mad since we've said they were going to

22 get it.

23 THE COURT: I don't either. I mean, it really

24 is a fine line. I hate to say I'm overly concerned about

25 it. But for everybody's sake, I don't want them ...

1 Do you have any objection to me asking the foreman
2 what he wants to do?
3 MR. POTTER: No, Your Honor.
4 MS. HUEY: Yes, sir.
5 THE COURT: I'll just do it off the record.
6 I'll pull him out in the hallway tell him to find out
7 whether they want to proceed on or come back in the
8 morning.
9 MR. POTTER: Either way, we're going to have to
10 come back tomorrow.
11 THE COURT: Well, if we do -- no. I'll do the
12 charge too.
13 MR. POTTER: Oh, you'll do the charge?
14 THE COURT: I'll tell them we'll finish up
15 today until they finish, or we can come back tomorrow.
16 MS. HUEY: And then they would begin
17 deliberations today?
18 THE COURT: Yeah. Oh, we'd have to. Yeah, I
19 can't charge and send them home. That's what -- I mean,
20 I can't start deliberations and send them home. That's
21 the fine line. So basically, it's do you want to finish
22 up today or tomorrow.
23 MS. HUEY: Correct.
24 THE COURT: Do you have any objection to me
25 putting it that way?

1 MR. POTTER: No.

2 THE COURT: All right. Let me find out what he

3 wants.

4 (WHEREUPON, court stood at ease.)

5 THE COURT: All right. He went in and asked

6 them what they wanted to do. Then he came back out and

7 asked me if they would have to stay once they started. I

8 told him yeah. They decided tomorrow. So that's -- it

9 really is sort of an in-between time. A half hour

10 earlier, it wouldn't be a question; a half hour later, it

11 wouldn't be a question. We'll start about ten fifteen in

12 the morning. I'll bring them in now and tell them --

13 I've got something at nine. I actually thought we would

14 be finished. And I'll be clear by ten. Any problems

15 with that, the way I did it?

16 MR. POTTER: No, Your Honor.

17 MS. HUEY: No, sir. Thank you, Judge.

18 THE COURT: I'd rather know what they want to

19 do.

20 MS. HUEY: Thank you.

21 THE COURT: Okay. You can bring them in.

22 I'm going to tell them they've heard all the

23 evidence they're going to hear though.

24 MR. POTTER: Yes, sir.

25 (WHEREUPON, the jury entered the open court at

1 approximately 3:25 p.m.)

2 THE COURT: All right. Ladies and gentlemen,

3 my concern was that I'd been telling you all week and

4 today that we were going to finish. Quite frankly, as I

5 told the lawyers outside your presence, if it was a half

6 hour earlier, it wouldn't be a question. If it was a

7 half hour later, there wouldn't be a question. But we're

8 all a little bit concerned about whether you would grow

9 frustrated having to come back tomorrow. So your input

10 helps.

11 You've heard all the evidence that you're going to

12 hear in this case. The problem is that once we begin the

13 arguing, the final closing argument by the attorneys and

14 once I charge you, at that point, you have to go into the

15 deliberations and you have to stay. So starting tomorrow

16 is fine with us. Our only concern is you.

17 And what we will do tomorrow morning about ten

18 fifteen -- I also thought we were going to be finished.

19 I have an appointment at nine. I'll be here by ten. In

20 the morning, you won't hear any more evidence. You'll

21 hear the closing statements by the lawyers, and then I

22 will read to you -- and unfortunately, I have to

23 literally read to you this entire document. And the

24 concern about doing that tonight is that, as I told

25 jurors before, the only time I've ever read to people in

1 my life were to my children to make them go to sleep and
2 to jurors to try to keep them from going to sleep. And
3 that's sort of a fine line. So your input helps.
4 I will see you at ten fifteen tomorrow. Again,
5 you're not going to hear any more testimony. You will
6 hear the closing arguments and the charge, and then we'll
7 get this case to you. Please don't discuss the case or
8 look anything up, and I'll see you about ten fifteen.
9 MR. POTTER: Judge, may it please the Court?
10 THE COURT: Yeah.
11 MR. POTTER: May we have a sidebar real quick?
12 THE COURT: Yeah.
13 MR. POTTER: I'm sorry.
14 (WHEREUPON, a bench conference was held off the
15 record.)
16 MR. POTTER: Ladies and gentlemen, the concern
17 is that there might have been some publicity about this.
18 And again, as I told you earlier, we spent a lot of time
19 early in the week narrowing you down to twelve plus one
20 alternate based upon your assurance that you would render
21 your verdict based only on the evidence that you hear in
22 this courtroom. Please don't watch the news about this
23 case or any other related type cases or read anything
24 about it. I will see you at ten fifteen.
25 (WHEREUPON, the jury exited the open court at

1 approximately 3:28 p.m.)

2 THE COURT: All right. I'll see y'all about

3 ten fifteen. Okay. I'll get here as quick as I can.

4 MR. POTTER: Thank you, Judge.

5 MS. HUEY: Thank you.

6 (WHEREUPON, court stood in recess for the day at

7 approximately 3:28 p.m.)

8 **December 5, 2013**

9 (WHEREUPON, court convened with all parties present

10 and the following proceedings were had commencing at

11 approximately 10:33 a.m.)

12 THE COURT: Okay. You need to officially rest.

13 I know you sort of danced around it, but are you resting?

14 MR. POTTER: We rest, Judge.

15 THE COURT: Anything on rebuttal?

16 MS. HUEY: No, sir, Your Honor, other than, if

17 we may address -- I've been talking to Mr. Potter about

18 his closing argument and whether he's going to try to get

19 into third-party guilt again, which I know you've already

20 ruled on, Your Honor. And I believe ---

21 MR. POTTER: May it please the Court?

22 THE COURT: Yes, sir.

23 MR. POTTER: The only thing I was going to

24 mention in closing was what their witness, Kimberly King,

25 said. I think Ron and Julie had something to do with it.

1 And that's all I was going to say. I was just going to
2 repeat that.
3 THE COURT: That's it?
4 MR. POTTER: That is it.
5 THE COURT: Well, you can say to the jury --
6 repeat what somebody said.
7 MR. POTTER: But I'm not ---
8 THE COURT: You just can't infer from that ---
9 MR. POTTER: I'm not going to take it any
10 further than that.
11 THE COURT: So you're going to throw it out
12 there and let it fly around the room?
13 MR. POTTER: Yes, sir.
14 MS. HUEY: Well, Your Honor, I think that just
15 smacks in -- I mean, that is the third-party guilt we're
16 talking about. And you ruled that I ---
17 THE COURT: But she did say that.
18 MS. HUEY: I understand. But you ruled that I
19 couldn't get into a statement that he made admitting to
20 doing this crime in self-defense. It's completely
21 misleading this jury.
22 THE COURT: Well, I'm still trying to figure
23 why y'all would put in a statement for self-defense?
24 MS. HUEY: The Defense's implication has been
25 the Defendant did not do this, that he was not there.

1 While I admit it opens up a potential defense argument
2 for him, it puts him at the scene committing this heinous
3 crime.
4 MR. POTTER: Judge?
5 MS. HUEY: And the defense -- self-defense
6 argument is a total -- for lack of a better -- silly.
7 MR. POTTER: And Judge, the defense is they
8 can't prove it. This is why they can't prove it.
9 THE COURT: If the Defense is they can't prove
10 it, you can repeat what somebody said. She did say that.
11 But I don't think that gets -- I mean, you can sit up
12 there and say -- repeat anything that they testified to
13 because that was a statement on the record. But you
14 can't go any further and say, that should lead you to the
15 next -- I understand. I'm going to hold you to that.
16 MR. POTTER: And Judge, I can tell you exactly
17 -- what exactly I will say. Kimberly King said Ron Curry
18 and Julie Moore had something to with it. And that was
19 my understanding of what she said.
20 MS. HUEY: She thought they had something to do
21 with it. And this is my point, Judge. He is completely
22 pointing at two different people that you've already
23 ruled on he can't get into.
24 THE COURT: Well, I don't think he can go any
25 further than that. But I think she did say it. I mean,

1 I understand your position, and I'm going to hold you to
2 that. You cannot say anything beyond that.
3 MR. POTTER: And I'll change it to she thought.
4 I have no problem with that.
5 THE COURT: Okay. That's what she said.
6 MS. HUEY: And that she didn't see neither of
7 those people there other than John Kennedy.
8 THE COURT: Right. I mean, look, there was a
9 bunch of people in that area, but I don't think that
10 rises to the level of third-party guilt. I'm not ---
11 MR. POTTER: Thank you, Judge.
12 THE COURT: Okay. Anything else that y'all can
13 anticipate? Y'all have been pretty good about
14 anticipating each other's moves.
15 MR. POTTER: Judge, just one last time -- and I
16 know Your Honor's ruled on it -- I'm going to
17 respectfully ask you to reconsider on the photo array.
18 We think it is unduly cumulative and unnecessary because
19 she does have witnesses outside who's testified that my
20 client was outside that trailer at the time of the
21 incident.
22 THE COURT: Okay. And you are covered on the
23 record. But I'll deny that.
24 MR. POTTER: I just thought that -- just throw
25 it out there to be safe. Thank you, Judge.

1 THE COURT: Okay.

2 All right. Y'all ready? And the charge is what it

3 is. I mean, I'm -- I added the dying declaration. I'm

4 not sure I'm going to read it and flip a page, but I'll

5 try.

6 All right. Bring them in.

7 (WHEREUPON, the jury entered the open court at

8 approximately 10:37 a.m.)

9 THE COURT: All right. Ladies and gentlemen, I

10 apologize for letting you sit back there. I take the

11 heat for a lot. I told you at the beginning it's my

12 problem you have to sit back there. And most of the time

13 it isn't, but I take the heat for it because I don't want

14 you getting mad at anybody else. This morning, it was my

15 problem.

16 So we are -- you've heard all the testimony that

17 you're going to hear. We've now reached the point where

18 you have to -- or you need to hear the closing statements

19 from the attorneys. As I told you at the beginning, the

20 closing statement is not evidence. But it's an

21 opportunity for the lawyers to tell you about what they

22 think they've proven and also to argue their case. They

23 can actually argue a position in the closing statements.

24 After that, I'm going to, as I said yesterday, read

25 to you this charge on the law. And I know I'm repeating

1 myself, but I really need you to carefully listen to it
2 because it is the law that is applied to this case. I
3 would do anything if I could find a way to avoid reading
4 it to you. But for consistency's sake, all the judges
5 have to read it. So bear with me.
6 Depending on the length of the closing statements,
7 we might take a short stretch break before I start
8 reading this to you. We'll just see how it goes.
9 If for any reason during the closing statements or
10 my charge you need to take a break and I don't appear to
11 be ready to take a break, just raise your hand, get my
12 attention, and we'll take a break for whatever reason.
13 Again, thank you very much for your patience this
14 morning.
15 MS. HUEY: May it please the Court?
16 THE COURT: Yes, ma'am.
17 CLOSING ARGUMENT
18 BY MS. HUEY:
19 On March 30th, 2012, seventy-six-year-old Schaffer
20 Scott was brutally beaten and left for dead in his own
21 home at [redacted] And even though his jaws were
22 broken, his ears were split open, he had at least ten
23 lacerations to his head, numerous injuries on his arms,
24 he was bleeding profusely, brain already swelling, he was
25 still cognizant enough to open the door for Kimberly

1 King. He was cognizant enough to recognize Kimberly King
2 and call her by name, Kim.
3 He was cognizant enough that when his neighbor,
4 David Evans, came and knelt down beside him, who did this
5 to you? The black guy, John. He was cognizant enough
6 that when Jan Johnson, the paramedic with MedShore, came
7 to help Schaffer Scott, he was asking, where's my car.
8 He was cognizant enough that when emergency room
9 personnel are working on him trying to save his life and
10 they ask him, who did this to you, John did it. And
11 Deputy Dunn heard that as he stood watch over Schaffer
12 Scott.
13 He was cognizant enough to correct Investigator
14 McKindra Bearden, not Josh, John did this to me. And he
15 was cognizant enough when Investigator Brent Simpson was
16 able to get to AnMed, literally in the nick of time, to
17 record the victim's final words, John, the black guy, did
18 this to me. He was staying in my camper. I was asleep
19 in my recliner. He hit me with a skillet.
20 Schaffer Scott never hesitated. He never changed
21 his mind. He never doubted who did this to him. John.
22 And when we started this trial we told you, John is
23 sitting at that Defense table. John Fitzgerald Kennedy
24 is the one who is responsible beyond a reasonable doubt
25 for the brutal beating that resulted in Schaffer Scott's

1 death.

2 But we have more than Schaffer Scott's words. We

3 have more than that. We have witnesses and evidence to

4 support and confirm Schaffer Scott's words. We had

5 Kimberly King who knows John F. Kennedy, knows him.

6 Knows he was living, staying in the camper behind

7 Schaffer.

8 And when she went to check on Schaffer on March 30th

9 of 2012, she saw John F. Kennedy coming out from behind

10 Schaffer's trailer. And he was sweaty and he was acting

11 weird. And what does he say to her? Don't go in there.

12 Schaffer's asleep. He doesn't want to be bothered.

13 Kimberly's going in there anyway. Oh, no, no, come to

14 the store with me. Come on, let's go to the store. No.

15 I'm going in. And when he knew she was going in to check

16 on Schaffer anyway, he grabbed the keys to Schaffer's car

17 and he took off in Schaffer's blue car on his own.

18 And then Kimberly King, thank goodness, went to

19 check on Schaffer. And when she found him in that

20 devastating condition that he was in, she immediately

21 called 9-1-1. And what did she tell the dispatcher?

22 John F. Kennedy, John Fitzgerald Kennedy, just left

23 Schaffer's trailer in Schaffer's blue car.

24 That same blue car is abandoned eight miles from

25 Schaffer's trailer. It takes about fifteen minutes to

1 get there. The Bi-Lo surveillance video shows that car
2 being abandoned six oh four, six oh five. It shows a
3 black male getting out of that blue car that belonged to
4 Schaffer and running back behind Bi-Lo on foot. He knew
5 the police would be looking for him and that blue car.
6 He had to ditch it.
7 We also have the bank stills from Peoples Bank that
8 show the victim and the Defendant together that day just
9 a few hours before the assault. The Defendant watched
10 while Schaffer cashed a fifteen-hundred-dollar check,
11 fifteen hundred dollars that was never recovered. No
12 money was recovered for that matter except some loose
13 change.
14 Further, we have Dr. Woodard's testimony. Schaffer
15 Scott died as a result of blunt force trauma consistent
16 with being hit with a skillet. He had defensive injuries
17 to his arms. And what does that indicate? Not only was
18 he trying to protect that head which was getting beaten
19 in over and over again, but he was also awake and
20 conscious enough to protect himself, to try to protect
21 himself. So he could have seen his attacker, and he did
22 see his attacker.
23 Now, Dr. Woodard also testifies that even though he
24 may have been stunned obviously from having been beaten
25 in the head, he could still communicate. He might have

1 difficulty communicating because his jaws were broken,
2 but he could still communicate. And Schaffer did.
3 Finally, we have blood evidence. The Defendant
4 turned himself in on April 1st, 2012. And when he did,
5 perceivably he's wearing the same shorts as he had on in
6 that video or the stills from the bank. A different
7 shirt, but same shorts. And those shorts, according to
8 DNA analyst, Katherine Leisy, had Schaffer Scott's blood
9 on it in two spots. One in two hundred and fifty
10 quadrillion chance that it wasn't Schaffer's blood.
11 Those were on his shorts.
12 Additionally, the skillet and the handle of the
13 skillet had Schaffer's blood on them. Schaffer said he
14 was hit with a skillet. Schaffer's blood is on that
15 skillet.
16 There is blood in the recliner and the wall beside
17 the recliner. Schaffer said he was sitting in his
18 recliner when he was first hit, asleep.
19 Let me submit to you, ladies and gentlemen, that
20 this Defendant, John F. Kennedy, brutally beat Schaffer
21 Scott on March 30th of 2012. He took this skillet, and
22 he beat him over the head, arms, face, even legs, over
23 and over and over and over and over again. So much so
24 that it bent the skillet, broke the handle off. And when
25 he thought he was just about dead, he took off with that

1 fifteen hundred dollars.

2 He had his bags packed. You can see the photos of

3 the camper where he was staying. He was ready to go but

4 for Kimberly King interrupting his plan. And thank God

5 she did. He took off in that blue car. He obviously had

6 time to change at some point because we know he had a red

7 shirt on at the bank and a different shirt when he turned

8 himself in. He changed at some point, but we know he

9 ditched the car and then later turned himself in. All

10 the evidence points to John Fitzgerald Kennedy.

11 The Defense is going to argue that we have a

12 circumstantial case, that there's no direct evidence to

13 put his Defendant in Schaffer's trailer as the one who

14 attacked and brutally assaulted Schaffer. Well, I beg to

15 differ. We have direct evidence. We have eyewitness

16 evidence. We have Schaffer Scott's own words. His

17 brave, strong, final last words he was able to record

18 just hours before he died. And that's what I'm going to

19 leave y'all with.

20 (WHEREUPON, State's Exhibit Number 11 was published

21 in open court.)

22 THE COURT: Yes, sir?

23 MR. POTTER: May it please the Court?

24 THE COURT: Yes, sir.

25 MR. POTTER: Judge, just bear with me for a

1 second.

2 THE COURT: Yes, sir.

3 CLOSING ARGUMENT

4 BY MR. POTTER:

5 When I spoke to y'all on Tuesday morning, I told you

6 about this case and what the government was going to

7 attempt to show. This is a case based purely upon

8 circumstance, assumption and speculation. That's what

9 this case is based on, and that's what the government's

10 trying to show to you. A case based upon circumstance,

11 assumptions, speculation that resulted in a rush to

12 judgment in a flawed investigation that John was guilty.

13 Now, we know that no one saw the assault take place.

14 We know that. No one got up here and testified that they

15 saw John hit him. No one said, I saw John pick up this

16 skillet, if that's what you believe the weapon was, and

17 strike Schaffer Scott. No one said that.

18 No one knows when the attack happened. The

19 government wants you to assume it happened immediately

20 before Ms. Kim King showed up. We don't know that. They

21 want you to assume that. They want you to speculate on

22 that. They want you to believe in that circumstance, but

23 we don't know that.

24 What the government's trying to do is put together a

25 puzzle showing a picture of John's guilt with missing

1 pieces and ill-fitting pieces. Missing pieces and ill-
2 fitting pieces because what? They're giving you a case
3 of circumstance, assumption and speculation. That's what
4 the case is about.
5 Now, I've been practicing law for a while, and cases
6 take on lives of their own. And they get titles. This
7 is the punched-drunk prizefighter. Dr. Brett Woodard, a
8 forensic pathologist classified what happened to John --
9 or excuse me -- to Mr. Scott as being a punched-drunk
10 prizefighter.
11 To transfer from what he said, Detective Simpson,
12 were you on the couch or were you standing up? I was
13 asleep. He was asleep? Yeah. Were you in the couch in
14 the living room or -- yeah. In the living room on the
15 couch. On a recliner. Recliner? Yeah. I was sleeping
16 on the recliner. He was asleep on the recliner at the
17 time the assault took place. But we don't now for how
18 long. Five minutes, ten minutes, fifteen minutes, twenty
19 minutes, thirty minutes, an hour. We don't know how long
20 he was asleep on that couch. We don't have that
21 information. We don't know. The government wants you to
22 speculate that he'd just put his head down and he got
23 attacked and then Kim King shows up.
24 We know if he was asleep in the recliner when the
25 attack happened, that first blow was unprotected. We

1 know that. And we know that he cannot see who's
2 assaulting him because of the defensive wounds to the
3 arms. Instinctively, because you don't have to be
4 totally awake and conscious to instinctively protect
5 yourself. If he's protecting himself, then he can't see
6 who's attacking him. He can't see.
7 Not to mention the fact that the impact of the blows
8 to his head turned him into a punched-drunk prizefighter.
9 This is a person that we see every Sunday afternoon. We
10 see it every Sunday afternoon, don't we? A person who
11 cannot assess and comprehend what's going on around him
12 because of the brain injury, the swelling of the brain,
13 the blows that he's taken to the head. We see it every
14 Sunday.
15 It comes down to this. Mr. Scott does not know who
16 is attacking him, so he assumes who it is. He speculates
17 who it is. And based on circumstances, he thinks it's
18 John. In Mr. Scott's mind, it may be John. In reality,
19 it's not.
20 Was John the last person he saw? He spent the whole
21 day with John. We know that. Was John the last person
22 he saw before he went to bed and took that nap in the
23 recliner? Was John picked out because he knew John was
24 staying there? We don't know.
25 Which leads to this. We have a flawed

1 investigation, a rush to judgment. Detective Simpson
2 goes to the hospital and talks to Mr. Scott. When he
3 goes there, his eyes were wide open. I've got an
4 investigation to do. I'm going to do a good job on this
5 investigation. I'm going to find out what happened to
6 Mr. Scott. Mr. Scott improperly identifies John as the
7 person. And what happens? That investigation closes to
8 a tunnel vision towards one person, one thing only and
9 refuses to consider anything else, anything else that may
10 lead to evidence towards this case.
11 He's so confident about it, he doesn't go to the
12 crime scene. He doesn't go to the durn crime scene.
13 It's not important for him to do that. That's offensive.
14 He is the chief of that investigation. He's responsible
15 for it. He doesn't go to the crime scene.
16 Three to four days afterwards, he decides to execute
17 a second search warrant. He doesn't see where the blood
18 is. He doesn't see where Mr. Scott was laying when he
19 got assaulted. He doesn't see where the weapon was. He
20 doesn't see that. That's offensive. Mr. Scott's family
21 deserves better. Justice deserves better. John deserves
22 better.
23 No one knows when this attack happened. No one saw
24 this attack take place. The one witness, Ms. Kimberly
25 King, who meets John outside the trailer -- didn't

1 testify that he was in the trailer, he was outside the
2 trailer -- does not see him covered in blood. Doesn't
3 see any blood on him. If John is the suspect of this
4 attack, there's blood splatter on the walls, there's
5 blood splatter on the lounge, there's blood splatter on
6 the floor. Mr. Scott is covered in blood. How is it
7 that he doesn't have any blood on him?
8 She knew something was wrong. Something didn't feel
9 right. And she looks at him and he's sweaty. And that's
10 it. That's the only thing she notices. Doesn't see
11 blood on him. How can somebody commit a brutal attack,
12 bludgeon somebody, and not have any blood on them?
13 When he left in the vehicle, there was no blood
14 found in the vehicle. Now, they took that vehicle into
15 evidence and processed it. Good. They found two spots
16 that they thought were blood. They submitted it to SLED.
17 SLED came back and said, no. I had to get that from the
18 SLED agent. I had to ask the SLED agent that.
19 David Evans comes to the scene. He lives across the
20 street. His wife tells him something's wrong across the
21 street. Go find out. She's not interviewed. Did she
22 see anything beforehand? Did she see any cars coming and
23 going? Did she see any people coming and going? We
24 don't know that because we didn't go out to the crime
25 scene to talk to people when we were investigating this

1 case. She may have had information that could have
2 benefitted the investigation of this case. But no, we've
3 got our guy. We've got our blinders on. We don't need
4 that information even though that is information that may
5 be beneficial to the investigation of this case.
6 No bloody clothes found in the R.V. or at the scene,
7 and there's no blood in the R.V. We know John was
8 staying in the R.V. behind the house. They took some
9 nice pictures of it, but they didn't take it into
10 evidence. They didn't find any bloody clothes in that
11 R.V. They didn't find any blood in the R.V. They didn't
12 take the R.V. into evidence for processing. They took
13 the Mercury Mystique or whatever the vehicle was that
14 John left the scene in for processing, but the place
15 where he was living, they didn't take it in to process
16 it. How hard would it be to call in a flatbed truck,
17 throw the thing on a rollback, take it down and process
18 it to see if there's any evidence in there? They didn't
19 do that. They didn't do that. He didn't go out to the
20 scene to see the R.V. He didn't go out to the scene to
21 look at it. That wasn't important for him to do.
22 Three swabs of evidence was recovered from the blood
23 in the entire crime scene. We know from testimony that
24 there was a significant amount of blood in this crime
25 scene. Blood on the walls, blood splatter on the walls,

1 blood on the lounge, on the floor. Three swabs is all
2 they take. That's all they take. Two of which are not
3 submitted to SLED for testing. What evidence have they
4 missed there?
5 Again, had he gone out to the crime scene, maybe he
6 would have seen that and maybe he would have said, well,
7 we need to do some more because they didn't take the
8 recliner into evidence for processing. That's where Mr.
9 Scott was when he got assaulted. Why wouldn't you take
10 the recliner? Process it. Look at it. Is there any
11 more evidence in there that we need to find out who did
12 this to Mr. Scott? Had he gone out to the scene, maybe
13 they would have done that. Had he cared to have gone out
14 to the scene, maybe they would have done it had he not
15 put the blinders on immediately after talking to Mr.
16 Scott.
17 Cris Pridemore testified that there were
18 fingerprints found on the cell phone, but there's no
19 report on who they belong to.
20 There's an out building, a shed behind the trailer.
21 They didn't search it. Why didn't they search it? They
22 had a search warrant for the entire property. Simpson
23 wasn't there to tell them to search it, I guess.
24 What evidence could have been found in that trailer?
25 Bloody clothes, maybe a weapon, maybe a suspect. Who

1 knows? We don't know because they didn't bother to
2 search that. They didn't bother to take the shoes or the
3 underwear of John into evidence for processing. Ladies
4 and gentlemen, if he was in that scene, if he committed
5 this crime, there would be blood on the sole of his
6 shoes. Why not find out if that's true or not? Are they
7 afraid that there's not blood on those shoes?
8 They never looked for the red shirt he was wearing
9 the day of the incident. What happened to that shirt?
10 There was no hair or scalp material found on the
11 weapon used in the assault. If the skillet was what was
12 used for this assault, would it be reasonable and logical
13 to see hair and scalp material and skin left over on that
14 skillet? There's blood splatter on the skillet, yes, but
15 there's also blood splatter on the walls.
16 You ever take a hammer and try to hammer something,
17 hit your knuckles? It hurts. You scrape up your
18 knuckles. Okay. If the suspect who committed this crime
19 had used the skillet, if you believe what the government
20 wants you to assume, used the skillet, how does he not
21 have any injuries on his hand?
22 Mr. Scott sustained multiple blows to his head in a
23 vicious manner. How is there not injuries on his hands?
24 And the skillet breaks. How can he not have injuries on
25 his hand? How can he not have any blood in his

1 fingernails, in the crevices and the cracks of your
2 nails? How can you not have that? This is an intimate
3 assault, and you don't have any blood on your hands?
4 We know that Mr. Scott had a bandage on prior to the
5 attack. He had a white bandage on his left arm. You'll
6 see the photographs in the bank picture. You'll also see
7 there's some sort of wound on his left arm -- his right
8 arm, excuse me. Left arm? Right arm. Look at those
9 pictures. Is that how those two small spots of blood got
10 on John's pants? Do we know when those two small spots
11 of blood got on John's pants? Because the DNA lady said,
12 we can't test for that. It could have happened a year
13 ago. It could have happened a week ago. It probably
14 could have -- it could have happened the day before I
15 tested the material. And again, it's such an intimate,
16 in-your-face type of assault. How is there only two
17 spots of blood? They want you to assume that blood came
18 from the assault. Two small spots, and we don't know
19 when that came from or where it came from.
20 It goes back to this. We don't know when the attack
21 happened. You've got a time line that the government
22 gave you of four hours and thirty-four minutes from when
23 the photograph of Mr. Schaffer Scott cashing the check to
24 when the 9-1-1 call happened. Four hours and thirty-four
25 minutes. I can drive to Edisto in less time. That's a

1 long time. And we don't know when this assault happened.
2 We don't know -- and we don't know -- excuse me. No one
3 saw the assault take place. This is strictly a case that
4 the government has presented to you based upon
5 circumstances, assumptions and speculation. That's what
6 they want you to believe. That's the best they've got.
7 Mr. Scott was the punched-drunk prizefighter. That
8 first blow was unprotected. His brain was affected
9 immediately. He was covering up. He cannot comprehend.
10 He cannot assess what was going on while the assault is
11 taking place. He was covering up. He can't see.
12 Ladies and gentlemen, circumstantial evidence is
13 dangerous. In a case based solely upon circumstantial
14 evidence, it's dangerous as I told you before. Let me
15 give you a quick demonstration. I broke a pencil.
16 Direct evidence you saw that I broke the pencil. You
17 know that I broke the pencil. If I take this pencil ...
18 (WHEREUPON, Mr. Potter exited and then re-entered
19 the courtroom.)
20 CLOSING ARGUMENT
21 CONTINUED MR. POTTER:
22 ... and I come back and I've got a broken pencil.
23 Do you know if I broke the pencil? Do you know if I gave
24 it to somebody out there and he broke it or she broke it?
25 Do you know if I dropped it and broke it? Or do you even

1 know if it's the same pencil I walked out with? That's
2 the danger of circumstantial evidence.
3 We've presented innocent explanations in regards to
4 all the circumstances that they are relying upon, and
5 they haven't rebutted.
6 They haven't met their burden. They have not met
7 their burden. They haven't met their burden. Mr. Scott
8 doesn't know who assaulted him. They have not met their
9 burden. And the problem with a circumstantial case, the
10 problem with a case that's based upon a circumstance,
11 assumption and speculation is that that could send an
12 innocent man to a conviction.
13 THE COURT: All right. Ladies and gentlemen,
14 I'm going to give you five minutes. Please stretch and
15 don't discuss this case. We'll call you back in in five
16 or ten minutes, and then I'll charge you.
17 (WHEREUPON, the jury exited the open court at
18 approximately 11:10 a.m.)
19 THE COURT: Now, I'm going to give everybody a
20 chance -- if you want to leave, now's the time. Don't do
21 it while I'm charging. I'll be right back.
22 (WHEREUPON, court stood at recess for a short
23 break.)
24 THE COURT: Y'all look at this real quick and
25 see if that's okay. It's the verdict.

1 (WHEREUPON, counsel reviewed document.)

2 THE COURT: Okay. You can bring them in.

3 (WHEREUPON, the jury entered the open court at

4 approximately 11:24 a.m.)

5 THE COURT: All right. Mr. Foreman, ladies and

6 gentlemen of the jury, we've now reached the point in the

7 trial where I'm going to charge you on the law in this

8 case. As I told you, you've heard all the testimony that

9 you're going to hear from the witness stand. You've

10 heard the opening and closing statements of the parties.

11 It's now my duty and obligation to give you the law as it

12 applies in this case. Again, I have to read it to you,

13 and I apologize.

14 CHARGE

15 BY THE COURT:

16 Ladies and gentlemen, the indictment in this case

17 charges the Defendant with murder. I remind you that the

18 fact that the Defendant was arrested, charged and

19 indicted in this case is not evidence and cannot be

20 considered by you as evidence of guilt in this case, nor

21 does it create any presumption or inference of guilt.

22 The indictment is merely a document by which the formal

23 written charges are made and the case begins. It is

24 literally just a piece of paper and should not be

25 discussed by you other than you'll have it in the jury

1 room and you will have an opportunity to look at the
2 written charges. But it's basically just a typewritten
3 form that we use.
4 Now, I charge you that the Defendant has pled not
5 guilty to this indictment. And that plea puts the burden
6 on the State to prove the Defendant guilty.
7 A person charged with committing a criminal offense
8 in South Carolina is never required to prove himself
9 innocent. I charge you that it's an important rule of
10 law that the Defendant in a criminal trial, no matter
11 what the seriousness of the charge may be, will always be
12 presumed to be innocent of the crime for which the
13 indictment was issued unless guilt has been proven by
14 evidence satisfying you of that guilt beyond a reasonable
15 doubt.
16 This presumption of innocence does not end when you
17 being your deliberations, but it accompanies the
18 Defendant throughout the trial until you reach a verdict
19 of guilt based upon evidence satisfying you of that guilt
20 beyond a reasonable doubt.
21 The presumption of innocence, as I told you, is like
22 a robe of righteousness put about the shoulders of the
23 Defendant which remains with the Defendant and upon the
24 shoulders of the Defendant until it's been stripped from
25 the Defendant by evidence satisfying you of the guilt --

1 the Defendant's guilt beyond a reasonable doubt.

2 The presumption of innocence is not a mere legal

3 theory. It is not just a legal phrase. It is a

4 substantial right to which every defendant is entitled

5 until you, the jury, are satisfied from the evidence of

6 the Defendant's guilt beyond a reasonable doubt.

7 Now, you've heard the term reasonable doubt thrown

8 about this courtroom. I'll charge you the State has the

9 burden of proving the Defendant guilty beyond a

10 reasonable doubt. Some of you have served as jurors in

11 civil cases in which you were told it's only necessary to

12 prove that a fact is more likely true than not true, such

13 as by a greater weight or preponderance of the evidence.

14 In criminal cases, the State must be more powerful --

15 State's proof must be more powerful than that. It must

16 be beyond a reasonable doubt.

17 Proof beyond a reasonable doubt is proof that leaves

18 you firmly convinced of the Defendant's guilt. There are

19 very few things in this world which we know with absolute

20 certainty. And the law does not require proof that

21 overcomes every possible doubt. If, based upon your

22 consideration of the evidence, you are firmly convinced

23 that the Defendant is guilty of the crime charged, you

24 must find the Defendant guilty. If, on the other hand,

25 you think there is a real possibility that the Defendant

1 is not guilty, you must give the Defendant the benefit of
2 the doubt and find him not guilty.
3 Now, as I told you earlier, you and I have very
4 different roles. You've had to listen to the testimony
5 in this case. You have to determine whether or not you
6 believe the witnesses. Your main role is to determine
7 the credibility of witnesses. You can believe everything
8 that a witness told you from this witness stand; you can
9 believe nothing that they told you. You can take a
10 portion of the witness' testimony and believe it and
11 disregard the remainder.
12 You alone have to determine the credibility or
13 believability of the witnesses. If at any point during
14 the course of this trial I've given you the impression
15 that I believe a witness or I disbelieve a witness,
16 disregard it. My opinion about the witnesses'
17 truthfulness is an irrelevant issue. You alone can
18 determine the credibility of the witnesses.
19 I've had to make some rulings in this case. My job
20 is the judge of the law. You're the judge of the facts.
21 You have to take the law as I'm giving it to you now as
22 the law in this case. And you also have to take the
23 rulings I made in this courtroom as the law in this case.
24 You have to apply this law as I'm giving it to you now to
25 the facts as you determine them to be to reach your

1 verdict.

2 Now, ladies and gentlemen, I charge you there are
3 two types of evidence which are generally presented
4 during the trial. There's direct evidence and there's
5 circumstantial evidence.

6 Direct evidence is the testimony of a person who
7 claims to have actual knowledge of the facts, such as an
8 eyewitness. It is evidence which immediately establishes
9 the main fact to be proved. Circumstantial evidence is
10 proof of a chain of facts and circumstances indicating
11 the existence of a fact. It is evidence which
12 immediately establishes collateral facts from which the
13 main fact may be inferred. Circumstantial evidence is
14 based on inference and not on personal knowledge or
15 observation.

16 The law makes absolutely no distinction between the
17 weight or value to be given either direct or
18 circumstantial evidence, nor is a greater degree of
19 certainty required of circumstantial evidence than of
20 direct evidence. You should weigh all the evidence in
21 this case. After weighing all the evidence, if you are
22 not convinced of the guilt of the Defendant beyond a
23 reasonable doubt, then you must find the Defendant not
24 guilty.

25 Now, ladies and gentlemen of the jury, this Court

1 has admitted certain evidence and statements allegedly
2 made by the deceased victim after the injuries. I have
3 determined that these statements should be admitted as
4 evidence in this case. However, it is for you to
5 determine the believability of these statements. In
6 deciding this question, you may consider whether the
7 Defendant [sic] was dying and whether he knew he was
8 dying and whether the victim had lost all hope of
9 recovering at the time the statements were made.
10 Now, ladies and gentlemen, I instruct you and I
11 emphasize the fact that the Defendant did not testify is
12 not a factor to be considered by you in any way in your
13 deliberations and in your consideration of the question
14 of guilt or innocence of the Defendant. It must not be
15 considered by you in any manner whatsoever.
16 A defendant has a constitutional right to remain
17 silent. And the assertion of this right must not be
18 considered by you in your deliberations. I repeat, under
19 your oath, you are to draw no conclusion whatsoever from
20 the fact that the Defendant in this case did not testify.
21 The fact that this Defendant did not testify should not
22 even be discussed by you in the jury room.
23 The burden of proof as I've stated to you is on the
24 State. The Defendant is not required to prove his
25 innocence. The burden of proof remains on the State to

1 prove guilt beyond a reasonable doubt.

2 Now, ladies and gentlemen, I charge you that in
3 order to establish criminal liability, criminal intent is
4 required. For example, the mental state required to be
5 proven by the State for a particular crime might be
6 purpose, intent, knowledge, recklessness, or criminal
7 negligence.

8 Criminal intent must be proven by the State beyond a
9 reasonable doubt. Criminal intent is always a matter
10 that must be determined by you, the jury, from the
11 circumstances surrounding the situation.

12 Now, there's no way mathematically to prove criminal
13 intent to any certainty. So the law says that criminal
14 intent may be inferred from the circumstances shown to
15 have existed at the time of the alleged crime. This is
16 how you make a determination of whether or not the
17 element requiring intent was present. It's not necessary
18 to establish intent by direct and positive evidence, but
19 intent may be established by inference in the same way as
20 other facts, by taking into consideration the acts of the
21 parties and all the facts and circumstances of this case.

22 Criminal intent is a mental state, a consciousness
23 of wrong-doing. It is up to you to determine what the
24 Defendant intended to do based on the circumstances shown
25 to have existed. Criminal intent can arise from action

1 or failure to act. It may arise from negligence,
2 recklessness, or indifference to duty or to consequences
3 that is considered by the law to be equivalent to
4 criminal intent.
5 Now, ladies and gentlemen, the Defendant in this
6 case is charged with murder. The State must prove beyond
7 a reasonable doubt that the Defendant killed another
8 person with malice aforethought. Malice is hatred, ill-
9 will or hostility toward another person. It is the
10 intentional doing of a wrong-doing -- of a wrongful act
11 without just cause or excuse and with an intent to
12 inflict an injury or under circumstances that the law
13 would infer an evil intent.
14 Malice aforethought does not require that malice
15 exist for any particular time before the act is
16 committed. But malice must exist in the mind of the
17 Defendant just before and at the time the act is
18 committed. Therefore, there must be a combination of the
19 previous evil intent and the act.
20 Malice aforethought may be expressed or inferred.
21 These terms, expressed or inferred, do not mean different
22 kinds of malice but merely the manner in which malice may
23 be shown to exist. That is either by direct evidence or
24 by inference from the facts and circumstances which are
25 proved. Expressed malice is shown when a person speaks

1 words which express hatred or ill will for another or
2 when the person prepared beforehand to do the act which
3 was later accomplished. For example, lying in wait for a
4 person or any other acts of preparation going to show
5 that the deed was in the Defendant's mind, that would be
6 expressed malice.
7 Malice may also be inferred from conduct showing a
8 total disregard for human life. Inferred malice may also
9 arise when the deed is done with a deadly weapon. A
10 deadly weapon is any article, instrument or substance
11 which is likely to cause death or great bodily harm.
12 Whether an instrument has been used as a deadly
13 weapon depends on the facts and circumstances of each
14 case. Ordinary objects may become deadly weapons when
15 the facts show that they have been used to inflict
16 serious bodily harm or injury.
17 Now, ladies and gentlemen, there are two possible
18 verdicts in this case. You may find the Defendant not
19 guilty of murder or guilty of murder. And what I've
20 done, Mr. Foreman, is I've prepared a verdict form -- my
21 law clerk has prepared a verdict form -- that says, we,
22 the jury, by unanimous consent find the Defendant, John
23 Fitzgerald Kennedy -- and we've placed guilty of murder
24 and not guilty of murder. Please don't infer any
25 importance to the fact that guilty of murder is listed

1 first. One has to go first. She listed guilty first.
2 That shouldn't be considered by you.
3 Your verdict has to be unanimous. That is that all
4 of you have to agree on the verdict.
5 And what I'll do once you've retired to begin your
6 deliberations, we'll send back all the evidence that's
7 been admitted. There's a lot of evidence here. I would
8 urge you not to open any plastic packages. But you will
9 have everything with you in the jury room. You also --
10 also, you may have noticed this morning, you have some
11 pads back there for notes or votes, whatever you want to
12 use the pads and pencils for. You will have all of that
13 in the jury room in a few minutes.
14 You'll also have the indictment and the verdict
15 form. Once you've reached a verdict, whether it's guilty
16 or not guilty, I need you, Mr. Foreman, to sign the
17 verdict form, date it, and knock on the door. At that
18 point, we'll bring you back in and let you announce your
19 verdict to the Court. As I told you earlier, if you have
20 a question or a problem while you're deliberating, the
21 best way to -- and you've had to do it a couple of times
22 -- just write out the question or problem on a note, sign
23 your name, put the date and time, and knock on the door.
24 When you're in your deliberations, you must stay
25 back there to deliberate until you've reached a verdict

1 or until you need a break, which I'll be happy to give
2 you. If there's a problem or issue that you need
3 answered, just write the question or problem out. As I
4 told you on Monday, if I can answer the question, I'll
5 bring you back in and tell you I can answer it. If I
6 can't, I'll bring you back in to tell you I can't answer
7 it.
8 We have all the evidence and all the testimony
9 recorded. If you need to listen to any testimony or view
10 any type of evidence or any document that we have in here
11 that's been admitted, I'll be happy to do that for you.
12 Now, at this point in the trial, what I'm going to
13 do is send you back to your jury room. I give the
14 attorneys for the State and the Defendant the opportunity
15 to ask me to charge something different or to change my
16 charge. If I'm going to make an addition or subtraction
17 or change to the charge that I just gave you, I'll bring
18 you back in and make that change. Assuming that I don't
19 make any changes to the charge, in a few minutes we'll
20 deliver this verdict form to you and all the evidence and
21 indictment, and you can begin your deliberations. Please
22 don't start talking about this case until everything's
23 been delivered to you.
24 Y'all have been very patient. I know this has been
25 sort of a choppy, slow week, but I need your patience for

1 one last few minutes while I send you back and ask that
2 you don't begin your deliberations. Only begin your
3 deliberations when everything's delivered to you.
4 You need to take everybody back but the alternate,
5 and I'll be back to talk to you in just a second.
6 (WHEREUPON, the jury exited the open court at
7 approximately 11:39 a.m.)
8 THE COURT: You can go out there. I'll meet
9 you in the hallway.
10 (WHEREUPON, the alternate exited the courtroom.)
11 THE COURT: All right. Other than what y'all
12 have previously talked about and put on the record, any
13 changes or additions to the charge?
14 MS. HUEY: Nothing from the State.
15 THE COURT: From Defendant?
16 MR. POTTER: No, Your Honor.
17 THE COURT: Okay. I've got the indictment and
18 the verdict form. Y'all make sure everything's together,
19 and we'll send it on back.
20 MR. POTTER: Judge, just for the record, one
21 last -- I wanted to make sure I note my objections to the
22 evidence that I've previously made and I would
23 incorporate those arguments.
24 THE COURT: They're all done.
25 MR. POTTER: Thank you.

1 MS. HUEY: Should we send some gloves back?
2 THE COURT: Yeah, probably. I mean, I hope
3 they don't open anything up.
4 THE CLERK: I was going to take some.
5 THE COURT: Okay.
6 MS. HUEY: The blood isn't open.
7 THE COURT: Yeah.
8 MS. HUEY: But the shorts they might want to
9 see. And the cuttings.
10 THE COURT: Okay.
11 Here's the -- and the indictment's going back too.
12 While y'all are doing that, let me talk to the
13 alternate real quick.
14 (WHEREUPON, the alternate was dismissed off the
15 record at approximately 11:39 a.m.)
16 THE COURT: Okay. Please note that one minute
17 after they went back, this was handed to me. "Dear
18 Judge, I have a question of procedure. You say we cannot
19 discuss the issue of the Defendant not saying anything.
20 What else are we not supposed to do? Can one person try
21 to persuade another as to how they believe? Can it be
22 discussed as to what the responsibility of the Defense
23 attorney is? P.S., some of the members feel the jury
24 room is cold."
25 Okay. What I'm going to tell them is that my charge

1 is as complete as it can be. That other than not
2 discussing his lack of testifying, I can't tell them what
3 they're supposed not to do. But if they have a question
4 as to what to do, to ask us. As to one person trying to
5 persuade another, yes, they can. They have to each make
6 a -- well, yes, they can. Can it be discussed as to what
7 the responsibility of the Defense attorney is? Yeah.
8 And we'll try to warm up the room.
9 Bring them in.
10 (WHEREUPON, the jury entered the open court at
11 approximately 11:57 a.m.)
12 THE COURT: Okay. Mr. Foreman, ladies and
13 gentlemen, of the jury, let me read this. "Dear Judge, I
14 have a question of procedure. You say you cannot discuss
15 the issue of the Defendant not saying anything. What
16 else are we not supposed to do? Can one person try to
17 persuade another as to how they believe? Can it be
18 discussed to what the responsibility of the Defense
19 attorney is? And some of the members feel the jury room
20 is cold."
21 Okay. Let me address these. You cannot discuss, as
22 I told you and charged you, whether or not the Defendant
23 testified. That's a constitutional right that he has.
24 As to what else you can't do, I can't give you
25 instructions on that. If you have a question as to

1 whether or not you should do something, you can write
2 that out. Or if you have a question about any testimony,
3 write that out. Other than how I instructed you, you can
4 basically do what you want back there. As to whether or
5 not one person can try to persuade another, yes, you can.
6 I mean, you can argue this case. And you should. You
7 also have to reach a conclusion individually and as a
8 group, and that's part of the problem. So you can try to
9 persuade another.
10 You can discuss the responsibility of all the
11 attorneys in this case and all the parties that have
12 testified.
13 And as to whether or not the room is cold, I'll tell
14 you that it is cold. Yesterday it was hot. We had the
15 county come over and work on it. And I think because of
16 the change in temperature, it's just -- when I first
17 started this job thirteen years ago, the climate was
18 controlled out of Charlotte. It's no longer controlled
19 out of Charlotte, but we're about eight hours behind.
20 And if you want to blame anybody for that, blame Richard
21 Shirley. He's in charge of the courthouse pursuant to
22 the statute.
23 (Laughter)
24 THE COURT: I think that addresses everything.
25 The main issue is that any communication between us is

1 this way. And if you have a question as to what you
2 should or shouldn't do, no matter how mundane or trite it
3 may be, this is the way to approach it. Because I
4 understand this is the first time you've done it and I
5 don't mean to dismiss it because I do this every week.
6 But it's new to you. If you've got a question, that's
7 the way to do it. I would rather you ask me more
8 questions than less, and then ask me something when it's
9 over. Okay. We'll get it as warmed up as possible. And
10 we'll be here. So if you've got a question, let me know.
11 Don't build any fires back there.
12 (WHEREUPON, the jury exited the open court at
13 approximately 11:57 a.m.)
14 THE COURT: Okay. Any objection to what I said
15 or how I said it?
16 MS. HUEY: Nothing from the State.
17 MR. POTTER: No.
18 THE COURT: I don't mean to be derisive. I
19 probably need to smile.
20 Okay. We'll make this 6.
21 (WHEREUPON, Court's Exhibit Number 6 was marked for
22 identification only.)
23 THE COURT: Y'all come here and let me ask you
24 something.
25 (WHEREUPON, a bench conference was held off the

1 record.)
2 (WHEREUPON, the verdict form and exhibits were
3 delivered to the jury after which court stood at
4 recess awaiting the verdict of the jury at
5 approximately 11:58 a.m.)
6 THE COURT: All right. Bring them in.
7 (WHEREUPON, the jury entered the courtroom at
8 approximately 12:29 p.m.)
9 THE COURT: Okay. Mr. Foreman, sorry for the
10 delay, but we had a problem trying to find something.
11 The note says -- and I'm assuming you want this --
12 "copy of your charge, transcript of Mr. Schaffer Scott in
13 hospital, transcript of Kim King's statement, and a
14 device to play recording." Is that correct?
15 Okay. You cannot have a copy of the charge. I can
16 recharge you on any portion or all of it. I just need
17 you to specifically tell me which portion you need.
18 It's against the rules of evidence for me to give
19 you a copy of the charge. Why? The reason for it is
20 lost in antiquity.
21 We do not have a transcript of Mr. Schaffer Scott
22 or of Kim King's statement. But again, I can play you --
23 replay you a portion or all of it. We just need a little
24 time to find it. And actually, we have it recorded and
25 it will play back. The device to play recordings we will

1 get to you. You're entitled to that. We just don't have
2 one present. When Mr. Shirley is back -- he's out
3 ordering your lunch right now. But we will get you a
4 device. So if you need me to recharge you on any portion
5 or all of the charge, I'll have to bring you back in and
6 do it. And I'll be happy to do that. And if you need
7 any portion or all of the transcripts replayed to you, I
8 just need specifically what you need, and we'll bring you
9 back in. Or if you just want all of it, we'll play the
10 recording. But there is no written transcript right now.
11 And ...
12 Do you have any device down there other than a
13 computer to play the CD?
14 THE CLERK: No. We can play it here through
15 the system.
16 THE COURT: Okay. That is one option. We can
17 replay the CD through the system. We just have to bring
18 you back in. And that may be the best option. The only
19 other option is the computer. We were talking about how
20 cassette tapes were perfect until CDs came out.
21 Unfortunately, I can't give you a computer back
22 there. I trust you, but the law doesn't. The State of
23 South Carolina doesn't.
24 Okay. So basically, if you need any portion or
25 all of the transcripts or my charge read, I'll be happy

1 to do that. I just need a designation of what you need.
2 And if you want to play a recording, we'll just bring you
3 in here. Now, I'll clear the courtroom and let you
4 listen to it. That may be the best way to do it. Okay?
5 Again, this is the way to communicate. Sorry for
6 the delay.
7 (WHEREUPON, the jury exited the courtroom at 12:32
8 p.m.)
9 THE COURT: If they want a portion played, I'll
10 have to clear the courtroom and let them listen to it.
11 But I'll have to clear the courtroom.
12 MR. POTTER: Judge, I'd prefer not to be here
13 to have to listen to it again.
14 THE COURT: Well, I'm going to tell you, I'm
15 not even going to take my robe off because there's got to
16 be something they want unless he's just anticipating
17 something.
18 MR. POTTER: Judge, the only thing I would
19 maybe -- and I leave it to your discretion -- maybe kind
20 of admonish them a little bit to get the job done.
21 THE COURT: Huh?
22 MR. POTTER: Maybe admonish them a little bit
23 to do the work.
24 THE COURT: It's a little early for an
25 admonishment.

1 MS. HUEY: Yes.

2 THE COURT: But admonishing is coming, trust

3 me. We'll just see.

4 (WHEREUPON, court stood at recess awaiting the

5 verdict of the jury at approximately 12:33 p.m.)

6 (WHEREUPON, Court's Exhibit Number 7 was marked for

7 identification only.)

8 THE COURT: Okay. You can bring them in.

9 I'm going to do the charge part before I play this.

10 And I'm going to just charge them ten again.

11 MR. POTTER: Judge, are you going to address

12 that first issue on the first question too?

13 THE COURT: Yeah.

14 (WHEREUPON, the jury entered the courtroom at

15 approximately 1:00 p.m.)

16 THE COURT: Okay. Ladies and gentlemen, let me

17 address these individually.

18 The first statement or question is, "According to

19 the State of South Carolina, if a person commits assault,

20 and as a result a person dies, does the State determine

21 that or look at that as murder?" Is that the correct

22 question?

23 (WHEREUPON, the jury foreman nodded head up and down

24 in the affirmative.)

25 THE COURT: All right. Let me be real clear.

1 The only law you can consider is the law that I've
2 charged you. My role in this case is to charge you on
3 the law. I have charged you on the law that applies, so
4 you shouldn't consider any other statutes or law that has
5 not been charged to you.
6 I'm going to skip to the bottom. "We would like to
7 hear that part of the charge dealing with criminal
8 intent. And is that the same as motive?" The only thing
9 I can do at this point is I'm going to recharge you on
10 intent. If you have a specific portion of the intent
11 charge, I'll be happy to specifically charge that, but I
12 can't tell you what to think about the charge. I can
13 only charge it to you. So if you would, listen up, and I
14 will charge you on intent again.
15 In order to establish criminal liability, criminal
16 intent is required. For example, the mental state
17 required to be proven by the State for a particular crime
18 might be purpose, intent, knowledge, recklessness or
19 criminal negligence. Criminal intent must be proven by
20 the State beyond a reasonable doubt. Criminal intent is
21 always a matter that must be determined by the jury from
22 the circumstances surrounding the situation.
23 There's no way to prove intent to a mathematical
24 certainty. So the law says that criminal intent may be
25 inferred from the circumstances shown to have existed at

1 the time of the alleged crime. This is how to make a
2 determination of whether or not the element requiring
3 intent was present.
4 It's not necessary to establish intent by direct and
5 positive evidence. But intent may be established by
6 inference in the same way as other facts, by taking into
7 consideration the acts of the parties and all the facts
8 and circumstances of the case.
9 Criminal intent is a mental state, a consciousness
10 of wrongdoing. It is up to you, the jury, to determine
11 what the Defendant intended to do based on the
12 circumstances shown to have existed.
13 Criminal intent can arise from an action or a
14 failure to act. It may arise from negligence,
15 recklessness or indifference to duty or to consequences
16 that is considered by the law to be the equivalent of
17 criminal intent.
18 Now, as I said, the law as I give it to you is the
19 only law that you can consider as you apply it to the
20 facts.
21 Then the second part is: "We would like to hear
22 Ms. King's testimony from when she found Scott to the
23 end, and we would like to hear Mr. Scott in the
24 hospital."
25 What we have agreed to do is we're going to play

1 Ms. King's testimony from the beginning and Mr. Scott's
2 testimony from the beginning. So if you have got some
3 specific portion you want to listen to, we'll let do you
4 that.
5 Now, what we're going to do is this is exactly the
6 way it was given. It was done by a recording.
7 (WHEREUPON, the testimony of Ms. King was played in
8 open court for the jury.)
9 THE COURT: Okay. The last portion is: "We'd
10 like to hear Mr. Scott in the hospital." Do you have
11 that on the computer? Because you probably didn't take
12 that down, did you?
13 MADAM COURT REPORTER: No, sir.
14 THE COURT: Yeah, we've got to replay that.
15 It's not transcribed.
16 MS. HUEY: Judge, the one that's in evidence?
17 THE COURT: Is it back there?
18 MS. HUEY: Yes, sir.
19 THE COURT: Yeah. Franklin, go with her and
20 get that CD, please.
21 THE CLERK: Judge, she has a question.
22 THE JUROR: Can I step out just for a moment?
23 THE COURT: Yeah.
24 THE JUROR: Thank you. Sorry.
25 (WHEREUPON, a juror exited the courtroom and then

1 returned.)

2 THE COURT: Franklin, go with her to get that.

3 (WHEREUPON, State's Exhibit 11 was played in open

4 court for the jury.)

5 THE COURT: All right. Ladies and gentlemen, I

6 think we've dealt with the statute as I think I've

7 previously discussed that. You've heard Ms. King's,

8 Mr. Scott, and I recharged intent. Lunch is here. I

9 would ask that you continue into your deliberations while

10 you eat. If you have a question, let me know.

11 MS. HUEY: Judge, may I approach real quickly?

12 I'm sorry.

13 THE COURT: Yeah. Hold on.

14 Do you need them to stay?

15 MS. HUEY: Yes, sir, just a moment.

16 (WHEREUPON, a bench conference was held off the

17 record.)

18 THE COURT: All right. You can begin your

19 deliberations.

20 (WHEREUPON, the jury exited the courtroom at 1:41

21 p.m.)

22 THE COURT: I wouldn't go too far. All right.

23 I'll let you know.

24 (WHEREUPON, court stood at recess awaiting the

25 verdict of the jury.)

1 THE COURT: Okay. We have another question.
2 I'll read it exactly the way it was presented to me.
3 "Your Honor, I wish to make sure I understand the charge.
4 If we believe that the Defendant, quote, unlawfully and
5 with malice aforethought killed Claud Schaffer Scott by
6 means of blunt force trauma, and that Claud Schaffer
7 Scott died as a result thereof, close quote, that this
8 belief meets the charge given and that we then believe
9 the Defendant to not only be guilty of the wording in the
10 indictment of that of murder?" And then, "If needed,
11 please re-read the charge or part of the charge that
12 covers this."
13 I'm going to recharge murder. That's all I know to
14 do. Any objection to that? I mean, that's read exactly
15 the way it was said to me.
16 MS. HUEY: Or you could answer yes, Judge.
17 THE COURT: Thank you. I'll recharge murder.
18 MS. HUEY: May I just run really quickly?
19 THE COURT: Yeah, yeah.
20 MS. HUEY: Thank you. I'm sorry.
21 (WHEREUPON, court stood at ease.)
22 THE COURT: All right. When we start back,
23 everybody needs to be quiet. I let you come in here.
24 We've got to wait on the bond hearing until we finish
25 this, but you're going to have to be quiet. If you

1 can't, you need to step out.

2 Okay. You can bring them in.

3 (WHEREUPON, the jury entered the open court at

4 approximately 2:24 p.m.)

5 THE COURT: Okay. Mr. Foreman, let me read the

6 question exactly to make sure I understand it. "Your

7 Honor, I wish to make sure I understand the charge. If

8 we believe the Defendant, quote, unlawfully and with

9 malice aforethought killed Claud Schaffer Scott by means

10 of blunt force trauma and that Claud Schaffer Scott died

11 as a proximate result there of, close quote, that this

12 belief meets the charge given and that we then believe

13 the Defendant to not only be guilty of the wording in the

14 indictment, but that of murder?" Is that correct?

15 MR. FOREMAN: (Nodded head up and down in the

16 affirmative)

17 THE COURT: Okay. What I'm going to do is

18 recharge murder to you. I think it will answer that

19 question. If it doesn't, I'll be happy to recharge any

20 other portion.

21 All right. Ladies and gentlemen, the Defendant is

22 charged with murder. The State must prove beyond a

23 reasonable doubt that the Defendant killed another person

24 with malice aforethought. Malice is hatred, ill will or

25 hostility towards another person. It's the intentional

1 doing of a wrongful act without just cause or excuse and
2 with the intention to inflict an injury or under
3 circumstances the law will infer an evil intent.
4 Malice aforethought does not require that malice
5 exist for any particular time before the act was
6 committed. But malice must exist in the mind of the
7 Defendant just before and at the time the act is
8 committed. Therefore, there must be a combination of the
9 previous ill intent and the act.
10 Malice aforethought may be expressed or inferred.
11 These terms, expressed or inferred, do not mean different
12 kinds of malice, but merely the manner in which malice
13 may be shown to exist. That is, either by direct
14 evidence or by inference from the facts and circumstances
15 which are proved.
16 Expressed malice is shown when a person speaks words
17 which express hatred or ill will for another or when the
18 person prepared beforehand to do the act which was later
19 accomplished. For example, lying in wait for a person or
20 any other act of preparation going to show that the deed
21 was within the Defendant's mind, that would be expressed
22 malice.
23 Malice may be inferred from conduct showing a total
24 disregard for human life. Inferred malice may also arise
25 when the deed is done with a deadly weapon.

1 A deadly weapon is any article, instrument or
2 substance which is likely to cause death or great bodily
3 harm. Whether an instrument has been used as a deadly
4 weapon depends on the facts and circumstances of each
5 case. Ordinary objects may become deadly weapons when
6 the facts show that they have been used to inflict
7 serious bodily harm or death.
8 All right. If you would continue on. And again, if
9 you want to listen to anything that is back there in your
10 jury room, we'll clear the courtroom and bring you in
11 here and let you listen to it in private. Okay. Thanks.
12 (WHEREUPON, the jury exited the open court at
13 approximately 2:28 p.m.)
14 (WHEREUPON, Court's Exhibit Number 8 was marked for
15 identification only.)
16 THE COURT: I wouldn't go too far. That's
17 question number twelve, I think.
18 (WHEREUPON, court stood at recess awaiting the
19 verdict of the jury.)
20 THE COURT: Okay. I think we have a verdict.
21 You can bring them in.
22 (WHEREUPON, the jury entered the open court at
23 approximately 2:43 p.m.)
24 THE COURT: All right. Mr. Foreman, I
25 understand you have a verdict. Is that correct?

1 THE FOREMAN: Yes, sir.

2 THE COURT: All right. If you'd hand it to Mr.

3 Shirley.

4 All right. You can publish it.

5 THE CLERK: If it pleases the Court. This is

6 in the State of South Carolina, County of Anderson, in

7 the Court of General Sessions, Tenth Judicial Circuit.

8 This is the verdict in the case number 2012-GS-04-2002,

9 the State of South Carolina versus John Fitzgerald

10 Kennedy, Defendant. We, the jury, by unanimous consent

11 find the Defendant, John Fitzgerald Kennedy, guilty of

12 murder. Signed by the Foreperson, dated December the

13 5th, Anderson, South Carolina.

14 THE COURT: All right. Ladies and gentlemen, I

15 need patience one last time. I'm going to send you back.

16 I'm discharging you from your duties, but I need to send

17 you back for just a second. I'll be back to briefly talk

18 to you in about three minutes. And then I'll let you go.

19 (WHEREUPON, the jury exited the open court at

20 approximately 2:45 p.m.)

21 THE COURT: Okay. I'm going to go back and

22 talk to them and release them, and then I'll come back

23 in. Okay?

24 MR. POTTER: May it please the Court?

25 THE COURT: Yes, sir.

1 MR. POTTER: Judge, I'd ask that they be
2 polled.
3 THE COURT: Polled?
4 MR. POTTER: Yes, sir.
5 THE COURT: You want them brought back in and
6 polled?
7 MR. POTTER: Yes, sir.
8 THE COURT: All right. Bring them back in.
9 We're just going to do it by asking them to raise
10 their hand if that's their verdict rather than going
11 individually through.
12 MR. POTTER: Yes, sir.
13 (WHEREUPON, the jury entered the open court at
14 approximately 2:46 p.m.)
15 THE COURT: All right. Yes, sir, you can poll
16 them.
17 THE CLERK: Ladies and gentlemen, the verdict
18 that I have just published was the verdict you reached in
19 the jury room. I ask you was it your verdict then and is
20 it your verdict now? And if that's so, please raise your
21 right hand.
22 (WHEREUPON, all jurors' right hands were raised.)
23 THE COURT: All right. The last time I've got
24 to send you back. I'll be back in just a second.
25 (WHEREUPON, the jury exited the open court at

1 approximately 2:47 p.m.)

2 THE COURT: Okay. Let me go talk to them. If

3 y'all will fill everything out, I'll be right back.

4 (WHEREUPON, court stood at ease.)

5 THE COURT: Okay. Come on up, Mr. Kennedy.

6 It's going to take me a second.

7 (WHEREUPON, the Solicitor, Mr. Potter and the

8 Defendant approached the bar.)

9 THE COURT: Yes, ma'am?

10 MS. HUEY: Your Honor, may it please the Court.

11 First of all, I would like to pass up some photos of the

12 victim in this case, Schaffer Scott, Your Honor. The

13 State did not seek to introduce any of these because they

14 are so gory and gruesome, but I would like you to see

15 firsthand exactly how violent this attack was on Mr.

16 Scott.

17 THE COURT: Okay. Hold on just a second.

18 All right. Yes, ma'am?

19 MS. HUEY: And as such, we would be seeking a

20 life sentence in this case, Your Honor. Several family

21 members are here and would like to address the Court at

22 the appropriate time.

23 THE COURT: All right. Now would be fine.

24 If you would, give us your full name and spell last

25 name, please.

1 MS. HANSARD: Eland Hansard.
2 THE COURT: Yes, ma'am?
3 MS. HANSARD: Schaffer was my brother. And I
4 miss him very much. What happened to him was horrible.
5 I haven't been able to get a good night's sleep since it
6 happened. And I just don't want this to happen to
7 anybody else, to another human or another family. So I
8 pray that you give him life without parole. Thank you.
9 THE COURT: Okay. Thank you.
10 MS. STOWE: Your Honor, my name is Dale Scott
11 Stowe. The last name is S-T-O-W-E.
12 MS. HAGY: Your Honor, I'm reading this --
13 Denise Hagy -- reading for Ms. Stowe.
14 My name is Dale Scott Stowe. I'm the eldest child
15 of Claud Schaffer Scott. This was a very heinous crime.
16 My father was a seventy-six-year-old man in poor health.
17 He did not deserve this. The Defendant had no right to
18 beat my father like he did. John could have taken the
19 money and left. He's old enough, in good physical shape
20 that he should have been working and had a home of his
21 own and not living off my father. Our family will never
22 get over this. John does not deserve to be set free. We
23 will never see our father again. And John should never
24 see the light of day again. I feel the appropriate
25 sentence should be life without parole. Please, Your

1 Honor, give him life without parole.

2 THE COURT: All right. Thank you, ma'am.

3 MR. SCOTT: Your Honor, I'm Claud Anthony

4 Scott. I'm the youngest son, the only son. And I

5 haven't seen my daddy in thirty years. And I've had it

6 on my heart to come make things right, you know. And on

7 account of this, I'll never get that opportunity. And I

8 just pray that God will be with his -- John's family and

9 with John and that this never happens to nobody else.

10 And I want him to get life with no parole. And I mean,

11 like everybody else said, it'll never be the same. Thank

12 you.

13 THE COURT: Thank you.

14 Yes, ma'am, anything else?

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

16 THE COURT: Yes, sir.

17 MR. POTTER: Thank you, Your Honor. May it

18 please the Court. John is fifty years old, a high school

19 graduate. He's originally from Rome, Georgia. He and

20 his family have lived here in Anderson for about

21 seventeen years. His family is in the courtroom today.

22 They've been in the courtroom all week long. I'm sure

23 you've noticed.

24 He has a limited criminal record, which is odd. And

25 if I remember correctly, there's no assaults, any ABWIKs

1 or anything like that on his record.

2 MS. HUEY: He has a 2006 interfering or

3 hindering with officers. That's the only charge.

4 THE COURT: Okay.

5 MR. POTTER: In 19 -- or excuse me. In 2008 he

6 suffered a stroke and was hospitalized for a period of

7 time. He did have some psychiatric evaluations done in

8 regards to N.G.R.I. as well as competency, and those came

9 back as not of a concern.

10 Judge, he's been locked up for about six hundred

11 fourteen days. He is disabled as a result of that

12 stroke. He is fifty years old. And as Your Honor knows,

13 the minimum sentence on a murder conviction is thirty

14 years day-for-day. So for all practical purposes, a

15 thirty-year sentence is a life without parole sentence

16 for him. I'd ask Your Honor to consider that the average

17 life span of an inmate at S.C.D.C. is not going to be

18 eighty years old.

19 THE COURT: Okay.

20 Mr. Kennedy, the jury's found you guilty. Is there

21 anything you want to tell me?

22 THE DEFENDANT: Yes, sir. I'd like to

23 apologize to the family members. I'd like to apologize

24 to everyone within the Court. I was a good friend to Mr.

25 Schaffer. He was a real good guy. I know it's a little

1 late now, but Mr. Schaffer -- Julia Moore had an
2 altercation with Mr. Schaffer, and Mr. Schaffer had asked
3 me to help him. I only tried to help Mr. Schaffer. She
4 had actually said that she was going to come back and get
5 him. But I was not able to prove that she came back and
6 get him. Later that evening, I had went to sleep in that
7 camper. And when I went to sleep in that camper, I woke
8 up and I saw Mr. Schaffer laying there. When I saw him
9 laying there I screamed his name several times. At that
10 point Mr. Schaffer looked at me and assumed that I had
11 assaulted him. I have never assaulted anyone in my life.
12 But you know, I pray to God that you all will have mercy
13 on my soul.
14 THE COURT: Okay. All right. Well, I've heard
15 the whole case and all the evidence, and the jury has
16 found you guilty. Because of the conviction and because
17 of your age, which is fifty, the minimum sentence is
18 thirty years. I think that's, for all practical purpose,
19 a life without parole given the fact that -- the way the
20 Department of Corrections calculates it. So the sentence
21 is thirty years. Give you credit for time served. Good
22 luck to you.
23 THE DEFENDANT: Yes, sir.
24 MR. POTTER: Thank you, Judge.
25 THE COURT: Thank you.

1 MS. HUEY: Thank you.

2 THE COURT: Thank y'all.

3 (WHEREUPON, the trial ended at approximately 3:22

4 p.m.)

5 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

6

1 CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 2nd through 5th days of December 2013.
10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.
12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.
14 March 26, 2014
15
16 Renee H. Tollison
17 Circuit Court Reporter

NOTICE OF INTENT TO APPEAL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX, JR.

JUDGE OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2012-GS-04-02002

THE STATE OF SOUTH CAROLINA,

Respondent
-vs-

JOHN FITZGERALD KENNEDY
Appellant.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the Defendant, John Fitzgerald Kennedy, hereby gives notice that he appeals his conviction and sentence imposed on December 5, 2013, by the Honorable J. Cordell Maddox, Jr., Judge of the Tenth Judicial Circuit, on the charge of murder. The case and exceptions will be served within the normal time limit.

ANDREW T. POTTER
ASST. PUBLIC DEFENDER
ANDERSON COUNTY

OTHER COUNSEL OF RECORD ARE:
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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	AFFIDAVIT OF MAILING
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on December 9, 2013, at or around the hour of 2:00 p.m. place a copy of the Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.

Kendra Gurley
KENDRA GURLEY

Sworn to before me this

9 day of December, 2013.

Blake McCullough
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2-26-2018

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

I, CATHERINE HUEY, Assistant Solicitor, for Anderson County, hereby accept service of a copy of the Notice of Appeal in regard to the captioned matter this 9 day of December, 2013.

FOR

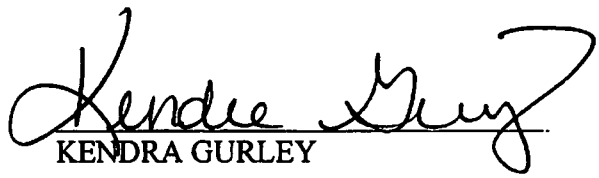
CATHERINE HUEY
ASSISTANT SOLICITOR
ANDERSON COUNTY

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

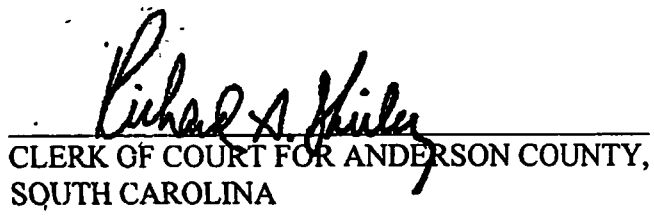
THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY)		
	)	
Defendant.	)	
	)	

I, KENDRA GURLEY, hereby certify that I am employed by the Office of the Public Defender for Anderson, South Carolina, and that I did on December 9, 2013, at or around the hour of 2:00 PM, file a copy of the Notice of Appeal in regard to the captioned matter with the Clerk of Court of General Sessions, Anderson, South Carolina.



KENDRA GURLEY

ATTESTED BY:



CLERK OF COURT FOR ANDERSON COUNTY,
SOUTH CAROLINA

NOTICE OF INTENT TO APPEAL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX, JR.

JUDGE OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2012-GS-04-02002

THE STATE OF SOUTH CAROLINA,

Respondent
-vs-

JOHN FITZGERALD KENNEDY
Appellant

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the Defendant, John Fitzgerald Kennedy, hereby gives notice that he appeals his conviction and sentence imposed on December 5, 2013, by the Honorable J. Cordell Maddox, Jr., Judge of the Tenth Judicial Circuit, on the charge of murder. The case and exceptions will be served within the normal time limit.

ANDREW T. POTTER
ASST. PUBLIC DEFENDER
ANDERSON COUNTY

OTHER COUNSEL OF RECORD ARE:
Catherine Huey and Brantly Haigler
Assistant Solicitor's
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

RECEIVED
DEC 12 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	AFFIDAVIT OF MAILING
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on December 9, 2013, at or around the hour of 2:00 p.m. place a copy of the Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.

Kendra Gurley
KENDRA GURLEY

Sworn to before me this

9 day of December, 2013.

Black McCullough
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2-26-2018

RECEIVED
DEC 12 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

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FOR

CATHERINE HUEY
ASSISTANT SOLICITOR
ANDERSON COUNTY

RECEIVED
DEC 12 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,	)	
	)	
-vs-	)	ACCEPTANCE OF SERVICE
	)	2012-GS-04-02002
JOHN FITZGERALD KENNEDY	)	
	)	
Defendant.	)	
	)	

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KENDRA GURLEY

ATTESTED BY:

CLERK OF COURT FOR ANDERSON COUNTY, SOUTH CAROLINA

RECEIVED
DEC 12 2013
SC Court of Appeals

TENTH CIRCUIT PUBLIC DEFENDER OFFICE

ANDERSON AND OCONEE COUNTIES

Anderson County Office
301 Camson Road
Anderson, SC 29625
Tel 864.260 4048
Fax 864.260.4134

HERVERY B. O. YOUNG
Circuit Public Defender

Oconee County Office
415 S. Pine Street
Walhalla, SC 29691
Tel 864.638.3133
Fax 864 638.3120

December 6, 2013

Ms. Tanya Gee
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: State v. John Fitzgerald Kennedy

Dear Ms. Gee:

Please find enclosed the Notice of Intent to Appeal in regard to the captioned matter along with the Acceptance of Service of Catherine Huey, Assistant Solicitor for Anderson County, and an Affidavit of Mailing to the Office of Attorney General. Please file the aforesaid in the appropriate file.

Thank you for your cooperation and assistance in this matter.

Yours truly,

Andrew T. Potter
Asst. Public Defender

ATP/kkg
Enclosure

RECEIVED
DEC 12 2013
SC Court of Appeals

Anderson Public Defender's Office
301 Camson Road
Anderson, SC 29625

RECEIVED
DEC 12 2013
SC Court of Appeals

Ms. Tanya Gee
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

2921181629 B012

OFFICE OF THE SHERIFF

ANDERSON COUNTY SC

Affidavit of Photo Identification

Case Number: _____

Location: [redacted] ANDERSON Date & Time: 3/30/12 2209

I, KIMBERLY KING (victim/witness), have viewed a group of 6 photographs

on 3/30/12 (date), from which I have positively identified photograph number 4, as displayed to me

by DET. M. BEARDEN, a Deputy of the Anderson County Sheriff's Office,

as being the person who:

WAS IN THE HOUSE AND LEFT WITH CLAUD SCOTT'S CAR JUST BEFORE I FOUND MR. SCOTT BEATEN INSIDE HIS HOME.

FILED-CLERK OF COURT ANDERSON SC
2013 DEC -5 P 4:14
TRIAL SESSIONS

KIMBERLY KING — Kimberly King

Victim/Witness's Name — **Victim/Witness's Signature**

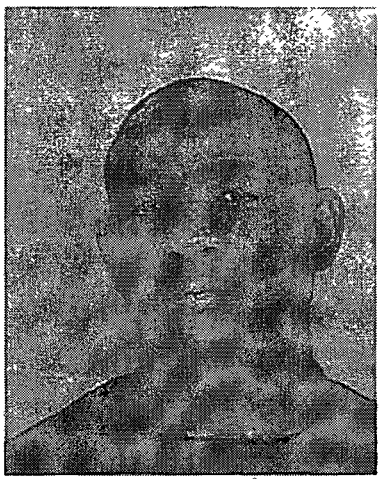
Witnessed By:

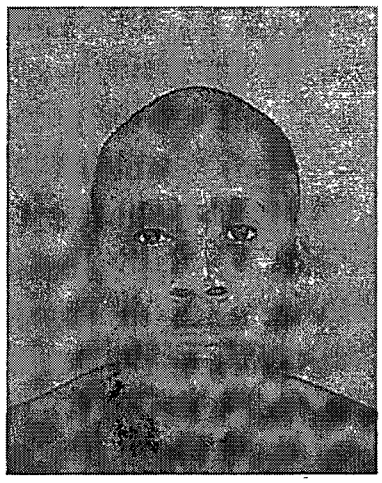
MCKINDRA BEARDEN — [signature]

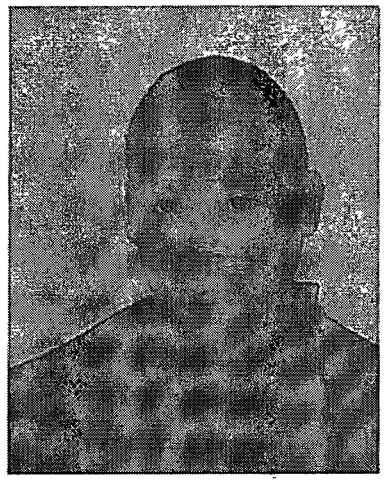
Name — **Signature**

STATE'S EXHIBIT 2

Anderson County Sheriff's Office







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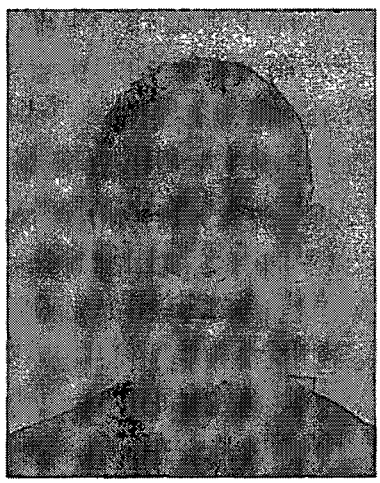

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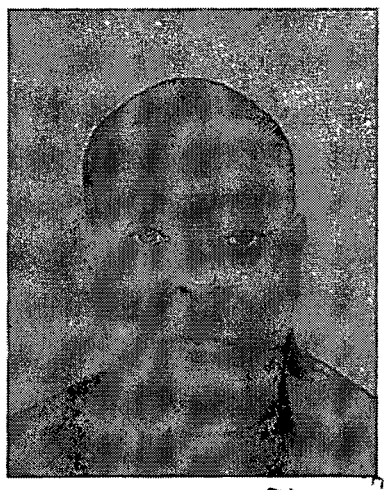

6

FILED-CLERK'S OFFICE
ANDERSON SC
2013 DEC -5 P 4: 14
TEAS AND
SESSIONS

x Kimberly King
McKinl B.
3/30/2012

STATE'S EXHIBIT

Remote Access Software

File Action Setup Help

03/30/12 01:09:54 PM

Active Site

Connection

BR 6

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VIDEO

F-parking

03/30/12 01:09:5

View Select

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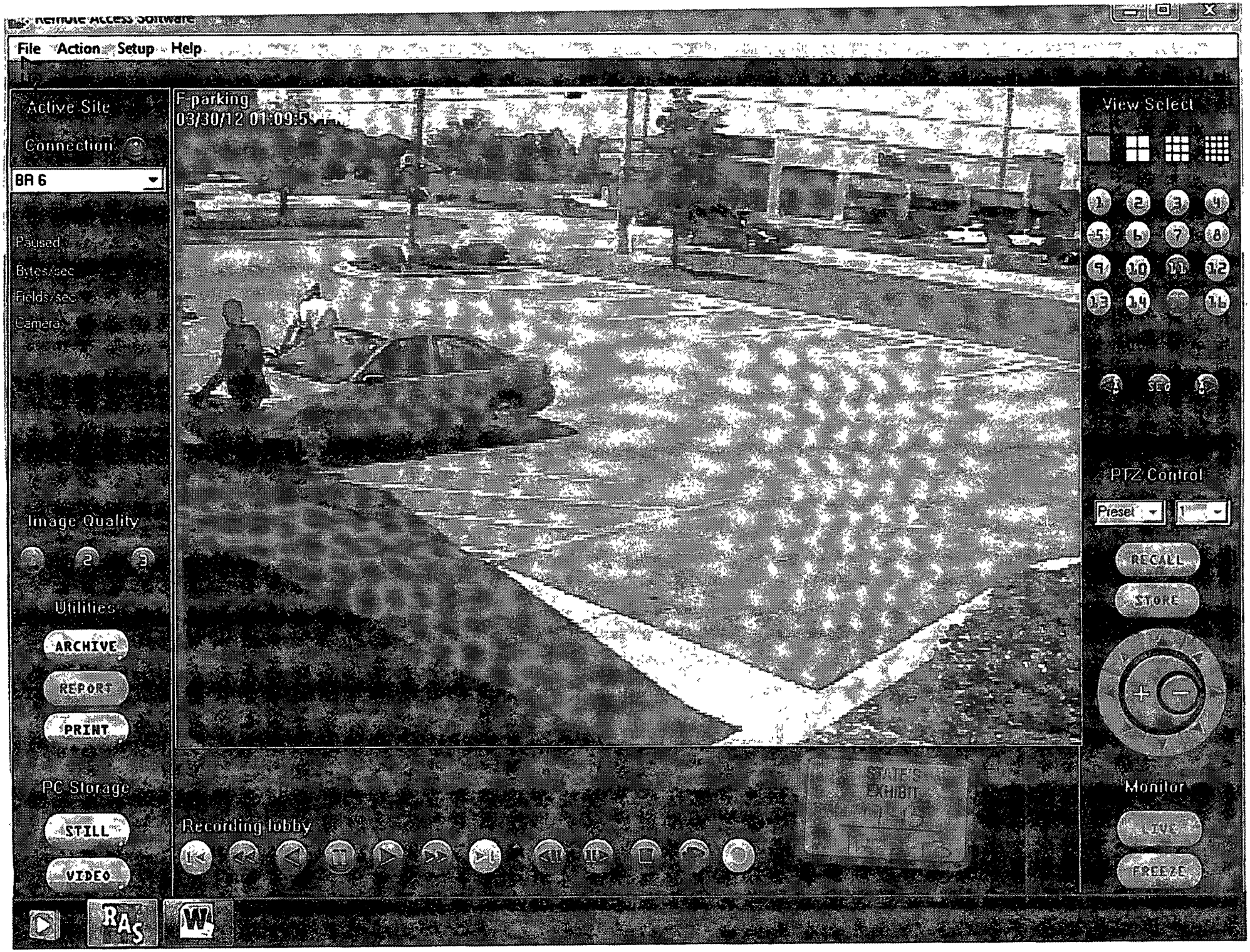
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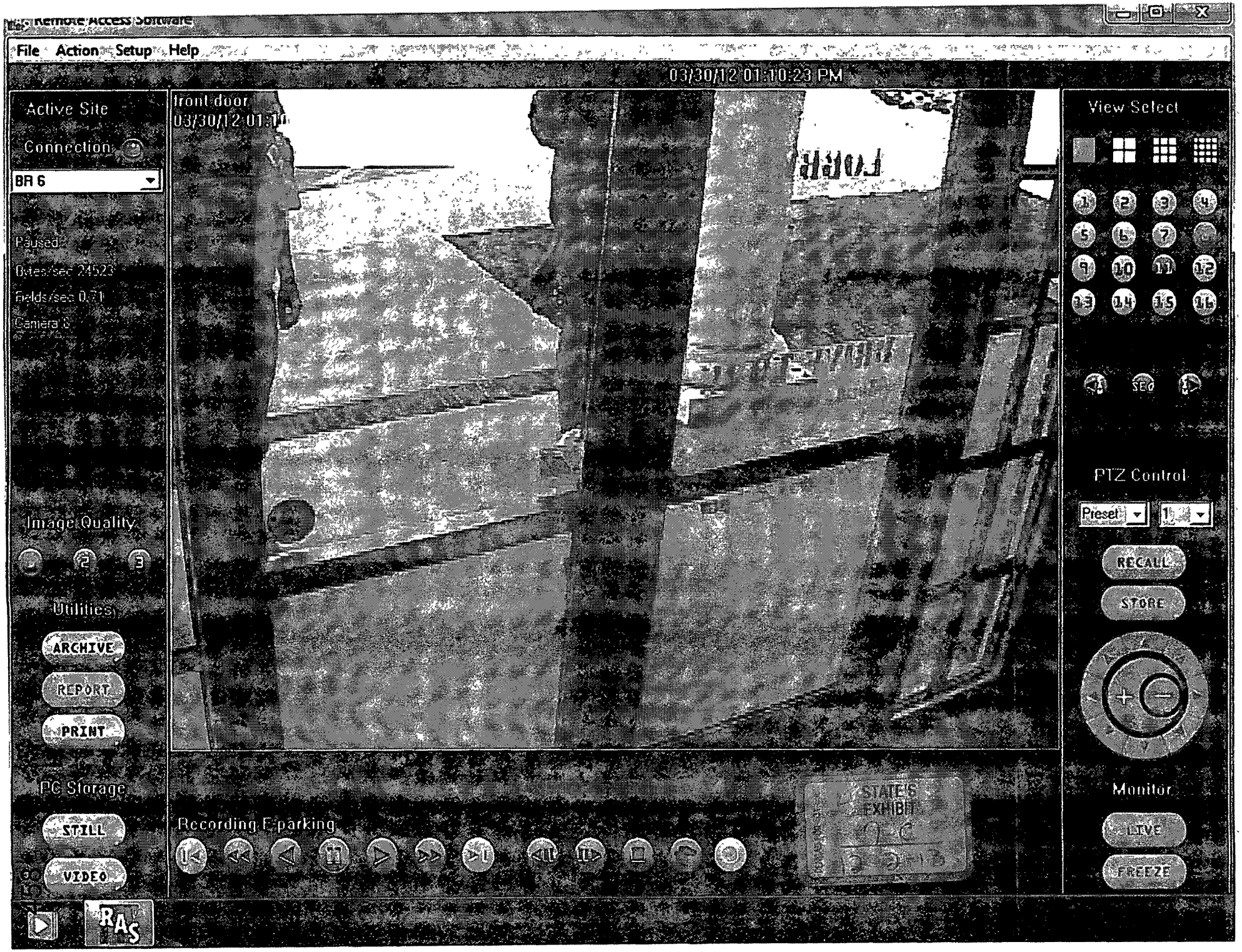
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You have files waiting to be burned to disc

To view the files now, click this balloon.

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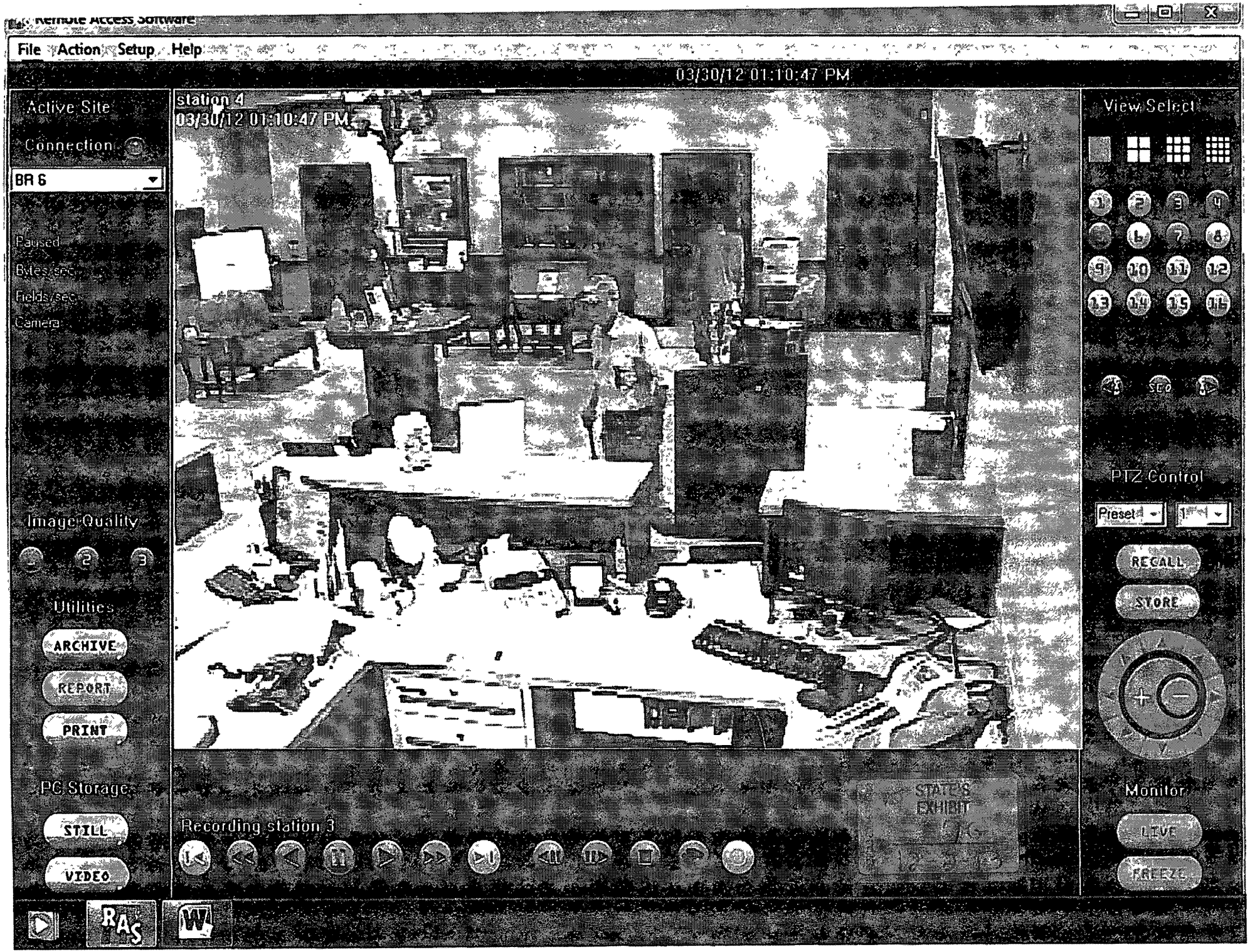
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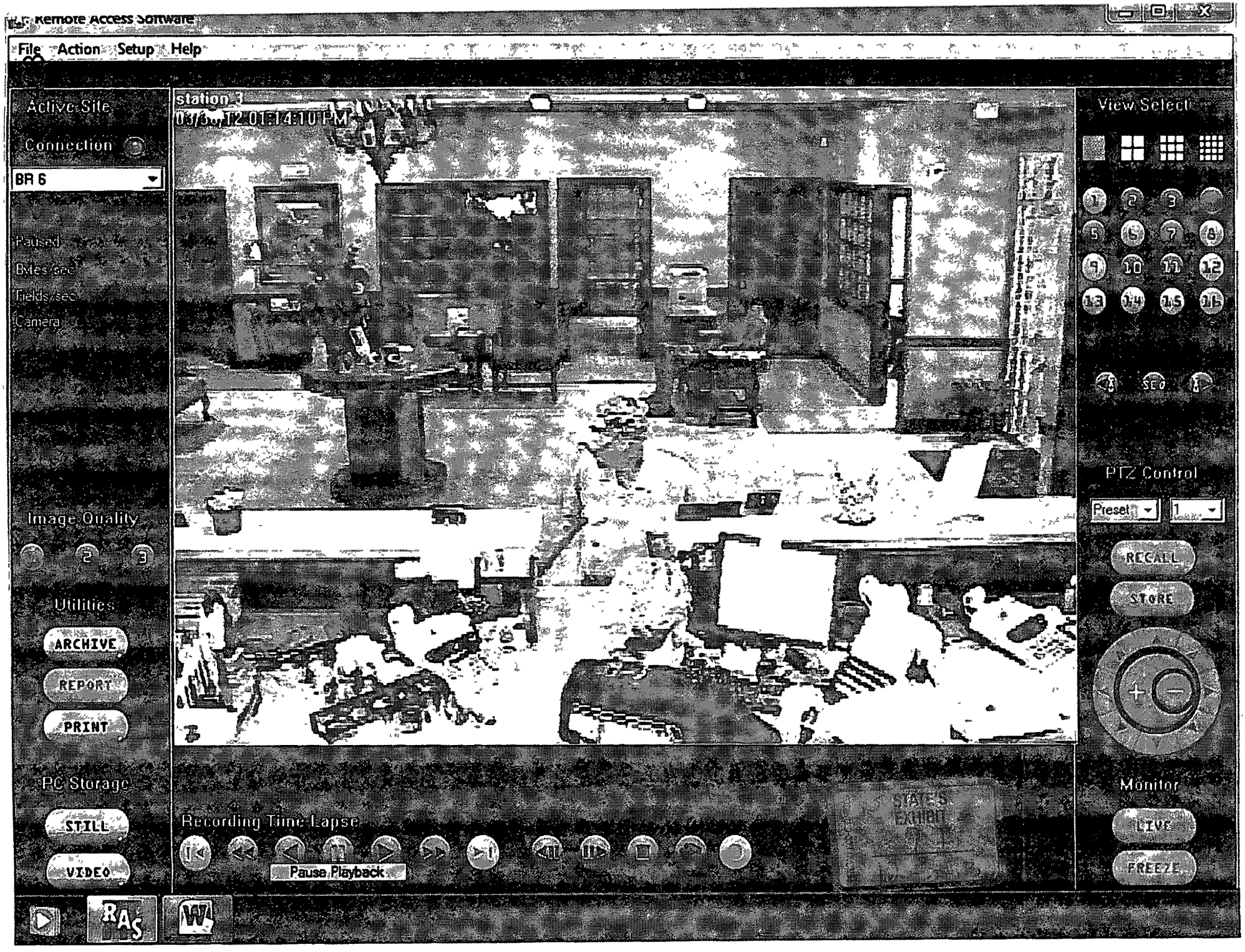
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Remote Access Software

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DOCKET NO. 2012-GS-04- 02002

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

SEP 1 8 2012

Term

THE STATE

vs.

John Fitzgerald Kennedy

CTH

Indictment for

Murder

SC Code: 16-03-0010, 0020
CDR Code. 0116

WITNESSES

W B Simpson, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J911873

ACTION OF GRAND JURY

SEP 18 2012

Foreperson of Grand Jury
Date:

VERDICT

Anthony B. Calderon

Foreperson of Petit Jury
Date: 12-5-13

469

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on SEP 1 8 2012, the Grand Jurors of Anderson County present upon their oath:

Murder

That **John Fitzgerald Kennedy** did in Anderson County, on or about **March 30, 2012**, unlawfully and with malice aforethought kill Claud Schaffer Scott by means of blunt force trauma, and that Claud Schaffer Scott died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

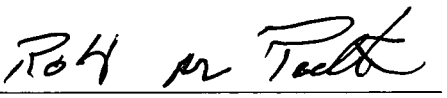
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Catherine J. Huey
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 18, 2014



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT