

21598

ORIGINAL

Volume I of III

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Clifton Newman, Circuit Court Judge

RECEIVED

DEC 05 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

AHMAD JAMAL WILKINS,

APPELLANT

APPELLATE CASE NO. 2012-212387

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

WILLIAM EDGAR SALTER, III
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192
(803) 576-1800

Attorneys for Respondent

INDEX

INDEX	i
TRIAL TRANSCRIPT	1
MOTION TO RECUSE THE PUBLIC DEFENDER	3
COLLOQUY WITH THE DEFENDANT	16
RENEWAL OF RULE 5 MOTION.....	32
MOTION REGARDING THE DESTRUCTION OF EVIDENCE	49
MOTION TO EXCLUDE EVIDENCE BASED ON INSUFFICIENT CHAIN	57
MOTION TO PRECLUDE TESTIMONY OF PATRUAN HARE	61
STATE'S MOTION TO SUPPRESS EVIDENCE OF THIRD PARTY GUILT	71
OPENING STATEMENT BY MS. WALKER	74
OPENING STATEMENT BY MR. MAY	82
TESTIMONY	
MARSHA POITIER	
Direct examination by Ms. Simpson	91
Cross examination by Mr. May	104
Redirect examination by Ms. Simpson.....	107
ROBERTO SANTANA	
Direct examination by Ms. Walker.....	108
Cross examination by Mr. May	113
LARRY WALKER	
Direct examination by Ms. Simpson	115
Cross examination by Mr. Shealey	121
PHILLIP SHANE JOYNER	
Direct examination by Ms. Simpson	128
Cross examination by Mr. May	137

CHRISTY STOVER	
Direct examination by Ms. Simpson	140
Cross examination by Mr. May	145
Redirect examination by Ms. Simpson.....	146
Recross examination by Mr. May.....	147
GEORGE EDWARD NICHOLSON	
Direct examination by Ms. Simpson	148
MICHAEL MOSKAL	
Direct examination by Ms. Walker.....	151
Cross examination by Mr. May	160
RICHARD SEEL	
Direct examination by Ms. Campbell	162
Cross examination by Mr. May	204
Redirect examination by Ms. Campbell	210
Recross examination by Mr. May.....	211
SEAN GRIMES	
Direct examination by Ms. Campbell.....	212
Cross examination by Mr. Shealey	231
Redirect examination by Ms. Campbell	237
Recross examination by Mr. Shealey	238
SUSAN JOHNSON	
Direct examination by Ms. Campbell.....	239
Cross examination by Mr. May	241
Redirect examination by Ms. Simpson.....	242
NICOLE JONES PRINGLE	
Direct examination by Ms. Walker.....	244
Cross examination by Mr. Shealey	246
TAMMY L. DAVIS MOORE	
Direct examination by Ms. Campbell.....	247
Cross examination by Mr. May	291
Redirect examination by Ms. Campbell	295
SETTLEMENT OF PATRUAN HARE'S RECORD	298

TESTIMONY

CYNTHIA JACKSON

Direct examination by Ms. Simpson	307
Cross examination by Mr. Shealey	336
Redirect examination by Ms. Simpson	341
Recross examination by Mr. Shealey	343

NICOLE GRIMES

Direct examination by Ms. Campbell	344
Cross examination by Mr. Shealey	360

TENA GOFF

Direct examination by Ms. Walker	365
Cross examination by Mr. May	369

PATRUAN HARE

Direct examination by Ms. Campbell	373
Cross examination by Mr. Shealey	385
Redirect examination by Ms. Campbell	405
Recross examination by Mr. Shealey	414

SCOTT MCDONALD

Direct examination by Ms. Campbell	415
Cross examination by Mr. May	434

TENA GOFF

Cross examination by Mr. May	437
Redirect examination by Ms. Walker	438
Recross examination by Mr. May	440

WILLIAM CEDARSTAFF

Direct examination by Ms. Walker	443

TRACY DIXON

Direct examination by Ms. Walker	447

DONNA MARTIN

Direct examination by Ms. Simpson	450
Cross examination by Mr. May	460
Redirect examination by Ms. Simpson	463
Recross examination by Mr. May	465

PAUL NELSON

Direct examination by Ms. Walker	467
Cross examination by Mr. May	470

LEONARD BRADLEY

Direct examination by Ms. Walker.....472

ROBERT WATERS

Direct examination by Ms. Walker.....474

Cross examination by Mr. May 476

WASHAVA MOORE

Direct examination by Ms. Walker.....477

RACHEL GRANT

Direct examination by Ms. Campbell.....479

Cross examination by Mr. May 526

Redirect examination by Ms. Campbell 557

Recross examination by Mr. May.....564

BRADLEY WILLIAM MARCUS

Direct examination by Ms. Simpson 567

Voir Dire examination by Mr. Shealey.....570

Direct examination continued by Ms. Simpson 571

Cross examination by Mr. Shealey 589

ARTHUR L. THOMAS

Direct examination by Ms. Campbell.....594

Cross examination by Mr. Shealey 652

Redirect examination by Ms. Campbell 729

Recross examination by Mr. Shealey 732

KEVIN REESE

Direct examination by Ms. Campbell.....734

Cross examination by Mr. May 748

Redirect examination by Ms. Campbell 770

Recross examination by Mr. May.....771

GEORGE EDWARD MICHOLSON

Direct examination by Mr. Shealey 772

STEVEN JEFFREY LAMBERT

Direct examination by Mr. May.....775

Cross examination by Ms. Campbell 795

Redirect examination by Mr. May 808

Recross examination by Ms. Campbell 813

TASHA PRAYLOW (IN CAMERA)	
Direct examination by Mr. May.....	819
Cross examination by Ms. Campbell.....	822
SIERRA AUSTIN (IN CAMERA)	
Direct examination by Mr. Shealey	828
Cross examination by Ms. Campbell.....	834
Redirect examination by Mr. Shealey.....	838
DAWN DAVIS YOUNG (IN CAMERA)	
Direct examination by Mr. Shealey	839
Cross examination by Ms. Campbell.....	840
Redirect examination by Mr. Shealey.....	843
STATE'S MOTION TO EXCLUDE EVIDENCE	843
TESTIMONY	
TAMMY L. DAVIS MOORE	
Direct examination by Mr. May.....	853
TASHA PRAYLOW	
Direct examination by Mr. May.....	855
Cross examination by Ms. Campbell.....	857
Redirect examination by Mr. May.....	865
CLARENCE WILKINS	
Direct examination by Mr. Shealey	867
AHMAD WILKINS	
Direct examination by Mr. Shealey	870
Cross examination by Ms. Campbell.....	902
Redirect examination by Mr. Shealey.....	935
KEVIN REESE	
Direct examination by Ms. Campbell.....	944
Cross examination by Mr. May	946
MELRON KELLY	
Direct examination by Ms. Campbell.....	949
Cross examination by Mr. May	956
MOTION FOR MISTRIAL	967
RULING BY THE COURT	967

TESTIMONY

MELRON KELLY

Cross examination continued by Mr. May 968

MOTION TO CALL WITNESSES IN SUR-REPLY 973

MOTION FOR DIRECTED VERDICT.....975

RULING BY THE COURT 975

CLOSING ARGUMENT BY MS. SIMPSON.....978

CLOSING ARGUMENT BY MR SHEALEY 993

CLOSING ARGUMENT BY MS. CAMPBELL.....1025

CHARGE ON THE LAW.....1060

JURY QUESTIONS.....1073

VERDICT 1090

POLLING OF THE JURY 1091

SENTENCING 1099

COURT'S EXHIBIT # 4 (NOTE FROM JURY) 1100

MOTION FOR A NEW TRIAL TRANSCRIPT DATED JUNE 1, 2012 1101

MOTION FOR DISCOVERY AND DISCLOSURE OF EVIDENCE FILED FEBRUARY 4, 2011
.....1185

MOTION TO COMPEL DISCOVERY AND DISCLOSURE OF EVIDENCE FILED MARCH
15, 2011
.....1190

MOTION TO COMPEL DISCOVERY AND DISCLOSURE OF EVIDENCE FILED
FEBRUARY 21, 2012.....1193

MOTION FOR A NEW TRIAL FILED APRIL 20, 2012 1196

STATE'S RESPONSE TO DEFENSE MOTION FOR A NEW TRIAL FILED APRIL 30, 2012
.....1201

INDICTMENT	1208
SENTENCE SHEET	1210
CERTIFICATE OF COUNSEL.....	1211

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS #69 (VIDEO)
STATE'S # 71 (PHOTOGRAPH)
STATE'S # 110 (PHOTOGRAPH)
STATE'S # 112 (PHOTOGRAPH)
STATE'S # 114 (PHOTOGRAPH)
STATE'S # 119 (CD RECORDING)
STATE'S # 144 (AUDIO CD OF STATEMENT)

ORIGINAL

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF RICHLAND)

State of South Carolina,)
)
 PLAINTIFF,) PARTIAL TRANSCRIPT
) OF TRIAL
 -VS-) 2011-GS-40-04656
)
 Ahmad Jamal Wilkins,)
)
 DEFENDANT.)

BEFORE THE HONORABLE CLIFTON NEWMAN, JUDGE

APRIL 9 AND 10, 2012

COLUMBIA, SOUTH CAROLINA

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

Kathryn Luck Campbell, Esq.
 Meghan Walker, Esq.
 Nicole M. Simpson, Esq.
 For the State

Brian Shealey, Esq.
 Luke Shealey, Esq.
 James May, Esq.
 For the Defendant

REMA K. GANTT THOMAS
 CIRCUIT COURT REPORTER

1 (The defendant, together
2 with counsel, were personally present in the
3 courtroom.)

4 MS. CAMPBELL: May it please the Court?

5 THE COURT: Yes.

6 MS. CAMPBELL: Your Honor, the State calls
7 State versus Ahmad Wilkins, Indictment Number
8 2011-GS-40-4656, indictment for murder.

9 THE COURT: All right.

10 MS. CAMPBELL: Your Honor, we do have a
11 motion that we would need to hear prior to picking a
12 jury I think, if you can hear it first.

13 THE COURT: Before picking the jury?

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: What time will you all be
16 ready to pick the jury? Mr. Truett is back there
17 with the jury downstairs waiting, as I understand
18 it.

19 MS. CAMPBELL: Your Honor, as soon as this
20 motion. I'm not sure how long this motion will
21 last. But as soon as it's over, the State would be
22 ready for the jury.

23 THE COURT: All right.

24 MR. CAMPBELL: Yes, sir. As to what the
25 motion is, we have not been made aware.

1 THE COURT: So I guess we just let them go
2 to lunch, Mr. Truett, and then we'll pick after
3 lunch. We may be pushing 1:00, 2:30, or
4 thereabouts?

5 BAILIFF: Yes, sir. What time would you
6 like them back?

7 THE COURT: About 2:30.

8 BAILIFF: Thank you, sir.

9 THE COURT: All right. I've been handed
10 this list of 50 people. Do you want to just have
11 the 50 come back?

12 BAILIFF: Yes, sir.

13 THE COURT: Okay.

14 BAILIFF: If that's all right with you.

15 THE COURT: Okay, sure.

16 BAILIFF: Thank you.

17 MS. WALKER: May it please the Court, Your
18 Honor?

19 THE COURT: Sure.

20 MS. WALKER: It came to the attention of
21 Ms. Campbell, Ms. Simpson, and myself late last week
22 that there is a possible conflict that the Richland
23 County Public Defender's Office may have with
24 representing Mr. Wilkins in this case. I'll let you
25 -- if Your Honor would like to read the motion or

1 give the defense an opportunity to read the motion
2 before we go forward.

3 Do you all need another copy?

4 MR. SHEALEY: Do you have another copy?

5 THE COURT: All right, Mr. Shealey.

6 MR. SHEALEY: Your Honor, may it please
7 the Court. Your Honor, we became aware of a snitch
8 statement in this case. The person they refer to in
9 the motion is Patruan Hare. I guess about a month
10 ago, they forwarded us a letter and actually an
11 official statement from him in an e-mail to us.

12 The letter from Patruan Hare was actually
13 dated and his statement was actually taken I want to
14 say the summer of last year. Now, this
15 representation from Patruan Hare, this letter, I did
16 represent Patruan Hare during last year on an armed
17 robbery charge.

18 I never had any information about any kind
19 of letter. When Investigator Thomas takes his
20 statement, that was without my knowledge. I never
21 had any information during my representation of
22 Patruan Hare, which ended, I believe, in October of
23 last year. The Solicitor on that case was Ms.
24 McDuffie. He pled to strong arm robbery.

25 I never had any information that he had

1 any information on any of my other clients at all,
2 period. Now, I see the rule they're citing here,
3 1.9, "A lawyer who has formerly represented a client
4 in a matter shall not thereafter represent another
5 person in the same matter or a substantially related
6 matter in which that person's interests are
7 materially adverse."

8 Your Honor, I would argue respectfully
9 this is not the same or a substantially related
10 matter. Patruan Hare's armed robbery charge had
11 nothing to do with anything related to my client,
12 Ahmad Wilkins. They're weren't co-defendants on
13 that case.

14 Patruan Hare is not a co-defendant on this
15 case. I would put the burden on them, Your Honor.
16 I was only given this information in an e-mail about
17 a month ago, when they had that statement. And Ms.
18 Campbell has known I've represented Ahmad Wilkins
19 now for over a year.

20 It's in my Rule 5 when I signed my name.
21 By turning over this information now, an hour before
22 trial, you know, I don't think -- one, I don't think
23 it has a whole lot of bearing on this, because it's
24 not the same or a substantially related matter.

25 I do understand what they're saying here

1 about a federal plea agreement and if he's -- and
2 obviously I assume his benefit of coming to testify
3 on any snitch statement and coming to any trial, be
4 it federal or state level, is to get some kind of
5 benefit out of it.

6 But it's not the same or a substantially
7 related matter. My interests, there is no current
8 representation interests that are at stake here. I
9 don't have a duty to inform a client under 1.9 if
10 it's not the same or a substantially related matter,
11 Judge.

12 Your Honor, when I first got this e-mail,
13 I did look at these rules. And a lot of them, my
14 knowledge of them was when I first looked at them.
15 And I went to the Chief Public Defender and the
16 Circuit Public Defender and ran it by them to do all
17 my due diligence.

18 And, you know, I anticipated if they -- I
19 don't know if they ever intend to call him or not.
20 They raise the issue now. I'll only know that when
21 he takes that stand.

22 THE COURT: When he takes the stand and
23 when you cross-examine him, if you cross-examine
24 him, you're going to tell him that you're going to
25 represent to him and to the jury through your

1 questioning that you're his lawyer?

2 MR. SHEALEY: Your Honor, first of all, I
3 would say 1.9 wouldn't apply here. It's not the
4 same or substantially related. But I would not even
5 be -- the curative perceived issue -- I wouldn't be
6 cross-examining him.

7 I haven't discussed anything related. I
8 don't know anything about, you know, the strong arm
9 robbery that would be pertinent to this case.

10 You know, I wouldn't be cross-examining
11 him. He may see me here. You know, we anticipate,
12 if they were to call him to the stand to snitch,
13 that she or Jim May would cross-examine him.

14 THE COURT: When you say "snitch," what do
15 you mean?

16 MR. SHEALEY: To testify based on his
17 statement, that what I get from the State, he is
18 basically going to purport to have Ahmad Wilkins
19 talk to him about these charges, potentially things
20 that, I guess, the State believes could be
21 incriminating in this case.

22 That's why they may attempt to use him. I
23 don't know. You know, all I have is a letter from
24 him and a statement given to Investigator Thomas
25 from the summer of last year, just given to me

1 within the month, given to me in March of this year.
2 Again, Judge, I would say this is not a
3 substantially related matter.

4 It's not the same matter, certainly. And
5 I can only address these issues when they're raised.
6 I guess they intend to call him. But I would have
7 the State reference how this could be a same or
8 substantially related matter. And I imagine they'll
9 argue, "Well, he's got to get some benefit for
10 testifying."

11 I don't know what they're going to do.
12 But I only received this within the month. I've
13 been representing Ahmad Wilkins for 14 months. And
14 this letter and this statement taken by Investigator
15 Thomas, I never had any knowledge of.

16 Investigator Thomas can tell you I wasn't
17 there present for that meeting that they allegedly
18 had. All I can see is Thomas' signature and what I
19 imagine is Patruan Hare's signature. I had no
20 information during my entire representation of
21 Patruan Hare about any kind of statement that he
22 ever had on anybody else.

23 THE COURT: All right.

24 MS. CAMPBELL: Thank you, Your Honor.
25 There are a few things that -- we need to do a

1 timeline on kind of how we got to this point. Mr.
2 Shealey never turned over to the State the
3 simultaneous representation of Ahmad Wilkins and
4 Patruan Hare. We were in I think Ms. McDuffie's
5 office on Thursday of last week. We were discussing
6 Patruan Hare.

7 She told us that she prosecuted him in the
8 past and that Mr. Shealey represented him. At that
9 point, we began to go to the Clerk's Office and look
10 at our system to try to build a timeline to see when
11 this representation took place.

12 From what we were able to tell, Your
13 Honor, it looks like Mr. Shealey filed a motion for
14 discovery for Mr. Hare on February 24th of last
15 year. He filed a motion for discovery on Mr.
16 Wilkins -- for Mr. Wilkins ? on February 4th of last
17 year.

18 The statement that's in question was given
19 to Investigator Thomas on June 16th of last year.
20 So during June of last year, Mr. Shealey is
21 representing two clients, one of whom goes and gives
22 a statement to Investigator Thomas implicating the
23 other in murder.

24 At that point -- in October -- I'm sorry -
25 - Mr. Shealey then pleads Mr. Hare guilty to

1 robbery. Before he did that, he sent an e-mail that
2 Your Honor has that's included with our motion
3 telling Ms. McDuffie that needs to go down.

4 There's the federal-- the federal defense
5 attorney is there. They discuss with Mr. Hare his
6 downward departure on other problems. Following
7 that downward departure, as Your Honor is well
8 aware, is that any statement that the witness gives
9 must be true and accurate.

10 For Mr. Shealey then to come in this
11 courtroom and represent Mr. Wilkins and as his
12 attorney of record and attack the veracity and
13 credibility of that statement, he didn't advise his
14 former client when he was representing him, Judge,
15 that it would be a violation of Rule 1.9 of the
16 Rules of Professional Conduct.

17 THE COURT: Whose role is it to raise an
18 issue of conflict of interest?

19 MS. CAMPBELL: Your Honor, I would think
20 that it was Mr. Shealey's role to raise that issue
21 to both the State and Your Honor. However, once a
22 defense attorney does so, I think as prosecutors we
23 have an equitable duty then to bring that issue up.

24 THE COURT: Well, what do you want me to
25 do about it?

15

1 MS. CAMPBELL: Your Honor, at this point
2 the State would request that this case be conflicted
3 out of the Public Defender's Office.

4 THE COURT: So you all don't want to have
5 a trial?

6 MS. CAMPBELL: We want to try it. But at
7 this point, we want Mr. Hare to have, you know, the
8 opportunity of being treated fairly, we want Mr.
9 Wilkins to have the opportunity to be treated
10 fairly, and we want the opportunity to be treated
11 fairly, Your Honor.

12 THE COURT: So the State --

13 MS. CAMPBELL: At the very least, it may
14 be a PCR issue if Mr. Shealey is representing a
15 client that knows and gives a statement implicating
16 one of his other clients for murder.

17 THE COURT: So the State is acting on
18 behalf of the defense?

19 MS. CAMPBELL: Your Honor, it affects our
20 ability to prosecute a case if Mr. Shealey had
21 information which -- and I think the first part of
22 the motion talks about possibility of
23 attorney-client privilege issues being raised in
24 this case because the defense attorneys have already
25 filed a motion seeking to impeach Mr. Hare on

1 adjudication that he received as a juvenile, which
2 is not a part of his rap sheet, which has not been
3 disclosed by the State.

4 And we didn't know about it until they
5 filed the motion saying that they were going to
6 impeach for two cases that happened when he was 14
7 years old.

8 THE COURT: Is the State otherwise ready
9 to proceed with the trial?

10 MS. CAMPBELL: Yes, sir, other than those
11 issues.

12 THE COURT: All right, Mr. Shealey.

13 MR. SHEALEY: Thank you, Your Honor, may
14 it please the Court. Your Honor, first of all, I
15 had no information about anything, any statements,
16 anything adversely -- or any interests adverse to
17 Ahmad Wilkins during that time. Thomas will tell
18 you that. We can put him up on the stand right now,
19 swear him in.

20 I wasn't present for any kind of
21 information gathering that Patruan Hare may have
22 done with the City of Columbia. Jeff Blume, who I
23 know, represented Patruan on some federal matters.
24 Because when I first started representing Patruan, I
25 knew he was coming from a federal institution.

17

1 I know he had just been sentenced on some
2 federal matters. And the e-mail I sent to
3 Investigator McDuffie -- excuse me, Ms. McDuffie --
4 was basically saying, you know, "He wants to talk to
5 his federal attorney before he goes forward on
6 anything."

7 You know, I don't have any information
8 about what they were talking about, what was going
9 on. I certainly do not have any information that
10 Patruan Hare gave a statement on one of my other
11 clients, or there would have already been a
12 conflict, and he would have been conflicted out of
13 the office.

14 This is simply a delay tactic by the State
15 here in this matter. Your Honor, it's got to be the
16 same or a substantially related matter for 1.9.
17 Again, I would argue to the Court that us seeking --
18 and I would not be the one impeaching Patruan Hare
19 if they chose to call him.

20 I won't know if they choose to call him
21 until they put him up there on that stand. Again,
22 there's another snitch witness in this case, Dameon
23 Richardson. You know, I don't know if they intend
24 to put him up there, as well.

25 I think Ms. McDuffie could tell you as

1 well that if I found out on one client, Patruan
2 Hare, that he had any information on another client,
3 that would have been a big problem right away. I
4 never tried to negotiate with Ms. McDuffie, and she
5 would never say this, you know, trying to get
6 information on one client against another.

7 I didn't have any information about this.
8 This is a delay tactic. It's not a same or
9 substantially related matter, Your Honor.

10 And 1.9 also says if they're so concerned
11 about any kind of potential issue, they can go to
12 Patruan Hare, and he may waive this perceived copy
13 which I'm arguing is not a conflict, is not a same
14 or substantially related matter to a former client
15 under 1.9, and he can waive it. And he may be eager
16 to come in court and have some benefit, if he's
17 truthful, of some kind of federal downward
18 departure, which I have no information about.

19 THE COURT: Of course, we're not here to
20 handle Mr. Hare's case, are we?

21 MR. SHEALEY: No, Your Honor. We're here
22 to represent and handle Ahmad Wilkins' case.

23 THE COURT: So let's talk to Mr. Wilkins,
24 since we're here on his case.

25 MR. SHEALEY: Yes, Your Honor. Again, I

19

1 just think this is a last-minute delay tactic. I
2 think the burden is on them. They disclosed the
3 information a month ago about this Patruan Hare
4 statement regarding my client, when they've had it
5 since July of last year.

6 Thomas knows I wasn't there for anything.
7 You put him on the stand right now, and he'll tell
8 you that. I had no information about this, and it's
9 not a same or substantially related matter. This is
10 a delay tactic. The defense is ready to go forward.

11 THE COURT: All right.

12 MS. CAMPBELL: Briefly, Your Honor?

13 THE COURT: Yes.

14 MS. CAMPBELL: Your Honor, Mr. Shealey has
15 still failed to address a possible violation of
16 attorney-client privilege with Mr. Hare's
17 adjudication as a minor, information that they plan
18 on using I guess that he has, you know, shared with
19 co-counsel that they plan on using to attack his
20 credibility on the stand that we weren't even privy
21 to before we got their motion.

22 THE COURT: All right, well --

23 MS. CAMPBELL: Secondly, Your Honor --

24 THE COURT: Go ahead.

25 MS. CAMPBELL: Go ahead.

1 THE COURT: No, it's my turn in the
2 future.

3 MS. CAMPBELL: I'm sorry.

4 THE COURT: In the future is my turn.

5 MS. CAMPBELL: Mr. Shealey admitted that
6 specifically, Your Honor. Also, when he keeps going
7 back to a substantially related matter, once this
8 statement is out there, once one of his clients
9 gives a statement against another client, in a
10 federal departure situation which, when he comes on
11 the stand, in order to receive the benefit of that
12 bargain, his testimony has to be honest and
13 truthful.

14 For his attorney that represented him when
15 he gave the statement to get up there and attack his
16 credibility, even if it's not through himself, if he
17 uses Mr. May or the other Mr. Shealey -- the
18 situation at the defense table would be a violation
19 of Rule 1.9 of the Rules of Professional Conduct.

20 THE COURT: Mr. Wilkins, we're going to
21 swear you in, if you'll stand for me.

22 If you'll swear him in, please.

23 (The witness was sworn.)

24 THE COURT: If you'll remain standing for
25 me, Mr. Wilkins. You've heard the arguments back

1 and forth about this issue?

2 MR. WILKINS: Yes, sir.

3 THE COURT: You've heard the State say
4 that your lawyer, Mr. Brian Shealey, represented one
5 of the witnesses, Mr. Hare -- a possible witness,
6 Mr. Hare -- and Mr. Hare is likely to, if he
7 testifies, testify against you and implicate you in
8 this crime?

9 MR. WILKINS: Yes, sir.

10 THE COURT: And the State believes that
11 Mr. Shealey has a conflict of interest in
12 representing you because he previously represented
13 that witness, Mr. Hare. You understand that?

14 MR. WILKINS: Yes, sir.

15 THE COURT: And have you discussed with
16 Mr. Shealey whether or not he has a conflict of
17 interest in representing you, having previously
18 represented the other guy?

19 MR. WILKINS: I talked with him.

20 THE COURT: Have you ever talked with him
21 about that? Do you wish to talk with him about
22 that?

23 MR. WILKINS: No, sir.

24 THE COURT: Do you believe he has a
25 conflict of interest?

1 MR. WILKINS: No, sir.

2 THE COURT: If he has a conflict of
3 interest, do you waive that conflict?

4 MR. WILKINS: What do you mean?

5 THE COURT: Do you waive it? Do you know
6 the meaning of the word "waive," give up?

7 MR. WILKINS: Give up what?

8 THE COURT: If Mr. Shealey in fact has a
9 conflict of interest, since he previously
10 represented a person who is to be a witness in this
11 case, do you give up that conflict and want to
12 proceed despite that conflict?

13 MR. WILKINS: Yes, sir.

14 THE COURT: And you're satisfied that he
15 does not have a conflict of interest, or you don't
16 know?

17 MR. WILKINS: Yes, sir, I'm satisfied.

18 THE COURT: That he does not have a
19 conflict. And you want to proceed with the trial
20 despite that conflict, if he has one?

21 MR. WILKINS: Yes, sir.

22 THE COURT: All right, thank you, sir.

23 All right, what else?

24 MS. CAMPBELL: Your Honor, I think it's
25 Mr. Hare's conflict to waive. He was his former

1 attorney. Under Rule 1.9, I think it's Mr. Hare's
2 conflict to waive. It's his testimony that we're
3 going to put up.

4 THE COURT: The problem is we're not here
5 on Mr. Hare's trial. We're here on Mr. Wilkins'
6 trial.

7 MS. CAMPBELL: But if it's --

8 THE COURT: And you have the State,
9 admirable as it may be, seeking to represent the
10 interests of the defendants, Mr. Hare and Mr.
11 Wilkins, apparently.

12 MS. CAMPBELL: He's the State's witness,
13 Your Honor. And in order for -- we can put him up
14 there, and his attorney attacks his credibility,
15 putting -- you know, since you're not supposed to
16 harm your client -- harming his possible ability to
17 receive the benefit of a downward departure. I
18 think that's the conflict we're interested in.

19 THE COURT: All right.

20 MS. CAMPBELL: I don't know if we need to
21 get Mr. Hare here or how you want to proceed with
22 that.

23 THE COURT: Well, if Mr. Hare says, "Well,
24 I don't want him to be the lawyer," then we'll let
25 Mr. Hare dictate who is counsel in this case.

1 MS. CAMPBELL: Your Honor, I don't know
2 how we proceed. That's why when one client gives a
3 statement against another client, the case should be
4 conflicted out of the office. I don't know how
5 exactly we proceed here.

6 THE COURT: Well, is it your belief that
7 Mr. Hare will be afraid to testify if he sees Mr.
8 Shealey in the courtroom, having previously
9 represented him?

10 MS. CAMPBELL: Your Honor, I think it
11 could definitely have a chilling effect on his
12 testimony if the person who represented him and his
13 interests just a few months ago is sitting at the
14 table and along with his co-counsel attacking him
15 and calling him a liar. I think that could have a
16 chilling effect on his testimony.

17 THE COURT: What's he going to say?

18 MS. CAMPBELL: Would you like a copy of
19 his statement?

20 THE COURT: No, you can tell me.

21 MS. CAMPBELL: Or you just want the
22 basics?

23 THE COURT: You can tell me, yes.

24 MS. CAMPBELL: He says he basically was
25 associated with Mr. Wilkins. Mr. Wilkins confessed

25

1 to having killed Ms. Williams, to having smoked
2 marijuana with her, using cocaine with her, and then
3 choking her.

4 THE COURT: You have that as a written
5 statement, don't you?

6 MS. CAMPBELL: Yes, Your Honor. We could
7 have that as an exhibit.

8 THE COURT: If he seeks to testify
9 differently, wouldn't you use the statement to
10 impeach him?

11 MS. CAMPBELL: Your Honor, we could. We
12 can still do that. The problem, though, when he
13 goes to go his federal departure -- and part of that
14 agreement is that his testimony has to be credible -
15 - if his own attorney attacks his credibility on the
16 stand, then that may impact his ability to receive
17 the benefit of that bargain.

18 THE COURT: You all are here for the trial
19 of the case, and the State in effect doesn't want to
20 go forward with the trial. The State wants the
21 Court to declare that the Public Defender's Office
22 cannot represent Mr. Wilkins and to continue the
23 case, is that right?

24 MS. CAMPBELL: I don't think I would, Your
25 Honor.

1 THE COURT: Well, you have a choice. You
2 can represent the State and let the defense worry
3 about themselves.

4 MS. CAMPBELL: Your Honor, this witness is
5 central to the case.

6 THE COURT: All right.

7 MS. CAMPBELL: This appearance before this
8 jury I think will -- of course, a jury determining
9 whether or not they believe his testimony, whether
10 they accept what he's say.

11 Mr. Shealey has already said that he wants
12 to use information that he's gained over the course
13 of his representation of Mr. Wilkins which should be
14 subject to the attorney-client privilege, Your
15 Honor.

16 THE COURT: And that being whether he had
17 a record as a juvenile?

18 MS. CAMPBELL: That's the only thing that
19 we know of. Any other information that he learned
20 over his representation of Mr. Hare that he has yet
21 to share with us would also be relevant at this
22 time.

23 There may be things that Mr. Shealey knows
24 about him that he doesn't even remember having
25 learned from him until Mr. Hare takes the stand, and

1 he allows Mr. May or the other Mr. Shealey to
2 cross-examine him. I think it affects the State's
3 ability.

4 Mr. Shealey representing Mr. Wilkins,
5 cross-examining Mr. Hare who he represented when he
6 gave that statement, affects the State's ability to
7 proceed in a fair manner. It could also serve as
8 having a chilling effect on this witness and could
9 harm the witness further down the road when he --

10 THE COURT: Or it can possibly bolster the
11 witness if he's testifying -- he, being a convicted
12 robber -- and he's having been represented by Mr.
13 Shealey, now defending a person accused of murder,
14 and he gives a statement that his lawyer's other
15 client admitted to being guilty of murder, that may
16 bolster his testimony with the jury.

17 The jury may say, "Wow, he's a good
18 witness. He's telling Mr. Shealey that not only was
19 he guilty of robbery, 'But now you're representing a
20 guy who's guilty of murder.'" So it cuts both ways.
21 The jury has many things to gauge in evaluating
22 credibility of witnesses. And the fact that one of
23 the lawyers previously represented a witness does
24 not automatically mean that that the jury is not
25 going to believe that witness.

1 MS. CAMPBELL: And that's not what I was
2 trying to say, Your Honor.

3 THE COURT: It can cut both ways.

4 MS. CAMPBELL: If that's what I said, I
5 apologize. What I was trying to say is in attacking
6 his credibility, Mr. Shealey may very well -- could
7 very well -- use, as he's already said he's going to
8 use, information that he learned from this witness
9 when over the course of his representation of him
10 was the subject of the attorney-client privilege.

11 THE COURT: I think Mr. Shealey said he
12 would not be the one cross-examining him, if he's
13 cross-examined. Of course, he may back-track on
14 that, I don't know, and attempt to.

15 MS. CAMPBELL: Even if --

16 THE COURT: Maybe he'll have his twin
17 brother do it, and the guy won't know the
18 difference. I don't know.

19 MS. CAMPBELL: But if he's the attorney of
20 record, Your Honor, in this matter, and he is
21 working with the other two attorneys, to then
22 impeach this witness on information he gathered as
23 he was representing him that's subject to privilege,
24 I don't think it matters which one of them he sends
25 up there to do it. The privilege is still running.

29

1 THE COURT: Well, the bottom line in my
2 view of it is that the State is not the proper party
3 to conflict out the defense attorney where the
4 defendant does not raise the issue, that where a
5 witness was previously represented by one of the
6 lawyers, the witness in this instance in this trial,
7 that witness' constitutional rights, those rights
8 are not at stake.

9 He may have a beef with Mr. Shealey later
10 on in another setting based on violations of the
11 Rules of Professional Conduct. The Federal Judge or
12 federal prosecutors who may be dealing with this
13 issue of whether he gets a downward departure or not
14 based on substantial cooperation which is to govern
15 it, they may have to evaluate that.

16 But I think the limited impact that the
17 State believes that that testimony will have on this
18 trial is not a basis for the Court to disqualify the
19 prosecutor's office where Mr. Wilkins says he's
20 satisfied.

21 MS. CAMPBELL: So Your Honor wants us to
22 conflict Mr. Wilkins -- or Your Honor is suggesting
23 that if we do call Mr. Hare, it would be to let
24 whatever issues that he has with Mr. Shealey using
25 privileged information to cross-examine him that are

1 violations of Rule 1.9 be taken up at a later date.

2 But I think at that point --

3 THE COURT: No, I'm not making any
4 suggestions. But whatever comes up at whatever time
5 during the trial, I will deal with. I'm just
6 dealing with this issue at this time.

7 MS. CAMPBELL: But I think if we don't
8 address it beforehand, Your Honor, it hampers the
9 State's case.

10 THE COURT: We can deal with it. If you
11 want Mr. Hare to come in here and testify for
12 whatever reason, you can call whomever you want to.
13 I'm not so concerned about Mr. Hare's constitutional
14 rights at this point, because he's not on trial.

15 MS. CAMPBELL: Can I beg the Court's
16 indulgence, Judge?

17 THE COURT: Sure.

18 We'll take a two-minute break so you all
19 can talk.

20 (Court in recess.)

21 THE COURT: All right, anything else?

22 MS. CAMPBELL: Your Honor, at this point
23 the State would request to have time to have Mr.
24 Hare's federal attorney to speak with him and advise
25 him of this possible conflict, let him know what's

31

1 going on, advise him that defense counsel has told
2 us that they are going to bring in privileged
3 information in an attempt to impeach him, and see if
4 Mr. Hare is still willing to testify at that point
5 before we call him or before we swear the jury, I'm
6 sorry.

7 THE COURT: If he's still willing to
8 testify?

9 MS. CAMPBELL: We need to have his federal
10 attorney speak with him about these issues that came
11 up --

12 THE COURT: There's an issue whether he's
13 willing to testify? I'm trying to figure out how
14 all that impacts on selecting the jury.

15 MS. CAMPBELL: We can select them. We
16 would request that they not be sworn.

17 THE COURT: All right.

18 All right, Mr. Shealey, Mr. May?

19 MR. SHEALEY: Your Honor, we're ready to
20 go.

21 THE COURT: The defense is ready. The
22 State is not.

23 MS. CAMPBELL: We need to have Mr. Hare's
24 attorney.

25 THE COURT: Where is he? Where is Mr.

1 Hare?

2 MS. CAMPBELL: He's at the Conway Center.

3 THE COURT: All right. When is he coming?

4 MS. CAMPBELL: We can have him here this
5 afternoon, or we can ask Mr. Blume to go visit him
6 there. I have Mr. Blume's cell phone, Your Honor,
7 and I'll be able to call him.

8 THE COURT: Mr. Blume is a federal
9 attorney?

10 MS. CAMPBELL: He represented him on
11 federal charges, yes, Your Honor.

12 THE COURT: Is this new to Mr. Blume, the
13 fact that --

14 MS. CAMPBELL: Your Honor, we weren't
15 aware of this until, like I said, late Thursday. We
16 researched on Friday. We sat down and discussed it
17 a final time this morning. So Mr. Blume is not
18 aware of a possible violation of this kind,
19 privileged information. We didn't have notice until
20 we sent Mr. Shealey Mr. Hare's statement.

21 THE COURT: All of that could be handled
22 as a matter of course, whenever Mr. Hare and Mr.
23 Blume can get some talks and all that. But that
24 won't delay us with jury selection at 2:30. But we
25 can talk about whatever else we need to talk about

1 prior to jury selection.

2 And then that can be dealt with when you
3 all get in here and get Mr. Blume here. I don't see
4 how that impacts on it. If you all decide that you
5 don't think he will be as good a witness if Mr.
6 Shealey is in the case and you don't want to use him
7 as witness or something, or you don't want to call
8 the trial because of all that, then that's something
9 that we can talk about as far as not swearing the
10 witnesses until you all make that decision.

11 But it's not at all uncommon to have a
12 lawyer who previously represented someone on an
13 unrelated matter to be involved in the litigation of
14 that person. So I don't see anything new or novel
15 about this case, except perhaps for the Court that
16 you mentioned about the pending downward departure
17 and all that.

18 But, of course, Mr. Shealey is not
19 representing him on that. Mr. Blume is. So I don't
20 see that creates anything to get excited about.

21 Mr. Shealey?

22 MR. SHEALEY: Your Honor, I might better
23 shed some light on this situation so we can
24 hopefully streamline this process of picking a jury.
25 Once we received the letter from Patruan Hare as a

1 potential State witness, of course, we wanted to see
2 if we could interview him.

3 But without -- you know, not knowing
4 whether he had an attorney or not, that was the
5 first thing we did. I did call Mr. Blume, checking
6 to see that he had been his former attorney. I
7 spoke with him on the phone as an officer of the
8 Court, and he says he says he is not his attorney
9 anymore, but that I could go talk to Patruan if I
10 wanted to, send my investigator out there.

11 In fact, Mr. Blume wrote Patruan a letter
12 saying, you know, "There's some people coming to see
13 you. As part of your agreement with the feds, you
14 know, you have to be truthful and forthcoming with
15 anybody about any potential statement you make. So
16 please meet with them. They'll be coming to see
17 you."

18 So I can't tell you that I don't think
19 it's necessary to bring Mr. Blume in here. He will
20 tell you, will tell anyone that calls him, he's not
21 his current attorney but that he is aware of his
22 past federal events, and he was his lawyer then. I
23 don't think it's necessary to bring Mr. Blume to
24 hear that Mr. Hare does not currently have an
25 attorney.

35

1 THE COURT: Well, I'm not bringing him in
2 here. If the State wants to contact him and talk
3 with him and all that, they can do that, if that's
4 what they want to do.

5 MS. CAMPBELL: Your Honor, just for the
6 record, they now say that they interviewed Mr. Hare,
7 and Mr. Shealey did that?

8 MR. SHEALEY: No.

9 THE COURT: He said his investigator
10 talked with him.

11 MS. CAMPBELL: Your investigator talked
12 with him?

13 MR. SHEALEY: Yes. I'm saying that when I
14 called Mr. Blume if he was the current attorney, in
15 anticipation of possibly sending an investigator,
16 that he said he was not his current attorney.
17 That's what I said.

18 MS. CAMPBELL: And then Mr. Blume advised
19 him to talk to y'all?

20 MR. SHEALEY: He said that, yes, as part
21 of his plea agreement, Your Honor, he said that he
22 has to be truthful with everybody he deals with
23 regarding any statement he makes in any future
24 proceedings.

25 And he wrote Patruan saying that, you

1 know, with respect to the possibility he'd be paid a
2 visit by our investigator. So he's not his
3 attorney, but that's as an officer of the Court Mr.
4 Blume told me about Mr. Hare's situation.

5 THE COURT: All right, what is there?
6 Anything about this case that you all need or want
7 to talk about before the jury?

8 MS. CAMPBELL: I believe they have a
9 number of motions, Your Honor. I know there are
10 some issues on discovery that they wish to put on
11 the record.

12 THE COURT: All right.

13 MS. CAMPBELL: Unless they've abandoned
14 the last e-mail they sent me.

15 MR. SHEALEY: Your Honor, we do have a
16 number of motions here. At this time, I would renew
17 our Rule 5. We have sent them a number of e-mails
18 about missing discovery in this case.

19 I do have a motion regarding their failure
20 to comply with some of those things. At this time,
21 we have some information. This is a DNA case, as
22 well, Your Honor. We think we're missing a
23 sufficient chain in this case.

24 At this time, we request that anything
25 they haven't turned over, at this time we deem it be

37

1 lacking. But certainly if they have anything at
2 this point in time, we would request any kind of
3 chain information on the DNA.

4 Your Honor, in this case, the Richland
5 County Sheriff's Department lab does the DNA.
6 Rachel Grant is the lab technician. Page 54 of her
7 report talks about one item that they're going to
8 allege DNA in this case is a glove.

9 Rachel Grant says they run it through
10 CODIS initially. They request any and all
11 information results based off that CODIS run in this
12 case, which we haven't received. At this time,
13 we're also requesting pursuant to the same report I
14 just referenced on page 54, Rachel Grant talks about
15 an inconclusive initial run of the neck ligature.

16 I would like anything based off that,
17 which we don't have at this time. I'm talking about
18 SLED materials which Rachel Grant talks about. We
19 have about three different search warrants in this
20 case, Your Honor.

21 There's a search warrant of the victim's
22 home. There's a search warrant of our client's DNA.
23 There's a search warrant of also the apartment where
24 he was residing at the time of the alleged offense.

25 Your Honor, we would request any and all

1 information they have on search warrants. We
2 received some information. If they feel they've
3 complied with all, then that's fine. But we are
4 requesting any and all information regarding any
5 search warrant executed in this case.

6 Your Honor, there's a witness in this
7 case, kind of a substantial witness, Sean Grimes,
8 that I believe in Investigator Thomas' report, is a
9 reference that he does a photo line-up ID of our
10 client. I respectfully ask for that at this time.
11 We have not received that.

12 Back to Patruan Hare, we are requesting,
13 if they intend to call him, any and all documents in
14 relation to him, rap sheets, if he's ever snitched
15 on anybody else on any other trials, any other
16 cases. I'd like that information at state or
17 federal level.

18 THE COURT: Are these things that you have
19 filed a motion concerning, or are you just kind of
20 making them as you feel like it?

21 MR. SHEALEY: Some we have filed motions
22 on. What I'm just referencing right now, I sent an
23 e-mail last week about. There's also another snitch
24 in this case, Dameon Richardson.

25 THE COURT: Sent an e-mail to who?

39

1 MR. SHEALEY: To the Solicitors involved
2 in this case -- Ms. Campbell, Ms. Simpson, Ms.
3 Walker. There's also another snitch in this case,
4 Dameon Richardson, who purports to get some kind of
5 information from my client, maybe trying to
6 implicate him. I don't know if they intend to use
7 him, as well.

8 I want all the same information regarding
9 any prior cases that he's worked on for the State,
10 that kind of material, Your Honor, as well as his
11 rap sheet. We requested this in the demand, as
12 well.

13 The bench notes for Rachel Grant, and it's
14 also referenced in Thomas' report, discussed
15 conversations between Ms. Campbell and Ms. Grant
16 before a search warrant is ever able to be executed
17 or even -- excuse me, the murder warrants are ever
18 able to be taken out on our client, apparently some
19 information about conversations that Ms. Campbell
20 has with Ms. Grant regarding the DNA and any kind of
21 information regarding how his brother's presence --
22 you know, I say "his brother" -- I mean "I was
23 booked in my client's presence." Now, he's a
24 maintenance guy.

25 We would like any conversations regarding

1 -- and I'll cover this in my Riddle motion, as well
2 -- the sequence of events with knowledge of the
3 brother being in that apartment or any knowledge
4 about it and how that relates to DNA, the
5 interpretation of DNA, because in this case, the
6 defense will always be saying that it is a weak DNA
7 --

8 THE COURT: You've been talking about five
9 or ten minutes about all the things you want. So
10 are you all ready to proceed with the trial?

11 MR. SHEALEY: Yes, Your Honor. I would
12 like to have these at any time.

13 THE COURT: Okay.

14 MR. SHEALEY: But any notice --

15 THE COURT: They have the total e-mail
16 that you're referring to. Let me have them respond
17 to some -- are you reiterating what you've already
18 told them?

19 MR. SHEALEY: I'm just going down a
20 checklist of things I've asked for.

21 THE COURT: Okay. How many more do you
22 have on that sheet.

23 MR. SHEALEY: I'm almost done, Judge. I'm
24 almost done. There's also a rape kit of CSC kit in
25 this case. There are some notes regarding it by

1 Rachel Grant on page 56 of her reports into AFIS.
2 I'd like that information. I don't have those AFIS
3 notes. I think I've covered it, Judge.

4 THE COURT: All right.

5 From the State, Ms. Campbell?

6 MS. CAMPBELL: Your Honor, I would like to
7 take. They did file a motion demanding that I
8 produce discovery on any recordings, statements, or
9 notes between a conversation between myself and
10 Rachel Grant, who was the DNA analyst in this case.
11 There are no recordings that I'm aware of..

12 Even if there were, Your Honor, I don't
13 know that they would have a grant to have anything
14 turned over to them unless, of course, it was
15 exculpatory, which we would turn over immediately.

16 THE COURT: Conversations between you and
17 the DNA person?

18 MS. CAMPBELL: Yes. Your Honor, in
19 addition to that, the latest -- and this is just the
20 latest one I've gotten from them on their e-mails,
21 they want the rest of the material regarding Patruan
22 Hare and Dameon Richardson.

23 We do have all that information from the
24 federal government. We just didn't want to turn it
25 over until we had the ruling from you today, Your

1 Honor.

2 THE COURT: What kind of material?

3 MS. CAMPBELL: The fee agreement and all
4 the stuff they're entitled to.

5 THE COURT: Okay.

6 MS. CAMPBELL: They also have requested
7 all the agreements and statements from Hare in which
8 he has cooperated as a State witness, at which point
9 Mr. Shealey indicates that he personally knows that
10 he's cooperated in other State cases before.

11 I would just ask for a ruling from Your
12 Honor on that matter. They apparently are aware of
13 more -- him cooperating in more cases than I am. I
14 know he did give a statement in other murder case
15 that was handled by my office in which Mr. Luke
16 Shealey represented that defendant.

17 MR. SHEALEY: That's what we're talking
18 about.

19 MS. CAMPBELL: But I'm not aware of
20 anything else beyond that. I don't know if they
21 have a right
22 -- they've already got the statement. I don't know
23 what else I can give them. We will be turning over
24 the federal documents as soon as we go through them.

25 THE COURT: All right.

43

1 MS. CAMPBELL: As far as they have gone
2 back and forth with requests on information from Ms.
3 Grant, I have produced everything Ms. Grant has.
4 They, of course, could have talked to her and gotten
5 an explanation from her. They have an expert, is my
6 understanding, if they wanted to do that.

7 Apparently, they did call her up this
8 morning and told her to be here today at 2:00. I
9 don't know what the purpose of that is.

10 THE COURT: Ms. Grant, again, who is she?

11 MS. CAMPBELL: She's the DNA analyst.

12 THE COURT: All right.

13 MS. CAMPBELL: I don't know the purpose of
14 that. I'm not aware of any other documents that can
15 be produced or that have to do with anything in this
16 case as far as DNA. I know she did call out to SLED
17 and was double-checking to make sure they don't have
18 any notes or anything that may have been run through
19 CODIS.

20 They are checking on that. But she
21 reference some information on pages 54 and 56, and
22 she's turned over all the documents she's got, is
23 what she told me. I'll be glad to get her up here
24 this afternoon and put it on the record, if that's
25 what they want.

1 They also asked for a phone line-up shown
2 to Sean Grimes. The photo is actually of Sean
3 Grimes -- to Sean Graham. They've already been
4 provided in discovery. It was a single photo,
5 basically confirming the identity of the person they
6 were talking about. And I may have missed, Your
7 Honor. I was not making notes when he was speaking,
8 so I don't know what else.

9 Your Honor, in addition to that, I will
10 say this. About three weeks ago, the last time they
11 did a motion to compel us to do testing in this
12 case, we sat down, Mr. Shealey and I did, afterwards
13 and went through the entire case jacket to try to
14 make sure we avoided any discovery problems.

15 He was present. I made him copies of
16 everything that he requested from the entire case
17 jacket at that point. So I'm not aware of anything
18 else that they are missing, other than they have a
19 right to the documentation on Patruan Hare which we
20 have. But we just got this Thursday night.

21 THE COURT: What is this case about? I'm
22 not familiar with anything about it, even though
23 we've been in here about an hour or so.

24 MS. CAMPBELL: I'm sorry.

25 THE COURT: What is this case about?

1 MS. CAMPBELL: Your Honor, this is a
2 murder case. The victim involved was a young lady
3 named Ebony Williams. She did have a relationship
4 with the defendant.

5 And on the night in question, there were a
6 series of phone calls. The witnesses talked about
7 those phone calls back and forth. According to the
8 State's theory, basically Mr. Wilkins went over
9 there. There were drugs involved.

10 When he got over there, at some point the
11 victim was actually choked with a ligature. We've
12 heard reference to that. It was actually like a
13 long piece of cloth that was choked around her neck.

14 After the murder, the State would allege
15 that Mr. Wilkins then poured accelerant on the body
16 and set her on fire. The fire did burn pretty
17 rapidly for a period of time, but then it kind of
18 burned itself out for lack of oxygen.

19 The police were called in the next
20 morning. When they got there, they found the body.
21 Parts of her were burned. Parts of her weren't.
22 They were able to do an autopsy and determine the
23 cause of death to be strangulation by the ligature.

24 Based on the investigation by the police,
25 it led to Mr. Wilkins. There were some extensive

1 DNA testing done on the ligature. In addition to
2 that, Your Honor, in the living room area near where
3 she was, there was also a single glove found in that
4 area.

5 There was DNA testing done on that too,
6 both of which linked directly -- one of them links
7 directly to the defendant, and one of them is DNA
8 that links him or any other fraternal member of his
9 family, linking them to the crime, as well.

10 THE COURT: Where did this happen?

11 MS. CAMPBELL: It happened over in Bethel
12 Bishop, right there off Beltline, near The Colony.
13 So The Colony is at the front, and then Bethel
14 Bishop. You actually see it on your right as you go
15 out 277. Those two-story buildings, that's Bethel
16 Bishop.

17 THE COURT: All right.

18 Mr. Shealey?

19 MR. SHEALEY: Thank you, Your Honor. And
20 we did review some discovery about a month ago,
21 maybe three weeks ago. But my memory is not
22 excellent, Judge. But I'd really just like to
23 reiterate, especially since Ms. Grant is going to be
24 here this afternoon, the CODIS from the glove that's
25 referenced in her report we would really like to

1 have to streamline this process, as well as the
2 first run on the neck ligature which in her report
3 is deemed to be inconclusive. We would like to have
4 that information in this case to go ahead and really
5 get going.

6 MS. CAMPBELL: There is no further
7 documentation to be turned over.

8 MR. SHEALEY: All right.

9 THE COURT: All right.

10 MS. CAMPBELL: And I do not have Ms. Grant
11 coming. They called her up. I mean, I could get
12 her here if you want it make it part of the record,
13 Your Honor. But I've spoken to her on at least six
14 occasions in the last week to try to make sure we
15 have everything.

16 And she just keeps telling us the same
17 thing. Now, she was checking with SLED since the
18 break. I'll double-check to make sure there's
19 nothing further.

20 THE COURT: All right. Anything about any
21 requested voir dire?

22 MS. CAMPBELL: I don't believe we have a
23 copy of our voir dire.

24 THE COURT: The State's voir dire?

25 MR. SHEALEY: Your Honor, I have several

1 testimony is secretive, not subject to
2 cross-examination during the Grand Jury proceeding
3 itself and certainly not during a trial. I'm not
4 going to allow that.

5 You made your proffer as to what you think
6 he might have said to the Grand Jury. You will have
7 opportunity to cross-examine him regarding
8 credibility of anything he's said or done in this
9 case that is germane to the issues in this case.
10 But I'm not going to waste any time allowing any
11 cross-examination of him at this time.

12 MR. MAY: Thank you, sir.

13 THE COURT: All right.

14 MR. SHEALEY: Your Honor, I guess we're
15 ready to go forward on the -- I believe I've already
16 covered number two, the motion to renew Rule 5. I
17 think we've already covered -- I think we started at
18 motion number three, a motion regarding the State's
19 failure to comply with our discovery demands. I
20 think Ms. Campbell addressed that, and I also was
21 very lengthy on those issues.

22 Your Honor, at this time, if you're
23 comfortable with going forward on number four, the
24 Riddle motion, Your Honor, pursuant to the Riddle
25 case, Your Honor, it's 369-SC-39. We're aware that

1 in this murder trial, the State used a co-defendant
2 case, a brother of the defendant at issue, to
3 testify against the defendant.

4 In that case, the prosecution became aware
5 basically in their investigation of the case of a
6 different version of events from the brother, who
7 testified against the defendant. This was not
8 disclosed. Therefore, this case came about.

9 Your Honor, this case calls for, of
10 course, any written and tangible documents along the
11 lines of Rule 5. It also calls for anything that's
12 of impeachment value or is exculpatory, any
13 conversations that anybody in the Solicitor's Office
14 has had with any other witnesses, and that's through
15 their investigators.

16 Your Honor, in the Bethel Bishop area this
17 alleged offense occurred, there are a number of
18 witnesses potentially in this case. So at this
19 time, we would request anything of impeachment value
20 or exculpatory. And, again, it's not necessarily --
21 I'm sure in this case, the Solicitor's Office is not
22 going to establish what's of impeachment value or
23 exculpatory.

24 But any change in any new information that
25 looks different from what we already have in

1 discovery that has come about since the discovery
2 was produced, we would ask that this information be
3 revealed at this time.

4 In this case, Your Honor, there are a
5 number of investigators on this case -- Investigator
6 Thomas, Investigator Reeves, and a number of others.
7 Investigator Reeves has no written notes at all in
8 this case. If he has any notes or reports or
9 anything, we would ask for that at this time.

10 Investigator McCracken similarly is
11 involved in this case and has not put pen to pencil
12 on any kind of report or anything like that. I
13 would request that at this time. Of course, I would
14 also request anything, any conversations that the
15 State has had with their snitch -- for better term,
16 I'll call it snitch witnesses -- that if they choose
17 to go ahead and go forward, we'd like any
18 information from them at this time, any
19 conversations they've had, and anything else they've
20 learned since the production of discovery that is
21 potentially exculpatory or of impeachment value.

22 THE COURT: All right. What says the
23 State?

24 MS. CAMPBELL: Your Honor, we've provided
25 the defense with everything. We have complied with

1 that rule.

2 THE COURT: All right. I have no way of
3 knowing whether they did or didn't. They said they
4 have.

5 MR. SHEALEY: Yes, Your Honor, they said
6 they've done it, and we've covered this on the
7 record. And then we presume nothing will come out
8 on the stand.

9 THE COURT: All right. Motion to
10 sequester?

11 MR. SHEALEY: Yes, Your Honor. Pursuant
12 to 615, that rule, we just ask to sequester State
13 witnesses, you know, of course, except for A. L.
14 Thomas, the lead investigator. And I would also
15 note that in this case, I see Investigator Reeves
16 sitting here.

17 Pursuant to all their notes, A. L. Thomas
18 is the lead investigator in this case, and Reeves
19 didn't write any notes. Therefore, I believe it
20 would be especially important that he is sequestered
21 so he's not just regurgitating what he hears in this
22 case and what Thomas is saying.

23 THE COURT: All right. What says the
24 State?

25 MS. CAMPBELL: Your Honor, that, as you

1 someone unduly transferring.

2 MR. SHEALEY: Yes, sir.

3 THE COURT: That's it for the time being.

4 What is the ministerial recorder's name, again?

5 MR. THOMAS: Off the top of my head, I
6 would say Angela Ladson.

7 MR. SHEALEY: She also does the search
8 warrant for the victim's house.

9 THE COURT: All right, you know who you're
10 looking for, at least, then.

11 MS. CAMPBELL: Thank you, Your Honor.

12 THE COURT: It looks like Ladson is her
13 last name.

14 All right, what's next?

15 MR. MAY: If I may approach, Your Honor?

16 THE COURT: Just back on the other issue,
17 you would need the original search warrant, as well.

18 MR. MAY: Yes, sir.

19 THE COURT: So that's part of what she
20 will need to bring.

21 MS. CAMPBELL: Okay.

22 MR. MAY: Your Honor, may it please the
23 Court?

24 THE COURT: Yes.

25 MR. MAY: This is not a written motion.

121

1 This is a motion regarding destruction of evidence.
2 It appears from the notes provided by the State
3 through discovery that the rape kit in the present
4 case went missing, and there is no rhyme or reason
5 why it went missing. If Your Honor will start
6 looking at page 55 through 57 -- and once you read
7 it, I'll be happy to start my argument.

8 THE COURT: Fifty-five through
9 fifty-seven, all right.

10 THE COURT: All right.

11 MR. MAY: Yes, sir, may it please the
12 Court, Your Honor?

13 THE COURT: Yes, sir.

14 MR. MAY: Your Honor, this case involves a
15 young lady who, for lack of a better term, had a lot
16 of gentleman callers. People would be in and out of
17 the house all the time. Your Honor, a rape kit, as
18 Your Honor is well aware, oftentimes can identify
19 the last person who the lady was with.

20 In this case, a rape kit, looking at the
21 terminology that Rachel Grant, the lab tech for
22 Richland County, uses, a rape kit was removed from a
23 box and went missing. Your Honor, it details what
24 she did to find this rape kit, details that the
25 person who's in charge of the Columbia Police

1 Department evidence room couldn't find, states "Had
2 them look in the back room. It's missing.
3 Investigator Thomas doesn't return telephone calls."

4 And it's not for four months that they can
5 even find this rape kit. Your Honor, the defense
6 moved to have the rape kit tested, because we don't
7 believe that it is Ebony Williams' rape kit. The
8 State precluded us from going forward on the
9 testing. They tested it to see if there's any male
10 DNA.

11 Well, there is no male DNA if they swapped
12 it out. Your Honor, we believe this is a
13 destruction of evidence. We do believe that under
14 California v. Trombetta and Arizona v. Youngblood
15 the State has the duty to preserve evidence,
16 preserve it in a manner that it doesn't deteriorate.
17 They didn't do it in this case.

18 There is a missing chain, which we
19 referenced earlier. Your Honor, we have a piece of
20 potentially exculpatory evidence that has gone
21 missing and that is untested. And, Your Honor, for
22 that reason, we ask the Court to consider further
23 remedy.

24 THE COURT: All right.

25 What says the State?

123

1 MS. CAMPBELL: May it please the Court,
2 Your Honor, he had Rachel Grant up here earlier and
3 released her from her subpoena to testify to this.
4 She referenced in her notes that she attempted to
5 get the rape kit back over and place it in another
6 part of the evidence room at CPD. It's not missing
7 or stored.

8 In fact, since then, at their request,
9 pursuant to their motion, we had this missing test
10 kit tested. And it does not implicate their client
11 in any way, so the testing has actually been done.
12 So I'm somewhat at a loss at how they're making a
13 motion to preclude the use of the evidence when in
14 fact it doesn't implicate their client.

15 Then on top of it, they're saying that we
16 lost it, and didn't do it. But at their request,
17 they did the initial testing originally, Your Honor,
18 on the CSC kit, and it came back with the presence
19 of no semen or anything.

20 So they didn't do any further testing, as
21 is customary. However, at their request, we
22 returned the kit, and it's been tested, and those
23 results have been turned over. So I'm just somewhat
24 at a loss here.

25 THE COURT: Yes, sir?

1 MR. SHEALEY: Yes, sir, may it please the
2 Court, Your Honor. I believe that the Solicitor
3 misrepresented several things. Referring to a
4 12-22-2009 entry in the log, "Received message from
5 Donna stating rape kit cannot be located." So it
6 was missing. We don't know where it was, just that
7 it only received the bare minimum.

8 We don't believe it suffices. We'll
9 address that in the future. Your Honor, what they
10 did is they looked for a Yfiler, which just means
11 they looked for a Y-Chromosome on the testing, after
12 we asked for it. We asked for it to be tested so
13 that we could see if it is even Ebony Williams'
14 standard.

15 We don't know because they didn't test it
16 the first -- we don't know because they didn't test
17 it. It goes missing. If it's not Ebony Williams'
18 standard, then you have destruction of evidence.
19 That's the reason why we asked them to test it.
20 They didn't.

21 They did not. They looked for male DNA
22 only, Y-Chromosome. They would not test whether or
23 not it was the standard from the deceased. We asked
24 to test it ourselves, which we were precluded from
25 by the State, Your Honor.

125

1 MS. CAMPBELL: That motion went in front
2 of Judge Cooper. He made no such finding. They're
3 talking about precluding them from doing things.
4 They made the motion for us to do additional testing
5 on the CSC kit, and we had it done.

6 Your Honor, I'm going to hand up the DNA
7 report, the original DNA report, which goes to what
8 the tester has done originally, and then they
9 requested additional testing be done, and we
10 complied with them. I do not believe number one.

11 MR. SHEALEY: Your Honor, when you're done
12 reading that, we can also shed some light on the
13 particulars.

14 THE COURT: All right, I'm done reading.

15 MR. SHEALEY: Your Honor, it has always
16 been our assumption by just purely reading Rachel
17 Grant's report and her notes saying that the rape
18 kit could not be located per the Columbia Police
19 Department. At that point in time, I filed a motion
20 to test the CSC kit.

21 Before that motion was ever heard, the
22 State did the testing that they wanted to do. By
23 the time we got in front of Judge Cooper, the State
24 was presenting information that it had been done,
25 and we got stuck with the bill.

1 Basically, we were precluded at a hearing
2 on the matter. That's the defense's opinion. And,
3 you know, my argument is the same as Mr. May's
4 argument. What they did -- and it will all come out
5 in the wash once the experts look at it and testify
6 about it, once Rachel Grant gets up there -- when it
7 was tested by the State as soon as I made my motion,
8 is they run on it Yfiler, which is looking for male
9 chromosomes, which does not exclude the victim from
10 the process.

11 It's just saying for the presence of any
12 males. We got this little report and a bill for a
13 whole lot of money, and it said there's no male DNA
14 here. But they want to exclude the victim's
15 standard against that, which they would normally
16 have to do to do other types of testing for the
17 presence of DNA, female and male.

18 So we were precluded from doing the
19 testing we wanted. They kind of -- you know, at
20 that point in time, the State had tested it. You
21 know, we were stuck with a bill, but we didn't get
22 any benefit. And now we're making it clear at a
23 pre-trial hearing what we're looking for. And this
24 was weeks before we argue today.

25 We will never know at this point whether

127

1 the testing has been done if what was lost has been
2 found, because they only tested for Yfiler, for the
3 presence of male DNA, no DNA found. But that
4 doesn't let us know if the kit that was lost and
5 then sent back with insufficient chain, which we
6 will argue, is actually the victim's rape kit.

7 THE COURT: Well, the forensic examination
8 report that I've been handed says "criminal sexual
9 conduct kit from Ebony Williams." Now, if the State
10 is unable to establish that this is Ebony Williams'
11 rape kit, then certainly that would be damaging
12 evidence for the jury to hear.

13 And, secondly, if it is established
14 through the testimony that evidence has been
15 missing, spoliated, destroyed and the Court has to
16 fashion a remedy, then there could be a negative
17 influence that the jury would be told that they
18 should draw from any evidence that the State has
19 destroyed, if there is deliberate destruction.

20 But I don't know what the facts will
21 reveal. I'm listening to a disputed version of
22 facts that you all have been giving. But it seems
23 that the testimony has to be presented and then
24 arguments made before any kind of conclusions can be
25 drawn regarding this issue.

1 MR. SHEALEY: Your Honor, then I would ask
2 that we need the Court to call Rachel Grant in the
3 morning after Angela Ladson, because, Your Honor,
4 the question then becomes if this cannot be proven
5 to be the victim's DNA, then exonerating evidence
6 has been destroyed.

7 And it becomes that issue because in her
8 notes it says it was removed, removed from the box,
9 which means there was an intentional act. At that
10 point, Your Honor, we get into the land of we can't
11 proceed with a full defense case because of the
12 actions of the Columbia Police Department.

13 THE COURT: Then we would have a trial
14 before the trial, which I'm not inclined to have.
15 The State has to establish chain of custody, and the
16 State must show that this evidence is what it
17 purports to be. And that's their burden before the
18 jury. I don't know why I need to hear it in advance
19 of the jury hearing it.

20 MR. SHEALEY: Your Honor, because under
21 Arizona v. Youngblood, 488 U.S. 51, that if
22 potentially exculpatory evidence is material and was
23 lost or destroyed in bad faith by the police, the
24 remedy is dismissal. Your Honor --

25 THE COURT: Well, I can do that during the

1 trial. I can throw the case out. I can direct a
2 verdict. I can do anything.

3 MR. SHEALEY: Yes, sir.

4 THE COURT: I'm sure it doesn't have to
5 have a hearing to decide it in advance.

6 MR. SHEALEY: I never -- Your Honor, I
7 apologize. We had to address it at the appropriate
8 time.

9 THE COURT: All right.

10 MS. CAMPBELL: Your Honor, may I hand up
11 Arizona v. Youngblood?

12 THE COURT: Yes.

13 MS. CAMPBELL: Thank you.

14 THE COURT: All right, what else do we
15 have?

16 MR. MAY: Your Honor, the next one kind of
17 dovetails nicely. Your Honor, again, this goes to a
18 more vital issue. We believe we've been turned over
19 not a complete chain.

20 We're putting the State on notice that if
21 and when they intend to introduce evidence, if we
22 have not been provided a chain, as of now we're
23 moving -- we believe the appropriate remedy is to
24 exclude the evidence. It is so bad, Your Honor,
25 that we're making this motion so that all parties

1 are on notice.

2 THE COURT: That they must present the
3 chain of custody to you before the trial --

4 MR. SHEALEY: They haven't presented it.
5 Right now, we don't have it.

6 THE COURT: -- or during the course of the
7 trial?

8 MR. MAY: Yes, sir. And, Your Honor,
9 normally they give us copious amounts of chain.
10 That hasn't been provided. We've asked for it.
11 We've asked for it. It hasn't been provided.

12 So, Your Honor, we're just making this --
13 just making sure it's clear as mud that if they
14 intend to go forward without the appropriate chain,
15 then we believe that the appropriate remedy is
16 exclusion of evidence.

17 THE COURT: That's the remedy given in all
18 cases of critical evidence, isn't it? It's always
19 excluded if they don't establish the chain.

20 MR. MAY: Well, Your Honor, I just don't
21 want them to find a mysterious piece of paper from
22 Arthur Thomas and then, "Oh, here it is. Oh, we're
23 sorry."

24 Again, this has been the worst discovery
25 issues I've ever had with this office. We can't get

131

1 them. And we're just trying to make sure we make
2 the record and make sure it's complete with our
3 demands and our requests.

4 THE COURT: All right, Ms. Campbell?

5 MS. CAMPBELL: It's ironic that I've heard
6 that before. But, Judge, in this case, of course,
7 we have to establish chain of testimony, as we
8 always do in every case, and we are prepared to do
9 that. I don't know under what theory -- I don't
10 know what they're arguing hasn't been provided
11 basically. We don't generally provide chain. We
12 put it up through testimony, and we will comply with
13 those requirements.

14 THE COURT: He wants you to prove to him
15 that you can establish the chain through presenting
16 discovery to him to show that you can establish the
17 chain. I think that's what I'm hearing.

18 MR. MAY: Yes, sir. Normally, there are
19 chain forms that are given in all cases. They have
20 not been provided in this case.

21 MS. CAMPBELL: No, sir.

22 MR. MAY: Signature, date when the
23 evidence was taken in. Normally, we get chain
24 evidence. We have not received any of this, and
25 it's just that we've never seen this before.

1 So we're just making the Court aware, the
2 Solicitor aware, and I'm sure they're going through
3 it. If not, then we'll have some motions in the
4 future. I know you don't like trying cases
5 beforehand.

6 THE COURT: Well, within the next year,
7 you all will probably be taking depositions --

8 MR. SHEALEY: If Your Honor would let us.

9 THE COURT: -- prior to.

10 MR. MAY: I won't be here next year. But
11 if Your Honor will allow them, I'm sure that Mr.
12 Shealey and Mr. Shealey will take depositions in
13 every case.

14 THE COURT: All right.

15 MS. CAMPBELL: And we'll provide the chain
16 in the way we always do as far as testimony before
17 the Court.

18 THE COURT: All right, what's next?

19 MR. SHEALEY: Your Honor, I don't know if
20 you have all the papers there, the motion list.
21 We're on number 12, motion to suppress all evidence
22 gained as a result of the defendant's incarceration
23 based on the defense's assertion of a faulty arrest
24 warrant.

25 Your Honor, we talked about search

143

1 MR. SHEALEY: Your Honor, the next motion
2 is a motion to preclude testimony of Patruan Hare
3 under Rules 401, 403, and 404(b). This is a
4 gentleman we were talking about earlier who's a
5 State's witness. This is a statement he provided in
6 June of last year, which I imagine is substantially
7 similar to the type of thing he would be testifying
8 to.

9 Essentially, he asserts that he was housed
10 in the same dorm, Juliette, with Mr. Wilkins. And
11 basically as it goes on, it's kind of a conversation
12 about learning what he knows about the case, what
13 the allegation is, this and that.

14 But to me, the ultimate issue here and the
15 reason why he's being put up by the State is
16 anything that Mr. Hare could testify to as to
17 whether Ahmad Wilkins did it or not. And
18 essentially, if I can phrase the middle of page one,
19 "They started to argue. He choked the bitch but
20 said it wasn't the same night that she ended up
21 dead."

22 But to me, Your Honor, the ultimate issue
23 is even their State witness, unless he's going to
24 say something different which we haven't been told
25 so far, is saying that our client choked her some

1 other night, and it wasn't even the night in
2 question.

3 So that to me smacks of why is it relevant
4 to this. Why are we talking about it? If it's not
5 talking about the night in question, then we're
6 running afoul of 404(b). This is just a bad act.
7 Referencing bad acts of my client is more
8 prejudicial than probative.

9 It goes on to cite how he went to prison
10 for nine months, about he was running from police,
11 refused to turn himself in till his father convinced
12 him, and then how Mr. Hare says that Mr. Wilkins
13 kept lying about his whereabouts, sending police on
14 a wild goose chase.

15 I mean, things like that are simply bad
16 acts that without him saying that he did aren't
17 relevant to this. They're just slander. So I would
18 argue that this isn't relevant, that it's simply
19 prejudicial, and these are bad character attacks
20 about something that doesn't have anything to do
21 with this case. And we haven't been made aware that
22 he's testified to anything else, because they didn't
23 file a Riddle motion this morning. They argued
24 that.

25 THE COURT: All right, Ms. Campbell?

145

1 MS. CAMPBELL: May it please the Court,
2 Your Honor. I think this goes to the weight and not
3 the admissibility of the evidence under whatever
4 theory they're going on, 401, 403, or 404(b).

5 He admits to choking her. It's not
6 unusual in a jail for a defendant to elaborate or
7 make up things. And this case goes to the weight of
8 the testimony itself, not the admissibility.

9 And as far as what Mr. Hare can testify to
10 that the defendant explained to him would be up to
11 the jury to decide what is credible and what is not.
12 Therefore, they have the right to hear that evidence
13 from him.

14 MR. SHEALEY: And I wouldn't make this
15 motion usually. But it's so specific, it's almost
16 exculpatory. It says, "They started to argue. He
17 choked the bitch but said it wasn't the same night
18 that she ended up dead."

19 So he's specifically saying -- whether you
20 believe it or not, Mr. Wilkins is saying it's not
21 the night in question. So what he's talking about
22 is a bad act under 404(b).

23 I mean, it's the same as whether he told
24 Mr. Hare that he has a real habit of beating women
25 or kicking dogs. And we understand that it really

1 doesn't matter because he said it's not the same
2 night, per their State witness, Mr. Hare.

3 So how is this relevant? Had he said,
4 "Yes, that night I choked her and then I left. I
5 don't know what happened . . .," I think then that
6 goes to the weight. They can certainly present that
7 to a jury and say, "Well, what do you think he means
8 when he says he choked her?" But here, their
9 witness specifically says it's not that night.

10 THE COURT: When would the flammable gas
11 have gotten on his clothes, on the previous page, as
12 well?

13 MR. SHEALEY: I think he was referencing
14 about what the allegation is. I don't know. Which
15 page are you on?

16 THE COURT: Page one. "He also said they
17 got his DNA off some cigarettes he was smoking from
18 inside the ashtray" --

19 MR. SHEALEY: Right.

20 THE COURT: -- "where they were sitting
21 and said they got the clothes he was wearing and
22 said they had traces of flammable gas on them."

23 MR. SHEALEY: Well, that's interesting
24 because there's no DNA off cigarettes. And it
25 actually goes to the weight of whether you can

1 believe Mr. Hare.

2 But it doesn't matter because he's saying
3 this is the wrong night. Even as bad as he wants to
4 make it sound, talking about my client's case with
5 him and the evidence in that issue, he's not even
6 saying this is not the night.

7 Again, why is it relevant? And the rest
8 is just, you know, in terms of the police looking
9 for him, he sent them on a wild goose chase and all
10 that, that doesn't have much bearing on this except
11 for to show he's a bad guy and he wants to lie and
12 run from the police.

13 MS. CAMPBELL: But that doesn't apply if
14 it's generally admissible.

15 THE COURT: Pardon me?

16 MS. CAMPBELL: I believe the evidence
17 applied is generally admissible. In addition to
18 that, Your Honor, I mean, for him to come into Court
19 and say the defendant does not minimize his
20 culpability or his actions.

21 The fact that he made admission of choking
22 her is specifically pretty significant in this case
23 because she died as a result of that. There's
24 nothing unusual at all in my experience -- Your
25 Honor, I'm sure you've had more experience than I

1 have -- for a defendant to minimize their
2 involvement but to make certain admissions to
3 underlying bad acts.

4 THE COURT: Based on what I've heard at
5 this point, there may have to be some redaction
6 done. But the entire statement would not be
7 excluded based on what I've heard at this point.

8 As far as he choked her but she didn't die
9 that night, the evidence the State has is that the
10 death occurred between some hour and some other hour
11 when her body was discovered the next day.

12 All of that would be up to the jury to
13 kind of listen and figure out the extent to which
14 this may implicate this defendant or not. Of
15 course, part of their being in prison -- some of
16 this has to be redacted, and we'll have to get into
17 how much of it has to be.

18 MR. SHEALEY: Your Honor, is your ruling
19 essentially that the statement comes in -- about
20 prison and things like that, because our contention
21 is that this is a prior bad acts statement under
22 404(b).

23 THE COURT: Well, it's up to the jury to
24 determine. First, I find that it is admissible.
25 The weight that the jury would give to whether he's

149

1 talking about something else or not, I don't see on
2 its face that it's referencing some other situation
3 other than the murder of this victim.

4 MR. SHEALEY: He is talking about the
5 victim allegedly. If you believe what he's saying,
6 this choking didn't happen during this event, is
7 what it looks like to me. That's why we bring this
8 up.

9 THE COURT: I understand.

10 MR. SHEALEY: It's almost like a CDV case
11 where you know -- you're on trial for beating her,
12 but you start talking about how you beat her at some
13 other unrelated date that you're not on trial for.

14 THE COURT: The record doesn't reflect
15 that he knows at all at this point. So the
16 testimony has to fill in the blanks regarding the
17 relationships and contexts and everything else.

18 MR. SHEALEY: Yes, sir.

19 THE COURT: All right.

20 MR. SHEALEY: We did skip one, I believe,
21 number 16. This is generally a motion -- violated
22 404(b). You know, it's a general caution so they
23 can divide their lay witnesses who might be in here
24 to talk about, you know, burglaries they did with
25 our client, or that he likes to do to people's heads

1 and talk, or whatever it may be.

2 There are some things in discovery. I
3 know that they know how to prep their witnesses.
4 But as a general cautionary request, we would ask
5 for that, Your Honor.

6 THE COURT: All right, I issue that
7 general cautionary charge to the State to not allow
8 witnesses, or instruct the witnesses, or ask
9 questions in such a manner that it doesn't violate
10 Rule 404.

11 Mr. MAY: Your Honor, we just have two
12 more. I don't know if you want to take up number 18
13 before
14 -- if he decides to testify -- I guess this may be a
15 little premature -- regarding shackling.

16 THE COURT: We'll have to have it where
17 the jury doesn't see his shackles. I'm not going to
18 create a security risk by having him roam free --

19 MR. MAY: Yes, sir.

20 THE COURT: -- like everyone else in the
21 courtroom.

22 MR. MAY: He needs to be as free as
23 everybody else. When he's called to the stand, he
24 should walk up there. But we can address that if he
25 takes the stand.

152

1 MS. CAMPBELL: Your Honor, the only thing
2 that we would note in the statements that are found
3 to be in that report, it does note in the first
4 footnote I believe that the purpose of opening
5 statements is so that the jury can have an outline
6 of what the evidence may show or what the defenses
7 may be.

8 That would pretty much, respectfully, Your
9 Honor, defeat that purpose if in fact they don't
10 have to do it. And our position, Your Honor, is it
11 kind of just makes them get another shot at closing
12 argument.

13 THE COURT: Well, those occur according
14 while into the usual procedures. But that's what
15 they want to do.

16 MR. SHEALEY: Your Honor, then I guess if
17 we can get Patruan Hare and Richardson's information
18 that the State referenced earlier regarding plea
19 agreements and fee agreements.

20 THE COURT: All right.

21 MS. CAMPBELL: I believe you already have
22 from his lawyer that list. But I'll provide you
23 with another copy.

24 THE COURT: All right, what else do we
25 have?

1 they do not agree on copies that exist. There are
2 representations made that this is the search
3 warrant. These are copies of the search warrant,
4 and I find no defect otherwise.

5 All right, what else? Are we ready for
6 the jury?

7 MR. MAY: Your Honor, just real quick.
8 Did you receive a note from the jury, by chance?

9 THE COURT: No.

10 MR. MAY: Okay.

11 THE COURT: I received one from Christine.
12 Do you want to read it?

13 MR. MAY: No, sir. I just wanted to make
14 sure.

15 MR. SHEALEY: The last discovery issue in
16 this case is simply that as of right now, we still
17 haven't received the Patruan Hare information that
18 the State promised to give us. We're still waiting
19 on it, Judge.

20 THE COURT: All right.

21 MS. CAMPBELL: Your Honor, I'll get it for
22 them right now. I will note that they said that
23 they do have all the information, that they had
24 gotten it independently. But we will provide it to
25 them.

230

1 MR. SHEALEY: I have some things. I don't
2 know what I'm missing until I get through the file,
3 Judge.

4 THE COURT: All right. Yes, ma'am.?

5 MS. SIMPSON: Your Honor, if the defense
6 is finished with their motions, there are a couple
7 of motions by the State.

8 THE COURT: All right.

9 MS. SIMPSON: Briefly, Your Honor, with
10 respect to third-party guilt, the State would move
11 to suppress evidence of third-party guilt. We will
12 concede that there are allowed to go into Edris
13 Wilkins. However, with respect to anyone else on
14 the issue of third-party guilt, we would move that
15 that be suppressed.

16 Edris Wilkins is the defendant's brother
17 in this case. And based on some reciprocal
18 information that they have provided to us, we
19 anticipate that they may be going into that. And we
20 are fine with that. It is just with respect to
21 anybody else.

22 I know there's been made reference to some
23 guy who she was in an argument with at some time.
24 Your Honor, with respect to those things, we would
25 ask that you preclude the defense from going into

1 those matters. I'll be happy to address the law, if
2 required, on that issue.

3 THE COURT: From the defense?

4 MR. MAY: Your Honor, if we decide to put
5 up third-party guilt evidence, we will comply with
6 the rules at the appropriate time. Right now, we
7 don't know what the defense is putting up.

8 THE COURT: All right.

9 MS. SIMPSON: Your Honor, additionally,
10 this may not come up till later on in the trial, the
11 State would move to preclude the defense from going
12 into any other cases, specifically such as Justin
13 Mallory or reference to the Innocence Project,
14 things of that nature. They have a name -- to go
15 into those things, and for purposes at this juncture
16 or later, we would ask that they be precluded from
17 mentioning those.

18 THE COURT: All right.

19 MS. SIMPSON: Because they are irrelevant
20 to this case.

21 MR. MAY: They'll be happy to object if we
22 do that. I don't know what we're going to say.
23 And, Your Honor, I believe that we're allowed to
24 complete a full and complete defense.

25 THE COURT: I try not to choose the words

1 this experience will be a meaningful experience to
2 you.

3 I will do all that I can to not waste any
4 time, to keep the case moving, and to not wear you
5 out with having to sit for long periods of time
6 listening to people talk. I know that it might be
7 an unusual experience for many of you to have to be
8 confined in a controlled setting like this.

9 So if at any time you need a break, just
10 get my attention and we will take a break, because I
11 want you to be as fresh as possible so that you can
12 do the job that you have taken an oath to do.

13 And with that, we will begin with opening
14 statements from the State, Ms. Walker.

15 MS. WALKER: Thank you, Your Honor, may it
16 please the Court?

17 THE COURT: Yes, ma'am.

18 MS. WALKER: Good morning.

19 THE JURY: Good morning.

20 OPENING STATEMENT

21 BY THE STATE

22 MS. WALKER: When Ebony Williams'
23 neighbors looked at her apartment on February 3,
24 2009, the windows were completely dark, and they
25 thought that she had moved out. It was a simple

1 explanation and one that Ebony's mother to this day
2 wishes were true.

3 They went and reported to the manager over
4 at the Bethel Bishop apartment complex that they
5 thought Ebony moved out. And at that point in time,
6 the complex's maintenance man, Roberto Santana, went
7 to go check on the apartment.

8 He knocked on the door, and his knocks
9 went unanswered. He then used his key to unlock the
10 door. And when he opened the door, smoke came
11 pouring out of that apartment. 911 was then called,
12 and a few minutes later, the Columbia Fire
13 Department arrived.

14 When they walked into Apartment 33F, the
15 apartment that belonged to Ebony Williams, they
16 noticed that soot was covering just about every
17 square inch of that apartment. It was on the
18 floors. It was in the kitchen. And it was covering
19 windows. And soot is what gave the windows their
20 dark appearance.

21 When they looked around that apartment,
22 they saw that smoke detectors in that apartment were
23 disabled and that there was a blanket on Ebony
24 Williams' carpet in her living room that was charred
25 and burned.

1 Under that blanket was a body. It was
2 Ebony Williams. She had been strangled to death.
3 She had been wrapped in a blanket. She had been
4 doused in gasoline and set afire.

5 Ladies and gentlemen, Ahmad Wilkins has
6 been charged with murder, and that's what brings us
7 here to the Richland County Courthouse this week.
8 This state defines murder as the intentional killing
9 of a human being with malice aforethought.

10 As Judge Newman told you, the burden in
11 this case is beyond a reasonable doubt. It is an
12 undoubtedly high and heavy burden, but it is one
13 that we welcome with open arms, because this, the
14 strangulation and murder of Ebony Williams, is a
15 serious matter.

16 It is serious to the State, it is serious
17 to the defendant, and it's serious to Ebony's
18 family. Ladies and gentlemen, I am Assistant
19 Solicitor Meghan Walker. And this week, Assistant
20 Solicitors Luck Campbell, Nicole Simpson, and I will
21 prove to all of you beyond a reasonable doubt that
22 on February 3, 2009, Ahmad Wilkins strangled Ebony
23 Williams to death and murdered her, and then in an
24 attempt to cover his crime, set her on fire.

25 Ebony Williams was 22 years old when she

1 died. She had been living in her apartment at
2 Bethel Bishop for a little over a year. She had
3 aspirations of becoming a nurse's assistant. But
4 like all of us, she was an imperfect person.

5 She had demons that she struggled with and
6 battled every day. Ebony Williams was addicted to
7 cocaine, and her addiction led her to the defendant,
8 Ahmad Wilkins, who by his own admission was her drug
9 dealer.

10 You will hear a lot of evidence through
11 witnesses. You'll see pictures this week. Two of
12 the people that you're going to hear from this week
13 are Cynthia Jackson and Sean Grimes. They were
14 neighbors of both the defendant and the victim in
15 this case.

16 They all lived at the Bethel Bishop
17 apartment complex. And over the course of their
18 investigation, Investigators Thomas and Reese from
19 the Columbia Police Department interviewed Cynthia
20 Jackson and Sean Grimes.

21 In those interviews, Cynthia Jackson and
22 Sean Grimes said that Ahmad Wilkins was at their
23 apartment during the early morning hours of February
24 3, 2009. Cynthia Jackson said that her apartment
25 phone began ringing. She answered the phone, and it

1 was Ebony Williams looking for Mad.

2 That's the defendant's nickname. They
3 call him Mad. She told Ebony not to call the
4 apartment because it was late, she had children that
5 were sleeping, the next day was a schoolday, and
6 they needed their rest.

7 She told Ebony to start calling Mad on her
8 cell phone, and she did. You will see the cell
9 phone records that corroborate that. Sean Grimes,
10 who shared that apartment with Cynthia Jackson, was
11 in the living room with the defendant when the
12 defendant starts receiving phone calls from Ebony
13 Williams.

14 She was looking for cocaine. And he told
15 her, "I'm on the way. Leave the back door open."
16 Sean Grimes then told investigators that the
17 defendant left his apartment and headed in the
18 direction of Ebony Williams' apartment.

19 Ladies and gentlemen, when the defendant
20 got to Ebony's apartment, he and the victim smoked
21 marijuana and ingested cocaine. While he was there,
22 he began to demand from Ebony Williams that she have
23 sex with him. And when she refused, he became
24 enraged.

25 He took the belt from her bathrobe,

1 wrapped it around her neck, and he strangled her to
2 death. And she fought. You will see the pictures
3 in this case. She fought for her life. By the end
4 of that struggle, things were knocked off of a
5 bookcase. The CD player, the DVD player in her
6 living room was strewn across the floor.

7 But although unsuccessful, Ebony's fight
8 was not in vain, because as she struggled to remove
9 that rope as the defendant fought with her to keep
10 that belt tied around her neck to choke her, DNA was
11 left on that belt. You will hear from Rachel Gray.
12 She's a DNA expert with the Richland County
13 Sheriff's Department.

14 She will tell you about how she analyzed
15 the DNA in this case and that the DNA on that belt
16 that was used to strangle Ebony when she breathed
17 her last breath, is a match for Ahmad Wilkins or any
18 paternally related relative, any male on his
19 father's side.

20 She will also tell you about a glove that
21 was found at the scene where Ebony was killed. That
22 glove -- the DNA on that glove is a match for Ahmad
23 Wilkins. In addition to the DNA that you will hear
24 about and the pictures you will see in Ebony
25 Williams' apartment, you're going to hear from a

1 young lady named Nicole Grimes.

2 Nicole Grimes is the defendant's
3 girlfriend. She is the mother of his daughter.
4 Nicole Grimes was also interviewed by police. She
5 says at some point on February 3, 2009, the
6 defendant left their apartment for a couple of
7 hours.

8 When he came back those early morning
9 hours, he paced the apartment floor saying "Oh, my
10 God. Oh, my God. Oh, my God." And he kept looking
11 out the window. Not only will you hear from Nicole
12 Grimes on the stand, but you're going to hear from
13 here in a series of recorded phone conversations
14 that she had with the defendant.

15 And please, please pay attention to these
16 phone conversations. They are truly enlightening.
17 For the majority of the phone conversations, Nicole
18 Grimes is speaking to the defendant just like I'm
19 speaking to you right now. She's loud. At times,
20 she's excited.

21 But towards the end of that conversation,
22 you'll hear her start to whisper. She says to the
23 defendant, "You know they took a picture of that
24 glove." She knows the glove is a problem.

25 The defendant then tells her he's not

1 talking about that over the phone, because he knows
2 that the glove contains his DNA at the apartment
3 where Ebony Williams was murdered. But pay close
4 attention to Nicole Grimes and what she says,
5 especially on those phone conversations.

6 Ladies and gentlemen, in addition to the
7 phone records, the telephone conversations that
8 Nicole Grimes had with the defendant, you will also
9 hear other witnesses who took pictures and collected
10 evidence that are important in this case.

11 And the end of that, the answer to every
12 possible question about who killed Ebony Williams
13 will be Ahmad Wilkins. Who was the last person to
14 have a phone conversation with Ebony Williams before
15 she died? Ahmad Wilkins.

16 Who was overheard saying "Leave the back
17 door open. I'm on the way"? Ahmad Wilkins. Whose
18 DNA is on the glove that's found at Ebony's
19 apartment? Ahmad Wilkins. Whose DNA is on the belt
20 that was used to strangle Ebony Williams to death?
21 It's a match for Ahmad Wilkins.

22 You're also going to hear from a man named
23 Patruan Hare. We know what happened in the
24 apartment between Ebony Williams and Ahmad Wilkins
25 because the defendant confessed to Patruan Hare.

247

1 He'll get on the stand, and he will tell you what
2 the defendant said to him, information the defendant
3 gave him that only Ebony Williams' murderer could
4 know.

5 That's the answer to the final question.
6 Who knew what happened in Ebony's apartment? Who
7 gave that information to Patruan Hare? And who
8 confessed with information that only Ebony's
9 murderer would know? Ahmad Wilkins.

10 Once we've answered those questions for
11 you, ladies and gentlemen, what's been proven in
12 this case beyond a reasonable doubt, once we've left
13 you firmly convinced of this defendant's guilt,
14 we're going to come back before you, and we're going
15 to ask you to hold Ahmad Wilkins accountable for
16 what he did to Ebony Williams on February 3, 2009,
17 hold him accountable for her strangulation and
18 murder. We're going to ask you to return a verdict
19 of guilty against Ahmad Wilkins for murder. Thank
20 you.

21 THE COURT: For the defense, Mr. May.

22 MR. MAY: Yes, sir. May it please the
23 Court?

24 THE COURT: Yes, sir.

25 OPENING STATEMENT

1 BY THE DEFENSE

2 MR. MAY: What she says was true would
3 constitute evidence of guilt. It's not true. I ask
4 you to look at the evidence that is put up here.
5 Don't listen to conclusory statements which a large
6 portion are inherently inaccurate.

7 Look at what happened. Look at what they
8 conclude. And it is vastly different than what she
9 got up here and just said. I had an opening already
10 written out. But after hearing so many blatant
11 falsehoods, I'm kind of at a loss.

12 I'll try to get on with, but I apologize
13 for that. It's disturbing to see what's supposed to
14 be a minister of justice say things that are
15 blatantly not true. Y'all will be able to see with
16 the witnesses. Y'all will be able to see that's not
17 true.

18 They say they welcome with open arms the
19 burden. They don't, because in this case, they got
20 the wrong guy. Ineptitude, inadequacy, and
21 incompetency really dictate this entire
22 investigation.

23 I don't know what y'all's thoughts are on
24 CPD. They're aren't good. Those men right here,
25 they did not do a good investigation. They found

249

1 somebody that they want to be a suspect, and then
2 they make the evidence fit.

3 Look at the blatant misrepresentations
4 they've told judges so far. Look at the blatant
5 misrepresentation of these timelines. Y'all will be
6 able to see what they believe had happened. And
7 now, as this trial starts going, they're going to
8 try to move, they're going to try to dodge.

9 As they see their evidence is faulty,
10 they're going to try to distance themselves from it.
11 Look at the timeline that they established when they
12 swore out the arrest warrant and see if they stick
13 with that timeline.

14 We don't know what they're going to do,
15 because they're already distancing themselves from
16 some things. You didn't hear her mention a video
17 which they've tied their entire case to. Look at
18 that. See if the timeline is right for every single
19 thought they've had until yesterday.

20 Look at their investigation. Y'all have a
21 very rare job, and that's to sit in judgment of a
22 citizen. But it's also to sit in judgment of these
23 folks. Only you can hold the government
24 accountable.

25 Not only do you sit here to judge Ahmad

1 Walkins, you also sit here to judge them. You will
2 see that the ineptitude, the inadequacy, and the
3 incompetency of this case run throughout.

4 Not only will they distance themselves
5 from previous evidence which they tied themselves
6 to, you will see a rape kit went missing and has
7 never been tested -- a rape kit. Now, I don't know
8 about y'all, but that's a big piece of evidence in
9 our line of work.

10 It went missing out of a sealed box. We
11 don't know where it was. We don't know who had it.
12 We don't know what happened. You will see that
13 affidavits from search warrants are missing in this
14 case. You will see that timelines are wrong.

15 You will see that the forensic evidence
16 which she says is a match, that's not what the
17 forensic experts are going to say. I ask you to
18 listen to them. I ask you to listen to all the
19 evidence. At the end, you're going to see that they
20 just don't have it.

21 Kevin Reese, Arthur Thomas, the
22 investigators, the professional witnesses for the
23 State, you will hear that Kevin Reese takes no notes
24 so that way he cannot be held accountable for what
25 he did or didn't do. I don't know of any

251

1 profession, much less an investigator, who takes no
2 notes.

3 But he doesn't in every case, so that way
4 he's a ghost, and he can fit his testimony to
5 whatever helps the State, and he can morph it.
6 Investigator Thomas, look at the statements he's
7 made under oath so far, and you will see that they
8 are blatant misrepresentations of what occurred with
9 one goal is they found somebody they wanted to go
10 down for a crime.

11 It's a cold case. They want to solve it.
12 I wish they had solved it, because there's nothing
13 more tragic than what has happened. A young girl
14 was snuffed out in the prime of her life. That's
15 awful. Nobody is going to say she deserves it.
16 Nobody is going to say that she had it coming to
17 her.

18 Now, you're going to hear things that she
19 had her own demons, as Meghan said, and she did.
20 It's replete in their notes that she had a drug
21 habit, and she did a lot of things to feed that
22 habit. But she didn't deserve to be treated as she
23 did on that night.

24 Nobody is saying she did. What we're
25 asking you to do is we're asking you to not compound

1 a tragedy. Don't send an innocent man a guilty
2 verdict when he didn't do it. That only makes this
3 case more tragic.

4 Look at the timeline. We will show you
5 that the person that they believe, at least until
6 yesterday, is Ahmad Wilkins can't be. You didn't
7 hear anything video, but that is their entire case
8 until very recently.

9 Look at what they base their case on. Now
10 look at how they're running it. There's evidence of
11 videos. I don't know if y'all know where Bethel
12 Bishop Apartments is. It's off Beltline.

13 If you're driving up 277, you can see two-
14 story apartments on your right, a section of
15 housing. And that's where this occurred. Because
16 it's under the authority of the Columbia Housing
17 Department, there are cameras. And the cameras,
18 while aren't good, still catches some stuff. And
19 that was largely what they based their investigation
20 on.

21 It's an amazing thing that, even though he
22 doesn't write down notes so that means he can change
23 his testimony, and they don't mention stuff that has
24 been part of their entire investigation the entire
25 time, there are some things you can't change.

1 You can't change known times. You can't
2 change what that big eye in the sky sees. I don't
3 know if y'all have ever been recorded before. My
4 entire since about 14 to 23, I played football in
5 college at Vanderbilt, got a master's degree by
6 playing football.

7 And the one thing that I always learned
8 was that there was always a video camera watching
9 me. No matter what you did, if you ever messed up,
10 there's a video camera. And those things can't
11 change.

12 Now, when those men take the stand,
13 they're not going to answer why they said that a
14 certain person on the video was Ahmad Wilkins. It
15 can't be. We don't know what their theory in the
16 case is going to be. We've asked them. They won't
17 tell us.

18 But we know that this video that was so
19 pertinent, this wasn't mentioned by Ms. Walker. We
20 don't have to prove innocence, but we're going to
21 prove that the people that they believed at least
22 until yesterday, that's not Ahmad Wilkins.

23 He sits cloaked in a robe of
24 righteousness, cloaked in complete innocence, and
25 the State must prove his guilt beyond a reasonable

1 doubt. What's a reasonable doubt? It's kind of an
2 amorphous term. It's hard to describe.

3 I don't know if y'all have had times when
4 you had to make truly life-changing decisions, when
5 there is no way to go back. I can only speak for my
6 experiences. At least when my grandmother fell down
7 the stairs with a subdural on the brain, because
8 she's on coumadin, they had to start giving her
9 blood clotters.

10 They started giving her blood clotters.
11 She started having strokes. We had to have a
12 decision as a family, after looking at her living
13 will, are we sure that she can't recover. That's
14 what this decision is about. Are you sure he did
15 it? It's beyond a reasonable doubt.

16 Were we sure beyond a reasonable doubt
17 that my grandmother could not be the same woman she
18 was, because she had a condition in her living will
19 that said if she had no quality of life, she didn't
20 want to live. Were we sure beyond a reasonable
21 doubt before we put in a feeding tube?

22 We got down, and we sat down and looked at
23 the evidence, and it was a close decision. But we
24 gave her the doubt. We gave her, "Okay, let's see
25 if she can make it." She's started walking with a

255

1 walker now. She's still not the same woman, but
2 she's getting better because we gave her that doubt.

3 That's what the law states that y'all have
4 to do. We don't have to prove his innocence. We
5 can prove what they said earlier isn't true. It's
6 hard to prove a negative. It's hard to prove that
7 something didn't happen.

8 He did not kill Ebony Williams. The
9 State's case, the Columbia Police Department, much
10 maligned and rightly so, shows ineptitude,
11 inadequacy, and incompetence. The idea of a jury
12 trial, the idea of law, is -- at least Aristotle
13 said that law is reason-free compassion.

14 They want you to think about this tragedy.
15 We want you to think about the evidence. They want
16 you to think about the horrible thing that was done
17 to Ebony Williams' body. We want you to think about
18 who did it, because we know that it's not this man.
19 It's not Ahmad Wilkins.

20 We want you to think about the facts as
21 presented instead of conclusory statements made by
22 the State. If you hold them to their burden, which
23 they say they welcome, do not let them distance
24 themselves from it. It's beyond a reasonable doubt.

25 A reasonable doubt is the amount of doubt

1 that makes a reasonable person hesitate to act --
2 hesitate to act. That's a high burden. I guarantee
3 you that each and every one of you will hesitate to
4 act.

5 And if you do what she asked you to do,
6 hold them to this burden, your verdicts will be not
7 guilty. And with a not guilty verdict, hopefully
8 they will instruct a disciplined investigation to
9 see who did this crime, because right now, they've
10 got the wrong man. And nothing good can come out of
11 convicting the wrong person. Thank y'all very much.

12 THE COURT: First witness, please.

13 MS. SIMPSON: The State calls Marsha
14 Poitier.

15 MS. CAMPBELL: I believe she is
16 sequestered.

17 THE COURT: I'll ask you to stand for a
18 moment, ladies and gentlemen, if you would. All
19 right.

20 (The witness was sworn.)

21 CLERK OF COURT: Have a seat in the
22 witness box, state your name for the record, and
23 spell it, please.

24 MS. POITIER: My name is Marsha Poitier.
25 It's M-A-R-S-H-A P-O-I-T-I-E-R.

Marsha Poitier - Direct

257

1 MARSHA POITIER, having first been duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SIMPSON:

5 Q Ms. Poitier, how old are you?

6 A I'm 51.

7 Q And are you married?

8 A No, ma'am.

9 Q Do you have any children?

10 A Yes, ma'am.

11 Q And are you from Columbia?

12 A No, ma'am.

13 Q Where are you from?

14 A Miami, Florida.

15 Q Miami. How long have you been living in
16 Columbia?

17 A About ten years.

18 Q Ten years. Are you currently living in
19 Columbia?

20 A Yes, ma'am.

21 Q Where do you live?

22 A [REDACTED] Columbia, South
23 Carolina.

24 Q Are you working now?

25 A No, ma'am.

1 Q Are you retired?

2 A Sort of.

3 Q Sort of?

4 A Yes, ma'am.

5 Q And back in 2009, February of 2009, were
6 you working then?

7 A Yes, ma'am.

8 Q And where were you working?

9 A At Bethel Bishop Chappell Memorial
10 Apartments.

11 Q And so that's an apartment complex?

12 A Yes, ma'am.

13 Q And in what capacity were you working at
14 Bethel Bishop?

15 A I was the property manager.

16 Q And as property manager, tell the jury a
17 little bit about what you did, all your duties.

18 A I oversee the day-to-day operation of the
19 property for 200 families, and I maintained a staff
20 of five, three maintenance and two office staff. I
21 walk the property daily, do inspections, inspect the
22 grounds, deal with complaints, put out fires, so to
23 speak.

24 Q So you did all kind of stuff --

25 A Yes.

Marsha Poitier - Direct

259

1 Q -- pretty much all-inclusive?

2 A Yes.

3 Q And back on February 2nd and 3rd of 2009,
4 were you property manager then?

5 A Yes, ma'am.

6 Q And you're familiar with the residents in
7 Bethel Bishop, right?

8 A Yes, ma'am.

9 Q Because frequently, you were there almost
10 every day?

11 A Every day, yes, ma'am.

12 Q And I want to turn your attention to the
13 day of this incident on February 3, 2009. Were you
14 working on that day?

15 A Yes, ma'am.

16 Q Do you remember what you were doing before
17 you went to Ebony's apartment?

18 A I was in the office preparing bills to
19 send off to the main office.

20 Q All right. And what happened to make you
21 go to that apartment?

22 A Well, we had a phone call stating that
23 they thought she had moved because they saw a U-Haul
24 truck.

25 Q And let me stop you just for a second.

Marsha Poitier - Direct

260

1 Was that earlier that morning you're saying they saw
2 it, or did you not really have a time frame?

3 A I didn't have -- no, I didn't have a time
4 frame.

5 Q So other residents thought she had moved?

6 A Yes. And maintenance called -- Mr.
7 Santana called and said that the windows were black.
8 And me and Ms. Butler, the office assistant -- I
9 mean, assistant property manager -- I told him to
10 wait there and we'll be there. When we got there,
11 we noticed that the windows were black, and --

12 Q Let me stop you, too. Black windows, is
13 that unusual?

14 A Yes, ma'am.

15 Q Tell us why.

16 A Because the backing has to be white.

17 Q And that's an actual requirement in the
18 complex?

19 A Yes.

20 Q Had other residents asked for tinted
21 windows on occasion --

22 A No, ma'am.

23 Q -- if they could have it?

24 A They're not allowed to.

25 Q So you arrived, and you saw black windows.

Marsha Poitier - Direct

261

1 What happened next?

2 A We thought it was probably a grease fire,
3 because normally that's what will happen if they
4 have a grease fire. But as we got closer, we
5 noticed that the blinds were melted.

6 Q And these blinds, where were they located
7 -- on the windows?

8 A On the windows, yes.

9 Q Once you saw that the blind were melted,
10 what did you do next? And let me stop. Who all was
11 with you at this point?

12 A Mr. Santana and Sherrese Butler.

13 Q And Mr. Santana, what does he do?

14 A He's the maintenance.

15 Q And Ms. Butler, what work did she do?

16 A She's the assistant property manager.

17 Q So you were at the apartment at that time?

18 A Yes, ma'am.

19 Q Then what happened?

20 A We proceeded to go up to the door. As we
21 got to the front door, we noticed that there was
22 black smoke around the door. And Mr. Santana
23 knocked on the door. We didn't get an answer.

24 Q And the black smoke around the door, did
25 you actually see flames or hot fire at this point?

Marsha Poitier - Direct

262

1 A No, ma'am.

2 Q So it wasn't actively burning?

3 A No, ma'am.

4 Q All right. So you knocked on the door, or
5 Mr. Santana did. And then what happened next?

6 A We proceeded to -- we went upstairs first
7 to check and see if anything was going on upstairs,
8 because that was an empty unit. When we opened the
9 doors, light smoke was in that unit. So we
10 proceeded to go back downstairs to open her door.

11 Q And we're talking about units and doors.
12 Do you remember or recall -- I know it was a while
13 ago -- what apartment building this was?

14 A Thirty-three.

15 Q And where did Ms. Williams reside?

16 A Thirty-three F.

17 Q And so the apartment above her, what would
18 that have been?

19 A Thirty-three H.

20 Q Okay. Thirty-three H, that unit was
21 actually vacant?

22 A Yes, ma'am.

23 Q All right. And after you all went
24 upstairs and saw the smoke and then came back down,
25 what happened next?

Marsha Poitier - Direct

263

1 A We proceeded to open her door.

2 Q And whose door do you mean?

3 A Ebony's, 33F.

4 Q And how were y'all able to open it?

5 A With the master key.

6 Q Who had the maintenance key?

7 A Maintenance and office staff.

8 Q So after you all opened the door, what did
9 you see?

10 A Smoke came out of the unit -- not too dark
11 but medium smoke.

12 Q All right. And was it hot or cold or just
13 regular temperature?

14 A I'm not sure. It was just smoke, and we
15 backed up because it started to choke us.

16 Q Okay. So you were choking when the smoke
17 came out?

18 A Yes, ma'am.

19 Q And at that point you were choking, Mr.
20 Santana was standing there?

21 A Yes, ma'am. All three of us backed up,
22 and then Mr. Santana proceeded to try to see if he
23 could clear the smoke from this unit.

24 Q Okay. So y'all were waving the smoke to
25 see if you could see in it, right?

1 A Yes, ma'am.

2 Q And were you all able to actually see into
3 the apartment?

4 A After Ms. Butler walked off, me and Mr.
5 Santana kind of was able to poke our head in.

6 Q Okay. But you all didn't actually go into
7 the apartment?

8 A No, ma'am. No, ma'am.

9 Q So you all see smoke. And what do you do
10 next?

11 A Well, when we saw what we saw, we backed
12 up, and Santana called 911, called for the fire
13 department.

14 Q And after you called -- now, who actually
15 talked to 911? Did you talk, or did Ms. Butler, or
16 do you remember?

17 A I think Mr. Santana called, and then I
18 think he handed me the phone.

19 Q Somebody called 911?

20 A Yes, ma'am.

21 Q If you remember, was this early morning,
22 late afternoon, early afternoon?

23 A Early afternoon, probably about 12:30,
24 1:00.

25 Q Twelve-thirty to one o'clock. So what

Marsha Poitier - Direct

265

1 happened next? What did you do after calling 911?

2 A We just stepped outside and waited, and
3 the fire department came.

4 Q And the fire department. So you all
5 didn't go in?

6 A No, ma'am.

7 Q You stood outside. How long did it take
8 the fire department? Was it slow, fast, a few
9 minutes?

10 A Three or four minutes after that, after
11 the call.

12 Q So fairly quickly?

13 A Yes, ma'am.

14 Q And when you looked in -- and I want to
15 back up. And you actually spoke with police about
16 this incident, right?

17 A Yes, ma'am.

18 Q I believe you spoke with them on two
19 occasions?

20 A Yes, ma'am.

21 Q And you gave statements in this case?

22 A Yes, ma'am.

23 Q And on that day when you looked into the
24 apartment, are you able to remember what you saw?

25 A We just saw something that looked like it.

Marsha Poitier - Direct

266

1 was wrapped up in a comforter or something like
2 that.

3 Q Okay. And you could just tell that it was
4 something wrapped up. You really couldn't tell what
5 it was?

6 A No, ma'am.

7 Q And did you notice anything about the
8 smoke detectors?

9 A The smoke detector was missing.

10 Q And the globe, the white globe?

11 A Yes, ma'am.

12 Q It was also missing?

13 A Yes, ma'am.

14 Q Do you know the last time that Ebony had
15 contact with your office?

16 A I don't remember exactly when.

17 Q Had she been calling checking for her
18 mail? Do you recall that?

19 A Yes, she had called on that.

20 Q I want to talk to you -- and back up just
21 a little bit -- about Bethel Bishop itself. Now,
22 what kind of housing community is this?

23 A It's a multifamily subsidized housing.

24 Q And on the grounds, are there cameras?

25 A Yes, ma'am.

Marsha Poitier - Direct

267

1 Q About how many cameras do they have in
2 place -- or did at the time?

3 A About 23 cameras. I'll say 13 of them was
4 active.

5 Q So you had some dummy cameras.

6 A No, all of them --

7 Q They're real cameras. They're just not --

8 A All of them work, but we had 13 that
9 functioned with --

10 Q With surveillance?

11 A Yes, for that area.

12 Q And in your time, were you familiar with
13 the video surveillance --

14 A Yes, ma'am.

15 Q -- at Bethel Bishop?

16 A Yes, ma'am.

17 Q I'm going to show you what has been marked
18 as State's Exhibit Sixty-Nine. Do you recognize
19 this?

20 A Yes, ma'am.

21 Q And is that the video from Bethel Bishop?

22 A Yes, ma'am.

23 MS. SIMPSON: Your Honor, at this time the
24 State would introduce State's Exhibit Sixty-Nine
25 into evidence.

Marsha Poitier - Direct

268

1 THE COURT: What says the defense?

2 MR. MAY: Your Honor, as long as we can
3 view it to ensure that the entire thing is on there,
4 we have no objection.

5 THE COURT: All right, it's admitted.

6 (State's Exhibit Sixty-Nine, Video, was
7 entered in evidence.)

8 MS. SIMPSON: Thank you, Your Honor.

9 Q Now, these cameras -- law enforcement
10 actually spoke to you, right?

11 A Yes, ma'am.

12 Q And one investigator, do you remember his
13 name?

14 A I can't. No, ma'am, I can't remember.

15 Q Did he actually record you at one point?

16 A I can't remember.

17 Q You don't remember.

18 A No, ma'am.

19 Q You just know you talked to police?

20 A Yes, ma'am.

21 Q And did someone come and view the video
22 cameras with you at some point?

23 A One of the detectives did. They didn't
24 actually view it. They just wanted to know which
25 camera was which and which camera was pointed where.

Marsha Poitier - Direct

269

1 Q Okay. Were you able to tell them that?

2 A Yes, ma'am.

3 Q And did you just tell them, or did you
4 show them on the map, too?

5 A I showed them on the map, as well.

6 Q And do you remember viewing a camera at
7 some point in this case where a person was located
8 behind Ebony's building?

9 A Yes, ma'am.

10 Q And do you remember was that with
11 investigators, or did you just see it on your own?

12 A No, I saw it with deputies and an
13 investigator.

14 Q Okay. So you actually viewed the video
15 with investigators?

16 A Yes, ma'am.

17 Q And you were able to see some person
18 behind Ebony's building on that video at some point
19 during that video?

20 A Yes, ma'am.

21 Q I know it's been a while. Now, after the
22 fire department comes, at some point did you learn
23 anything else about what happened inside, about what
24 was going on?

25 A Yes, ma'am.

Marsha Poitier - Direct

270

1 Q And what did they tell you at that time?

2 MR. MAY: Objection, Your Honor, hearsay.

3 MS. SIMPSON: I'll withdraw the question.

4 Q Thank you, Ms. Poitier.

5 THE COURT: By the defense?

6 MR. MAY: Yes, sir, may it please the
7 Court, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MAY:

10 Q Hello.

11 A Hi.

12 Q I'm going to show you something that's
13 been provided to us, okay?

14 A Yes, sir.

15 Q Okay. What is that?

16 A This is a map of the property.

17 Q That's a map of the property. And is that
18 a fair and accurate representation of the property?

19 A Yes, sir.

20 Q And where those numbers are, is that where
21 each camera is? Can you see? She says she needs
22 her glasses.

23 THE COURT: The question is can she see.
24 Was that your question to her?

25 MR. MAY: She says she can't see. She

Marsha Poitier - Cross

271

1 needs her glasses to be able to see.

2 THE COURT: Where are they?

3 If you could speak a little louder, as
4 well. Speak into the mike.

5 A Yes, sir.

6 Q And the numbers are exactly where the
7 cameras are located?

8 A Yes, sir.

9 Q And the cameras at Bethel Bishop
10 Apartments are multiangled?

11 A Yes, sir.

12 Q They oftentimes rotate between different
13 angles and are just flashes a lot of times?

14 A Yes, sir.

15 Q I'm also going to show you something else,
16 and you tell me if you recognize this.

17 A Yes, sir.

18 Q And what are those?

19 A These are work orders.

20 Q For?

21 A Building 30F.

22 Q And that is where this occurred, correct?

23 A Yes, sir.

24 MR. MAY: Your Honor, I'm marking these as
25 Defendant's One and Two and submit them into

Marsha Poitier - Cross

272

1 evidence.

2 MS. SIMPSON: Your Honor, at this time I
3 would just ask to be able to read Defendant's One
4 and Two.

5 MR. MAY: Okay.

6 MS. SIMPSON: Without objection, Your
7 Honor.

8 THE COURT: Admitted without objection.

9 MR. MAY: Mark these one and two, please.

10 COURT REPORTER: Oh, one and two?

11 MR. MAY: Yes, Defense One and Two.

12 COURT REPORTER: Exhibit Number One is a
13 property map, and number two is the work orders.

14 MR. MAY: Thank you, ma'am.

15 (Defendant's Exhibit Number One, Property
16 Map; and Defendant's Exhibit Number Two, Work
17 Orders, were entered in evidence.)

18 Q Now, on the day in question you went there
19 with Mr. Santana?

20 A Yes, sir.

21 Q And he had to use his key to unlock the
22 door?

23 A Yes, sir.

24 Q And the door was locked through a
25 deadbolt?

Marsha Poitier - Cross

273

1 A Yes, sir.

2 Q You can't lock yourself out. It's just
3 only a deadbolt lock, correct?

4 A Yes, sir.

5 Q And at this location, there was no signed
6 of forced entry?

7 A No, sir.

8 Q It was just merely locked. When Mr.
9 Santana opened the door, black smoke came out?

10 A Yes, sir.

11 Q You said that the black smoke was down to
12 about three or four feet off the ground, just
13 sniffing, filled the apartment?

14 A Yes, sir.

15 MR. MAY: I beg the Court's indulgence,
16 Your Honor. No further questions at this time, Your
17 Honor.

18 THE COURT: Anything further?

19 MS. SIMPSON: Brief redirect.

20 REDIRECT EXAMINATION

21 BY MS. SIMPSON:

22 Q In addition to the front entryway, was
23 there another entrance in that home on the back
24 side?

25 A Yes, ma'am.

1 Q And what kind of door was that?

2 A The patio door.

3 Q The patio. Was it a sliding glass door or
4 one that's --

5 A A sliding glass door.

6 Q Okay.

7 Nothing further, Your Honor.

8 THE COURT: Anything further?

9 MR. MAY: No further questions, Your
10 Honor.

11 THE COURT: Thank you, ma'am. You may
12 step down.

13 Next witness.

14 MS. WALKER: The State calls Roberto
15 Santana.

16 (The witness was sworn.)

17 CLERK OF COURT: Have a seat in the
18 witness box. State your name for the record and
19 spell your last name, please.

20 MR. SANTANA: My name is Roberto Santana.

21 ROBERTO SANTANA, having first been duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. WALKER:

25 Q Will you spell your last name for the

Roberta Santana - Direct

275

1 Court Reporter, Mr. Santana?

2 A S-A-N-T-A-N-A.

3 Q Mr. Santa, where are you currently
4 employed?

5 A Bethel Bishop Apartments.

6 Q And where do you live, sir?

7 A I live in Elgin, South Carolina.

8 Q In Elgin?

9 A Yes, ma'am.

10 Q Where are you from, Mr. Santana?

11 A I'm originally from Panama, Central
12 America.

13 Q Is that Panama?

14 A Panama, Central America.

15 Q Were you employed at Bethel Bishop back in
16 2009?

17 A Yes, ma'am.

18 Q And what is it that you did at Bethel
19 Bishop?

20 A I'm a maintenance man.

21 Q I want to take your attention back to
22 February of 2009. Do you recall being notified by
23 some of the tenants out there about a possible
24 problem at one of the apartments?

25 A Yes, ma'am. I was working -- I think I

Roberta Santana - Direct

276

1 was going to do some work in the area, and this
2 resident stopped me and asked me if I know what
3 happened in the other apartment that had the windows
4 black, you know?

5 Q You said the windows were black?

6 A They were black, yes. And I told them
7 that the resident maybe had a black bag, you know,
8 in the windows. And after she left, I walked back
9 to the apartment to make sure. And I looked around
10 there, and I saw a little smoke around by the door
11 jamb. So I called the manager, and I told her what
12 I saw, you know. So she said, "Wait for me. I'll
13 try to get over there."

14 Q So after you looked around and you saw --
15 you said you looked in the windows, and they were
16 black with smoke?

17 A Yes, ma'am.

18 Q And you saw smoke around the door. Is
19 that what you said?

20 A Around the door jambs, yes, ma'am, front
21 door.

22 Q Okay. Once you called the apartment
23 manager, what did you do?

24 A She told me to wait for her to come over
25 there, and I was just waiting for her to come.

Roberta Santana - Direct

277

1 Q Okay. Did she eventually come over there?

2 A Yes, ma'am.

3 Q And when she got there, what did y'all do?

4 A We knocked on the door, and then when we
5 opened the door to see, you know. And that's where
6 when you walk inside there's the door frame, there
7 was a lot of smoke. So we can't walk too much in
8 there because you can't see nothing in there.

9 Q Okay.

10 A She called the office to call the fire
11 department.

12 Q So when you opened the door, the smoke
13 came out. Did it feel like it was hot?

14 A It don't feel much like it was hot, you
15 know. There was a lot of smoke. That's all it was.

16 Q There was a lot of smoke, but it didn't
17 feel like it was hot?

18 A No.

19 Q Could you ever -- once some of the smoke
20 cleared out, could you ever see anything in that
21 apartment?

22 A We didn't stay that long to find out, you
23 know. We just saw the smoke in there, and we just
24 come outside. And that's when she called the fire
25 department. So we didn't went back inside until

Roberta Santana - Direct

278

1 after the fire department got there. So we just
2 stood outside.

3 Q Okay. Did you ever go inside that
4 apartment?

5 A No, ma'am.

6 Q Did the apartment complex manager ever go
7 inside that apartment?

8 A Well, when we did when we opened the door
9 the first time. We did went right at the front
10 door, you know, of the house.

11 Q You said you stepped inside the front
12 door?

13 A Inside, yes.

14 Q And then the smoke hit you?

15 A Yes, it was smoke in there, you know. So
16 that's when --

17 Q So you backed out?

18 A -- we called the fire department, yes.

19 Q And after 911 was called, did they show
20 up?

21 A The fire department is the one that showed
22 up.

23 MS. WALKER: Beg the Court's indulgence,
24 Your Honor.

25 THE COURT: All right.

Roberta Santana - Direct

279

1 MS. WALKER: No further questions, Your
2 Honor.

3 MR. MAY: Your Honor, before I start, may
4 I approach?

5 THE COURT: Yes, sir.

6 MR. MAY: Beg the Court's indulgence for
7 one second. May it please the Court, Your Honor?

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. MAY:

11 Q Hello, Mr. Santana. How are you doing?

12 A How you doing?

13 Q Now, when you opened the front door, a lot
14 of black smoke came out?

15 A It was not -- it didn't come out that
16 much, you know. When we opened it, we just stepped
17 inside there to see, but we can't see that much,
18 just the smoke in there, you know.

19 Q There was a lot of smoke?

20 A Lot of smoke.

21 Q So you decided not to go in?

22 A Yes.

23 Q You called 911?

24 A Right.

25 Q The fire department came. Now, you tried

Roberto Santana - Cross

280

1 the back patio door also, didn't you?

2 A We didn't go to the back door.

3 Q Did you ever go around?

4 A No, huh-uh.

5 Q Now, you said the air coming out was a
6 little warm. When you stepped in the front door,
7 the air was a little warm?

8 A I can't remember right now. But I know
9 there was smoke in there, you know. We tried to
10 look around to see if we see anything, but you could
11 see almost nothing in there, you know.

12 Q Yes, sir. And there were no signs of
13 forced entry?

14 A No.

15 Q And none of your gas supply from the shop
16 was missing, was it?

17 A No, sir.

18 MR. MAY: Beg the Court's indulgence. No
19 further questions, Your Honor.

20 THE COURT: Anything else from this
21 witness?

22 MS. WALKER: Nothing, Your Honor.

23 THE COURT: All right, thank you. You may
24 step down.

25 Your next witness, please.

Roberto Santana - Cross

281

1 MS. SIMPSON: The State calls Officer
2 Larry Walker.

3 (The witness was sworn.)

4 CLERK OF COURT: Have a seat in the
5 witness box and state your name for the record.

6 MR. WALKER: Officer Larry Walker,
7 Columbia Police Department.

8 DIRECT EXAMINATION

9 BY MS. SIMPSON:

10 Q Officer Walker, what agency are you with,
11 again?

12 A City of Columbia Police Department.

13 Q And how long have you been with CPD?

14 A May will be six years.

15 Q Six years?

16 A Yes, ma'am.

17 Q And what do you do at the Columbia Police
18 Department?

19 A Right now, I'm on the PACE Team.

20 Q PACE Team, what is that?

21 A Proactive Community Enforcement. We're
22 basically in charge of communities, dealing with
23 community complaints, hitting the streets daily,
24 address complaints in the community.

25 Q Speak up just a little bit. The

Larry Walker - Direct

282

1 microphone doesn't help a whole lot. So you're
2 active in the community like a foot patrol
3 essentially now, too?

4 A Yes, ma'am.

5 Q And back on February 2, 2009, what
6 capacity were you working in at that time?

7 A At that time, I was on the North Region
8 CRT Team, the Community Response Team, which is
9 basically the same thing. But at that time, there
10 were a separate entity. Instead of one team as it
11 is now citywide, it was just the North Region.

12 Q Okay. So y'all are split up into regions?

13 A Yes, ma'am.

14 Q And at that time, you worked for the North
15 Region?

16 A Yes, ma'am.

17 Q What area of Columbia is that?

18 A North Region is basically Elmwood Avenue
19 north to I-20.

20 Q Okay. And did you actually have occasion
21 to become involved in this case?

22 A Yes, ma'am, I did.

23 Q Can you tell us how you became involved
24 and where you responded?

25 A Yes, ma'am. On that day, I was on regular

Larry Walker - Direct

283

1 patrol. Officer Johnson -- R. Johnson -- who is a
2 police officer here in the city, was on direct
3 patrol in the complex at [REDACTED], which is a
4 common occurrence for back then around the holiday
5 time because we had to direct the patrol for
6 overtime.

7 Officer Johnson noticed the fire
8 department was going to a call in the apartments, to
9 Building 33, at which point he called on the radio
10 stating there was a fire.

11 MR. SHEALEY: Objection, Your Honor,
12 hearsay.

13 Q Okay. As a result of Mr. Johnson's --
14 what he observed, were you all called out at this
15 point?

16 A We went to back him up because of a fire
17 in the nature -- there are a lot of people in that
18 complex -- in reference to possibly having to
19 evacuate people if it's a bad enough fire, yes,
20 ma'am.

21 Q When you initially responded, were you
22 aware of anything but a potential fire call?

23 A No, ma'am. At the time we arrived, it was
24 just a normal fire call.

25 Q So you responded to [REDACTED]

Larry Walker - Direct

284

- 1 Avenue?
- 2 A [REDACTED] yes, ma'am.
- 3 Q Do you recall what apartment?
- 4 A Thirty-three F.
- 5 Q And what county is that located in?
- 6 A Richland County.
- 7 Q And I know -- how many scenes would you
- 8 say you've responded to?
- 9 A A lot.
- 10 Q A lot. And does your office maintain
- 11 reports with respect to?
- 12 A Yes, ma'am.
- 13 Q And at what time were you actually
- 14 dispatched in this case?
- 15 A Looking back at the incident report that I
- 16 did, dispatch time was at 13:20, which is 1:20 in
- 17 the afternoon.
- 18 Q So 1:20 in the afternoon?
- 19 A Yes, ma'am.
- 20 Q And what time did you actually arrive?
- 21 A Time of arrival is showing at 13:21, 1:21.
- 22 Q So when you got on scene, Officer Johnson
- 23 was there?
- 24 A Yes, ma'am.
- 25 Q Who else was on scene when you arrived?

Larry Walker - Direct

285

1 A By my report showing that Rescue 3 was on
2 scene, first responders from the fire department.

3 Q And so Rescue 3 is the fire department?

4 A Yes, ma'am.

5 Q And what did you learn when you arrived on
6 scene?

7 A I made contact with Officer Johnson, who
8 was already there with the fire department there.

9 Made contact with him. He stated to me --

10 MR. SHEALEY: Objection.

11 A The fire department stated when they made
12 entry into the apartment, they found an unknown body
13 severely burned and covered in a blanket.

14 Q After you learned about the body covered
15 in a blanket, what did you do next?

16 A The next thing we did, we secured the
17 scene completely and notified the proper command,
18 which at that point was my supervisor at the time,
19 Lucille Clark.

20 Q And by securing the scene, can you tell
21 the jurors what all is involved in actually securing
22 a scene?

23 A Once a scene is deemed needed to be
24 secured and locked down, as we call it, we take our
25 crime tape, completely rope it off, cover all access

Larry Walker - Direct

286

1 points from the front to the back, front door, side
2 door, windows, anything that somebody can make entry
3 or leave the property.

4 We post one officer, which in this case
5 was Officer Johnson, as a scribe who takes notes of
6 who comes in and out of the crime scene. And the
7 other officers make sure nobody else comes in or out
8 without touching base with him.

9 Q With respect to the crime scene, do y'all
10 expand it as much as you possibly -- where you think
11 the incident might be contained and separate?

12 A If Investigations sees fit, we get a
13 general purpose area, and then Investigations tells
14 us if they want us to go out farther or not.

15 Q So you all secured the scene. And you
16 said a crime scene log?

17 A Yes, ma'am. We have a scribe that writes
18 down, which in this case was Officer Johnson, since
19 he was the first one on scene -- who writes down who
20 comes and leaves.

21 Q And did you actually go into the home?

22 A No, I never went into the crime scene --
23 into the actual apartment, I should say. We're on
24 the outside of the crime scene.

25 Q And was this scene eventually -- I know

Larry Walker - Direct

287

1 you said others were called out. Was this case
2 turned over to someone else within your office?

3 A Once the proper people were notified,
4 Investigations came out, our supervisors came out,
5 as well as other people involved -- crime scene
6 investigation and so forth.

7 Q So it's not your job to essentially speak
8 with witnesses and gather statements in a case like
9 this?

10 A No, ma'am, not unless directed to.

11 Q So once you turned it over, was that the
12 extent of your involvement in this case?

13 A Yes, ma'am.

14 Q Thank you.

15 MR. SHEALEY: May it please the Court?

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. SHEALEY:

19 Q How are you doing, Officer Walker?

20 A Good. How are you?

21 Q Good. You just testified that you got
22 there after Officer Johnson, right?

23 A Correct.

24 Q Okay. You're on the PACE Team now?

25 A Yes, sir.

Larry Walker - Cross

288

1 Q You've been on the CPD for about six
2 years?

3 A Yes, sir.

4 Q And I imagine you've gone through a lot of
5 training in your six years there?

6 A Yes, sir.

7 Q Initially, you had to go through the
8 academy?

9 A Yes, sir.

10 Q And basically learn how to be in law
11 enforcement?

12 A Correct.

13 Q They don't let everybody do that. You've
14 got to have training. Tell me about your training
15 at the academy.

16 A At that time, it was nine weeks at the
17 academy, anywhere from legals to crime scene
18 securing, firearms, and driving, you name it. What
19 we do on the job, they trained us in.

20 Q All right. Crime scene securing, you
21 testified about that a little bit.

22 A Correct.

23 Q Now, in your six years after you graduated
24 from the academy -- because you did graduate --

25 A Yes, sir.

Larry Walker - Cross

289

1 Q -- did you receive any additional
2 training?

3 A We have yearly updates in training
4 provided by the academy. Their training is provided
5 to us.

6 Q All right. I believe you're referencing
7 your report in this case. Do you have your report
8 with you?

9 A Yes, I do.

10 Q I saw you referring to it.

11 A Yes, sir.

12 Q So that's why you know that this occurred
13 on February 3rd because you looked at your report,
14 right?

15 A Correct.

16 Q Ms. Simpson asked you about what time you
17 were dispatched. You were able to recall that
18 because you looked at your report and stated 13:20,
19 or 1:20, right?

20 A Correct.

21 Q And you can look at your report and see
22 when you left?

23 A Actual depart time was 16:30, 4:30 in the
24 evening.

25 Q All right. You can look at the address

1 as?

2 A [REDACTED]

3 Q You can see who the complainant was?

4 A Correct, Mr. Santana.

5 Q All right. It's very helpful for you to
6 have a written report, right?

7 A Yes.

8 Q And it's helpful for you to do that when
9 you're trying to secure a crime scene, see if you
10 can look at it and see who was there, right? In
11 this case, you put in your report that you
12 understand that Officer Johnson was there, right?

13 A Correct.

14 Q You can see at what time or what date your
15 approving officer on the bottom signed this thing,
16 right?

17 A Correct.

18 Q You have to have a supervising officer
19 sign it, right?

20 A Correct.

21 Q What does your supervisor officer do?
22 Does he check your report?

23 A He has to proofread the report and then
24 submit it up the chain, yes, sir.

25 Q It is important?

Larry Walker - Cross

291

1 A Correct.

2 Q All right. And you did not go into this
3 apartment?

4 A Correct.

5 Q But you did secure the scene?

6 A Correct.

7 Q Taped it up?

8 A Put up crime scene tape, make sure nobody
9 goes in or out.

10 Q You expanded outside of the area of just
11 the apartment but including a little out?

12 A Correct.

13 Q Tell the jury about how far you expanded
14 it.

15 A As far as I can recall, we went from the
16 edge of the wood line, which is roughly 20 feet from
17 the back door, put crime tape up there, came across,
18 went around the back side of the apartment to the
19 front side of the apartment, including the walkway
20 and stairwell.

21 Q Okay. Now, you didn't let anybody in that
22 crime scene that wasn't supposed to be there, did
23 you?

24 A No, sir.

25 Q Okay. It's not your job to investigate

Larry Walker - Cross

292

1 witnesses, and I think you testified to that, right?

2 A Correct.

3 Q Yet, you did a report?

4 A Correct.

5 Q So you could answer these questions I'm
6 asking you?

7 A Correct.

8 MR. SHEALEY: Beg the Court's indulgence.

9 Nothing further, Judge.

10 MS. SIMPSON: No redirect, Your Honor.

11 THE COURT: All right, thank you, sir.

12 You may step down.

13 Ladies and gentlemen, we're going to take
14 about a five-minute break. We're going to come back
15 and hear some more testimony. We're going to go a
16 little past one before we break for lunch. Please
17 go to the jury room. Please do not discuss the
18 case.

19 (Jury out at 12:28 p.m.)

20 THE COURT: We're going to take about five
21 minutes.

22 (Court in recess.)

23 MR. MAY: Your Honor, as we're waiting for
24 the rest of the State to get back, we're going to
25 [inaudible].

Larry Walker - Cross

293

1 THE COURT: All right.

2 MR. MAY: We've been provided no rap
3 sheets of their witnesses. If they could give them
4 to us, we could start thinking about if there's any
5 issues.

6 THE COURT: All right, witnesses' rap
7 sheets.

8 MS. SIMPSON: For the record, Marsha
9 Poitier did not have a rap sheet. We turned over
10 Santana's convictions, and I will give y'all the
11 defendant's, Nicole Grimes, and Sean Grimes. That's
12 who I have. The rest will be dates of birth.

13 MR. MAY: Cynthia Jackson, too.

14 MS. SIMPSON: I mean date of birth. We'll
15 get it to you.

16 MR. MAY: Okay, thank you.

17 THE COURT: All right, bring them on.

18 (Jury in at 12:40 p.m.)

19 BAILIFF: The jury is seated.

20 THE COURT: All right, next witness.

21 MS. SIMPSON: The State calls Capt.

22 Phillip Joyner.

23 (The witness was sworn.)

24 CLERK OF COURT: Have a seat in the
25 witness box. State your name for the record,

Larry Walker - Cross

294

1 please.

2 MR. JOYNER: My name is Phillip Shane
3 Joyner, Columbia Fire Department.

4 COURT REPORTER: Joyner?

5 MR. JOYNER: Yes, ma'am, J-O-Y-N-E-R.

6 PHILLIP SHANE JOYNER, having first been
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SIMPSON:

10 Q Capt. Joyner, how long have you been with
11 the Columbia Fire Department?

12 A I've been with the Columbia Fire
13 Department for 12 years.

14 Q Twelve years. And what are your duties at
15 the fire department?

16 A I'm the captain. I oversee day-to-day
17 operations of certain stations. We've got two
18 stations that are under me and six personnel that
19 are under me. I conduct training.

20 I run certain fire scenes until a higher
21 officer gets there and can take command. I run
22 medical calls, fires, wrecks, pretty much anything
23 people would call 911 for.

24 Q You say you've been working there for 12
25 years, and you're in a captain's position?

Phillip Joyner - Direct

295

1 A I am.

2 Q What other positions have you held?

3 A At the time of this incident, I was an
4 engineer on Rescue 3, so that's right under a
5 captain. I would actually drive the truck and be in
6 charge of the equipment and the people under us.

7 Q Tell us a little bit about your training.

8 A Being with a rescue company, we do a lot
9 of specialized training. We respond to any kind of
10 building or house fire. We do vehicle extrications
11 if somebody is trapped in a vehicle.

12 We do any kind of water rescue, high-level
13 rescue where we'd have to rappel down and get
14 someone, confined space rescue, cats out of trees.
15 Just really anything that somebody would call 911
16 for, we have to prepare to do that.

17 Q You said you actually conduct some of the
18 training. You train others?

19 A Yes.

20 Q Tell us a little bit -- well, how many
21 calls would you say you've responded to since 2009?

22 A Hundreds.

23 Q Hundreds. And can you tell us a little
24 bit about the protocol you use when responding to a
25 scene and how that varies?

Phillip Joyner - Direct

296

1 A If we're going to something like a medical
2 call, we have a certain protocol we follow. We are
3 first responders, so we would take the victims' or
4 the patients' information, try and get blood
5 pressures, things like that, until EMS got there.

6 Then we would assist EMS if they needed
7 us. If they didn't need us, they would release us.
8 As far as a fire goes, we get there, we see what we
9 have.

10 In this case with this one, we found what
11 we found what we had. We denied entry, pretty much
12 secured the scene until law enforcement could get
13 there and do their securing of the scene.

14 Q And when you all come up on a scene in
15 response to a fire call, what are some of your
16 primary concerns or your main goal?

17 A Our main goal is to identify the hazards
18 at each scene, keep other people from being around
19 those hazards, making sure we get everybody away
20 from the hazards that have not become victims yet.

21 We get in there, and we make sure we stay
22 safe. And then we report what we find and just make
23 sure everybody's safe, I mean, either victims or
24 non-victims.

25 Q And I want to turn your attention back to

Phillip Joyner - Direct

297

1 February 3, 2009. In what capacity were you working
2 at that time?

3 A I was an engineer, driving Rescue 3.

4 Q An engineer for Rescue 3. What exactly is
5 Rescue 3?

6 A That's a specialized rescue unit. We've
7 got like rappelling equipment for doing all the
8 specialty rescue. We have like the different kind
9 of equipment that I was talking about a minute ago.

10 Q And you might want to say that last part
11 again. I think you trailed off just a little bit.

12 A As I said, Rescue 3 is just a specialized
13 rescue company. Like I was telling y'all, the
14 training that we do, that's just we have the
15 equipment to handle those types of scenarios that we
16 come upon.

17 Q And how did you become involved in this
18 case?

19 A We were on our way back from headquarters.
20 We were doing some training, and we were coming down
21 Colonial right before it turns into Farrow Road.
22 And the tone went out that there was an apartment
23 fire with smoke showing at [REDACTED] Avenue.

24 So I looked at my captain, he looked at
25 me, and it's not area but we were close by. So we

Phillip Joyner - Direct

298

1 said let's go. And so we went. We got there a few
2 minutes later. We were the first ones --

3 Q And where did you respond?

4 A To [REDACTED] Avenue. It was
5 Apartment 33F.

6 Q And is that in Bethel Bishop?

7 A Yes. When we pulled up, we did not
8 witness any smoke coming out of the apartment. The
9 doors had already been opened. We did notice that
10 the windows were black. We figured that it must
11 have been some kind of soot stain.

12 So we proceeded to walk up to the door,
13 look in the door, and we did see that there had been
14 a fire, didn't feel any heat, still no smoke. The
15 smoke had already vented out from the time they
16 opened the door till the time we got there.

17 No heat, so we knew the fire had already
18 burned itself out sometime before. I proceeded to
19 walk in the door to the right. I witnessed what I
20 thought may have been like a pile of clothes or
21 something.

22 And I stepped over the pile of clothes
23 just to look and see what we had, and I figured it
24 was really dark, because, like I say, all the
25 windows were stained. So I went back to the truck

Phillip Joyner - Direct

299

1 to get a flashlight.

2 I came right back in, right to my same
3 position I was at when I saw the clothes, did a
4 sweep with the flashlight, noticed that there were
5 feet under some type of cloth that was over
6 somebody.

7 I noticed feet sticking out of the end
8 that were bound together. And I swept my
9 flashlight back up, and I could tell that it looked
10 like someone's head that had been burned.

11 Q And let me back you up just a little. So
12 when you initially came in the house, did you even
13 recognize that that was a body?

14 A No, not until I got the flashlight.

15 Q And after you got the flashlight and saw
16 that there was a body, what did you do?

17 A I immediately went through the house real
18 quick, went from room to room, just to make sure
19 that there were no other victims. And then I came
20 straight back out and reported it through my chain
21 of command to my captain.

22 And that's when we denied entry for any
23 fire department personnel. We had to wait on law
24 enforcement, because we just --

25 Q The scene had been reported as a fire?

Phillip Joyner - Direct

300

1 A Yes, we had to secure the scene.

2 Q Who all -- I know you said "we." Who all
3 was with you, do you recall?

4 A It was myself, Capt. Bozeman, and Jonathan
5 Bryson was standing outside of the door. It was
6 just me and Capt. Bozeman who actually made entry
7 into the apartment.

8 Q And once you notify Capt. Bozeman and your
9 superiors, did you go back inside, or what happened?

10 A I showed him from the door what we had. I
11 did put a pair of gloves on, medical gloves, just to
12 check for a pulse, just to confirm, which I found
13 there was no pulse. And then after that, we were
14 like, all right -- like I said, we left until law
15 enforcement got there.

16 COURT REPORTER: I didn't hear what you
17 just said.

18 Q If you would just repeat the last thing
19 you said.

20 A We left until law enforcement got there.
21 We stood outside the door and guarded the door so no
22 one would enter until law enforcement could arrive
23 on scene and start their investigation.

24 Q Okay. So you all respond, and there was
25 no active fire burning, correct?

Phillip Joyner - Direct

301

1 A No, not at all.

2 Q At that point, did you follow the usual
3 protocol? Did you call the police department?

4 A Yes. If anything is suspicious in nature,
5 we would always call the police department.

6 Q And you all waited. Did you all maintain
7 the investigation or turn it over to the Columbia
8 Police Department, or are you aware?

9 A From the time, as far as I know, they
10 turned it over to the police department. And also
11 we had an investigator from the fire department also
12 came out on our side to assist in the investigation.
13 So I'm not sure how that worked.

14 Q Okay. But your role, you went inside?

15 A Uh-huh.

16 Q You actually found the body?

17 A Correct.

18 Q After you confirmed that there was no
19 pulse and went outside, did you disturb the incident
20 location, the apartment, in any other way?

21 A No.

22 Q Or the body itself?

23 A No, not at all.

24 Q And how long would you say it was that CPD
25 took to arrive after you all responded -- took a

Phillip Joyner - Direct

302

1 matter of minutes?

2 A They were there pretty much right behind
3 us. After we pulled in, I went inside and then
4 found what I found, I want to say they were on the
5 scene right after that. That was just within a
6 matter of a minute or two.

7 Q So after all this, was that the extent of
8 your involvement, what you did with respect to this
9 case?

10 A Yes. The only time I went back in was law
11 enforcement needed help to light the scene. So we
12 had portable lights on our truck, and we ran
13 extension cords and lit up the scene for them
14 where they wanted the lights so they could get
15 through the investigation with pictures and like
16 that, but other than that.

17 Q So they needed your lights because it was
18 so dark inside?

19 A Yes.

20 Q Describe for us the soot that you saw.

21 A It was all over the apartment. When it
22 comes down, you could tell where the smoke had come
23 to. It would be covered maybe to the wall, maybe
24 to --

25 Q You might want to lean towards the

Phillip Joyner - Direct

303

1 microphone.

2 A I'm sorry. The soot will build up at the
3 ceiling where the smoke is. And then as the smoke
4 backs down, the soot will start backing down with
5 it. So it had soot almost three-quarters of the way
6 down the walls. So we knew that there had been a
7 lot of smoke in there at one time.

8 Q So everything was black or sooted?

9 A Everything had soot on it.

10 MS. SIMPSON: No further questions.

11 THE COURT: For the defense.

12 MR. MAY: Yes, Your Honor, may it please
13 the Court.

14 CROSS-EXAMINATION

15 BY MR. MAY:

16 Q Hello, Capt. Joyner. I've got just a very
17 few questions for you. Now, you said that you
18 secured the scene, correct?

19 A Yes, sir.

20 Q You didn't let anybody take anything out?

21 A No, sir.

22 Q You didn't take anything out?

23 A Correct.

24 Q You didn't say, "This needs to go to the
25 dumpster, or this needs to go out on the front

Phillip Joyner - Cross

304

1 lawn." Everything remained as is?

2 A Correct.

3 Q And now I'm going to show you something.

4 Will you tell me if you recognize this, please, sir?

5 A It looks like part of a fire report.

6 Q And it says what time an alarm went off,
7 and is an alarm a call?

8 A Yes.

9 Q All right. And it says arrival time, and
10 that's what time y'all get there and meet, correct?

11 A Correct.

12 Q And then it also has a time for the last
13 unit that leaves?

14 A Correct.

15 Q And those are very specific times,
16 correct?

17 A Correct.

18 Q Those are specifics so that way, y'all
19 always know where you were at a certain time,
20 correct?

21 A Correct. Dispatch has entered them wrong
22 sometimes, but for the most part, this should be
23 right.

24 Q All right.

25 I'd ask this to be marked as Defendant's

Phillip Joyner - Cross

305

1 Three and move it into evidence, Your Honor.

2 THE COURT: Any objection?

3 MS. SIMPSON: No, Your Honor.

4 THE COURT: Admitted without objection.

5 (Defendant's Exhibit Number Three, Fire
6 Report, was entered in evidence.)

7 MR. MAY: No further questions, Your
8 Honor.

9 THE COURT: Anything further for this
10 witness?

11 MS. SIMPSON: Nothing from the State, Your
12 Honor.

13 THE COURT: All right, thank you. You may
14 step down.

15 Next witness.

16 MS. SIMPSON: The State calls Christy
17 Stover.

18 (The witness was sworn.)

19 CLERK OF COURT: Have a seat in the
20 witness box. State your name for the record and
21 spell it, please.

22 MS. STOVER: Christy Stover --
23 S-T-O-V-E-R.

24 CHRISTY STOVER, having first been duly
25 sworn, testified as follows:

Christine Stover - Direct

306

1 DIRECT EXAMINATION

2 BY MS. SIMPSON:

3 Q Ms. Stover, where do you work?

4 A Richland County EMS.

5 Q And how long have you been with Richland
6 County?

7 A Nineteen years.

8 Q Nineteen years. And what do you do for
9 Richland County EMS?

10 A I'm a paramedic. Right now, I'm an
11 assistant shift manager.

12 Q As a paramedic and an assistant shift
13 manager, tell the jury a little bit about what you
14 do on a daily basis.

15 A Paramedic levels treat patients and do
16 advanced cardiac care. And then as assistant shift
17 manager, I'm in charge of the entire shift, make
18 sure staffing is good, we have ambulances, and also
19 respond to out-of-the-ordinary calls.

20 Q So you respond pretty much to all types of
21 calls --

22 A Uh-huh.

23 Q -- that come to EMS that can be through
24 911?

25 A Yes.

Christine Stover - Direct

307

1 Q Back on February 3, 2009, in what capacity
2 were you working?

3 A Assistant shift manager.

4 Q And did you have occasion to become
5 involved in this case?

6 A Yes.

7 Q And how many calls would you say you've
8 responded to since 2009?

9 A Hundreds, probably thousands.

10 Q And in this case, do you actually recall
11 this call?

12 A I do.

13 Q Do you remember responding to this case?

14 A I do, yes.

15 Q Can you tell us when and where you
16 responded?

17 A I don't remember where I was responding
18 from, probably our headquarters, which is 2020
19 Hampton Street. And I was responding because it was
20 an apartment fire. Anything with a potential of
21 more than one patient involved, then we usually will
22 respond. The supervisor will respond.

23 Q So on fire calls, you all are also called
24 out?

25 A Quite often, yes.

Christine Stover - Direct

308

1 Q When you arrived, what did you observe?

2 Who all was on scene?

3 A There was a lot of people on scene,
4 including the public, because being that it's a
5 housing project area, there's a lot of people that
6 roam the streets. And I'm sure police, fire,
7 everybody was there before we got there.

8 Q So when you came up, there were actually
9 kind of crowds looking --

10 A Oh, yes.

11 Q -- to see what was going on?

12 A Yes.

13 Q And the police department was there?

14 A Yes.

15 Q And the fire department was there?

16 A That's right.

17 Q What did you learn when you arrived about
18 the possible situation?

19 A When I first got there, I don't remember
20 who told me. But somebody came and said that "We
21 believe we have a body inside." And the only reason
22 I remember that is because I told the crew to stay
23 outside, and I would just go in and handle the call,
24 because I believe at that point, they already had
25 the crime scene tape up or were putting it up. So I

Christine Stover - Direct

309

1 knew it was more than just a fire we were standing
2 by.

3 Q And when you went inside, you said you
4 were with a crew, but you went in by yourself?

5 A Right.

6 Q What did you do once you went inside?

7 A Whoever led me in -- I don't remember if
8 it was police or fire -- said, "We have a body. We
9 know that they're dead already." But I just have to
10 see so I can put in my report what I see.

11 Q And when you came in, what did you
12 observe?

13 A I came in the front door, and I didn't go
14 very far, no farther than the body. And I could
15 just see there was a body covered in a burnt
16 blanket.

17 Q Could you even -- as you got up on it,
18 could you tell what sex the body was?

19 A No. I think in my report I even put that
20 I couldn't tell if it was a male or a female.

21 Q Or could you even tell the race at that
22 point?

23 A No, absolutely not.

24 Q And why is that? Why were you unable to
25 tell?

Christine Stover - Direct

310

1 A The body was just too badly burned. And a
2 lot of it was not exposed because of the material
3 over it.

4 Q And once you got in and observed the body,
5 what did you do next?

6 A I just exited the building. I didn't have
7 any reason to be in there. There was no life to
8 save.

9 Q Okay. So you confirmed that there were no
10 signs of life?

11 A Right.

12 Q And as a first responder, was that all
13 that you were required to do?

14 A Yes.

15 Q And you all didn't actually transport --

16 A No.

17 Q -- the body at that time?

18 A No.

19 Q The body was left at the scene?

20 A Correct.

21 Q Thank you.

22 A You're welcome.

23 THE COURT: For the defense.

24 MR. MAY: Your Honor, may we approach?

25 THE COURT: Yes.

Christine Stover -- Direct

311

1 MR. MAY: Beg the Court's indulgence, Your
2 Honor. May it please the Court, Your Honor?

3 THE COURT: Yes.

4 CROSS-EXAMINATION

5 BY MR. MAY:

6 Q In this case, even though you were just
7 going in there, they already told you there's a body
8 there?

9 A Uh-huh, right.

10 Q They already told you that your job,
11 unfortunately, wasn't needed?

12 A Right.

13 Q But you had to go in there, and you had to
14 document that, correct?

15 A That's correct.

16 Q And when you document stuff, you document
17 stuff to preserve evidence, correct?

18 A That's correct.

19 Q Because you said you've had hundreds, if
20 not a thousand, calls between now and then?

21 A That's correct.

22 Q And it's important to be able to look down
23 there and see what time you got there?

24 A Correct.

25 Q Do you have a copy of your report?

Christine Stover - Cross

312

1 A I don't.

2 Q If I hand this to you --

3 A Yes.

4 Q -- does that look familiar to you?

5 A Yes.

6 Q And that's your report, right?

7 A That's correct.

8 Q And you can look at it and see what time
9 you got there?

10 A Yes.

11 Q And see what happened?

12 A Uh-huh.

13 Q You can write down your observations?

14 A Yes.

15 Q And that way, you can come to court in the
16 future and testify, because this was over three
17 years ago?

18 A Correct.

19 Q Because memories fade.

20 Beg the Court's indulgence. No further
21 questions, Your Honor.

22 MS. SIMPSON: Brief redirect.

23 REDIRECT EXAMINATION

24 BY MS. SIMPSON:

25 Q Ms. Stover, he pointed out your report.

Christie Stover - Redirect

313

1 But in this case, did you have independent
2 recollection ?

3 A Yes, I did.

4 Q - about responding?

5 A Yes.

6 Q And why would you be able to recall this
7 case? Why was it significant to you or stood out?

8 A The biggest reason is because we don't see
9 a lot of burned bodies that are not burned -- I
10 mean, it was a burned female body, I guess is the
11 biggest thing. You know, it was more than just a
12 traffic accident or a --

13 Q So it wasn't your typical --

14 A Right.

15 Q -- scene?

16 A That's correct.

17 MS. SIMPSON: Nothing further.

18 MR. MAY: Two questions.

19 RECROSS EXAMINATION

20 BY MR. MAY:

21 Q Yet you still made the report?

22 A That's right.

23 Q Thank you.

24 THE COURT: One more?

25 MR. MAY: That's it.

Christie Stover - Recross

315

1 CLERK OF COURT: Have a seat in the
2 witness box, and state your name for the record,
3 please.

4 MR. NICHOLSON: My name is George Edward
5 Nicholson.

6 GEORGE EDWARD NICHOLSON, having first been
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SIMPSON:

10 Q Good afternoon, Mr. Nicholson. Where do
11 you work?

12 A For AT&T.

13 Q And what do you do for AT&T?

14 A I'm in the asset protection group, which
15 functions like the custodian of records for issues
16 like this and also is an internal affairs type
17 position within the company.

18 Q Okay. So you are the custodian of
19 records?

20 A Yes, ma'am.

21 Q In addition to having other duties?

22 A Yes, ma'am.

23 Q And does your company -- you work for
24 AT&T?

25 A Yes, I do.

George Nicholson - Direct

316

1 Q Does your company maintain cell phone
2 records, including subscriber information and things
3 of that nature?

4 A Yes, we do.

5 Q And is this information maintained in the
6 ordinary course of business?

7 A Yes, it is.

8 Q I'd like to direct your attention to
9 State's Exhibit -- just a moment. I want to direct
10 your attention to State's Exhibit 111. Have you
11 seen these before?

12 A Yes, I have.

13 Q You've actually had a chance to review it
14 before today?

15 A Yes, ma'am.

16 Q And can you tell us the phone number for
17 which those records -- I guess it's termed the
18 target number?

19 A Yes, it's area code (803) 754-8216.

20 Q And do you also have subscriber
21 information?

22 A We do.

23 Q And these records were actually turned
24 over in response to a subpoena, correct?

25 A Yes, ma'am.

George Nicholson - Direct

317

1 MS. SIMPSON: Your Honor, at this time,
2 the State would admit State's Exhibit 111 into
3 evidence.

4 MR. MAY: Without objection except for any
5 kind of correspondence to and from, as long as it's
6 just the cell phone records, we do not object.

7 THE COURT: It's admitted.

8 (State's Exhibit 111, Cell phone records,
9 was entered in evidence.)

10 Q And do you have subscriber information
11 available on those records?

12 A I do.

13 Q Can you tell that to the jury?

14 A It says Ebony Williams.

15 Q Okay. Thank you, Mr. Nicholson.

16 THE COURT: Yes.

17 MR. MAY: We have no questions, Judge.

18 THE COURT: All right, thank you, sir.

19 You may step down.

20 MR. NICHOLSON: Okay.

21 MS. SIMPSON: The State calls Michael
22 Moskal.

23 (The witness was sworn.)

24 CLERK OF COURT: Have a seat in the
25 witness box. State your name and spell your last

George Nicholson - Direct

318

1 name, please.

2 MR. MOSKAL: Michael Moskal --

3 M-O-S-K-A-L.

4 MICHAEL MOSKAL, having first been duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. WALKER:

8 Q Good afternoon.

9 A Hello.

10 Q Where are you currently employed, sir?

11 A I am currently employed by South Carolina
12 Law Enforcement Division, what's commonly known
13 SLED, and am assigned to the Trace Evidence
14 Department.

15 Q And how long have you worked at SLED?

16 A A little over five and a half years.

17 Q And how long have you been in your current
18 department?

19 A The entire five and a half years.

20 Q What are some of your duties in the Trace
21 Department at SLED?

22 A In the Trace Department, we analyze
23 evidence for ignitable liquids, gunshot residue,
24 distance determination in a shooting, glass, paint,
25 fiber, and trace other things that don't fit into

Michael Moskal - Direct

319

1 those other categories. They may be things like
2 duct tape or bank dyes.

3 Q Can you tell this jury a little bit about
4 your education and training?

5 A Yes, ma'am. I have a B.S. in Chemistry
6 from the College of Charleston. I have graduated
7 from the South Carolina Criminal Justice Academy.
8 And after that, I began an in-house training at SLED
9 for each of those disciplines that I mentioned.

10 Each one of them is roughly about a
11 six-month training period. Specifically related to
12 fire debris, it was a six-month period where I
13 analyzed about 400 standards, some burned, some
14 unburned, some substrates.

15 I also worked during that six-month period
16 with a court-qualified fire debris analyst, working
17 their evidence side by side with them up to the
18 point of writing reports. At the end of that
19 six-month period, I was given a proficiency test.

20 I took that proficiency test just like you
21 would any evidence that comes into the lab, and I
22 worked it from receiving it up till finally
23 analyzing it and coming up with a report. After
24 successfully completing that proficiency test, I was
25 qualified by SLED as a qualified fire debris

Michael Moskal - Direct

320

1 analyst.

2 Since that time, I have taken courses that
3 were taught by representatives from the ATF and the
4 FBI and have completed roughly about 300 cases since
5 that time which added up to about 700 individual
6 items.

7 Q And have you been qualified as an expert
8 in court before?

9 A Yes, ma'am, I have.

10 Q About how many times?

11 A Seventeen times.

12 MS. WALKER: Your Honor, at this point we
13 would offer Mr. Moskal as an expert.

14 THE COURT: What says the defense?

15 MR. MAY: No voir dire at this time, Your
16 Honor.

17 THE COURT: All right, he's admitted as an
18 expert.

19 Q Can you tell -- go through a little bit
20 about what exactly trace evidence is.

21 A Yes, ma'am. Trace evidence is evidence
22 that may be left at a crime scene. Oftentimes, it's
23 things that are too small to be seen with the naked
24 eye, and it requires some high-tech instrumentation
25 or high-powered magnification in order to analyze.

1 And it includes the things like I listed earlier --
2 fire debris, gunshot residue, paint, glass,
3 explosives, and some trace others.

4 Q When you're conducting a fire debris
5 analysis, what exactly is it that you're doing?
6 What are you looking for?

7 A When samples come in from a fire, the
8 investigators are curious to know whether an
9 ignitable liquid was present at the scene. And so
10 they bring samples from that crime scene.

11 Sometimes they're burnt. Sometimes
12 they're unburnt. They may be liquids that are found
13 near the scene. They bring them to us and ask us to
14 analyze them to see if we can find an ignitable
15 liquid.

16 Q And can you explain to us what an
17 ignitable liquid is?

18 A Ignitable liquids are a classification for
19 materials that are flammable or combustible.
20 They're going to include things like gasoline,
21 kerosene, lighter fluid, but they can also include
22 solid materials like wood, paper. Those things are
23 going to be accelerants, not ignitable liquid, and I
24 apologize. But the ignitable liquids are going to
25 be things like the kerosene, gasoline.

Michael Moskal - Direct

322

1 Q And can you explain to us the process that
2 you use in determining whether or not ignitable
3 liquids are present?

4 A Yes, ma'am. When a case comes in, we will
5 take each individual item, and we're going to first
6 do a visual inspection of the item. We're going to
7 inspect the container that it comes in to make
8 certain that it's sealed and has integrity as far as
9 the evidence is concerned.

10 But the other thing we're going to do is
11 look at the actual inner container that the evidence
12 is contained in to make certain that it is
13 completely sealed. Ignitable liquids are things
14 that are volatile.

15 They evaporate very readily. So if it
16 comes in in a container that's not sealed well,
17 oftentimes it can evaporate before we can get to it.
18 So we examine that container to make certain that it
19 is properly sealed.

20 Q And so -- I'm sorry.

21 A Yes, ma'am.

22 Q Did you do an analysis in this case?

23 A Yes, ma'am, I did.

24 Q And the items that you analyzed, were they
25 properly sealed and packaged when you received them?

Michael Moskal - Direct

323

1 A Yes, ma'am, they were.

2 Q Okay, I'm sorry. I didn't mean to
3 interrupt you. Continue.

4 A Yes, ma'am. Once we verify that it is
5 properly sealed, we have to do an extraction. The
6 ignitable liquids that may be present on a substrate
7 like gasoline, the substrates are often things like
8 a two-by-four. A two-by-four isn't in a form that
9 we can put it onto the instrumentation and
10 determination whether ignitable liquid was present
11 on it or not.

12 So we have to do an extraction where we
13 pull a possible ignitable liquid out of that
14 substrate to begin with. Once it's been pulled out
15 of that substrate, then it's ready to be analyzed on
16 a gas chromatographic mass spectrometer. We call it
17 a GCMS for short.

18 What that GCMS is going to do is the GC
19 portion acts as a separator. When volatile liquids
20 come in or ignitable liquids come in, they're often
21 mixtures that contain anywhere from tens to
22 thousands of different materials.

23 So the GC portion takes that sample and
24 separates them. The mass spec portion or the MS
25 portion is then going to identify each one of those

Michael Moskal - Direct

324

1 components that was in that sample so that we can
2 identify. Once we've done the analysis of it, then
3 the interpretation comes in.

4 So we look at the data that comes off of
5 the GC mass spec to identify if an ignitable liquid
6 was present. If one's there, we use something
7 called ASTM guidelines to define different types of
8 classifications.

9 They're going to include things like
10 gasoline, petroleum distillates, aromatics. And so
11 based on the types of materials we find, we can
12 classify what was in that sample if something was
13 present. Once we've done the interpretation of it,
14 then it's ready to report.

15 I write a report. Once I'm completed with
16 that report, I give it to another court-qualified
17 analyst in the department. They take my data from
18 the time I received it and review everything from
19 beginning to end to make certain they agree with
20 everything I've done and the conclusions that I've
21 drawn. And at that point, it's ready to be
22 published to the investigating officer.

23 Q Are you familiar, sir, with the term
24 "incomplete combustion"?

25 A Yes, ma'am.

1 Q Can you explain what that is?

2 A Yes, ma'am. When materials burn -- take
3 for instance something like this piece of wood here.
4 That solid piece of wood cannot burn by itself.
5 What has to happen is those materials have to get
6 broken down.

7 They get broken down into other products
8 that are themselves flammable or combustible, and
9 that's where the fire comes from. And so in the
10 process of a fire, we oftentimes see materials that
11 come from the actual breakdown of the materials
12 present in our results.

13 Q And is that along the same thing or is
14 that different from pyrolysis?

15 A Pyrolysis, yes, ma'am. They're similar.

16 Q Can you explain how they differ?

17 A Yes, ma'am. The difference between the
18 two is that combustion requires the presence of
19 oxygen, and pyrolysis is something that just happens
20 with the addition of heat.

21 Q Okay. And when you were determining the
22 data in this case, were either of those two things
23 present?

24 A Yes, ma'am. In this case, we had some
25 things, materials that are consistent with pyrolysis

Michael Moskal - Direct

326

1 or incomplete combustion.

2 Q And when you see that, what do you do?

3 A When we see that, we examine the substrate
4 to know what we're looking at. Certain materials
5 are prone to give off certain types of pyrolysis
6 products. And so we examine the substrate to see
7 that what we're finding is consistent with the
8 material. And if it is, then we will write up a
9 report that reflects no ignitable liquids found, if
10 that's all that's there.

11 Q And when you wrote up your report in this
12 case, did you write "no ignitable liquids found"?

13 A Yes, ma'am.

14 Q When you say that there were no ignitable
15 liquids found on the items that you tested, what did
16 you test exactly?

17 A May I refer to my notes?

18 Q Yes, please.

19 A In L05-01545, Ebony Williams is the
20 victim, I analyzed two containers, one gallon can
21 and one quart can. Both contained carpet and carpet
22 padding. The results in these were that no
23 flammable or combustible liquids were found. And so
24 in the actual data, I saw things that were
25 consistent with carpet and carpet padding burning.

Michael Moskal - Direct

327

1 Q And when you say that there was no
2 flammable liquid found or no ignitable liquid found,
3 does that mean that an ignitable liquid wasn't used
4 when this lady was burned?

5 A No, ma'am. When we send out a report that
6 says "no ignitable liquids found" or "no ignitable
7 liquids or combustible products found," that means
8 that the sample that we received did not have
9 ignitable liquid in it.

10 Ignitable liquid could have been poured
11 elsewhere in the fire scene. It could have burnt
12 completely or evaporated prior to being collected,
13 or it may not have been used at all. Or in the case
14 of this one, the only things we found were those
15 pyrolysis products.

16 Q Thank you, sir.

17 A Yes, ma'am.

18 MS. WALKER: No further questions.

19 THE COURT: By the defense?

20 MR. MAY: Yes, sir. May it please the
21 Court, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. MAY:

24 Q When you said -- may I refer to your
25 notes? I just want to make sure that I have

Michael Moskal - Cross

328

1 everything you have. Do you mind if I see it?

2 A Yes, sir. I actually referred to my
3 report.

4 Q To the report, okay.

5 A Yes, sir.

6 Q Now, you said you work for SLED, which is
7 State Law Enforcement Division?

8 A Yes, sir.

9 Q And this is one of y'all's primary jobs,
10 is to test forensic material from different police
11 departments around the state, correct?

12 A Correct.

13 Q And y'all don't charge police departments
14 for this, do you?

15 A No, sir.

16 Q And as you said, you made a report for
17 this. You took notes?

18 A Yes, sir.

19 MR. MAY: Beg the Court's indulgence. No
20 further questions, Your Honor.

21 THE COURT: You may step down.

22 MR. MOSKAL: Am I excused?

23 THE COURT: Yes.

24 All right, next witness.

25 MS. CAMPBELL: The State calls Richard

Michael Moskal - Cross

329

1 Seel.

2 (The witness was sworn.)

3 CLERK OF COURT: Have a seat in the
4 witness box. State your name for the record.

5 MR. SEEL: My name is Richard Seel.
6 That's spelled S-E-E-L.

7 RICHARD SEEL, having first been duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q Back up just a little bit from that
12 microphone.

13 A Okay, I'm sorry.

14 Q I don't know why it does that.

15 A All right.

16 Q Sir, where are you employed?

17 A I'm currently employed with the City of
18 Columbia, with the Columbia Fire Marshall's Office.

19 Q The Fire Marshall's Office?

20 A Yes, ma'am.

21 Q What do you do there, sir?

22 A I am the chief fire investigator for the
23 City of Columbia.

24 Q What do your duties include as the chief
25 fire investigator for the City of Columbia?

Richard Seel - Direct

330

1 A My duties are to go to fire scenes where I
2 am summoned. My primary duty is once I get there, I
3 am there to determine the origin of a fire. -- in
4 other words, point of origin, where it occurred at -
5 - to determine after that point of determining the
6 origin of it, to determine actually what caused the
7 fire to originate.

8 Q Okay. And so in case of a fire and arson,
9 you can be called in to make those determinations?

10 A That is correct.

11 Q And do you have any qualifications or any
12 education and training in this field?

13 A Yes, I do.

14 Q Can you tell the jury a little bit about
15 your education and training?

16 A Yes, ma'am. Currently, I hold an
17 associate's degree in fire science technology. I am
18 qualified through the South Carolina Criminal
19 Justice Academy as a certified class one police
20 officer.

21 I've also got training through the North
22 Carolina/South Carolina International Association of
23 Arson Investigators, of which I am a member of their
24 Training and Education Committee.

25 I also sit on the board of directors for

Richard Seel - Direct

331

1 the International Association of Arson
2 Investigators, where we do periodic training for
3 them, where we bring in experts from all over the
4 country and obviously train yearly on that.

5 You know, so those are my credentials as
6 far as being an arson investigator goes. I've been
7 investigating arson fires since 1983. Prior to
8 that, I was a police officer with the City of
9 Columbia. And prior to that, I was a firefighter
10 with the City of Columbia, out of the service in
11 1971. So I've been in this business for
12 approximately 40 years.

13 Q Okay. And you've been qualified before as
14 an expert in the area of fire reconstruction and
15 fire investigation?

16 A Yes, I have. I've been qualified in both
17 state and federal court.

18 MS. CAMPBELL: Your Honor, at this time
19 we'd offer him as an expert in fire investigation.

20 THE COURT: What says the defense?

21 MR. MAY: No voir dire at this time, Your
22 Honor.

23 THE COURT: He's admitted as an expert.

24 MS. CAMPBELL: Thank you, Your Honor.

25 Q Can you tell this jury when you go to the

Richard Seel - Direct

332

1 scene of a fire, typically what you're trying to do,
2 kind of walk them through it?

3 A Well, typically what I do, we use a
4 systematic approach to every fire. Whenever we get
5 there, we try to interject the same type of a
6 methodology to enter into a fire scene. And
7 basically what I'm doing is I'm starting from
8 outside of the fire scene.

9 I may check in with the incident
10 commander, get a briefing on what they have, why
11 they called me there, summoned me there. They will
12 give me information as to what type of a fire they
13 have and what they want me to do.

14 Once I obtain that information, then
15 basically I'll use a systematic approach to the fire
16 scene by walking around the entire structure from
17 the outside of the property.

18 And basically what I'm doing is I'm
19 starting to eliminate things. Now, I need to
20 eliminate all accidental and providential causes for
21 a fire that normally we would be able to say this
22 fire was set as direct a result of human hands. So
23 I want to eliminate the accidental causes.

24 And even if it was set as a direct result
25 of human hands, I want to know whether it was

Richard Seel - Direct

333

1 intentional or whether it was accidental. So in
2 these particular instances or every incident I go
3 to, that's what I do. I use that systematic
4 approach.

5 I walk around the interior of the
6 structure. I'm looking at things like where does
7 the gas lines come in. Were they involved in the
8 fire? Where does the power grid come in, the
9 electricity? What kind of air-conditioning system
10 was outside?

11 And I'm looking at those for fire damage
12 and things of that nature to see if they were maybe
13 a contributing factor to the fire. You know, if
14 they're not, if they're in good repair, then I'm
15 eliminating them as a source of the fire. So I work
16 my way from the outside in, and I'm also observing
17 the fire damage.

18 That kind of gives me an idea of where the
19 fire started, because the origin of the fire
20 generally is going to be the deepest and greatest
21 area of burn. So what I'm doing is I'm working my
22 way from that outside portion toward that area.

23 Q I want to turn your attention back to
24 February 3, 2009. Did you respond to the Bethel
25 Bishop Apartments?

Richard Seel. - Direct

334

1 A Yes, I did.

2 Q And how were you actually contacted, and
3 for what purpose were you called to the Bethel
4 Bishop Apartments that afternoon?

5 A I was contacted by fire dispatch, which
6 told me that I needed to respond to that location.
7 I was being requested there by the deputy fire
8 chief, Aubrey Jenkins, and the division chief, who
9 was Chief -- excuse me, let me refer to my notes --
10 Chief Harrell. And what I did was once I got there,
11 I arrived on the scene at approximately 1:33 p.m.

12 Q One thirty-three p.m.?

13 A Yes.

14 Q So that was the afternoon of February the
15 3rd, is that correct?

16 A That is correct.

17 Q And when you got there, were there other
18 police entities already there?

19 A Yes, ma'am.

20 Q And the fire department?

21 A Yes, ma'am. There were fire units there.
22 There were police officers. The scene had only been
23 taped off. By that, I mean they had put up their
24 barrier tape to restrict the flow of who was going
25 to enter and exit the scene, that sort of thing.

Richard Seel - Direct

335

1 Q When you initially got there, did you make
2 contact with any certain personnel to get some
3 background information to aid you in your
4 investigation?

5 A Yes, I did. I checked in with Chief
6 Jenkins and Capt. Johnson with the Columbia Police
7 Department.

8 Q When you had gotten there, were you made
9 aware of whether or not anyone else had already
10 entered the scene where the fire actually burned?

11 A Yes, I was.

12 Q And had someone already entered the scene
13 prior to you getting there?

14 A Two people.

15 Q Once you got there, tell this jury -- walk
16 them through exactly what you did and what your
17 observations were.

18 A Well, after getting there and walking up
19 to the scene and checking on the captain and the
20 chief, I was made aware that there was a body inside
21 this residence, that the body had been badly burned.

22 And basically they were telling me that
23 they wanted me to conduct an origin and cause
24 investigation into what caused the fire that was
25 inside the residence, that it had burned the victim

Richard Seel - Direct

336

1 who was inside very badly.

2 Q What steps did you initially take in
3 making your assessment?

4 A Well, my steps, like I say, I used my
5 systematic approach to the scene. I walked around
6 the entire outside of the structure, which was a
7 multifamily dwelling. It was an apartment complex.
8 I think it housed about eight to ten units, which
9 means there were numerous people there.

10 The fire had originated on the first
11 floor, in 33F. I walked all the way around and
12 looked at the gas lines, where they came in. I
13 looked at the air-conditioning units. I looked at
14 the different things that I'm telling you, and I
15 eliminated all of those.

16 All of those were found to be in very good
17 repair and eliminated as a source for the fire. I
18 then concentrated my efforts on walking back around
19 to Apartment 33F, where I observed that the windows
20 in Apartment 33F had a heavy black sooting on the
21 windows.

22 And I noticed that there was around the
23 front door in the entry to the apartment, around the
24 edges of the door, there had been sooting where
25 smoke had pushed out around the edges of that door.

Richard Seel - Direct

337

1 And the sooting was observed and was visible there,
2 which indicated that there had been some sort of a
3 fire inside.

4 It was an area, like I say, of black sooty
5 type soot, which is really indicative of an
6 ignitable liquid being burned, being present. You
7 get various different types of smoke when things
8 burn. Like this wood would produce a different type
9 of smoke than, say, a petroleum-based product.

10 If you've ever seen gasoline burn, I'm
11 sure you've seen that it throws off a black, oily
12 smoke, and that's because of the hydrocarbons that
13 are involved. And, of course, gasoline would build
14 up a rapid, rapid heat.

15 And basically in a natural burning fire,
16 you end up with this type of smoke due to a general
17 buildup of heat. It will cause things to adhere to
18 the walls, this soot. The unburned products of
19 combustion that you've just been told about will
20 start adhering to the walls.

21 And as the heat builds, it will actually
22 bake that kind of stuff to the walls. In a real
23 rapid fire, those kind of things will not bake to
24 the wall. They don't have time to. And that kind
25 of soot would generally come off on your hands.

Richard Seel - Direct

338

1 That's another thing that's indicative of
2 a flammable liquid being present. In this
3 particular case, I noticed that type of soot around
4 the door frame as I went to enter into the
5 structure. And as I entered into the foyer
6 structure of Apartment 33F, I noticed that the walls
7 were coated with this type of soot.

8 Q And when you're referring to this type of
9 soot that you observed at this crime scene, it was
10 the type that was consistent with what?

11 A With a flammable liquid being present.

12 Q And that flammable liquid you just
13 described as something such as gasoline?

14 A Such as gasoline.

15 Q So your first observations indicated that
16 -- were consistent with a flammable liquid having
17 been used to accelerate the fire, correct?

18 A Yes.

19 Q What did you observe next?

20 A I entered into the doorway. And, of
21 course, I went into the foyer, and that foyer went
22 one of two ways. To my left would be to go into a
23 kitchen area. To go right, it kind of entered into
24 a living room area.

25 I could tell that the living room area

Richard Seel - Direct

339

1 seemed to be the area of greatest burn. So I wanted
2 to work my way away from that and work back to it.
3 I worked into the kitchen area, where I observed
4 that there had been a high degree of heat that had
5 built up in the apartment.

6 The windows in the kitchen area had this
7 heavy oil soot on them. The windows had blinds on
8 them, the plastic type blinds. The blinds had
9 already started to droop and melt, indicating that
10 there was a rapid buildup of heat in the top of the
11 apartment.

12 The smoke line or line of demarcation, we
13 call it, is where the start smokes to bank down,
14 because fire burns upward and outward unless it's
15 induced to do otherwise. And what it will do is it
16 will go to the top of this room and start filling
17 this room up.

18 Once it fills the top of the room up, then
19 naturally it's going to start banking back down.
20 And the line of the fire burn, the more rapid the
21 fire becomes, it starts pushing the air at floor
22 level back to the source of the fire, and the heat
23 and the smoke start boiling around and coming down.
24 So in this particular case, I noticed that it had
25 banked down to about three feet off the floor.

Richard Seel - Direct

340

1 Q And you referred to that, I believe, in
2 your terminology -- and I'm just not familiar with
3 these terms -- as line of demarcation?

4 A Line of demarcation. And what it means by
5 that is the smoke line has come down from the -- in
6 other words, it filled the ceiling up, and it came
7 down and it just kept building up until it got to
8 about three off the floor.

9 Q Okay. And is that consistent with a fire
10 that was rapidly burning?

11 A Yes.

12 Q Such as one that an accelerant would have
13 been used?

14 A Yes.

15 Q What were your other observations? You
16 mentioned saw in the kitchen area and the living
17 room area certain things. Could you explore the
18 rest of that?

19 A Yes. Well, like I said, I was working my
20 way all the way around, because I'm eliminating
21 these sources. Like in the kitchen when I got in
22 there, I also checked the refrigerator. I checked
23 the stove. I checked the hot water heater, things
24 of that nature, that are in there, things that could
25 have ignited this fire and caused it to happen.

Richard Seel. - Direct

341

1 All of those items were in good repair.
2 The stove, the refrigerator, everything was intact
3 in there. There did not appear to have been cooking
4 or any accidental causes for the fire in there.
5 Those were all eliminated as a source of the fire.

6 I was also looking at wall receptacles,
7 things of that nature, and then I worked my way into
8 the back of the house or the apartment where the
9 bedroom area was. There again, I'm looking for
10 additional maybe ignition sources or additional
11 points of the origin possibly.

12 I observed in there that, of course, the
13 smoke damage was not as great as it was in the front
14 portion of the house, but it was still pretty heavy
15 smoke damage there, heat damage. I noticed that the
16 bed clothing on the bed had been removed. There was
17 nothing but a bare mattress in there.

18 I noticed that the occupant's personal
19 belongings were still all present, such as clothing,
20 things that the person owned was all still present
21 in the room. And then I worked my way back towards
22 the living room.

23 Q At some point when checking a house, do
24 you also check to see points of entry and how those
25 would have been affected?

Richard Seel - Direct

342

1 A Yes, I do.

2 Q And what were your observations? How many
3 points of entry were there to this actual apartment?

4 A In this particular apartment, they had a
5 front door, and at the back of the apartment in the
6 living room area was a sliding glass door.

7 And, of course, what I needed to do at
8 that point was when I entered the residence, the
9 first thing that I did was check that door and look
10 to see if there was anything like on the jamb of the
11 door or if there was any pry marks, if the jamb was
12 cracked, if there was any forced entry at that
13 location.

14 And I observed none. When I worked my way
15 back into the living room from the bedroom area,
16 there was a big sliding glass door. It was closed
17 and intact, and it did not appear to have any pry
18 marks or any breakage of the window glass or
19 anything of that nature.

20 Q You also checked the apartment when you're
21 making your rounds to see whether or not smoke
22 detectors may have been there?

23 A Correct.

24 Q Was it significant in this case what you
25 found as far as the smoke detectors were concerned?

1 A Yes.

2 Q And how is that, sir?

3 A They had been disabled.

4 Q And in what manner had they been disabled?

5 A On one, the battery had been removed, and
6 the other one had been wrapped up with some material
7 so that smoke wouldn't get into the condensation
8 chamber.

9 Q You've told this jury a little bit about
10 your general observations. Prior to going in, were
11 you made aware that there was a body actually in
12 there?

13 A Yes.

14 Q Was it still in there when you entered?

15 A Yes, it was.

16 Q What were your observations, and where was
17 the body located when you entered?

18 A When I entered, the body was located just
19 inside the living room area off the foyer. The body
20 was laying facedown, and the body had been wrapped
21 up in what appeared to be a comforter or bed linen.
22 I was able to observe the body had -- it was a body
23 of a female.

24 She appeared to have -- her feet were
25 bound with some kind of cloth. And I noticed and

Richard Seel - Direct

344

1 observed that she had some sort of a cloth wrapped
2 around her neck, and it was bound all the way around
3 the neck. And the body in the comforter had been
4 severely burned on her back, the backs of her legs.
5 The back of her body was burned very badly.

6 Q Was she positioned in any certain way that
7 was indicative of what type of heat she endured?

8 A Well, she was lying straight out. And, of
9 course, I did observe with her lying straight out,
10 there was no lividity. She hadn't pulled up, or her
11 muscles hadn't tensed up where if she would have
12 been awake, conscious, of course, should have been
13 in pain, and she would have been flailing and things
14 of that nature.

15 And I noticed that she was just laid
16 straight out, and really no lividity was present,
17 which indicated to me that she was apparently
18 deceased before the fire actually was put on her.

19 Q But you weren't the person to make that
20 actual determination, so the coroner did that in
21 this case?

22 A No, I was not. That was the coroner.

23 Q Once you observed her, you mentioned that
24 there were some bed clothing that was on top of her?

25 A Yes.

1 Q And what was the condition of that bed
2 clothing?

3 A It was burned very badly.

4 Q And, again, when you went into the
5 bedroom, what was the condition of the bed?

6 A It was no bed clothing on the bed in the
7 bedroom.

8 Q So the only bedclothes you observed was on
9 top of her?

10 A Was on top her. She had been rolled up in
11 it.

12 Q Did you observe anything in and around her
13 body on the carpet that was significant?

14 A Yes, I did.

15 Q What was that, sir?

16 A It was what we refer to in the fire
17 service as pour portions or pool patterns. Whenever
18 you pour a liquid out, it will form a pool, okay?
19 And once you get that pool out there, then you
20 ignite it, especially on top of like this carpet
21 here, it will leave a round circle like the
22 appearance of a pool was.

23 Whatever pattern the pool found when it
24 ran out, you will see that pooling pattern where
25 you've actually got penetration into the surface of

Richard Seel - Direct

346

1 the carpet burning downward instead of upward and
2 outward like I told you fire normally does.

3 You also, once you get that pool pattern,
4 you get an even heating across the surface of that
5 pool. In other words, it is ignited, which causes a
6 burn pattern to form like on walls and things like
7 that.

8 Instead of it burning in a V pattern,
9 which is normal, it will burn in an inverted V
10 pattern, because you're getting an even heating
11 across the surface of the pool, which causes it to
12 come up, and eventually, it will start back out and
13 form like an hourglass.

14 But when we see that inverted V, that's
15 indicative of an ignitable liquid being present,
16 because there was that even V across the pool. I
17 did observe that in the carpet around the victim.
18 There was actually the penetration burning into the
19 carpet.

20 It was laying up against -- she was lying
21 right next to a wall and a sofa. And these inverted
22 V patterns were apparent and present on the wall by
23 her, and they were present in the carpet where she
24 was lying.

25 Q And were you able to make a determination

Richard Seel - Direct

347

1 as to the origin of this fire?

2 A Yes, I was.

3 Q What were your findings in this case, sir?

4 A My findings in this case were after
5 eliminating all the accidental causes that I was
6 telling you about, there was no providential cause.
7 In other words, we had no lightning storms, or we
8 had no snow storms, nothing along that nature. So
9 all of that was eliminated.

10 After eliminating all of that and
11 eliminating electrical causes and causes of cooking
12 and things of that nature, then we were left with
13 one cause, and that's what we said is the direct
14 result of human hands and due to the fact of seeing
15 these pour patterns and the inverted Vs and the oily
16 soot on the walls and things of the nature, the
17 rapid buildup of heat.

18 In this particular instance, it's so rapid
19 that it consumed all the oxygen in the room, which
20 was why the fire went out, because the fire quickly
21 and rapidly -- it consumed the oxygen so fast in the
22 apartment until now it no longer could burn. You've
23 got to have three things -- heat, oxygen, and fuel.

24 If you remove one of those, you don't have
25 a fire. In this particular case, the oxygen got

Richard Seel - Direct

348

1 removed before it actually was able to get itself to
2 the outside.

3 If it had ever vented itself to the
4 outside, we'd have had a full-blown apartment
5 building on fire instead of just the apartment.
6 What ended up happening is that it consumed all the
7 oxygen, the fire went out, and then the fire started
8 to cool back down. So --

9 Q And, again --

10 A -- what that would again indicate it was
11 an ignitable liquid that was present that caused to
12 this to happen. So therefore, in my opinion, the
13 fire was as a direct result of human hands using an
14 ignitable liquid.

15 Q And it literally burned itself out, I
16 guess?

17 A Yes, which is indicative of probably most
18 likely gasoline.

19 Q And in your observations, again, there
20 were no windows open or any doors open?

21 A There were not.

22 Q Had he left a window open, what would have
23 happened?

24 A It would have got the oxygen that it
25 wanted, that it needed to survive. Fire is just

1 like us. We've got to have at least 21 percent
2 oxygen to live. So there's a fire. If it gets down
3 below that, the fire goes out. And in this case,
4 that's what happened.

5 Q And if in fact that had happened, the body
6 as well as everything inside would have been
7 consumed by fire?

8 A That is correct.

9 Q But in this case, it actually kind of put
10 itself out?

11 A It put itself out. It consumed the oxygen
12 and put itself out. And like I say, if it had got
13 oxygen, it would have been even -- we would probably
14 have had about eight or nine families that fire
15 would also be present in the building.

16 Q And as far as computing how rapidly this
17 fire accelerated, do you have any opinion as to
18 that?

19 A Yes, it accelerated so rapidly that it did
20 not have time to bake onto the windows. It did not
21 have time to bake onto the walls.

22 That's why the windows were blacked out.
23 This person observed that the windows were black.
24 That's what caused that. And soot just got onto the
25 windows, and it came right off. So that means it

Richard Seel - Direct

350

1 was burning very rapidly and fast.

2 Q As part of your investigation, do you try
3 to test while you're there at the scene for the
4 presence of any ignitable liquids or anything of
5 that sort?

6 A Yes, I do.

7 Q And did you do that in this case?

8 A In this case, I did. I have an instrument
9 which is a hydrocarbon detector. Most ignitable --
10 ignitable liquids are hydrocarbons. And I have an
11 instrument that tests for hydrocarbons in the air.
12 And it's made by a company called Mini-Wave.

13 In this particular instance, it's called a
14 Mini-Wave and it's a model 2000. And basically it's
15 the same condensation unit. It takes a sample of
16 the air.

17 There's a little snout that comes into the
18 instrument. And then what it does it analyzes the
19 particles and makes them reflect -- where it goes
20 into a chamber where's there a form of light, and it
21 actually reflects back across, depending -- and I'm
22 not a scientist by no means.

23 This is just basically how it works. It
24 causes the instrument to read a certain setting.
25 And when it gets to a certain point -- there'll be a

Richard Seel - Direct

351

1 number figure on the dial. When it gets to that
2 certain point, it tells you that I've got a very hot
3 reading. And when I start getting that, then that's
4 kind of where I want to try and take my samples
5 from.

6 Q And in this case, did you actually take --
7 was a photograph actually taken of the reading that
8 came up when you tested the area around the body?

9 A Yes.

10 Q And where were you testing, again?

11 A Right at the base of the victim's body.

12 Q At the base of the victim's body?

13 A Right at the carpet. She was lying on the
14 floor, and I put the instrument right down by her
15 body on the floor.

16 Q I'm going to show you what's been marked
17 as State's Exhibit 109. Is that the reading that
18 came up?

19 A Yes, this is my instrument.

20 Q Uh-huh.

21 A It's a Mini-Wave.

22 MR. MAY: Objection, Your Honor. He can't
23 publish it until it's submitted into evidence.

24 Q Is that it?

25 A That's it.

Richard Seel - Direct

352

1 Q And does this fairly and accurately depict
2 the reading you got that day?

3 A That is correct.

4 MS. CAMPBELL: Your Honor, at this time
5 I'd offer State's Exhibit 109 into evidence.

6 MR. MAY: Without objection.

7 THE COURT: It's admitted without
8 objection.

9 (State's Exhibit Number 109, Photo, was
10 entered in evidence.)

11 Q Now you can do it.

12 A This is my instrument I was telling you
13 about. It comes out with a number. When that
14 number gets to 25 or better, I consider that a good
15 hot reading. In this particular instance, it got to
16 25.7.

17 So what I did was when it got to that
18 particular reading, I had the crime scene technician
19 there with me, and I had her snap a picture of my
20 instrument so that you could see the reading.

21 Q And the reading that was reflected, 27.5,
22 what does that indicate to you?

23 A That indicates to me that there was an
24 accelerant present or a flammable ignitable liquid.

25 Q To always try to confirm your findings, do

Richard Seel - Direct

353

1 you also take certain samples?

2 A Yes, I do.

3 Q And I want to who you what's been marked
4 as State's Exhibit Seventy-Two, Seventy-Three, and
5 Seventy-Four. Do you recognize those?

6 A Yes, I do.

7 Q And are those photographs of the areas
8 where you took samples and the actual can of the
9 sampling?

10 A Yes, it is..

11 Q And do those fairly and accurately depict
12 the scene and the areas where you took the samples?

13 A Yes, it does.

14 MS. CAMPBELL: Your Honor, at this time
15 we'd offer these into evidence.

16 MR. MAY: Without objection.

17 THE COURT: Admitted without objection.

18 Q The areas that are shown --

19 COURT REPORTER: Give me the numbers
20 again, please.

21 MS. CAMPBELL: I'm sorry -- seventy-two
22 through seventy-four.

23 COURT REPORTER: Thank you.

24 (State's Exhibits Number 72 through 74,
25 Photos, were entered in evidence.)

Richard Seel - Direct

354

1 Q I'm showing you seventy-two,
2 seventy-three, and seventy-four. Were these the
3 areas where you collected samples, and was this
4 before or after the body had been removed?

5 A Well, this was after the body had been
6 removed.

7 Q So this would have been after the body had
8 actually been removed by the Coroner's Office. What
9 area was this in?

10 A That was right by the sofa, right in the
11 entrance, the foyer and the living room.

12 Q And what type of material are you
13 attempting to gather when you took these samples?

14 A What I was doing, ladies and gentlemen,
15 was I was cutting out pieces of the carpet right
16 below where her body was lying. Also, I cut a piece
17 of carpet out by the baseboard right there at the
18 door because a lot of times, ignitable liquids will
19 run up underneath the edge of the baseboard.

20 And once the fire starts burning, they're
21 protected up underneath that edge. So I took a
22 sample there, also. That's what those photographs
23 depict, yes.

24 Q In fact, I had forgotten one thing. When
25 you got there, was this fire still hot, or had it

Richard Seel - Direct

355

1 cooled off?

2 A It was cold. It was a cold fire.

3 Q And when you took those samples, were
4 those samples then submitted to SLED?

5 A Yes, they were.

6 Q And did you do that?

7 A Yes, I did.

8 Q And were they properly packaged and
9 submitted?

10 A Yes, they were.

11 Q And are you always going to get a positive
12 reading even when an accelerant is definitely used?

13 A No.

14 Q Why not?

15 A A lot of times the -- when I took the
16 reading with the hydrocarbon detector, she was
17 present. It could have been that once the body was
18 removed, what I was picking up was taken with her.

19 It could have been that the actual area I
20 collected samples from, I didn't actually manage to
21 get a part of the ignitable liquid, or it may be
22 that the ignitable liquids were all consumed during
23 the process of combustion.

24 And sometimes once I can then and send
25 them off, when they're sitting there, they're

Richard Seel - Direct

356

1 aromatic. And a lot of times they would evaporate
2 before the gas spectrometer gets to take a look at
3 them.

4 Q So the fact that there were no flammable -
5 - what's the term --

6 A Flammable liquids?

7 Q -- flammable material found by SLED
8 doesn't mean that gasoline wasn't used?

9 A It does not mean that.

10 Q And in fact, your reading confirmed that
11 an accelerant was used?

12 A Something was burning, yes.

13 Q And your soot and your observations at the
14 scene were most consistent --

15 MR. MAY: Objection, Your Honor. She's
16 testifying.

17 THE COURT: Don't lead the witness.

18 Q What were your findings consistent with,
19 what type of accelerant?

20 A My findings were consistent with a
21 petroleum-based ignitable liquid such as gasoline or
22 kerosene. Due to the lack of quick buildup of the
23 fire, it is more consistent with gasoline.

24 Q Okay. I want to show you what's been
25 marked as State's Exhibit Eighteen, Twenty, and

Richard Seel - Direct

357

1 Twenty-Two. Did you make any observations about the
2 general appearance of the items in the apartment as
3 well as the soot that was found?

4 A Yes, I did.

5 Q And what areas -- I'm not going to show
6 the pictures yet. But what areas did those show
7 when you marked them?

8 A This shows the living room of the
9 apartment, living area where the body was located.

10 Q And does that fairly and accurately depict
11 how it appeared when you were there?

12 A Yes, it does.

13 MS. CAMPBELL: Your Honor, at this time
14 we'd offer these into evidence.

15 MR. MAY: Without objection, Your Honor.

16 THE COURT: Admitted without objection.

17 (State's Exhibits Number Eighteen, Twenty,
18 and Twenty-Two, Photos, were entered in evidence.)

19 Q You mentioned earlier that there was a
20 sliding glass door. Is that depicted in State's
21 Exhibit Number Eighteen?

22 A Yes, it is.

23 Q And then in State's Exhibits Twenty and
24 Twenty-Two are areas closer up that are also noted
25 in that picture?

Richard Seel - Direct

358

1 A Yes.

2 Q And what were those indicative of to you?

3 A Those were indicative of, there again,
4 there apparently had been some sort of a struggle or
5 something --

6 MR. MAY: Objection, Your Honor.

7 A -- in the apartment to knock over the --

8 MR. MAY: Objection.

9 THE COURT: Just a moment, sir.

10 Yes, sir.

11 MR. MAY: Your Honor, I believe it's
12 outside his scope of expertise to testify about a
13 struggle.

14 THE COURT: What says the State?

15 MS. CAMPBELL: Your Honor, I think in fact
16 these are within the scope. He's trying to show me
17 what happened during the whole fire. It's his
18 observations of the scene itself.

19 MR. MAY: Respectfully, Your Honor, he's
20 already testified that the decedent was dead at the
21 time of the fire. And he's testifying about
22 something that happened before the fire. Therefore,
23 it's outside the scope of what he's been qualified
24 to testify about.

25 THE COURT: All right.

Richard Seel - Direct

359

1 Ladies and gentlemen, it's a good time for
2 a break. Please go to the jury room for a few
3 minutes.

4 (The jury left the
5 courtroom at 4:14 p.m. after which the following
6 proceedings were had:)

7 THE COURT: All right, this witness is an
8 expert in fire. What qualifies him to testify him
9 about struggles?

10 MS. CAMPBELL: I don't think he even has
11 to be an expert to say he saw signs of a struggle.
12 It's his observations that things were out of place.
13 Or I can rephrase it into, "Were things on the
14 ground, disheveled?" or something of that nature.

15 THE COURT: All right.

16 MS. CAMPBELL: I'll be glad to do that,
17 Judge.

18 MR. MAY: Your Honor, she asked, "What was
19 this indicative of?" His response was, "A
20 struggle." I'd ask to strike that from the record
21 as it is outside of his scope of expertise as what
22 he's been qualified in as of now.

23 THE COURT: You made the objection. I'll
24 sustain the objection. That should be sufficient.

25 MS. CAMPBELL: Thank you, Your Honor.

Richard Seel - Direct

360

1 THE COURT: All right, we'll take a few
2 minutes.

3 (Court in recess.)

4 THE COURT: All right, yes, sir.

5 MR. MAY: Yes, sir, Your Honor. We talked
6 with Luck real quick. Per Judge Manning, there's
7 some funeral tomorrow. I just want to make sure
8 there's not going to be any issue with us and them
9 bringing witnesses and us having experts up here. I
10 just want to make sure they're good to go tomorrow,
11 out of an abundance of caution.

12 THE COURT: Okay. Per Judge Manning?

13 MR. MAY: Judge Manning said there is a
14 funeral for some courthouse member's father.

15 THE COURT: And therefore what?

16 MR. MAY: Well, he suspended his
17 courtroom. I just want to make sure that we're good
18 to go. The defense doesn't want any delays. We
19 just want to try this case. I just wanted to make
20 sure that the Court is aware.

21 THE COURT: All right. I'm not sure of
22 Judge Manning's schedule.

23 All right, let's bring them on.

24 They did speak to me about it, and some of
25 the deputies want to go. I told them we'll deal

Richard Seel - Direct

361

1 with it. I've got a man over there and my lady.
2 We're in good shape.

3 (Whereupon, the jury
4 returned to the courtroom at 4:04 p.m. after which
5 the following proceedings were had:)

6 BAILIFF: The jury is all seated, Your
7 Honor.

8 THE COURT: All right, very good. The
9 objection is sustained as to the officer's testimony
10 about what appeared to be a struggle.

11 MS. CAMPBELL: Yes, Your Honor. I'll
12 rephrase.

13 THE COURT: And, ladies and gentlemen, the
14 jury passed a note saying "As a jury, are we allowed
15 to pass around pictures presented to us, presented
16 to see?" The answer is yes.

17 When photographs are given to you,
18 generally it's for the benefit of everyone on the
19 jury. Always, it's for the benefit of everyone to
20 see on the jury. And those are items that you will
21 also have in the jury room at the end of the case.

22 MS. CAMPBELL: Thank you, Your Honor.

23 EXAMINATION CONTINUED

24 BY MS. CAMPBELL:

25 Q I want to show you State's Exhibit Number

Richard Seel - Direct

362

1 Eighteen. There are various items on the floor
2 there?

3 A Yes.

4 Q And what do those items appear to be?

5 A They appear to be the stereo system that
6 was in the living room up on the shelves.

7 Q And I'll show you State's Exhibits Twenty
8 and Twenty-Two. Are those close-ups of that stereo
9 system?

10 A Yes, it is.

11 Q And without characterizing it, describe
12 how those appear.

13 A Those appear to have been -- they were
14 lying on the floor. I took photographs of them. If
15 you'll look at the pictures, you'll see that there
16 is a line of demarcation around them. The soot
17 didn't get up underneath them, meaning that they
18 were on the floor prior to the fire burning.

19 Q So they would have been on the floor as in
20 State's Exhibit Number Eighteen prior to the fire
21 burning?

22 A If you look in the edges of the speakers
23 and things like that, you can see that there is
24 clean carpet up underneath the edges of it.

25 Q And here below the glass window on the

Richard Seel - Direct

363

1 floor, what is that?

2 A That was the plastic blinds, the kind that
3 come down, the long plastic cylindrical blinds that
4 hang down. And if you pull it open, it kind of
5 turns sideways, or you pull the rope, and it'll
6 close up. They had melted and fell to the floor.

7 Q Okay. You also mentioned that this
8 occurred near a couch near the foyer area in the
9 living room?

10 A That's correct.

11 Q I'm going to show you -- don't show these
12 to the jury yet -- State's Exhibits Twenty-Three and
13 Twenty-Nine and first just ask, do you recognize
14 those?

15 A Yes, I do.

16 Q And do those show the general area you're
17 referring to where the body was?

18 A Yes.

19 MS. CAMPBELL: Your Honor, at this time
20 we'd offer State's Exhibits Twenty-Three and
21 Twenty-Nine into evidence.

22 MR. MAY: Your Honor, we have an
23 objection.

24 THE COURT: Pardon me?

25 MR. MAY: We have an objection, to

Richard Seel - Direct

364

1 twenty-nine.

2 THE COURT: If I'm going to rule on it, I
3 need to see it.

4 MR. MAY: Yes, sir.

5 MS. CAMPBELL: You don't object to the
6 other one?

7 MR. MAY: Do not object to twenty-three.

8 THE COURT: Twenty-nine is admitted over
9 objection.

10 (State's Exhibits Number Twenty-Three and
11 Twenty-Nine, Photos, were entered in evidence.)

12 Q State's Exhibit Number Twenty-Three, what
13 does that show, sir?

14 A State's Exhibit Twenty-Three shows the
15 side of the couch arm by where the body was laying
16 and actually is the wall where if you're coming in
17 from the foyer, the couch was sitting right at that
18 entrance opening.

19 And what it's showing is that the bottom
20 side of the arm of this couch has been burned,
21 meaning that the fire and the heat are coming from
22 below it and coming up, meaning the fire is down
23 where the body is located and is burning upward. So
24 that's the significance of that photo, to show you
25 that the fire and the heat were below the arm and

Richard Seel - Direct

365

1 coming upwards.

2 Q And in State's Exhibit Number Twenty-Nine,
3 is that kind of a view encompassing what's in
4 State's Exhibit Twenty-Three?

5 A That's correct. It's a further away view.

6 Q And what does this show, sir?

7 A It also is a further away view, and it
8 shows the relationship of the victim lying there in
9 relationship to the couch itself.

10 Q And you mentioned earlier that the victim
11 and her body, there was bedding on top of her?

12 A That is correct.

13 Q And is that so shown in this picture?

14 A That is.

15 Q And you also mentioned that there was
16 binding around her legs?

17 A Correct.

18 Q And is that shown here in this picture,
19 sir?

20 A Yes.

21 Q And where is the binding you're referring
22 to on the legs?

23 A It is this white piece of cloth, material,
24 that you see wrapped around the ankles.

25 Q So her head would be where?

Richard Seel - Direct

366

1 A Her head would be --

2 Q It's not visible in this picture.

3 A It would be upwards, up in this area right
4 up here.

5 Q And that's how it presented when you got
6 there that day?

7 A Yes.

8 Q I'm going to show you another series of
9 pictures, and don't show them to the jury yet.
10 State's Exhibit Forty-Five, Thirty-Three,
11 Thirty-Five, Thirty-Six, Thirty-One, Forty-One, and
12 Forty, do you recognize those?

13 A Yes, I do.

14 Q And do those fairly and accurately depict
15 the scene as it was when you were there that day?

16 A Yes, it does.

17 MS. CAMPBELL: Your Honor, at this time
18 we'd offer these into evidence.

19 MR. MAY: Your Honor, we object, and we
20 have a matter of law.

21 MS. CAMPBELL: You want me to hand up the
22 photos?

23 THE COURT: Ladies and gentlemen, we need
24 to discuss the matter outside your presence. Please
25 go to your jury room. Please leave the exhibits in

Richard Seel - Direct

375

1

2

3

4

5

THE COURT: All right. The objection is overruled as to thirty-one, thirty-five, and forty-five. The objection is sustained as to the other photographs.

6

7

MS. CAMPBELL: Your Honor, we've redacted thirty-six and forty-one.

8

9

10

11

MR. MAY: Your Honor, the defense has no problem with thirty-six and forty-one. We would, again, just object, which has been overruled, to the other three that are entered in.

12

13

THE COURT: All right.

EXAMINATION CONTINUED

14

BY MS. CAMPBELL:

15

16

17

18

Q I want to show you what's been marked as State's Exhibit Number Thirty-One. Where is that camera shot actually coming from, from what area of the house?

19

20

21

22

A That camera shot, ladies and gentlemen, is coming from the hallway leading into the bedroom area. Basically, you're looking back into the living room area.

23

24

Q Okay. And in State's Exhibit Number Thirty-One, what is actually shown there?

25

A That's showing the bed clothing, and it's

Richard Seel - Direct

376

1 showing the entrance into the area where the victim
2 was lying.

3 Q And is that how the victim appeared when
4 you got there that day?

5 A Yes.

6 Q And the bed clothing that has been
7 mentioned, is that here?

8 A Yes.

9 Q And that's how it appeared and how it
10 appeared to be burned when you got there?

11 A Yes, it was.

12 Q State's Exhibit Number Thirty-Five, does
13 that show a different angle of the same area?

14 A Yes, this is a different angle. This
15 time, you're actually standing in the living room
16 looking back toward the hallway. It's depicting
17 where the victim was lying. It's also depicting the
18 burn patterns that are on the wall, the inverted Vs
19 that I referred to.

20 Q Specifically, what is it that you referred
21 to, the Vs?

22 A Well, if you're looking at the photograph,
23 at these patterns that are on the wall here, these
24 patterns right here, you don't see the V pattern.
25 You see more of a sweeping pattern, which means that

Richard Seel - Direct

377

1 there was an even heating across the surface of the
2 pool, causing that type of a pattern to form.

3 There is actual penetration through that
4 wooden door there, which shows the rapidity with
5 which the fire was burning. Then the wall right
6 next to it, you get the burn all the way through the
7 door right there in that area.

8 Q And the line of demarcation, is it also
9 shown in this picture somewhat?

10 A Yes, it is.

11 Q And I'll show you State's Exhibit
12 Thirty-Six, which is a redacted version. Does that
13 also show the line of demarcation?

14 A Yes, it does. It shows the line of
15 demarcation where it's coming down right above the
16 floor. It shows you that the smoke line came down
17 to around three feet off the floor.

18 Q And in State's Exhibit Thirty-Six, this is
19 showing, again, which area?

20 A That's in the living room looking down the
21 hall.

22 Q And State's Exhibit Number Forty-One,
23 again, shows what area?

24 A Forty-one is in the hallway just outside
25 the bedroom.

Richard Seel - Direct

378

1 Q And, finally, State's Exhibit Forty-Five
2 shows what area?

3 A It shows the living room. And, there
4 again, it's showing the edge of the wall between the
5 hallway and the living room where the couch was
6 sitting. And you can see the line of demarcation.
7 You can also see the inverted V on the front of the
8 wall there, and you can see the picturation of the
9 oily-looking soot.

10 Q You mentioned earlier that while you were
11 there, there was also a technical person from the
12 Columbia Police Department who was also taking
13 photographs, as well?

14 A Correct.

15 Q And she would have be the one to collect
16 any evidence as far as her investigation went?

17 A That's correct.

18 Q And, again, your conclusion as to what
19 caused this fire?

20 A This fire was set as a direct result of
21 human hands, using ignitable liquid that was poured
22 down and across the top of the victim and the bed
23 clothing, with it running onto the floor in an area
24 around the victim, and then was ignited by an
25 unknown source, possibly a lighter or a match.

1 MS. CAMPBELL: Beg the Court's indulgence.

2 Q On State's Exhibit Number Twenty-Nine, you
3 talked about the pooling effect was not as good in
4 these pictures as it in others. But can you see it
5 in that?

6 A Yes, you can. It's not real clear, but
7 you can see the outer edges of the clothing, the bed
8 clothing there. On the outer edges here, you can
9 see the surface burn on the carpet.

10 Q And it's hard to see in this actual
11 photograph. But that's what you're referring to as
12 far as the pooling with the accelerant?

13 A Yes.

14 Q Thank you, sir.

15 THE COURT: Cross-examination.

16 MR. MAY: Yes, sir. May it please the
17 Court, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MAY:

20 Q You did a report in this case, correct?

21 A Correct.

22 Q You do a report in any case you're
23 involved in?

24 A Beg your pardon?

25 Q You do reports in all cases you're

Richard Seel - Cross

380

1 involved in?

2 A Correct.

3 Q That's the document evidence?

4 A Yes, sir.

5 Q That's to be able to use it to be able to
6 remember what happened three years later?

7 A Correct.

8 Q And to be able to refresh your memory of
9 what you remember about that day?

10 A That is correct.

11 Q All right. Now, let's just go through
12 this real briefly.

13 A Sure.

14 Q And then I have some additional questions,
15 okay?

16 A Certainly.

17 Q All right. Now, you note on the first
18 page that her feet were bound with something about
19 them, and there was something around her neck,
20 correct?

21 A Correct.

22 Q And it appears that this happened to the
23 feet postmortem, correct?

24 A Yes.

25 Q Now, you got there after being called by

Richard Seel - Cross

381

1 the responding fire officers?

2 A Correct.

3 Q Responding fire officers respond to a call
4 of black smoke in an apartment?

5 A Yes.

6 Q So you started interviewing people as soon
7 as you got there, right? You wanted to find out
8 from Chief Harrell what occurred?

9 A Correct.

10 Q And they stated that when the door was
11 opened, they saw light smoke?

12 A Correct.

13 Q So you did a walk around the unit. You
14 wanted to make sure that nothing was suspicious?

15 A That's correct.

16 Q You checked the front door just to make
17 sure the door didn't show signs of forced entry?

18 A Correct.

19 Q You also testified that you later did that
20 with the back sliding glass door?

21 A Correct.

22 Q Then you start seeing that there was a
23 fire there. And nobody's contesting there was a
24 fire there. And the fire was primarily in the
25 living room, correct?

Richard Seel - Cross

382

1 A And the bedroom, yes.

2 Q All right. Now, you observed in the
3 bedroom that the bedding was missing?

4 A Correct.

5 Q Some bedding was on the victim?

6 A Yes.

7 Q Some of the bedding bound the victim's
8 legs? A A cloth of some sort, yes, sir.

9 Q And you started saying that there was
10 indication of a flammable hydrocarbon. And all a
11 flammable hydrocarbon is, is either gas, kerosene,
12 something along those natures?

13 A That's correct, ignitable liquid.

14 Q And gasoline, of course, is what you see
15 in your line the most often because it's the most
16 readily accessible?

17 A Most readily accessible, most volatile.

18 Q Most people have it in their cars?

19 A Correct.

20 Q All right. So you are able to show there
21 was hydrocarbon not only through your hydrocarbon
22 detector but also different cooling patterns --

23 A Correct.

24 Q -- the way the walls felt -- literally
25 felt -- because you said there it was an oily-like

1 soot?

2 A Yes, it was.

3 Q That you could rub stuff off?

4 A Yes.

5 Q And this is all indicative of a
6 hydrocarbon? A Correct.

7 Q Additionally, you stated that there were
8 no signs of floundering, meaning that if somebody
9 was on fire, they're moving around?

10 A Correct.

11 Q And there was no sign of that. So
12 therefore it's your opinion as a fire investigator
13 that the decedent was dead at the time the fire
14 started?

15 A That is correct.

16 Q All right. Now, what you didn't include
17 in your report was that you investigated and
18 interviewed additional people, correct?

19 A Yes, I did.

20 Q And you interviewed Ms. Poitier?

21 A Yes.

22 Q You interviewed Sherrese Butler?

23 A Yes.

24 Q As well as Roberto Santana?

25 A Yes, I did.

Richard Seel - Cross

384

1 Q And do you recall your conversations with
2 Roberto Santana on February 5, 2009?

3 A I don't have those notes in front of me.

4 Q Okay. Do you remember saying on that day
5 that you knew that both the front door was locked
6 and the back door was locked?

7 A I do not recall. I know the front door
8 when I got there was open. It was unlocked by the
9 maintenance man, Mr. Santana.

10 Q Right.

11 A There were no signs of forced entry on
12 there.

13 Q Correct. But do you remember recording
14 this conversation with Mr. Santana?

15 A Yes, I do.

16 Q All right. And this was on February 5,
17 2009?

18 A Yes, sir.

19 Q All right. And are you saying right now
20 that you do not remember in that conversation
21 stating that "We know that both the front door was
22 locked and the back door was locked"?

23 A I do not recall.

24 Q Is this your voice saying those words?

25 (Whereupon, counsel played a portion of

Richard Seel - Cross

385

1 the recording.)

2 Is that your voice?

3 A Yes, sir.

4 Q That's you saying that "We know that the
5 front door was locked and the back door was locked"?

6 A Correct.

7 MR. MAY: I beg the Court's indulgence,

8 Your Honor. Your Honor, no further questions at

9 this time.

10 THE COURT: Anything further?

11 MS. CAMPBELL: Just a couple of questions.

12 REDIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q As far as the information, you weren't the
15 first one on the scene?

16 A Beg pardon?

17 Q You weren't the first one on the scene?

18 A No.

19 Q So you don't have any personal knowledge
20 of whether the front door or the back door was
21 locked?

22 A No.

23 Q Just information that may or may not have
24 been related to you correctly at the scene?

25 MR. MAY: Objection, Your Honor. She's

Richard Seel - Redirect

386

1 testifying again.

2 THE COURT: The objection is overruled.

3 What's the question?

4 A Could you rephrase the question?

5 Q So you didn't personally find out whether
6 the front door or the back door was locked yourself?

7 A No, I did not.

8 Q And there was information related to you,
9 but you don't know if it was accurate or not?

10 A No -- related to me by Mr. Santana.

11 Q So you can't tell this jury of your own
12 personal knowledge whether the front door or the
13 back door was locked?

14 A No.

15 Q Thank you.

16 A I was not there at that time.

17 MS. CAMPBELL: I don't have anything
18 further.

19 THE COURT: Mr. May?

20 MR. MAY: Yes, sir.

21 RE CROSS EXAMINATION

22 BY MR. MAY:

23 Q The reason why you interview people who
24 are witnesses is to find out their recollection,
25 correct?

1 A That is correct.

2 Q And that statement was made during an
3 interview, correct?

4 A Yes, it was.

5 MR. MAY: No further questions.

6 THE COURT: All right, thank you, sir.

7 You may step down.

8 Next witness.

9 MS. CAMPBELL: May it please the Court,
10 the State would call Sean Grimes. Your Honor, we're
11 going to take him out of order.

12 THE COURT: Sean Grimes.

13 (The witness was sworn.)

14 CLERK OF COURT: Have a seat in the
15 witness box, and state your name for the record,
16 please.

17 MR. GRIMES: Sean Grimes.

18 SEAN GRIMES, having first been duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q Mr. Grimes, how old are you?

23 A Forty-two.

24 Q And you live here in the Columbia area?

25 A Yes, ma'am.

Sean Grimes - Direct

388

- 1 Q How long have you lived in Columbia?
- 2 A About all my life.
- 3 Q What area of town do you live in?
- 4 A Richland County.
- 5 Q And do you live in the city?
- 6 A Yes -- if you call Walnut Street the city,
- 7 yes, Columbia, South Carolina.
- 8 Q Are you familiar with Bethel Bishop
- 9 Apartments?
- 10 A Yes, ma'am.
- 11 Q And do you know anybody that lives over
- 12 there?
- 13 A My wife and my kid.
- 14 Q Okay. And what's your wife's name?
- 15 A Cynthia Jackson.
- 16 Q How long have y'all been together?
- 17 A About twenty-nine years.
- 18 Q And you also have kids?
- 19 A Yes, ma'am.
- 20 Q How many kids do you have?
- 21 A I've got two by her and two by another
- 22 female.
- 23 Q Do you work?
- 24 A I work for Kenny's Dry Wall Company.
- 25 Q Do you know a man named Ahmad Wilkins?

Sean Grimes - Direct

389

1 A Yes.

2 Q Can you tell this jury how you know Ahmad
3 Wilkins?

4 A He's got a daughter by my niece, and we
5 used to hang out and get high.

6 Q You said that he's got a daughter by your
7 niece?

8 A Yes.

9 Q What's your niece's name?

10 A Nicole Grimes.

11 Q And she's actually, I believe -- is it
12 your sister's child or your brother's child?

13 A My brother.

14 Q Your brother's child?

15 A Yes, that's my niece.

16 Q And how long have you been knowing Ahmad
17 Wilkins?

18 A It's been a while. I've been knowing him
19 for a while.

20 Q And you said earlier that y'all had a
21 relationship. What would y'all do?

22 A Get high.

23 Q And you've been knowing him a while. So
24 has it been a number of years?

25 A Yes, you can say that, yes.

Sean Grimes - Direct

390

1 Q And did you know what area of town that
2 Ahmad Wilkins was staying in with your niece?

3 A Well, now, no, I don't know what building
4 they stayed in, but he stayed in the Bishop with
5 Nicole.

6 Q In the Bishop?

7 A Yes, ma'am.

8 Q And that's the nickname for Bethel Bishop
9 Apartments. It's called the Bishop, right?

10 A Yes, ma'am.

11 Q And would you on occasion go over and
12 visit with him?

13 A Yes.

14 Q And you don't remember exactly what
15 building he stayed in, but he stayed there with your
16 niece?

17 A Yes.

18 Q And their child?

19 A And his child, yes. There's three of one,
20 two boys and one girl.

21 Q Did you know Ebony?

22 A Yes.

23 Q And how did you know her?

24 A She was like a daughter to me.

25 Q Did she also live in Bethel Bishop?

Sean Grimes - Direct

391

1 A Yes.

2 Q The night when all this happened back in
3 2009 -- February 3, 2009 -- were you over in the
4 Bethel Bishop Apartments area?

5 A Yes.

6 Q Tell the jury what you were doing that
7 evening leading up until the early morning hours.

8 A We was sitting out there chilling, you
9 know what I'm saying, talking, drinking, you know
10 what I'm say, in the cut getting high.

11 Q You were sitting in the cut?

12 A Yes, it's called the cut. When you come
13 through the Bishop, there's a little cut right over
14 there where everybody hangs at.

15 Q What's a cut -- like a path?

16 A Yes, like a path, you know what I'm
17 saying. It's where everybody comes through, you
18 know what I'm saying, to get to the Bishop.

19 Q On that evening, on the second, the
20 evening of the second going into the early morning
21 hours of the third, that's where you were hanging.
22 And what were you doing?

23 A Out there getting high.

24 Q And who were you out there getting high
25 with?

Sean Grimes - Direct

392

- 1 A Mad.
- 2 Q Mad?
- 3 A That's what his name. His nickname is
- 4 Mad.
- 5 Q The person that you know as Mad or Ahmad
- 6 Wilkins, do you see him in the courtroom?
- 7 A Yes, ma'am.
- 8 Q Can you point him out for the jury?
- 9 What's he wearing?
- 10 A Over there.
- 11 Q Is he sitting at the table?
- 12 A Yes, ma'am, right there.
- 13 Q And is he on the closest or farther away?
- 14 A On this side over there.
- 15 Q Closest to the Judge?
- 16 A Yes, right there.
- 17 Q And what is he wearing?
- 18 A That brown jacket or sweater, right there.
- 19 Q Okay.
- 20 Your Honor, let the record reflect that he
- 21 identified the defendant.
- 22 THE COURT: It does.
- 23 Q And as the evening progressed when y'all
- 24 were getting high, what were getting high with?
- 25 A Cocaine.

1 Q Cocaine?

2 A Crack.

3 Q What happened as the evening progressed?

4 A What had happened?

5 Q Uh-huh. Tell the jury what happened, what
6 you remember.

7 A What I remember? Okay, well, first of
8 all, me and him, we was getting high. We left, and
9 we went up there to my house.

10 Q Where was your house?

11 A Thirty Bishop -- thirty Bishop.

12 Q Thirty Bishop is where you were living
13 back then?

14 A Thirty B in the Bishop.

15 Q Okay.

16 A So we was sitting there getting high, you
17 know what I'm saying. And he was like, "Man," you
18 know what I'm saying, "I got to take this thing out.
19 You know where we can get some powder from?" I
20 said,

21 "No, I don't know where you can no powder from. But
22 I know where you can get the other stuff from."

23 Q What's the other stuff?

24 A Powder cocaine.

25 Q Powder cocaine?

Sean Grimes - Direct

394

- 1 A And crack cocaine.
- 2 Q And crack cocaine is the other stuff?
- 3 A Yes.
- 4 Q Sorry, go ahead.
- 5 A So, you know, he said, "Man, you know,
- 6 I've got this \$20," you know what I'm saying.
- 7 "Ebony had gave it to me to get some powder."
- 8 Q Who said that to you?
- 9 A He did, Ahmad Wilkins.
- 10 Q Ahmad Wilkins?
- 11 A Yes.
- 12 Q And you call him what?
- 13 A Mad.
- 14 Q Mad?
- 15 A Yes.
- 16 Q And he said he had gotten the \$20 where?
- 17 A From Ebony.
- 18 Q And did he say what he was supposed to do
- 19 with the \$20?
- 20 A Buy some powder cocaine.
- 21 Q And did he say who he was supposed to buy
- 22 the powder cocaine for?
- 23 A Ebony.
- 24 Q So what happened next?
- 25 A We sat there, and we got high, you know

1 what I;m saying. He had asked me, you know what I'm
2 saying, "Well, Mad, go out there," you know what I'm
3 saying, "and see if you can get a doub."

4 Q And get you a what?

5 A A doub.

6 Q What's a doub?

7 A A 20-cent piece of crack.

8 Q Okay. And he was asking you to do that?

9 A Yes.

10 Q Okay.

11 A Because at the time, he was in there, and
12 we was in there getting high. And he didn't want to
13 leave out of the house.

14 Q Okay. So did you go?

15 A Yes.

16 Q And where did you go?

17 A I went down the street.

18 Q And were you able to get the doub?

19 A Yes, ma'am, I did.

20 Q Dove or doub?

21 A Doub, a 20-cent piece of rock.

22 Q Got it. And once you got the 20-cent
23 piece --

24 A Yes.

25 Q And how much did the 20-cent piece of

Sean Grimes - Direct

396

1 crack cost?

2 A Twenty dollars.

3 Q Okay. And once you got that, what did you
4 do?

5 A I went back home, you know what I'm
6 saying. We sat down, and we got high.

7 Q And who is "we"?

8 A Me and Mad.

9 Q Was anybody else with you at the time?

10 A My wife was in there, but she wasn't --
11 she didn't want to do nothing.

12 Q Okay. What happened next?

13 A We sat there, and we smoked, you know what
14 I'm saying. We smoked and smoked, you know what I'm
15 saying. And the next thing you know, the phone
16 rings. You know, it kept on ringing, ringing,
17 ringing, and ringing.

18 So Ebony had been calling, you know what
19 I'm saying, asking, you know what I'm saying, "What
20 you going to do? Are you going to bring my \$20
21 back"? you know what I'm saying.

22 Q Okay, let me back up for a second. Whose
23 phone was ringing?

24 A His phone.

25 Q And you knew who was on the other end?

1 A Yes.

2 Q And how did you know who was on the other
3 end?

4 A That's the person that he had told to open
5 up the back door. He was coming down there. He'll
6 be down there. Just open up the back door.

7 Q Okay, let me back up a minute. First, the
8 phone call came in, and you could tell it was Ebony
9 on the other end?

10 A Yes.

11 Q Could you hear what was being said --

12 A No.

13 Q -- at that point?

14 A All I know is that he had told her that he
15 was coming through the back door, open up the back
16 door. He was going to have it for her.

17 Q So he told her he was coming, and he was
18 going to have it for her?

19 A Yes.

20 Q And did you know what he was talking
21 about?

22 A Yes, ma'am.

23 Q What was he talking about?

24 A Cocaine powder.

25 Q The cocaine powder?

Sean Grimes - Direct

398

1 A Yes, ma'am.

2 Q And that was when he was talking on the
3 phone, he told her he was coming?

4 A He didn't move, though. He kept on, you
5 know what I'm saying, standing there, you know what
6 I'm saying, waiting and waiting and waiting. And I
7 was like, "Man, you need to go on down there and
8 take that to her."

9 So she called my phone, my house phone,
10 you know what I'm saying. And she was like -- I
11 say, "He says he's coming, he's coming, he's
12 coming," you know what I'm saying... He said, "Well,
13 man, I'm fixing to go down there and take it to
14 her."

15 At first, before he did that, he turned
16 around, you know what I'm saying, and said, "Well,
17 man, I done took the money. I done blowed the
18 money. I've got to get her some powder."

19 Q Said get her some powder from some other
20 money?

21 A Yes, because he spent the money.

22 Q You actually spent it for him?

23 A Yes, I went down there.

24 Q Okay. So what did he do?

25 A He had said did I have a Goody powder or

1 something like, you know what I'm saying, anything,
2 you know what I'm say, white, you know what I'm
3 saying, to put in a bag.

4 Q Anything white to put in the bag?

5 A Yes, but I told him I ain't had nothing.
6 I told him I ain't had nothing. So he said, "Man,
7 have you got some flour?" I said, "Yes, I got some
8 flour."

9 Q So did you give him the flour?

10 A Yes.

11 Q How much flour did you give him?

12 A He had a teaspoon and got it himself,
13 because he had took a piece of bag and tore it off
14 to put it in there and wrap it up like it was a doub
15 sack.

16 Q Like it was a doub sack?

17 A Yes, ma'am.

18 Q And that would be a \$20 piece?

19 A Yes, ma'am.

20 Q Sack?

21 A Yes, ma'am.

22 Q And did he tell you why he was doing that?

23 A I mean, he messed up her money.

24 Q He messed up what?

25 A Twenty dollar bill. Instead of going to

Sean Grimes - Direct

400

1 get the powder, he went and got crack.

2 Q Once he put the flour into the baggie,
3 what happened?

4 A He sat there for a minute and waited, you
5 know what I'm saying, and he got another phone call.
6 When he got another phone call, that's when he get
7 up and out. He said, "Man, I'm going through the
8 back way." I said, "All right."

9 So he went and left, and he went out the
10 door. I was sitting there for a minute, chilling.
11 Next thing you know, I walked out the door. You
12 could see out my window. You could see straight
13 down the hill, all the way to the bridge. And I
14 looked, and I ain't seen him. So he went through
15 the back, said he was going through the back.

16 Q He was going through the back?

17 A Yes, ma'am.

18 Q You couldn't see him walking on down?

19 A No, ma'am, I couldn't see him.

20 Q And you were in Building 30. Was Ebony's
21 building within walking distance from yours?

22 A Two buildings from mine.

23 Q Did you see Mad any more that night?

24 A No, ma'am. I seen him that next morning.

25 Q The next morning?

Sean Grimes - Direct

401

1 A Yes, ma'am. When I walked out the door,
2 you know what I'm saying, I walked down there. And
3 when I went to go down the hill, I looked, and I was
4 like, "Man, that don't look right," you know what
5 I'm saying, because I looked at the window, and it
6 was like it was pure black, you know what I'm
7 saying. And I was like, "What's she done put up
8 there on the window," you know. "Looks like nobody
9 can't see in there."

10 Q And that was Ebony's house?

11 A That was Ebony's house. So, you know what
12 I'm saying, I walked down there, you know what I'm
13 saying. And that's when I seen Ms. Poitier coming
14 up the street. When I came up -- when I was going
15 down, I seen Ms. Poitier, the little girl -- I
16 forgot her name, but she was out there.

17 And they was out there, and then Ms.
18 Poitier came out like and I was like, "Man, no, no,
19 can't be." So I seen all the police coming, you
20 know what I'm saying. It was plenty of police.

21 And I was like, "Oh, no, man, can't be,
22 can't be. Man, my baby ain't dead. I know she
23 ain't dead." So they came out, you know what I'm
24 saying, and pronounced her dead. So I went over
25 there, I said, "Man" -- I went over there and

Sean Grimes - Direct

402

1 knocked on the door.

2 I went to his house. I said, "Man, you
3 know Ebony's dead, man?" He said, "No, man, what?"
4 I said, "Yes." I said, "Man, she's dead, man." So,
5 you know what I'm saying, I walked back down there.

6 I came back over there, because I was
7 talking to Kelly. All them investigators was asking
8 me questions, you know what I'm saying. I'm telling
9 them, you know what I'm saying, what I'm telling you
10 know.

11 Q Okay.

12 A And I was like, "Man." They was like,
13 "Who else was with you, Sean?" And I told them Mad
14 was with me. Mad said he was going down there and
15 give her the bag.

16 And when I went and told him what was
17 going on, later on he came out there, and we stood
18 there for a minute. And when I turned back around,
19 I didn't see him no more.

20 Q So you didn't see him talking to the
21 police the next day?

22 A No.

23 Q But you talked to police?

24 A I was talking to the police.

25 Q And who was the person you knew that last

Sean Grimes - Direct

403

1 spoke to Ebony on the phone?..

2 A Mad.

3 Q Mad. And you told police that?

4 A Yes.

5 Q Did you tell them what time it was when
6 that happened? Did you know?

7 A I don't exactly remember, but I know it
8 was late.

9 Q Do you remember telling them it was around
10 1:00 or 2:00?

11 A Something like that, yes, ma'am.

12 Q Are you sure?

13 A When was out there, when we was out there
14 running around.

15 Q Are you sure about the time?

16 A Yes, ma'am. We was out there running
17 around.

18 Q Okay.

19 A When I get high, you know what I'm saying,
20 I move. I don't stay still. I dip.

21 Q You said you were high. So you know
22 exactly what time it was?

23 MR. MAY: Objection, asked and answered,
24 Your Honor.

25 THE COURT: Restate the question.

Sean Grimes - Direct

404

- 1 Q Were you getting high that night?
- 2 A Yes, ma'am.
- 3 Q Were you high?
- 4 A I was high. I was high.
- 5 Q Do you remember telling the police in one
- 6 statement it was around 4 a.m.?
- 7 A I don't remember.
- 8 Q Do you remember telling them in a
- 9 different statement it was around one or two?
- 10 A I think it was about twelve or one. I
- 11 told them about twelve or one.
- 12 Q You've been convicted before of some
- 13 crimes?
- 14 A Oh, yes, ma'am.
- 15 Q Shoplifting in 2007?
- 16 A You name it, I did it. I've got a record.
- 17 Q Burglary in the third degree?
- 18 A Yes, ma'am. I'm on probation for that.
- 19 Q And you didn't see what actually happened
- 20 down at Ebony's house that night, did you?
- 21 A No, ma'am, I didn't see it.
- 22 Q But did you the police the best thing and
- 23 the last person -- where was Mad headed when you
- 24 last saw him?
- 25 A He went through the back, in the back of

Sean Grimes - Direct

405

1 the buildings, to Ebony's house. That's where he
2 said he was going.

3 Q After that day and the next day, you went
4 to tell Nicole about Ebony, right? And then he
5 didn't stick around while the police were there, is
6 what you testified to? Did you ever see him in the
7 Bishop any more after that?

8 A No.

9 Q And do you remember what he was wearing
10 that night?

11 A Let me see -- a blue, no black, white, and
12 red Air Jordans, a blue pair of jeans, and a black
13 coat.

14 Q Okay. Do you remember what type of coat
15 it was?

16 A No.

17 Q Do you remember telling the police what
18 type of clothing he had on?

19 A I don't remember. That's what I told that
20 he had on. He had on a white shirt. He had on a
21 black coat, blue jeans, and red, white, and blue
22 pair of Air Jordans.

23 Q Okay. Do you remember telling them it was
24 a black hoodie jacket?

25 A A black jacket, yes.

Sean Grimes - Direct

406

1 Q The last time you saw Mad when he was
2 leaving the apartment, did he take his bag of flour
3 with him -- do you remember?

4 A No, ma'am.

5 Q You don't remember if he did or not?

6 A When he left my house?

7 Q Uh-huh.

8 A Yes, he had it in his hand. He had cupped
9 it in his hand and walked through the back.

10 Q And where was he headed?

11 A To Ebony's house.

12 Q And who was the only person you heard him
13 talking to that night on the phone?

14 A Ebony.

15 Q Thank you.

16 Your Honor, I don't have any further
17 questions.

18 MR. SHEALEY: May it please the Court?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. SHEALEY:

22 Q Good afternoon, Mr. Grimes. How are you?

23 A All right.

24 Q I want to talk to you a little bit about
25 this case. You told the Solicitor that you were

Sean Grimes - Cross

407

1 high that night, right? That you and Ahmad were
2 using drugs, right?

3 A Yes, sir.

4 Q I'm not trying to embarrass you, but I
5 think the Solicitor went over you had one conviction
6 I think for crack cocaine, correct?

7 A Yes.

8 Q At the time of this interview right around
9 February or April 2009, you got arrested for
10 burglary third degree, right? And will you just
11 speak up, yes?

12 A Yes.

13 Q And do you remember talking to police a
14 couple of times about this case?

15 COURT REPORTER: Is that "yes"?

16 A Yes.

17 Q These two gentlemen --

18 A Yes.

19 Q -- Investigator Thomas --

20 A Thomas and Reese, yes.

21 Q Yes, sir. Do you remember doing a written
22 statement with them and then one time an audio
23 statement? Do you remember that?

24 A Yes.

25 Q And this was right after you had been

Sean Grimes - Cross

408

1 arrested for the burglary, right?

2 A No, when I did the burglary, I ain't
3 talked to no one.

4 Q Well, do you recall when you got arrested
5 for the burglary?

6 A I don't remember.

7 Q If I told you that it was April 19, 2009,
8 would that sound about right?

9 A It was somewhere up in there.

10 Q Okay. Now, do you remember talking and
11 giving actually a written statement with
12 Investigator Thomas on April 28, 2009?

13 A Yes, I think. I'm not quite sure.

14 Q Okay, if I could pass you this. Do you
15 recognize that?

16 A Yes.

17 Q All right. And if you'll flip with me --

18 A This right here is my signature.

19 Q Yes.

20 A My hand signature.

21 Q You recognize that, right?

22 A Yes.

23 Q Okay, I'll take that back from you real
24 quickly. Do you remember the stuff you talked
25 about? You talked about this case, right?

Sean Grimes - Cross

409

1 A Yes, sir.

2 Q And you remember them asking you some
3 questions about phone calls and things like that,
4 correct?

5 A Yes, sir.

6 Q All right. But at that point, you would
7 agree that you never told them exact time at that
8 point, right?

9 A Yes, sir.

10 Q Okay. And at that point, they asked you
11 specifically if you recalled what Ahmad was wearing
12 that night, and you told them you didn't know. Do
13 you remember that?

14 A Yes.

15 Q Okay. So at that point, April 28th, about
16 a month after the incident, you told them you didn't
17 remember what he was wearing that night. And that's
18 in your written statement.

19 A Because I had -- you know what I did? I
20 think about that, and thought about it, and thought
21 about it, you know what I'm saying. I slept with
22 this stuff for a while, you know what I'm saying.
23 You know, and I was just like, you know what I'm
24 saying, I remember some things and I don't remember.

25 Q Okay. Now, you mentioned and you told Ms.

Sean Grimes - Cross

410

1 Campbell that -- I guess if I'm hearing it right --
2 y'all had smoked up the \$20 Ebony had given Ahmad on
3 crack, right, and that he apparently was looking for
4 some -- he didn't have anything to give her. He was
5 supposed to give her powder, is that what the
6 situation was?

7 A Yes, he was supposed to give her -- he was
8 supposed to buy her some powder.

9 Q So he was looking to you to see if you
10 could make her \$20 worth of powder?

11 A I didn't give her nothing.

12 Q Not you. But he was looking, per your
13 testimony, to bring something --

14 A Bring her back some dope.

15 Q -- what looks like some dope. He was
16 looking for the flour, right?

17 A Yes.

18 Q Okay. And you said he did that, and he
19 tied it up in a bag, and that's what he took off to
20 Ebony's?

21 A Yes, he made the bag, and he sat there for
22 a minute. Then she had called, and he left and went
23 with the bag. He had the bag in his hand cupped
24 like this here when he went around the corner.

25 Q And what he put in the bag would have been

1 flour, right?

2 A Yes.

3 Q It wasn't powder, was it?

4 A No, it wasn't powder.

5 Q Okay. And that's what you're saying
6 today, right?

7 A Yes. It wasn't powder. It was flour.

8 Q Now, do you remember another statement?
9 Two days later, April 30th of that same year, they
10 came and they talked to you, and they pulled you
11 over to the Columbia Police Department and had an
12 audio taped. That was Reese and Thomas again? Do
13 you remember talking to them?

14 A Uh-huh.

15 Q This time it was probably longer, and I've
16 got a transcript of this. And at this point,
17 they're trying -- they're very curious about this
18 case, you agree? And they're trying to get the
19 details for sure on this. Do you remember them
20 asking you the precise time that Ahmad left your
21 house, and you told them 12:30 going on 1:00?

22 A Twelve-thirty going on one o'clock.

23 Q And I think that's what you just told Ms.
24 Campbell a little while ago, right?

25 A Twelve-thirty or one.

Sean Grimes - Cross

412

1 Q Twelve-thirty or one. And you were sure
2 about that because you left right afterwards, right?
3 And they kept questioning you -- and you can tell me
4 if you know this. Is it possible that you could
5 have mixed up the time or something, being under the
6 influence. And you told them, "No, because I know
7 when he left, it was about 12:30 to 1:00." And
8 you're pretty sure about that, right?

9 A Yes, I'm pretty sure about it.

10 Q Okay.

11 MR. SHEALEY: Beg the Court's indulgence.

12 Q Mr. Grimes, I don't have anything else for
13 you. I appreciate your help. Thank you, sir.

14 THE COURT: By the State?

15 MS. CAMPBELL: Just a couple of questions
16 to follow up.

17 REDIRECT EXAMINATION

18 BY MS. CAMPBELL:

19 Q They asked you about the time, and you
20 said -- you didn't answer that it was definitely,
21 you said probably around?

22 A Probably, that's what I said. It had been
23 a long time. It had been a long time.

24 Q And then they asked you about whether or
25 not you checked the clock or anything?

1 A That's what I'm saying. It's been a long
2 time.

3 Q Okay. So you told them that you hadn't
4 checked the check, that you didn't know?

5 A Yes.

6 Q Thanks, nothing further.

7 THE COURT: Anything further?

8 MR. SHEALEY: One more question.

9 RE CROSS EXAMINATION

10 BY MR. SHEALEY:

11 Q When they asked you if you possibly could
12 have mixed up the time, do you remember answering
13 "No, because I know when he left out, it was about
14 12:30 or 1:00, going on 1:00"? Does that sound like
15 what you said?

16 A It sounds like what I said. But,
17 remember, I tell you I was high. I was so high. I
18 was high. I was high. When I get high, you know
19 what I'm saying, a lot of things I say I don't
20 remember.

21 Q I know. But you agree that's what you
22 told police when they asked?

23 A Yes, I think. That's what I wrote down,
24 yes.

25 Q And that was your signature?

Sean Grimes - Recross

414

1 A But I was high.

2 Q Yes, thank you.

3 THE COURT: Thank you, sir. You may step
4 down.

5 Next witness.

6 MS. SIMPSON: The State calls Susan
7 Johnson.

8 (The witness was sworn.)

9 CLERK OF COURT: Have a seat in the
10 witness box, and state your name for the record.

11 MS. JOHNSON: Susan Johnson.

12 SUSAN JOHNSON, having first been duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q Ms. Johnson, where do you work?

17 A T-Mobile.

18 Q And what do you do for T-Mobile?

19 A I'm the custodian of records.

20 Q And as the custodian of records, what are
21 some of your duties?

22 A We respond to subpoenas from various law
23 enforcement agencies, as well as testify in court.

24 Q Okay. And does your company maintain
25 records regarding cell phone information to include

Susan Johnson - Direct

415

1 -- with respect to individual subscribers?

2 A Yes, we do.

3 Q And do you maintain those records in the
4 ordinary and usual course of business?

5 A Yes.

6 Q I'm going to show you what has been marked
7 State's Exhibit One Fifteen. Again, I'm showing you
8 what has been marked as State's Exhibit One Fifteen.
9 Do you recognize that?

10 A Yes, I do.

11 Q And did you have a chance to review that
12 before coming here today?

13 A Yes.

14 Q And I want you to tell the jury, what is
15 the target number for those records?

16 A Eight zero three, four four six, zero one
17 nine one.

18 Q So it's (803) --

19 A Four four six --

20 Q -- 446 --

21 A -- zero one nine one.

22 Q -- 0191. And can you tell us the
23 subscriber information on that phone?

24 A Scottie Parker.

25 MS. SIMPSON: And, Your Honor, at this

Susan Johnson - Direct

416

1 time the State would introduce State's Exhibit One
2 Fifteen into evidence.

3 MR. MAY: Without objection.

4 THE COURT: Admitted without objection.

5 (State's Exhibit 115, Cell phone records,
6 was entered in evidence.)

7 Q No further questions, Ms. Johnson.

8 MR. MAY: Briefly, Your Honor.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. MAY:

12 Q Ma'am, would you look at those, with your
13 glasses on, that's fine. They're not collated, are
14 there, on the date. As far as the times, they're
15 not chronologically from start to finish for that
16 month?

17 A I don't understand what you're asking.

18 Q If you look at the calls placed in,
19 they're kind of all over the board, aren't they,
20 like the dates?

21 A Yes, the dates.

22 Q They're not sequential?

23 A Correct.

24 Q Is that normal when someone subpoenas
25 phone records from T-Mobile?

Susan Johnson - Cross

417

1 A Not normally, no.

2 Q All right. Can you explain why those
3 aren't sequential?

4 A Because the representative that would have
5 processed them didn't put them in chronological
6 order.

7 Q Okay. When that's generated, is in like
8 an Excel spreadsheet or something like that?

9 A Yes.

10 Q So how easy would it be to make them
11 sequential in an Excel spreadsheet?

12 A Super easy.

13 Q So that could have been done here?

14 A Yes, when they ran the report.

15 Q And that would have been easier to follow?

16 A Correct.

17 Q Okay.

18 No further questions.

19 MS. SIMPSON: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. SIMPSON:

22 Q Ms. Johnson, I know I didn't show you or
23 introduce this because we have the hard copies, but
24 do you also turn over records pursuant to search
25 warrants in electronic format?

Susan Johnson - Redirect

418

1 A Yes, we do.

2 Q And that would contain information -- the
3 information that's before you there?

4 A Correct.

5 Q An electronic format can be organized
6 somewhat easily?

7 A Correct.

8 Q Thank you.

9 Nothing further, Your Honor.

10 THE COURT: Anything further?

11 MR. MAY: Nothing, Judge.

12 THE COURT: All right, thank you. You may
13 step down.

14 Next witness.

15 MS. WALKER: The State calls Nicole Jones.

16 THE COURT: All right.

17 (The witness was sworn.)

18 CLERK OF COURT: Have a seat in the
19 witness box, and state your name for the record.

20 MS. PRINGLE: My name is Nicole Latasha
21 Pringle.

22 COURT REPORTER: Pringle?

23 MS. PRINGLE: Yes, ma'am.

24 NICOLE LATASHA JONES PRINGLE, having first
25 been duly sworn, testified as follows:

Nicole Jones Pringle - Direct

419

1 DIRECT EXAMINATION

2 BY MS. WALKER:

3 Q Good afternoon, Ms. Jones.

4 A Good afternoon.

5 Q Where do you live?

6 A In Shandon Crossing.

7 Q Shandon Crossing?

8 A Yes, ma'am.

9 Q Have you always lived there?

10 A No.

11 Q Where did you live before that?

12 A The Bishop.

13 Q And that's Bethel Bishop?

14 A Yes, ma'am.

15 Q Is that here in Columbia?

16 A Yes, ma'am.

17 Q Do you work right now?

18 A Yes.

19 Q Where do you work?

20 A A nursing home, Agape.

21 Q Do you know a man by the name of Ahmad

22 Wilkins?

23 A Yes.

24 Q Do you see him sitting in the courtroom?

25 A Yes.

Nicole Jones Pringle - Direct

420

- 1 Q Could you point him out for the jury,
2 please?
- 3 A Right there.
- 4 Q On the end?
- 5 A Uh-huh.
- 6 Q In the brown sweater?
- 7 A Yes.
- 8 Q And did you know him back in 2009?
- 9 A Yes.
- 10 Q And y'all weren't boyfriend/girlfriend,
11 but y'all had a relationship of sorts?
- 12 A Yes.
- 13 Q And would you call him on the phone?
- 14 A Sometimes, yes.
- 15 Q This number right here, do you recognize
16 it?
- 17 A I don't know.
- 18 Q Do you remember giving -- I'm sorry.
- 19 A I don't actually remember that number
20 right there. It's been a long time ago. I don't
21 keep up with numbers.
- 22 Q Do you remember giving a statement to
23 Investigators Reese and Thomas?
- 24 A Uh-huh.
- 25 Q You remember talking to them and remember

Nicole Jones Pringle - Direct

421

1 telling them that when you talked to Ahmad, you
2 would call him on (803) 446-0191?

3 A Yes, I did. That's what I told them, yes.

4 Q Okay. So this number right here that you
5 talked to Reese and Thomas would be the number that
6 you used to call Mad Wilkins?

7 A Uh-huh.

8 MS. WALKER: No further questions.

9 THE COURT: By the defense.

10 CROSS-EXAMINATION

11 BY MR. SHEALEY:

12 Q Nicole, at the time that's in question
13 here, where did you live, what apartment?

14 A At Bethel Bishop.

15 Q At what apartment number?

16 A I forgot the number of the apartment.

17 Q Do you remember what building?

18 A No, I don't remember. I know I could tell
19 you the building, but I forgot the building number.

20 Q You can tell me the building, but you
21 don't remember. How are you going to tell me the
22 building?

23 A Matter of fact, I just forgot the building
24 number, period.

25 Q Okay. But you definitely lived there?

Nicole Jones Pringle - Cross

422

1 A Yes.

2 MR. SHEALEY: Beg the Court's indulgence.

3 THE COURT: Anything else of this witness?

4 MS. WALKER: Nothing, Your Honor.

5 THE COURT: All right, you may step down.

6 Your next witness.

7 MS. CAMPBELL: The State would call Tammy

8 Moore.

9 (The witness was sworn.)

10 CLERK OF COURT: Have a seat in the
11 witness box, and state your name for the record,
12 please.

13 MS. MOORE: Tammy L. Davis Moore.

14 TAMMY L. DAVIS MOORE, having first been
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q Ms. Moore, where are you employed?

19 A City of Columbia Police Department.

20 Q What do you do -- you've got to speak up,
21 now. You're softspoken.

22 A City of Columbia Police Department.

23 Q Okay. What do you do there, ma'am?

24 A I'm in crime scene investigation.

25 Q Can you tell this jury a little bit about

Tammy Moore - Direct

423

1 your duties included in crime scene investigation?

2 A Amongst other things, we process, we
3 assess the situation, and we document, and we
4 collect evidence.

5 Q Do you have any education and training in
6 the field of crime scene investigation?

7 A Yes, I do.

8 Q Can you tell the jury a little bit about
9 that?

10 A Well, first and foremost, I have a degree
11 in chemistry. I graduated from Columbia College. I
12 have a chemistry major, math minor. I also
13 graduated from the police academy.

14 I have a collective 21 years in law
15 enforcement, and I've been in crime scene since the
16 spring of 2008. And I've received training from
17 crime scene photography, crime scene collection, and
18 I've recently received certification in blood
19 spatter.

20 Q And have you been qualified before as an
21 expert in crime scene investigation as far as the
22 collection of evidence goes?

23 A Yes, I have.

24 MS. CAMPBELL: Your Honor, at this time
25 we'd offer her as an expert in crime scene

Tammy Moore - Direct

424

1 investigation.

2 THE COURT: What says the defense?

3 MR. MAY: Beg the Court's indulgence.

4 Your Honor, I'd just ask for clarification what
5 they're actually qualifying Ms. Moore as an expert
6 in.

7 MS. CAMPBELL: Crime scene investigation.

8 THE COURT: All right, she's so admitted
9 without objection.

10 MS. CAMPBELL: Thank you, Your Honor.

11 Q Investigator Moore, did you have an
12 opportunity to respond to a crime scene at Bethel
13 Bishop Apartments back on February 3, 2009?

14 A Yes, ma'am, I did.

15 Q And what time was it when you got there?

16 A Around 1:36.

17 Q One thirty-six in the afternoon?

18 A Thirteen thirty-six, yes, ma'am.

19 Q And what kind of call were you responding
20 to that day?

21 A A fire scene.

22 Q When you got there, were there other
23 police personnel as well as fire department people
24 there?

25 A There were numerous officers and fire

Tammy Moore - Direct

425

1 personnel at the scene when I got there.

2 Q Do you know whether or not EMS had been
3 there prior to your arrival?

4 A I don't remember whether they had been
5 there prior to my arrival or not.

6 Q But was the body actually removed prior to
7 your investigation that day, or was it still there
8 that day when you arrived?

9 A It was there when I arrived.

10 Q Were you made aware during the course of
11 the afternoon that EMS had been called out to check
12 the condition of the victim, and there were no signs
13 of life?

14 A Yes, ma'am, that's correct.

15 Q Once you got to the scene, did you make
16 contact with anyone there?

17 A Upon arrival, I made contact with an
18 Officer Johnson, because first I wanted to know who
19 is establishing the crime scene log. And after I
20 spoke with him, I made contact with Investigator
21 Reese and Investigator Thomas. But they were able
22 to walk me through it and tell me what was going on.

23 Q And was a crime scene log being maintained
24 that day?

25 A Yes -- yes, ma'am.

Tammy Moore - Direct

426

1 Q And in addition to that, had the scene
2 been blocked off so that nobody could just come in
3 randomly and disturb the evidence?.

4 A Yes, ma'am, it was roped off.

5 Q When you got to the scene that day after
6 making contact with the other personnel, did you
7 inspect any of the exterior of the apartment
8 building?

9 A Yes, I first looked at the door to see if
10 there were any signs of forced entry.

11 Q I want to show you what's been marked
12 State's Exhibit Number 113. Is this a picture of
13 the exterior of the front door?

14 A Yes, it is.

15 Q And you mentioned that you were looking
16 for signs of forced entry?

17 A Yes, ma'am.

18 Q Was the door already open when you got
19 there that day?

20 A The door was open.

21 Q And does this fairly and accurately depict
22 the door?

23 A Yes, ma'am, it does.

24 Q Okay.

25 At this time I'd offer State's Exhibit 113

Tammy Moore - Direct

427

1 into evidence.

2 MR. MAY: Without objection, Your Honor.

3 THE COURT: All right, it's admitted
4 without objection.

5 (State's Exhibit Number 113, Photo, was
6 entered in evidence.)

7 Q And in this picture, you're looking
8 actually from the inside out to the front door?

9 A Yes, ma'am.

10 Q Did you make any observations about the
11 windows that were in the apartment?

12 A They were covered with soot.

13 Q And could you tell that from the exterior
14 just looking in, or did you have to go inside to
15 tell that?

16 A I saw it from the inside.

17 Q Once you got to the crime scene, prior to
18 any photographing or collection of evidence, did you
19 do a walkthrough basically to assess what was there?

20 A Yes.

21 Q And tell the jury generally what you
22 observed when you walked through the crime scene
23 that afternoon.

24 A When I got to the door, the first thing, I
25 looked at the door frame to see if there was any

Tammy Moore - Direct

428

1 sign of forced entry. And right as you walk in,
2 less than five feet you walk into it, it was a wall.
3 And I noticed up in the upper right-hand corner of
4 that wall was a smoke detector that looked like it
5 was missing a battery and a cover.

6 When I walked to the left -- if you walk
7 in the door and turn to the left, you're into the
8 kitchen area. And everything was covered with soot.
9 The blinds looked like they were drooping from like
10 excessive heat. I noticed that there was an
11 unburned kitchen table.

12 And I looked around the kitchen area to
13 see if there was any pots or pans that looked like
14 they had caught on fire and stuff like that. But
15 everything looked like -- there wasn't any signs
16 that maybe the kitchen might have caught on fire. I
17 came back out of the kitchen.

18 And to the immediate right as you come
19 into the door, the body was lying longways of the --
20 to the right, at the immediate right of the doorway,
21 was a bedroom. In front of the bedroom, a body was
22 lying on the floor, pointed in the other direction
23 towards the other end of the hall, which the
24 bathroom is at the end of the hall.

25 And on the right side of the body was the

Tammy Moore - Direct

429

1 living room. There was soot in the bathroom. There
2 was soot on the walls. There was soot in the living
3 room, all on the furniture. It looked like there
4 might have been an entertainment system, and things
5 were knocked over.

6 To her immediate left was a wall, and it
7 was -- had a lot of fire damage, like it was almost
8 like the blinds were melted. And that was pretty
9 much the contents, the general contents.

10 Q The first you mentioned -- I'm just going
11 to walk through it chronologically -- you mentioned
12 that you entered, and you noticed on at least one --
13 were there actually two smoke alarms in there?

14 A I noticed that one when I first walked in.

15 Q Okay. I want to show you State's Exhibits
16 Fifty-Nine, Sixty, Sixty-One, and Sixty-Two. Are
17 those photographs of two smoke alarms?

18 A Yes, ma'am.

19 Q Are those photographs you actually took
20 that day?

21 A Yes, ma'am, these are.

22 Q And does those fairly and accurately
23 depict how they looked when you got there?

24 A Yes, ma'am.

25 MS. CAMPBELL: Your Honor, at this time

Tammy Moore - Direct

430

1 we'd offer them into evidence.

2 MR. MAY: Without objection, Your Honor.

3 THE COURT: Admitted without objection.

4 Exhibit numbers, again?

5 MS. CAMPBELL: Fifty-nine, sixty,

6 sixty-one, and sixty-two, Your Honor.

7 THE COURT: All right.

8 (State's Exhibits Number Fifty-Nine
9 through Sixty-Two, Photos, were entered in
10 evidence.)

11 Q The first one I'll show you is State's
12 Exhibit Number Fifty-Nine.

13 A Yes, ma'am.

14 Q Do you remember what part of the house
15 that was in?

16 A This is the wall when you first walk into
17 the door.

18 Q And was that disabled?

19 A Yes.

20 Q The second one, which you have three
21 photographs of, is a close-up, is Exhibit Number
22 Sixty?

23 A That's in the hallway by the bathroom.

24 Q And was it disabled, as well?

25 A Yes, it was.

Tammy Moore - Direct

431

1 Q You mentioned that you then walked into a
2 kitchen area, I believe, is that right?

3 A Yes.

4 Q I'm going to show you State's Exhibit
5 Sixty-Three through Sixty-Eight. I'll just ask
6 first, do you recognize those?

7 A Yes, ma'am, I do.

8 Q And do those fairly and accurately depict
9 the kitchen area, or parts of it at least, that you
10 photographed that day?

11 A Yes, ma'am, it does.

12 MS. CAMPBELL: Your Honor, at this time
13 we'd offer sixty-three through sixty-eight into
14 evidence.

15 MR. MAY: Without objection, Your Honor.

16 THE COURT: Admitted without objection.

17 (State's Exhibits Number Sixty-Three
18 through Sixty-Eight, Photos, were entered in
19 evidence.)

20 Q State's Exhibit Number Sixty-Three and
21 Sixty-Four, are those just areas of the kitchen?

22 A Yes, ma'am.

23 Q Including the stove, I believe, in State's
24 Exhibit Number Sixty-Three?

25 A Yes, ma'am.

Tammy Moore - Direct

432

1 Q And was there any evidence of actual
2 burning? I know there was soot there. But was
3 there any burning actually in the kitchen area that
4 you saw?

5 A No, ma'am.

6 Q State's Exhibit Sixty-Five and Sixty-Six
7 show what area of the kitchen?

8 A The kitchen table.

9 Q And you mentioned that one of the blinds
10 were actually somewhat melted?

11 A Yes, ma'am.

12 Q Is that shown in State's Exhibit Number
13 Sixty-Six?

14 A Yes, they are.

15 Q And, again, in State's Exhibit Sixty-Seven
16 and Sixty-Eight, that just kind of rounds out the
17 kitchen, is that correct?

18 A Yes, ma'am, that's the other side of the
19 kitchen.

20 Q You also mentioned there was a bedroom
21 area that you observed?

22 A Yes, ma'am.

23 Q I'm going to show you what's been marked
24 as State's Exhibit Number Fifty-One. Prior to you
25 being there, had other people already been inside

Tammy Moore - Direct

433

1 the scene?

2 A Yes, ma'am.

3 Q And I noticed in a number of these
4 pictures there's a number of footprints. Those
5 would have been left after the fire and after the
6 body had been discovered, right?

7 A Yes, ma'am.

8 Q State's Exhibits Fifty-One through
9 Fifty-Eight, first, I'll just ask if you recognize
10 those.

11 A Yes, ma'am, I do.

12 Q And what area of the apartment does that
13 depict?

14 A The bedroom.

15 Q And does that fairly and accurately depict
16 what you observed that day?

17 A Yes, ma'am.

18 MS. CAMPBELL: Your Honor, at this time
19 we'd offer these into evidence. For the record, all
20 of these have been provided in discovery.

21 THE COURT: Let's stand for a moment.

22 We're pushing through on to the end of this day.

23 All right, what says the defense?

24 MR. MAY: Your Honor, without objection.

25 THE COURT: Admitted without objection.

Tammy Moore - Direct

434

1 (State's Exhibits Number Fifty-One through
2 Fifty-Eight, Photos, were entered in evidence.)

3 Q State's Exhibit Number Fifty-One, what
4 area does that show?

5 A That's the area in the -- what part of the
6 house is this? That's depicting the items on the
7 floor.

8 Q With the red cloth?

9 A With the red cloth.

10 Q Okay. And then State's Exhibits Fifty-Two
11 and Fifty-Three, what area does that show?

12 A This is the bedroom, showing the bed and
13 the closet.

14 Q And in fifty-two and fifty-three, you can
15 actually see the bed there in these two pictures?

16 A Yes, you can see the bed in both.

17 Q Was there any bedding on the bed when you
18 got there?

19 A No, ma'am.

20 Q And in fact, where was the only bedding in
21 the house found when you got there?

22 A On the victim.

23 Q State's Exhibits Fifty-Eight, Fifty-Seven,
24 Fifty-Six also just show the bed area, as well?

25 A The bed area, as well.

1 Q And then, finally, fifty-five and
2 fifty-four, are those also in the bedroom?

3 A Yes.

4 Q And that accurately shows the bedroom area
5 with the soot and everything like that?

6 A Yes, ma'am.

7 Q Did you also take some photographs in the
8 living room area?

9 A Yes, I did.

10 Q I'm going to show you what's been marked
11 as State's Exhibit One through Twenty-One. Do you
12 recognize those?

13 A Yes, ma'am, they're of the bedroom.

14 Q And what do those show?

15 A The placement of the furniture in there,
16 along with items that's on the floor, on the end
17 tables, and items on the walls, the curtains, just a
18 general overview of the living room.

19 Q Then I'm going to show you State's
20 Exhibits Twenty-Eight through Fifty and ask if you
21 recognize those?

22 A Yes, ma'am.

23 Q And do those fairly and accurately depict
24 the areas you photographed that day?

25 A Yes, ma'am.

Tammy Moore - Direct

436

1 MS. CAMPBELL: Your Honor, at this time
2 we'd offer State's Exhibits One through Twenty-One
3 and Twenty-Eight through Fifty.

4 MR. MAY: Your Honor, I believe we have a
5 matter of law at this time. We need to take that up
6 outside the presence of the jury. We have no
7 objection for a lot of these. But for a substantial
8 number, we do have objections.

9 THE COURT: All right. Tell me the ones
10 you have no objection to.

11 MR. MAY: No objection to thirteen, Your
12 Honor, fourteen, fifteen, sixteen, seventeen,
13 nineteen, twenty-one, twelve, eleven, ten, nine,
14 eight, seven, six, five, four, three, two, one.

15 THE COURT: All right, those are admitted
16 without objection.

17 (State's Exhibits Number One through
18 Twelve, Fourteen through Seventeen, Nineteen, and
19 Twenty-One, Photos, were entered in evidence.)

20 THE COURT: Pass up the ones that you have
21 objections to.

22 MS. CAMPBELL: Eighteen is already in.

23 MR. MAY: We also have no objection to
24 forty-eight, fifty, and forty-nine.

25 MS. CAMPBELL: Eighteen is already in.

Tammy Moore - Direct

437

1 THE COURT: Eighteen is already in?

2 MS. CAMPBELL: Yes, sir.

3 (State's Exhibits Number Forty-Eight through
4 Fifty, Photos, were entered in evidence.)

5 THE COURT: All right, the ones that I've
6 got that there have been objections to, I'll have
7 them marked for identification purposes at this time
8 and address the matters of law later.

9 (State's Exhibits Twenty-Eight, Thirty, Thirty-
10 Two through Thirty-Four, Thirty-Seven through
11 Thirty-Nine, Forty-Two, Forty-Three, Forty-Four, and
12 Forty-Six through Forty-Eight, Photos, were marked
13 for identification purposes.)

14 MR. MAY: Yes, sir.

15 MS. CAMPBELL: Your Honor, may the witness
16 step down?

17 THE COURT: Yes.

18 Q Starting with State's Exhibit Number One,
19 what does that show, what area?

20 A That's the living room --

21 Q Living room?

22 A -- with the chair, the chair by the
23 window.

24 Q And this right here, what is that, so that
25 they can orient?

Tammy Moore - Direct

438

1 A That's the patio door.

2 THE COURT: Is everyone supposed to be
3 able to hear this testimony?

4 MS. MOORE: Can you repeat that again?

5 THE COURT: Is everyone, including the
6 Court Reporter, the Judge, the lawyers?

7 MS. CAMPBELL: Yes, Your Honor. I'll flip
8 it around.

9 THE COURT: Okay.

10 Q If you could stand on this side, and
11 you've got to talk really loud, okay?

12 A Okay.

13 Q What does this show?

14 A That's the living room, and that's the
15 sofa underneath the window. And this is the sliding
16 patio door.

17 Q State's Exhibit Number Two, what area does
18 that show?

19 A That's the wall adjacent to the sofa by
20 the window.

21 Q State's Exhibit Number Three?

22 A That's the adjacent wall next to the big
23 sofa.

24 Q State's Exhibit Number Four?

25 A Those are items on the floor in front of

1 the big sofa.

2 Q And I notice in some of these photographs,
3 you can actually see footprints in the carpet
4 itself. Would those have been done by people going
5 in to check on things?

6 A Yes.

7 Q So those would have been done after the
8 fire had burned out?

9 A Yes -- yes, ma'am.

10 Q State's Exhibit Number Five, what area
11 does that show?

12 A That's the coffee table next to the chair
13 by the window.

14 Q And State's Exhibit Number Six?

15 A That's another coffee table.

16 Q State's Exhibit Number Seven?

17 A This is the sofa, and this end is towards
18 where the body is.

19 Q State's Exhibit Number Eight?

20 A Those are depicting the items on the wall
21 over the sofa.

22 Q State's Exhibit Number Nine?

23 A That's the chair underneath the window.

24 That's a close-up picture of the chair underneath
25 the window.

Tammy Moore - Direct

440

1 Q State's Exhibit Number Ten?

2 A That's showing another corner of the room
3 with the light fixture, the floor lamp.

4 Q State's Exhibit Number Eleven?

5 A That's the sliding glass door here.
6 That's the corner where the sliding glass door was.

7 Q State's Exhibit Number Twelve is looking
8 from what area?

9 A That's from outside looking in.

10 Q That's from the actual front door looking
11 in?

12 A Yes.

13 Q State's Exhibit Number Thirteen?

14 A That's a smoke detector.

15 Q State's Exhibit Number Fourteen?

16 A That's the bag of trash hanging on the
17 door when you first walk in from the other picture.

18 Q State's Exhibit Number Fifteen?

19 A That's the phone jack on the wall.

20 Q State's Exhibit Number Sixteen?

21 A Those are just photos over the sofa.

22 Q State's Exhibits Number Seventeen and
23 Nineteen?

24 A The entertainment system and everything
25 that fell on the floor. This is a double sliding

Tammy Moore - Direct

441

1 glass door, and this is to the right of the door
2 with the entertainment system, and that's the front
3 door right there.

4 Q And State's Exhibit Number Twenty-One?

5 A Those are some items that was on the end
6 tables.

7 Q Okay. State's Exhibit Number Fifty?

8 A That's looking from inside the bedroom
9 into the living room, the hall/living room area.

10 Q And in that, are you actually able to see
11 part of the victim's body?

12 A Yes, you are.

13 Q And where is it?

14 A To the right of the door.

15 Q State's Exhibits Number Forty-Nine and
16 Forty-Eight?

17 A That's the chair in the bedroom with her
18 dresser, and this is looking from the bed out
19 towards the hallway with a door, bedroom door.

20 Q You mentioned in some part of your
21 testimony that there was a sliding glass door in the
22 living room area?

23 A Yes, ma'am.

24 Q I'm going to show you State's Exhibits
25 Number Seventy, Seventy-One, and 110. Do you

Tammy Moore - Direct

442

1 recognize those photographs?

2 A Yes, ma'am.

3 Q And what do those photographs depict?

4 A They depict the lock on the sliding glass
5 door, the latch.

6 Q Was there any sign of forced entry in the
7 photographs?

8 A No, ma'am.

9 Q And is that how it appeared when you saw
10 it that day?

11 A Yes, ma'am, just like that.

12 MS. CAMPBELL: Your Honor, at this time --

13 Q Let me go ahead with these. State's
14 Exhibits One Twelve and One Fourteen, do you also
15 recognize those?

16 A Yes, that's from the back of the
17 apartments looking onto the patio, with the patio
18 door.

19 Q Okay. So that would be the other side of
20 the sliding glass door?

21 A Of the sliding glass door.

22 Q From the outside?

23 A From the outside.

24 MS. CAMPBELL: Your Honor, at this time
25 we'd offer these into evidence.

Tammy Moore - Direct

443

1 THE COURT: What says the defense?

2 MR. MAY: Your Honor, no objection.

3 THE COURT: All right.

4 COURT REPORTER: That's seventy-one, one
5 ten, one twelve, and one fourteen?

6 MS. CAMPBELL: Seventy, seventy-one, one
7 ten, one twelve, and one fourteen.

8 (State's Exhibits Number Seventy,
9 Seventy-One, One Hundred Ten, One Hundred Twelve,
10 and One Hundred Fourteen, Photos, were entered in
11 evidence.)

12 Q And in State's Exhibit Seventy and
13 Seventy-One, are those close-up shots of the sliding
14 glass door?

15 A Yes, they are.

16 Q And that actually shows the latch?

17 A Yes, it does.

18 Q As well as one ten. And then State's
19 Exhibits One Twelve and One Fourteen?

20 A They depict the sliding glass doors.

21 Q You've got to speak up a little bit.

22 A They depict the sliding glass doors.

23 Q Once you had gone in and photographed
24 everything -- I apologize. Let me back up. You
25 first go through and photograph everything as it

Tammy Moore - Direct

444

1 appears, is that correct?

2 A Yes.

3 Q I want to show you finally State's
4 Exhibits Twenty-Four, Twenty-Five, Twenty-Six, and
5 Twenty-Seven and first just ask if you recognize
6 those?

7 A Yes, I do.

8 Q And do those fairly and accurately depict
9 the living room area and specifically an item on the
10 floor?

11 A Yes, it does.

12 MS. CAMPBELL: Your Honor, at this time
13 I'd offer them into evidence.

14 THE COURT: What says the defense?

15 MR. MAY: Without objection, Your Honor.

16 THE COURT: Admitted.

17 MS. CAMPBELL: Thank you, Your Honor.

18 (State's Exhibits Twenty-Four through
19 Twenty-Seven, Photos, were entered in evidence.)

20 Q State's Exhibit Twenty-Four, what area of
21 the living room does that show?

22 A If you are in the living room, it's the
23 right-hand corner from the living room window -- the
24 left-hand corner, I'm sorry, from the living room
25 window.

Tammy Moore - Direct

445

1 Q And is that how it appeared when you got
2 there that day?

3 A Yes, it does.

4 Q And there's an item on the floor on the
5 rug in the middle of this picture. What is that
6 item?

7 A That's a glove.

8 COURT REPORTER: A what?

9 MS. MOORE: Glove -- I'm sorry.

10 Q And you took some close-up photographs of
11 that, as well?

12 A Yes, I did.

13 Q Which are shown in State's Exhibits
14 Twenty-Five, Twenty-Six, and Twenty-Seven, is that
15 correct?

16 A Yes, ma'am, it's correct.

17 Q And we'll get back to that, but that's the
18 item you ended up collecting for evidence that day?

19 A Yes, it was.

20 Q After you photograph the entire crime
21 scene as is, do you then go back in and put down
22 certain markers that may show or highlight where
23 certain items were located in the apartment?

24 A Yes, ma'am, I do.

25 Q And when you're at a crime scene,

Tammy Moore - Direct

446

1 necessarily at that point do you even know what the
2 cause of death was?

3 A No, ma'am.

4 Q And are you just trying to collect
5 anything that may or may not have probative value?

6 A Yes, ma'am.

7 Q Are you able to determine exactly what may
8 or may not be probative down the road?

9 A No, ma'am.

10 Q So it is your job to highlight what may be
11 and photograph it and then collect it if it's
12 appropriate?

13 A Yes, ma'am.

14 Q And was that done in this case?

15 A Yes, ma'am.

16 Q Prior to collecting the evidence, it was
17 important to go through and photograph how it
18 appeared and everything about the item?

19 A Yes, ma'am.

20 Q And in collecting evidence, do you take
21 any precautions in making sure you don't contaminate
22 any possible fingerprints and/or DNA that may be
23 collected?

24 A When I was going through the scene, yes,
25 latex gloves..

1 Q Okay. So precautions are made to make
2 sure?

3 A Yes, sir, precautions are made.

4 Q And when you collect evidence, how is it
5 packaged?

6 A It's all according to what it is. If it's
7 a flammable, I would put it in a metal container.
8 Sometimes it would go into plastic bags, or it could
9 go into biohazard plastic bags. It all depends on
10 what it is.

11 Q And you've had special training in how to
12 collect and preserve evidence?

13 A Yes, ma'am, I have.

14 Q And was everything in this case collected
15 properly?

16 A Yes, ma'am, it was.

17 Q And then for any testing that was done
18 later?

19 A Yes, ma'am.

20 Q In this case, I believe you went through
21 and marked certain items that may or may not have
22 evidentiary value with markers, is that correct?

23 A Yes, ma'am.

24 Q And how is that done?

25 A We would take photographs, and we assess

Tammy Moore - Direct

448

1 what evidence -- what we consider evidence that may
2 have probative value and go back and mark it with a
3 number.

4 Q Uh-huh.

5 A And we document it with the number, go
6 back and document it with the number, and then we
7 collect it in whatever the appropriate manner is.

8 Q And in this case, I believe there were 19
9 different markers used, is that correct, inside and
10 outside of this apartment?

11 A Nineteen.

12 Q Okay. And I'm going to show you what's
13 been marked as State's Exhibits Seventy-Five through
14 Ninety-Seven. And are those things that you
15 highlighted that may or may not have value in this
16 case?

17 MR. MAY: Your Honor, I object, before Ms.
18 Campbell proposes to offer them to the jury. Your
19 Honor, we'd object to State's One Oh Eight. We do
20 not have a copy of this, a Rule 5 violation.

21 MS. CAMPBELL: Your Honor, it's been
22 provided, and I can prove it.

23 MR. MAY: Please do.

24 THE COURT: What is it?

25 MS. CAMPBELL: It's a diagram of the crime

Tammy Moore - Direct

449

1 scene made by this witness that then generally just
2 shows the general area where everything was located,
3 Your Honor.

4 THE COURT: The objection is overruled.

5 MS. CAMPBELL: Thank you, sir. We would
6 also offer into evidence State's Exhibits
7 Seventy-Five through Ninety-Seven.

8 MR. MAY: Your Honor, no objection.

9 THE COURT: All right, admitted without
10 objection.

11 COURT REPORTER: That's seventy-five
12 through ninety-seven?

13 MS. CAMPBELL: Yes, ma'am. Thank you.

14 (State's Exhibits Seventy-Five through
15 Ninety-Seven, Photos, was entered in evidence.)

16 MS. CAMPBELL: Your Honor, may the witness
17 step down one more time?

18 THE COURT: She may.

19 MS. CAMPBELL: Thank you, sir.

20 Q If you'll come over here on this side and
21 talk real loud again.

22 A Yes, ma'am.

23 Q Thank you. Basically, State's Exhibit
24 Number One Hundred Eight, what does that show?

25 A This is a generalized representation of

Tammy Moore - Direct

450

1 the inside of the apartment and where the items
2 were.

3 Q And just for clarification, as it's noted
4 here on the diagram, is this drawn to scale?

5 A No, ma'am, it's not drawn to scale.

6 Q But is this something that could aid in
7 basically --

8 A It's a reference, yes, ma'am.

9 Q Okay. And where is the front door that
10 you put on this?

11 A The front door is right here.

12 Q And once you enter the sliding glass door,
13 what is that depicted on there?

14 A Sliding glass door.

15 Q And I notice that there is what looks to
16 be a body there in the middle. Is that just a
17 general orientation?

18 A That's a general orientation.

19 Q And the photographs actually show where
20 everything was that the jury has?

21 MR. MAY: Objection, Your Honor. She's
22 leading.

23 THE COURT: Don't lead the witness.

24 MS. CAMPBELL: Yes, sir.

25 Q What do the photographs show?

Tammy Moore - Direct

451

1 A The photograph shows where the body was
2 when I found it, when I got to the scene.

3 Q And State's Exhibit Number Seventy-Five,
4 which is depicted by marker number one, is that all
5 shown on here, and is there a legend over here?

6 A There's a legend over there.

7 Q And does that correlate back just to what
8 items were marked?

9 A Yes.

10 Q And what was the first item that you
11 noted?

12 A The first item was a towel, and that towel
13 was here in the bathroom.

14 Q It was in the bathroom?

15 A Yes, ma'am.

16 Q And is that what's in State's Exhibit
17 Number Seventy-Five?

18 A Yes, ma'am.

19 Q And at that point, did you know whether or
20 not it had any significance in this case?

21 A I didn't.

22 Q But you collected it?

23 A But I collected it.

24 Q Marker number two, is that shown here on
25 the diagram?

Tammy Moore - Direct

452

1 A Marker number two was here. The item was
2 number two in the bathtub.

3 Q And what was that item?

4 A A douche bottle.

5 Q State's Exhibit Number Seventy-Seven, item
6 number three, where was that located?

7 A It was actually outside on the patio, on
8 the outside of the sliding glass door right here, in
9 this little patio area, and it was a Gatorade
10 bottle.

11 Q State's Exhibits Seventy-Eight,
12 Seventy-Nine, and, finally, State's Exhibit Number
13 Eighty, what does that show?

14 A This shows a beer can bottle, a High
15 Gravity beer can bottle. It was found outside of
16 the living room window, right below the window,
17 outside on the ground.

18 Q Moving on to State's Exhibit Number
19 Eighty-Two, is that depicted on your diagram where
20 that was collected?

21 A That's right here, at the entertainment
22 system that was on the floor in front of the body,
23 the entertainment system.

24 Q State's Exhibit Number Eighty-Three shows
25 items number six?

1 A Ice House beer can. It was found by the
2 sofa, in front of the sofa.

3 Q And item number seven?

4 A That's the cigarette butts, six and seven,
5 right where I depicted them.

6 Q And, finally, item number eight in State's
7 Exhibit Number Eighty-Five. In regards to the
8 picture of this, what is this?

9 A The glove.

10 Q And the pictures accurately depict where
11 all this is located?

12 A The picture actually depicts where.

13 Q State's Exhibit Number Eighty-Six is item
14 number nine on your diagram?

15 A Yes, it's a pillow case that was found on
16 the sofa.

17 Q And then State's Exhibit Number Ten?

18 A That's the chair cushions for the sofa.

19 Q Excuse me, State's Eighty-Seven, item
20 number ten. Item number eleven, State's Exhibit
21 Number Eighty-Eight?

22 A That was found right between the doorway
23 between the bedroom and the hallway, right at the
24 base of her feet.

25 Q And what was that item?

Tammy Moore - Direct

454

1 A It's a red -- I labeled it as a red
2 fabric, but it almost looked like a curtain, a lace
3 curtain.

4 Q Items number twelve, which is State's
5 Exhibit Eighty-Nine?

6 A Purses and photos that was found behind
7 the bedroom door in a bag.

8 Q And you actually got those out and
9 photographed them?

10 A Yes.

11 Q Like that?

12 A Yes.

13 Q Because they weren't on the bed?

14 A No, they weren't.

15 Q State's Exhibit Number Ninety, which is
16 item number thirteen?

17 A Thirteen is the bag of trash. That's the
18 bag of trash. When you walk into the door, it's
19 that closet right there. It was hanging right there
20 on the doorknob.

21 Q Was that fourteen?

22 A No, thirteen -- thirteen.

23 Q Thirteen, sorry.

24 A Fourteen was the trash. Thirteen is the
25 cell -- it's the telephone that was found on the

1 kitchen table.

2 Q Okay. Fifteen?

3 A Fifteen was the trash that was on the
4 walkway right in front of the door.

5 Q Sixteen?

6 A Sixteen is not depicted on here because it
7 was found inside of the big trash dumpsters.

8 Q With the number shown on there?

9 A The dumpsters right here.

10 Q And you actually got that out of the
11 dumpster?

12 A Yes.

13 Q And collected it?

14 A Yes.

15 Q Item number seventeen?

16 A Seventeen is a projectile that was found
17 in the parking lot in front of this building.

18 Q And at the time, did you know whether or
19 not it was relevant to this case?

20 A I didn't. I had no idea whether it was
21 relevant or not.

22 Q State's Exhibit Number Eighteen?

23 A That is a towel that was found on the
24 bannister, on the left side of the door.

25 Q And then, finally, I believe upstairs,

Tammy Moore - Direct

456

1 State's Exhibit Nineteen?

2 A A Fusion water bottle right at the door.

3 COURT REPORTER: Is that Fuji?

4 MS. CAMPBELL: Fusion.

5 Q And all of these items that we've gone
6 through, you collected properly?

7 A This was upstairs.

8 Q Upstairs, yes. So that would have been
9 the bottle you marked?

10 A Upstairs, yes. This is up above her
11 apartment.

12 Q Okay. The items that we just mentioned,
13 Investigator, you collected all those?

14 A Yes, ma'am.

15 Q And if further testing was requested, it
16 could be done on those items?

17 A Yes, ma'am.

18 Q And those were all items that you
19 collected at the scene?

20 A Yes, ma'am -- that day.

21 Q That day. I'm going to show you what's
22 been marked as State's Exhibit Number One Oh Two,
23 the glove that's depicted as item number eight on
24 those. Did you collect it that day?

25 A Yes, ma'am.

Tammy Moore - Direct

457

1 Q And is this the item you collected?

2 A Yes, ma'am.

3 MS. CAMPBELL: Your Honor, at this time
4 we'd offer State's Exhibit 102.

5 MR. MAY: Your Honor, we object. Proper
6 chain has not been established.

7 THE COURT: What says the State?

8 MS. CAMPBELL: We aren't offering the
9 testing done on the glove at this point, Your Honor.
10 We're just offering the glove itself -- or I'll mark
11 it for ID at this point and put it in with the DNA
12 analysis.

13 THE COURT: For ID only at this time.

14 MS. CAMPBELL: Okay.

15 (State's Exhibit Number One Hundred Two,
16 Glove, was marked for identification purposes.)

17 Q The glove that you collected that day, you
18 packaged it properly?

19 A Yes, ma'am.

20 Q And during the time period it was in your
21 custody, did anyone alter it, tamper with it, or do
22 anything with it?

23 A No, ma'am.

24 Q And was it ultimately submitted to
25 evidence?

Tammy Moore - Direct

458

1 A It was tagged and turned in to our
2 evidence room.

3 Q That day while you were there, were you
4 aware that the Coroner's Office facilitated the body
5 being moved?

6 A Yes.

7 Q That would have been their job, not your
8 job?

9 A No, that's their job.

10 Q And the next day, on February the 4th, did
11 you attend an autopsy in this case?

12 A Yes, ma'am, I did.

13 Q And where did you go to attend the autopsy
14 on Ms. Ebony Williams?

15 A Palmetto Health Richland Memorial
16 Hospital.

17 Q What was your purpose in being at the
18 autopsy that day?

19 A To document the body, to document all
20 injuries, and to collect items from the body.

21 Q Were you also attempting to identify and
22 make a positive identification?

23 A Yes, ma'am, also that, and collect
24 whatever nail scrapings or DNA or whatever I could
25 find.

Tammy Moore - Direct

459

1 Q Let me back up for a minute or two. That
2 day, the prior day at the crime scene, did you try
3 to process that crime scene for any fingerprints or
4 anything?

5 A No, ma'am, I didn't.

6 Q Why were you not able to do that at this
7 scene?

8 A Because everything was covered in soot.

9 Q So would you have had any ability to
10 collect any fingerprints?

11 A No, ma'am.

12 Q While at the autopsy the next day, on
13 February the 4th, did you do anything to try to make
14 a positive identification?

15 A I tried to -- well, I did what you call a
16 postmortem print. I took and made an impression of
17 her fingers and ran her fingers through AFIS for
18 positive identification.

19 Q How many fingers were you able to actually
20 run in this case?

21 A Two fingers.

22 Q And why was only two suitable to get
23 fingerprints from?

24 A Because the others were burnt.

25 Q They were burned?

Tammy Moore - Direct

460

1 A They were burnt. The right hand was
2 burnt, and I was only able to get two fingers off of
3 the left hand.

4 Q While you were there, did you also collect
5 certain items of evidence that day?

6 A Yes. And also I did nail scrapings. Yes,
7 I collected --

8 MR. MAY: Your Honor, I'd object. I'd
9 just clarify if she -- want to know if she's reading
10 notes. And so if we may view the notes that she's
11 reading before testimony continues.

12 THE COURT: The basis for the objection is
13 what?

14 MS. CAMPBELL: Notes that have been
15 provided to you.

16 MR. MAY: Your Honor, we're making sure
17 this isn't a Rule 5 violation. Mr. Shealey, who
18 received all the discovery, said he said he didn't
19 recall getting any notes from Investigator Moore.

20 THE COURT: Okay.

21 MR. MAY: We'd just like to review it just
22 to make sure that it's been provided.

23 THE COURT: The objection is overruled.

24 MS. CAMPBELL: Thank you, Your Honor.

25 Q Did you collect certain ligatures or

Tammy Moore - Direct

461

1 pieces of cloth from the victim's body?

2 A Yes, I did.

3 Q I'm going to show you what's been marked
4 as State's Exhibit Number 104, which is the neck
5 ligature.

6 A Yes, ma'am.

7 Q State's Exhibit Number 105, which is the
8 leg ligature?

9 A Yes, ma'am.

10 Q State's Exhibit Number 103, is this the
11 comforter?

12 A Yes, ma'am.

13 Q Were all those items collected by you?

14 A Yes, they were.

15 Q And during the time period those items
16 were in your possession, did anyone alter or tamper
17 with them in any way?

18 A No, ma'am.

19 Q What did you do with those items?

20 A I took them back to headquarters, and I
21 properly bagged them and turned them in to the
22 evidence room.

23 Q On February the 5th, did you make contact
24 with a person from the Coroner's Office, Leonard
25 Bradley?

Tammy Moore - Direct

462

1 A Yes, ma'am, I did.

2 Q And did you collect a certain item from
3 him?

4 A Yes, ma'am, I did.

5 Q I'm going to show you what's been marked
6 as State's Exhibit Number 106.

7 A Yes, ma'am.

8 Q Is that one of the items collected by you?

9 A And, again, while this item was in your
10 possession and your control, did anyone alter it or
11 tamper with it in any way?

12 A No, ma'am.

13 Q And did you also properly submit it into
14 evidence?

15 A Yes, ma'am, I did.

16 Q Certain items that you collected there at
17 the scene, even though the soot was so bad, did you
18 make an attempt to get fingerprints from those?

19 A Yes, ma'am, I did.

20 Q Were you able to get any what's called a
21 useable print?

22 A No, ma'am, I wasn't.

23 Q And explain to the jury a little bit --
24 because you do fingerprint comparisons, do you not?

25 A Yes, ma'am.

1 Q And are you always going to be able to get
2 a fingerprint from a crime scene or from something
3 somebody has touched?

4 A We try. We try diligently to obtain
5 latent prints. Sometimes we're able to get some.
6 Sometimes we're not. It all depends on the
7 situation. It depends on the item that was handled.
8 Heat, water, natural elements, have the tendency to
9 distort or degrade latent prints.

10 Q And in this case, was there anything at
11 the scene that basically interfered with your
12 ability to get fingerprints?

13 A The soot and the heat.

14 Q So you were not able to get what's known
15 as any identifiable prints from any of the items you
16 collected?

17 A No, ma'am, I wasn't.

18 Q Later on, were you asked to collect -- I
19 believe this would have been July 21st of 2010. At
20 Investigator Reese's request, were you asked to
21 collect what's known as a buckle swab?

22 A Yes, ma'am.

23 Q And what's a buckle swab? Can you explain
24 that to the jury?

25 A That's no more than we take a Q-tips, and

Tammy Moore - Direct

464

1 we collect DNA samples from inside of the jaws on
2 both sides.

3 Q From inside the mouth?

4 A Inside the mouth.

5 Q And is this the procedure that's used by
6 your department to collect what's a known DNA
7 sample?

8 A A known DNA sample, yes, ma'am.

9 Q I'm going to show you what's been marked
10 as State's Exhibit Number 107 for ID at this point.
11 Do you recognize that?

12 A Yes, ma'am, that's my handwriting.

13 Q And did you actually proceed to make
14 contact with the defendant in this case?

15 A Yes, ma'am.

16 Q On Broad River Road?

17 A Yes, ma'am.

18 Q And did you collect a sample from him?

19 A Yes, I did.

20 Q Tell the jury how you did that.

21 A Investigator Sumpter and I met with Mr.
22 Wilkins out on Broad River Road, and he was
23 presented with what is called a Smerger, an order
24 which the Court allows us to collect the DNA sample
25 from his mouth, called a buckle swab.

Tammy Moore - Direct

465

1 Q And that was done in this case?

2 A Yes, ma'am.

3 Q And once you collected the swab, did you
4 properly package it?

5 A I properly packaged it, and I sealed it in
6 his presence.

7 Q And then did you keep it in your custody
8 overnight until you could take it somewhere?

9 A I kept it in my custody till I got back to
10 the police department. And I packaged it and turned
11 it in.

12 Q And do you remember taking it to the
13 Sheriff's Department -- Richland County Sheriff's
14 Department -- for analysis on 7/22?

15 A Yes, ma'am, I do.

16 Q And then it was turned over to the
17 evidence room there?

18 A Yes, ma'am.

19 Q And when you submitted it into evidence,
20 no one had tampered with it or altered it in any
21 way?

22 A No, ma'am.

23 Q The other items you also collected,
24 they're shown in the photographs?

25 A Yes.

Tammy Moore - Direct

466

1 Q Thank you, ma'am.

2 I don't have anything further.

3 THE COURT: By the defense.

4 MR. MAY: Yes, sir. May it please the
5 Court, Your Honor?

6 THE COURT: Yes.

7 CROSS-EXAMINATION

8 BY MR. MAY:

9 Q Now, you said that you collected the
10 items. That doesn't necessarily mean you found
11 them, correct?

12 A Which items are you speaking of?

13 Q Sixteen. I have a copy of the picture, if
14 it will help refresh your memory.

15 A Yes, I collected it. It doesn't
16 necessarily mean that I found it.

17 Q And now sixteen, again, is depicted on
18 what State exhibit? Do you have a picture of
19 sixteen in front of you?

20 A I do.

21 MR. MAY: Mark this as -- I guess we can
22 mark all these as defense exhibits, please. You
23 already have those pictures up there with you?

24 COURT REPORTER: Your Honor, I've marked
25 Defendant's Four through Nine.

1 (Defendant's Exhibits Number Four through
2 Nine, Photos, were marked for identification
3 purposes.)

4 MR. MAY: Your Honor, Ms. Campbell says
5 that Defendant's Exhibit Six is a duplicate. I'll
6 take her word for it. She does have it marked.

7 Q I'd ask you to look at these and tell me -
8 -

9 A Yes, sir.

10 Q -- do you recognize those?

11 A Yes, sir.

12 Q Do those fairly and accurately represent
13 the items that you took pictures of when you
14 responded to the scene on February 3, 2009?

15 A I don't remember this one. I don't
16 remember this one, but I remember these.

17 Q You don't remember one of them?

18 A Yes, I don't remember that one -- five, I
19 believe it is.

20 MR. MAY: Beg the Court's indulgence.

21 Q All right. So you're saying you did not
22 take Defendant's Exhibit Nine?

23 A I didn't take that.

24 Q Okay. But the other ones, you did?

25 A I remember these.

Tammy Moore - Cross

468

1 Q Could you please describe what these are?

2 A This one is of the patio latch.

3 Q Showing the locking mechanism?

4 A Yes.

5 MS. CAMPBELL: Your Honor, has he offered
6 them into evidence?

7 MR. MAY: Yes, I apologize, I'm sorry.

8 Your Honor, at this time I'd offer
9 Defendant's Exhibit Four, Seven, and Eight into
10 evidence at this time.

11 THE COURT: What says the State?

12 MS. CAMPBELL: Without objection.

13 THE COURT: They're admitted without
14 objection.

15 (Defendant's Exhibits Number Four, Seven,
16 and Eight, Photos, were entered in evidence.)

17 A And this one is the dumpster in which the
18 item that you just asked me about was located.

19 Q That would be Defendant's Number Sixteen?

20 A Item number sixteen, the dumpster that it
21 was located in. This is a depiction of the front
22 door, the deadbolt and the lock at the front door.
23 And this is from the sliding glass door.

24 Q Now, you testified that when you got
25 there, you said an Officer Johnson was doing a crime.

1 scene log?

2 A That's the first person I made contact
3 with.

4 Q All right. What is a crime scene log?

5 A It lists everybody that has come in and
6 out of the scene.

7 Q I'm going to show you something. Can you
8 tell me, do you recognize that?

9 A Yes.

10 Q What is that?

11 A A typed copy of Officer Johnson's crime
12 scene log.

13 MR. MAY: Your Honor, at this time I'd
14 offer this into evidence.

15 THE COURT: What says the State?

16 MS. CAMPBELL: We object.

17 THE COURT: Pardon me?

18 MS. CAMPBELL: We object.

19 THE COURT: And the basis for the
20 objection?

21 MS. CAMPBELL: It's not admissible.

22 THE COURT: You're offering a copy of
23 someone else's record, is that right?

24 MR. MAY: Yes, sir. It's a present sense
25 impression of Officer Johnson recording everybody

Tammy Moore - Cross

470

1 from the Columbia Police Department who entered the
2 crime scene.

3 MS. CAMPBELL: She's not offering it, Your
4 Honor.

5 THE COURT: This witness' present sense
6 impression?

7 MR. MAY: No, sir, it's Officer Johnson's.
8 And she's already testified that Officer Johnson has
9 taken this, and she's identified it. And as a
10 result, Your Honor, it is a present sense impression
11 of Officer Johnson.

12 THE COURT: The objection is sustained.

13 MR. MAY: Beg the Court's indulgence.
14 Your Honor, at this time we have no further
15 questions.

16 THE COURT: Any redirect?

17 MS. CAMPBELL: Just one question, Your
18 Honor.

19 REDIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q On February 13th and on February 17th, did
22 you take certain items to the Richland County
23 Sheriff's Department?

24 MR. MAY: Objection, Your Honor, outside
25 the scope of cross.

Tammy Moore - Redirect

471

1 THE COURT: The objection is overruled --
2 yes or no?

3 A On February the 13th, I made an attempt to
4 take the items, but I didn't actually take those
5 items until the 17th.

6 Q And what were those item numbers?

7 A Eight, sixteen, twenty-five A1, A4, and
8 A7.

9 Q And you were able to actually take them on
10 what day?

11 A On the 17th.

12 Q And during the time period you had them in
13 your custody, did you alter or tamper with them in
14 any way?

15 A No, ma'am.

16 Q And what did you do with those once you
17 took them to the Sheriff's Department?

18 A I took them to the Sheriff's Department
19 and turned them over to evidence tech personnel,
20 Gina Golf.

21 Q Thank you.

22 Thank you, Your Honor.

23 A Tena Golf, I'm sorry.

24 THE COURT: Further questions by the
25 defense?

1 Trustus Theater titled, "Trials of the Young Lawyer:
2 Avoiding a Comedy of Errors," featuring Joseph Anderson,
3 John Few, and Clifton Newman. So that's from 1 to 3
4 today. So I'm going to get some pointers from each one of
5 you before I leave at 1 o'clock.

6 MR. MAY: Judge, if we could just -- if the
7 State would just agree to allow us to get our expert here,
8 we'll be happy to have him here as soon as possible, but
9 he's in class right now and I had no way to notify him
10 before he started class. He teaches two classes this
11 morning.

12 THE COURT: It sounds as if there's plenty to
13 do.

14 MS. CAMPBELL: Yes, sir. There's some other
15 matters that we could -- as far as Patruan Hare, he is a
16 witness in this case. He's the one that has been
17 convicted in federal court. We just need to settle his
18 record. I anticipate him being the second or third
19 witness this morning. I don't know when you want to do
20 it.

21 In addition to that, at some point we also need
22 to do a Jackson v Denno hearing on the statement, although
23 I don't know that they're contesting -- I don't know what
24 they're requiring.

25 THE COURT: We can do it right now, the Jackson

1 v Denno.

2 MS. CAMPBELL: If I can just get those
3 documents, Your Honor.

4 THE COURT: All right.

5 MS. CAMPBELL: As far as Mr. Hare's record --

6 MR. SHEALEY: And I don't have a copy of it, so
7 we'll have to look at the same thing.

8 THE COURT: He's the one that -- he's your
9 client?

10 MR. SHEALEY: No, sir. He's my brother's
11 client.

12 THE COURT: All right. What's on his record?

13 MS. CAMPBELL: Your Honor, as far as I can tell,
14 in the last ten years the only thing he's been convicted
15 of that would be impeachable is a strong arm robbery that
16 he pled to with Mr. Shealey in October.

17 The only other prior in the last ten years by
18 adjudication that would be available would be a drug
19 offense which I can hand up to the Court. It's my
20 understanding the courts have held generally that drug
21 offenses are not probative for truthfulness. And that's
22 on the state level.

23 As far as -- and I just want to clarify with
24 them exactly what he pled to in federal court to make sure
25 I don't misread anything, because I'm not good at reading

1 these things.

2 MR. SHEALEY: As to the robbery, obviously that
3 comes in as a crime of dishonesty under Al-Amin as it's
4 within the past ten years, which under the drug offense,
5 he's currently doing 15 years federally. I don't have a
6 copy of the rap sheet, so I think we're talking about the
7 same drug offense -- I don't know -- but if it carries
8 more than a year, under 609(a)(1), then it's eligible.

9 THE COURT: He's currently doing time for
10 something and he expects to get some benefit, then that's
11 a different criteria anyway.

12 MR. SHEALEY: Yes, sir. And that's -- it goes
13 towards a reason to misrepresent or seek a benefit here
14 on --

15 THE COURT: All right.

16 MR. SHEALEY: -- cross-examination.

17 And we did, in advance of trial, did indicate to
18 the Solicitors that we did plan on seeking to impeach with
19 evidence of a voluntary manslaughter conviction. It is
20 outside the time frame, but per the rule can be considered
21 if you give advance notice.

22 Generally the reason we think that's probative
23 is that this is a murder trial and he's testifying for the
24 State as to an alleged confession.

25 I think it's interesting and I think a jury

1 would have a right to know he's been convicted of
2 manslaughter.

3 THE COURT: Who has been?

4 MR. SHEALEY: Mr. Hare, the witness for the
5 State.

6 THE COURT: Okay.

7 MR. SHEALEY: And although it is outside the
8 rule, we did give them advance notice, and we think that
9 will be probative, that they would have the right to know
10 that essentially he's being a hypocrite. It's just that
11 plain and simple when you come down to it. So I think
12 that's fair game and that's why we gave them most of the
13 reasons and to ask to be able to impeach him on that
14 conviction and that's why we're addressing it now.

15 THE COURT: All right.

16 MS. CAMPBELL: Your Honor, there's a 1998
17 juvenile adjudication for voluntary manslaughter.
18 According to our records, he would be 14 years old. I
19 don't know under what theory -- they kind of argue what
20 the case would say.

21 I would argue it's outside the ten-year period
22 and that it should not come in according to the rules.

23 MR. SHEALEY: It's essentially ten and a half
24 years old if you count from the date of his release from
25 incarceration, when he's released from DJJ. It's not that

1 much further outside the scope of the rule. So that's why
2 we had to put them on notice of why we wanted to introduce
3 it.

4 In terms of case law, State v Sparkman, 287 S.C.
5 489, it said that the court has found there is no direct
6 prohibition against the use of juvenile adjudications to
7 impeach. So I think the fact that it's an adjudication
8 doesn't have much bearing on its impeachment value.

9 THE COURT: It's under Rule 609(D) as well. The
10 fact that it's a juvenile adjudication is not what makes
11 it problematic --

12 MR. SHEALEY: Yes, sir.

13 THE COURT: -- it's whether or not -- the rule
14 says evidence of a juvenile adjudication is admissible
15 under this rule if conviction of the crime would be
16 admissible to attack the credibility of an adult. So the
17 test is not whether it's a juvenile, it's the rule that if
18 he -- as an adult, it would be admissible.

19 The State says it's over ten years; you say it's
20 over ten years, but not far over ten years; the rule says
21 ten years.

22 MR. SHEALEY: And we did provide written notice
23 of our intention to use it.

24 THE COURT: All right. Anything else on that
25 issue?

1 MS. CAMPBELL: No, Your Honor.

2 MR. SHEALEY: No, sir.

3 THE COURT: So what significance is giving them
4 notice?

5 MR. SHEALEY: It's just the rule requires if
6 your date of confinement is -- or at least is later than
7 ten years -- as we've discovered, it's about ten and a
8 half years -- you have to give them notice under the
9 Rule 609 to seek to use it. So we've tried to comply with
10 the rule and given them notice, and now we're addressing
11 this issue.

12 MS. CAMPBELL: I'm just at a loss, Your Honor.
13 I'm not aware of what his date of release was because I
14 don't have that information and I don't know how they have
15 that information other than, I guess, in their
16 representation.

17 MR. SHEALEY: It says -- it's basic math. I've
18 got his federal debriefing that the State provided me that
19 says that he was arrested on this when he was 15, and I
20 sat down and did the math and you think about getting out
21 of DJJ at age 21, so according to my rough math, I would
22 say it's about ten-and-a-half years old at this point.

23 MS. CAMPBELL: Respectfully, Your Honor, the
24 guidelines under the juvenile would be 36 to 54 months is
25 the maximum, so for him to represent to the Court that he

1 would have served until he was 21 is incorrect.

2 THE COURT: How old is he now?

3 MR. MAY: Thirty-one.

4 THE COURT: He was convicted 16 years ago?

5 MS. CAMPBELL: Yes, sir.

6 MR. MAY: Your Honor, respectfully, Al-Amin is
7 what the State always uses to determine either the end
8 of -- it's either the date of conviction or the end of
9 incarceration.

10 On the federal debriefing -- on the federal
11 stuff that we obtained from the public record, it did say
12 that he was to be incarcerated up to his 21st birthday.
13 That's the reason why we went off 21 years. If he was 15
14 and a half, 54 months is right at that amount.

15 MS. CAMPBELL: Your Honor, respectfully, they
16 are misrepresenting when he was released.

17 THE COURT: All right.

18 MR. MAY: I'd ask the Court to inquire if the
19 State can provide dates that he was released or was
20 outside of DJJ's custody, i.e., probation is included on
21 that. And seeing as the federal papers from the court --
22 from the public records stated until possibly his 21st
23 birthday, Your Honor, that's what we're going off of.

24 We did give them notice, and under Al-Amin, it's
25 from the end of the incarceration.

1 They use it -- Ms. Campbell uses it all the
2 time.

3 THE COURT: Assuming that it's his 21st birthday
4 and he is now 31 --

5 MR. MAY: Yes, sir.

6 THE COURT: -- it's still over ten years.

7 MR. MAY: Correct, sir. And that's the reason
8 why we provided them notice under 609(D), to be in
9 compliance that we're intending to offer it and put them
10 on notice.

11 THE COURT: But, really, notice doesn't change
12 the rule. It's a requirement to alert them that that's
13 what you're attempting to do. It doesn't change the rules
14 to give you the right to do it.

15 MR. MAY: Your Honor, we understand it's in the
16 discretion of the Court. We're asking the Court to do --
17 to be allowed to impeach him with the conviction of this
18 offense of voluntary manslaughter.

19 THE COURT: For what reason?

20 It appears that he's hypocritical because he's
21 killed someone and now he's going to testify against
22 someone else who's accused of killing someone, so that
23 makes him hypocritical. Well, I've heard that reason.

24 MR. MAY: Well, sir, respectfully, under 609(A),
25 it's a crime that carries over ten years -- I mean over

1 one year as an adult and carries up to 30 years, Your
2 Honor, as well as -- I mean, it goes to the entire person
3 who then the State's putting up for his character.

4 Your Honor, a large portion of what the State's
5 going forward on is that you need to believe this person,
6 you need to believe what he says, even though arguably
7 what he says is that our client choked the girl but not on
8 the night that she died. But they're basing a large
9 portion of their case on his testimony.

10 Your Honor, the jury needs to hear who this
11 person is. He is not being accused, he is the State's
12 witness. The State, for all intents and purposes, is
13 vouching for him and is asking the jury to believe him.

14 THE COURT: And he's locked up now?

15 MR. MAY: Yes, sir.

16 THE COURT: Well, they'll know if he's locked up
17 now and he's doing federal time for drugs and he's in jail
18 with your guy and -- what else has he been convicted of?

19 MR. MAY: I believe strong arm robbery.

20 THE COURT: Strong arm robbery. I mean, that
21 paints a pretty good picture, I think, without going back
22 to when he was 15 years old, absent some other
23 extraordinary circumstance. That's why I'm asking for
24 what reason other than he's who he is --

25 MR. MAY: Beg the Court's indulgence.

1 THE COURT: -- other than he is who he is.

2 (Pause.)

3 MR. MAY: Your Honor, just that that's who the
4 State's basing at least 50 percent of their case on and we
5 respectfully ask that it be allowed to come in so the jury
6 can know who the person is.

7 THE COURT: They're basing 50 percent of their
8 case on Mr. Hare?

9 MR. MAY: They said they'd moved for a
10 continuance because of Mr. Hare.

11 THE COURT: All right. How are we coming with
12 that juror?

13 THE BAILIFF: We've got them all, Your Honor.

14 THE COURT: You've got all of them, okay.

15 MS. CAMPBELL: Judge, the only other thing I'd
16 like to bring up now just because I don't want to get
17 mired down there is that I handed up yesterday a
18 transcript from the statement that we're getting ready to
19 do the Jackson v Denno hearing on and I have redacted
20 certain things about his incarceration.

21 I handed it to you-all yesterday.

22 MR. MAY: We never got it.

23 MS. CAMPBELL: No, I handed one to you earlier.

24 MR. MAY: No, ma'am.

25 MR. SHEALEY: First you gave me half the

1 and the shoplifting should all come in.

2 THE COURT: All right. Bring us the jury.

3 (The jury came into open court at approximately
4 10:03 a.m.)

5 THE BAILIFF: The jurors are all present, Your
6 Honor.

7 THE COURT: All right. Good morning.

8 THE JURORS: Good morning.

9 THE COURT: Welcome to Day No. 3. The plan
10 today is for us to go from now until 1 o'clock, we'll take
11 a break until 3 o'clock, and then work on as far as we can
12 work today.

13 You may call your next witness.

14 MS. SIMPSON: The State calls Cynthia Jackson.

15 CYNTHIA JACKSON, after being duly sworn,
16 testified as follows:

17 THE CLERK: Have a seat in the witness box.

18 State your name for the record, please.

19 THE WITNESS: My name is Cynthia Jackson.

20 DIRECT EXAMINATION

21 BY MS. SIMPSON:

22 Q Good morning, Ms. Jackson.

23 A Good morning.

24 Q How old are you?

25 A Forty.

1 Q Forty. And are you married?

2 A Single.

3 Q I'm sorry?

4 A Single.

5 Q Single. Are you -- were you in a relationship --

6 A Uh-huh.

7 Q -- with a man. What's his name?

8 A Sean Grimes.

9 Q We heard from him earlier.

10 How long had you-all been together?

11 A Twenty-six years.

12 Q Twenty-six years. Do you have any children?

13 A Uh-huh.

14 Q How many?

15 A Two.

16 Q Two. Now, do you live in Columbia?

17 A Uh-huh.

18 Q Where are you living?

19 THE COURT: Ms. Jackson, let's use words.

20 Rather than saying uh-huh or unh-unh, let's use words like
21 yes or no.

22 THE WITNESS: Okay.

23 THE COURT: All right.

24 BY MS. SIMPSON:

25 Q Do you live in Columbia?

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

35

1 A Yes.

2 Q Where do you live?

3 A Bethel Bishop.

4 Q And how long have you been living in Bethel Bishop?

5 A March this year will make nine years.

6 Q Nine years. So back on February 2nd and 3rd of 2009,
7 you were living in the Bishop?

8 A Yes.

9 Q Who lived there with you?

10 A Me and my kids and my husband.

11 Q You, your kids, and your husband.

12 Do you remember what -- are you still living in
13 the same apartment?

14 A Uh-huh, yes.

15 Q What apartment is that?

16 A 30-B.

17 Q 30-B?

18 A Yes.

19 Q And do you recall -- I want to turn your attention to
20 February 2nd of 2009, February 3rd. Do you remember those
21 days?

22 A Yes.

23 Q And do you know the defendant in this case?

24 A Yes.

25 Q Ahmad Wilkins?

- 1 A Yes.
- 2 Q Do you know him as Mad?
- 3 A Yes.
- 4 Q And how long would you say you've known the
5 defendant?
- 6 A I would say about three or four years.
- 7 Q About three or four years?
- 8 A Yes.
- 9 Q And how do you know him?
- 10 A He used to date my niece.
- 11 Q And who is your niece?
- 12 A Nicole Grimes.
- 13 Q Nicole Grimes. Is she in any relationship to Sean
14 Grimes?
- 15 A Yes.
- 16 Q Is that her uncle?
- 17 A Yes.
- 18 Q So he dated her. Was he dating her back in February
19 of 2009?
- 20 A Yes.
- 21 Q All right. And would the defendant come over to your
22 house?
- 23 A Yes.
- 24 Q What would he come up there for?
- 25 A He'd come and -- he'll come and see us, talk. Back

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

37

1 then, you know, me and my husband was getting high then,
2 so we all used to get high together.

3 Q Okay. So you got high together back then, back in
4 2009?

5 A Yes.

6 Q And would hang out. What did you get high on?

7 A Crack.

8 Q Crack cocaine. So back in that time frame you-all
9 were smoking crack cocaine?

10 A Yes.

11 Q And the defendant would come over fairly frequently?

12 A Yes.

13 Q And did he actually -- was he staying in the Bishop
14 at that time?

15 A Yes.

16 Q Who was he staying with?

17 A Nicole Grimes.

18 Q So he was staying with your niece?

19 A Yes.

20 Q Do you remember where she lived?

21 A I don't know exactly the apartment, but it was
22 Building 25.

23 Q Building 25. And you say, then, building -- or 30-B?

24 A 30-B.

25 Q Now, on that night, February 2nd to the early morning

1 of February 3rd, what were you doing?

2 A Well, I was asleep, you know. I went to bed kind of
3 early because I wasn't doing nothing after a while. I
4 went to bed kind of early.

5 Q So you went to bed kind of early. This was -- this
6 was a weekday; Monday, Tuesday?

7 A I'm not sure.

8 Q Did your kids have to go to school the next morning?

9 A Oh, yes. Yes.

10 Q So you went to bed early.

11 Before you went to bed, who was at your house?

12 A Well, wasn't nobody at my house at the time, just me
13 and my kids.

14 Q Just you and your kids?

15 A Yes.

16 Q So Sean and the defendant weren't there when you went
17 to bed?

18 A No.

19 Q At some point did you wake up?

20 A Yes.

21 Q And what caused you to wake up?

22 A The phone kept ringing.

23 Q Kept ringing? Were they answering the phone or was
24 it just ringing or do you know? You just know it was
25 ringing?

1 A It was just ringing.

2 Q Just ringing. And when you heard the ringing and you
3 woke up, what did you do?

4 Well, who was there?

5 A When I heard the ringing and woke up, I was upset
6 because it had woken my son up. So when I woke up, I
7 asked Mr. Grimes who was it, and he told me it was Eboney,
8 and that's when I called and I fussed at her and told her
9 why is she calling like that, it's waking my kids up, you
10 know.

11 Q Let me stop you just a little bit.

12 So you woke up and it woke up your son. How old
13 was he at that time?

14 A He's 11 now. So he's about nine.

15 Q About nine. So he had to go to school the next
16 morning?

17 A Yes.

18 Q And you were upset?

19 A Yes.

20 Q And you know it was Eboney. Sean answered the phone
21 or you answered the phone?

22 A Sean answered the phone at first.

23 Q Okay. And then you asked -- what did you ask him?

24 A Who was that on the phone that kept calling.

25 Q And you know Eboney?

1 A Yes.

2 Q How do you know Eboney?

3 A I know her by when she was staying out there. She
4 was like a niece to me --

5 Q Okay.

6 A -- like a daughter to me.

7 Q So you've known her for a while?

8 A Yes.

9 Q So you know her. And you take the phone?

10 A Yes.

11 Q And you actually speak with Eboney?

12 A Yes.

13 Q And what does Eboney want?

14 A She called me and she said -- I got to fussing at
15 her, I said why is she calling me, and she said --

16 MR. SHEALEY: Objection. Hearsay, Your Honor.

17 THE WITNESS: Oh, she was --

18 MR. SHEALEY: Objection, Your Honor.

19 THE COURT: Just a moment.

20 MS. SIMPSON: Just a second.

21 Your Honor, this testimony isn't being offered
22 for the truth of the matter asserted.

23 THE COURT: Anything further?

24 MR. SHEALEY: It's just classic hearsay, Your
25 Honor. Reciting what the victim said about that night is

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

41

1 certainly the truth of the matter asserted.

2 THE COURT: Reciting what the victim said?

3 MR. SHEALEY: Whatever she's about to say is
4 what she claims the victim told her.

5 THE WITNESS: What did he say?

6 MS. SIMPSON: Okay. I'll speak up for you.

7 THE COURT: Restate the question. Let me hear
8 it again.

9 BY MS. SIMPSON:

10 Q When you were on the phone with Eboney, what did she
11 want?

12 A She said she was looking for --

13 MR. SHEALEY: Objection, Your Honor.

14 MS. SIMPSON: Just a second.

15 MR. SHEALEY: Calls for hearsay, Your Honor.

16 THE COURT: The objection's overruled.

17 BY MS. SIMPSON:

18 Q Okay. What did Eboney want when she called you on
19 the phone?

20 A She said she was looking for my nephew and Mad.

21 Q Looking for your nephew who is?

22 A Junior.

23 Q Junior. And he's related to Sean and Nicole?

24 A Yes.

25 Q Is he Nicole's brother?

- 1 A Yes.
- 2 Q So she's looking -- she was looking for Mad?
- 3 A Yes.
- 4 Q Which Mad is the defendant, right?
- 5 A Yes.
- 6 Q And what did she want from Mad, do you know?
- 7 A I didn't know what she really wanted from Mad, but I
- 8 know she was looking for a bag.
- 9 Q A bag of what?
- 10 A Powder.
- 11 Q Powder. What is powder?
- 12 A Cocaine.
- 13 Q Cocaine. So she wanted powder cocaine. And that's
- 14 different from crack cocaine?
- 15 A Yes. It's powder based.
- 16 Q Powder based. And she knew -- did you know Ahmad to
- 17 sell drugs?
- 18 A No.
- 19 Q Did you know him to do drugs?
- 20 A Yes.
- 21 Q Fairly frequently?
- 22 A Yes.
- 23 Q And so she was calling -- just to make sure we've got
- 24 this straight -- she was calling your house looking for
- 25 Mad to get drugs?

- 1 A And my nephew, yes.
- 2 Q Okay. What happened after you hung up with her?
- 3 A After I hung up, I went and laid down and then my son
- 4 was in the bed with me. And then my husband came, Sean
- 5 came in and asked me did I have any flour, and I told him
- 6 no, he said because Mad wanted to go fry some chicken. So
- 7 me, in my state of mind this time of morning, cooking
- 8 chicken, no, I didn't have any flour.
- 9 Q So he comes to you asking for flour?
- 10 A Yes.
- 11 Q And this was pretty, you said, early morning hours?
- 12 A Yes.
- 13 Q Do you remember a time frame or do you just know it
- 14 was early morning?
- 15 A Between 1 and 2.
- 16 Q Between 1 and 2 at this point. And he's asking for
- 17 flour?
- 18 A Yes.
- 19 Q For chicken?
- 20 A Yes.
- 21 Q Did that make sense to you?
- 22 A No.
- 23 Q So he asked you for that flour and you said?
- 24 A I don't have any.
- 25 Q You don't have any. What did you do next?

1 A I went back down and I laid down and I told my
2 husband, "Don't you go back out the door or I'll lock you
3 out the door."

4 Q Okay. So had you had some issues with him leaving
5 before? Have you-all kind of been in this cycle at times?

6 A Yes.

7 Q And did he have a key?

8 A No.

9 Q He didn't have a key?

10 A No.

11 Q So you were upset and at the time you're trying to go
12 to sleep, so -- are you specific on the time or do you
13 just kind of know whereabouts on the time?

14 A I'm just more specific.

15 Q Okay. And after you lay down and Sean, you fuss at
16 him, what happens?

17 A He said, Well, maybe -- I told him, Sean, don't go
18 back out.

19 Q But he what at that time? I'm sorry.

20 A I fussed at him, I fussed at him a lot, and I said,
21 Don't go back out that door because you go back out the
22 door, I'm locking you out and I'm not letting you back in.
23 You need to come in and rest.

24 So by that time, my son, about 6 o'clock I was
25 getting my son up for school because he gets up at 6. His

1 bus come at 6:30, quarter to 7. So Mr. Grimes say, Well,
2 baby, I'll be back, and so we got to having words, you
3 know, and I shut the door and I locked it.

4 Q Okay. I'm going to back up just a little bit.

5 So you're fussing with Sean. Where is Mad?

6 A He done left.

7 Q Okay. So he left?

8 A Yeah.

9 Q And I'm going to back up to the phone call.

10 Did you -- after you found out who Eboney was
11 calling for, what did you do?

12 A I never did call her back.

13 Q You didn't call her --

14 A No.

15 Q -- but did you indicate to Mad that she was looking
16 for him?

17 A No, no.

18 Q Okay. Did he know in some way that it was Eboney on
19 the phone?

20 A I guess so.

21 Q And your apartment, is it set up that everything's
22 kind of close, tightknit?

23 A Yes.

24 Q Okay. So on the phone call -- and then do you
25 remember if Mad got some phone calls while he was over

1 there?

2 A No.

3 Q You don't remember now?

4 A No.

5 Q But you might have remembered back in 2009? It's
6 been a while, right?

7 A It's been a while.

8 Q And so you actually gave a statement to police in
9 this case?

10 A Uh-huh.

11 Q And would you remember telling them that Ahmad got
12 some cell phone calls after?

13 A Yeah, he got cell phone calls, but not off my house
14 phone.

15 Q Not your house phone, but he had his own phone?

16 A Yes, he did.

17 Q Now, did you have a cell phone?

18 A No, no.

19 Q Did Sean have a cell phone?

20 A No.

21 Q Okay. So the only person in the house with a cell
22 phone was Mad?

23 A Yes.

24 Q And after -- and I'm just making sure we've got
25 things in order -- so Ebony's calling late in the morning?

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

47

1 MR. SHEALEY: Objection. Leading, Judge.

2 BY MS. SIMPSON:

3 Q You're irritated?

4 THE COURT: Don't lead the witness.

5 BY MS. SIMPSON:

6 Q So Eboney's calling. Then after that call --

7 MR. SHEALEY: Objection, leading again, Your
8 Honor.

9 MS. SIMPSON: I'm just pointing her to the
10 specific spot in the question itself and not the answer.

11 THE COURT: All right. I haven't heard the
12 question, but there's been two objections. I think you're
13 still asking the question. So start over with the
14 question and let's see.

15 BY MS. SIMPSON:

16 Q After the call with Eboney, would you remember
17 telling police that Ahmad's cell phone was ringing?

18 A Yes.

19 Q Okay. And were you -- who were you more focused on
20 that night?

21 A Sean.

22 Q Sean. And why were you more focused on Sean?

23 A Because that's my husband. I don't -- you know,
24 he -- we both done been clean -- and March the 9th of this
25 year makes nine years and a month, so we done been clean

1 for three years and a month, and I was concerned about
2 him, you know, trying to get on the right track for the
3 both of us. So I was more concerned about him and, you
4 know, nothing else, though.

5 Q And back on that day you actually didn't smoke,
6 right?

7 A Yes, I did smoke.

8 Q Oh, you smoked earlier?

9 A Yes.

10 Q Had you-all been smoking?

11 A Yes.

12 Q Okay. And by you-all, who all was included in that?

13 A Just me, Sean, and Mad.

14 Q Just you, Sean, and Mad --

15 A Yes.

16 Q -- the defendant?

17 A Yes.

18 Q And you-all had been actually smoking that day --

19 A Yes.

20 Q -- into that night?

21 A Yes. Not all day.

22 Q Okay. Is it fair to say -- were you-all high?

23 MR. SHEALEY: Objection.

24 THE WITNESS: Yes.

25

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

49

1 BY MS. SIMPSON:

2 Q You-all were high.

3 Okay. So moving forward just a little bit,
4 Mad's cell phone is ringing. What happened next? Do you
5 remember when he left?

6 A Well, I was in my room. In fact, I'm hard of
7 hearing, so I was in my room and I heard the phone ringing
8 and he's talking, but I couldn't comprehend on what he
9 saying.

10 Q You couldn't comprehend it. Was this -- how long was
11 this after you got the phone call from Eboney; do you
12 remember?

13 A I don't remember.

14 Q You don't remember. All right. But back in 2009
15 when you talked to police was your memory a little fresher
16 about this then?

17 A Yes.

18 Q Okay. So Mad leaves?

19 A Yes.

20 Q Do you remember when he left?

21 A Between 1 and 2.

22 Q Between 1 and 2. Of course you were high that day,
23 right?

24 A That morning.

25 Q That morning you'd been high, you-all were high?

1 A Yes, yes.

2 Q So after he left, what happened?

3 A I told -- like I said, I told my husband not to go
4 back out the door, you know, because Tyree had to get up
5 to go to school. "If you go back out, I'm going to lock
6 you out the door."

7 So when Mad left, we was like waiting on Mad to
8 come back because he said he was going down the street and
9 come back. So I said, "We'll be getting high in no time
10 again, you know, we'll be getting high, you know." He
11 wanted to get out, you know. We didn't have no money to
12 buy it, you know, so --

13 Q Wait a minute. No money to buy it. What does that
14 mean?

15 A We had no money to buy it, so we got --

16 Q Okay.

17 A -- you know, somebody to bring it to us.

18 Q Okay. So Mad, you're like, bring it back. Is that
19 what you-all are waiting on?

20 A Yeah. He said he'd come back.

21 Q So what happened? Mad leaves.

22 A Yes.

23 Q You-all waiting. Then what?

24 A He never came back.

25 Q He never came back?

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

51

- 1 A No.
- 2 Q What did Sean do?
- 3 A Sean left about 6.
- 4 Q Do you remember that maybe he left earlier in the
- 5 morning?
- 6 A Sean?
- 7 Q Yes.
- 8 A No.
- 9 Q Did he go look for Mad?
- 10 A Yeah, he said he was going to look for Mad. I told
- 11 him to come and lay down and go to sleep.
- 12 Q Come and lay down. But he actually left, didn't he?
- 13 A Yes.
- 14 Q So did you lock him out?
- 15 A Yes.
- 16 Q And do you remember -- if you don't remember, it's
- 17 okay -- do you remember what direction he went when he
- 18 left? Did you happen to see him leave?
- 19 A He went down the sidewalk.
- 20 Q Down the sidewalk towards -- give us a little idea.
- 21 A Towards the bridge.
- 22 Q Towards the bridge?
- 23 A Yes.
- 24 Q And do you have to go past Eboney's apartment to get
- 25 there?

1 A Yes.

2 Q So the next morning you see him leave. Then what do
3 you do?

4 A Say that again?

5 Q What do you do after Sean leaves?

6 A I lock the door.

7 Q You locked the door, and then what?

8 A Then when he came back, I let him back in and we
9 started having words and I made him lay down and go to
10 sleep.

11 Q Okay. So this is the next morning time?

12 A Yes. Daylight time, yes.

13 Q And so you woke up in the morning and then was your
14 son awake?

15 A Yes. Yes, he was awake.

16 Q Okay. What was your son doing?

17 A He was awoke when I got him up for school, but he
18 went back to sleep. Once he was awoken, he did go back to
19 sleep.

20 Q Okay. So he goes back to sleep and then he wakes up
21 for school?

22 A Yes.

23 Q When your son wakes up for school, what do you
24 usually do?

25 A I clean up, feed him, get him ready for school.

1 Q Clean up. And do you turn on the porch light so
2 maybe he can see the bus?

3 A Yeah, sometimes, I guess.

4 Q All right. And so do you remember telling the police
5 that Sean came back, saw the porch light, and you let him
6 in?

7 A I didn't have the porch light on.

8 Q Okay. But you let him back in?

9 A Yeah, I let him back in.

10 Q What happened next?

11 A He came in and, like I say, fussed and he went to
12 sleep.

13 Q Where did he go to sleep?

14 A On the couch.

15 Q On the couch. Because you were mad?

16 A Yeah.

17 Q A little upset.

18 And when he came in, how did he appear to you?

19 Did he -- was he upset, nervous?

20 A No, not at all. He's just, "Babe, I'm sorry, I
21 shouldn't have went out the door, I should listen to you,"
22 you know what I'm saying? And he was smelly like he had
23 been running for a couple of days.

24 Q He was smelly. By "smelly," what do you mean by
25 that?

1 A Funk.

2 Q Funk. Just kind of a natural scent?

3 A Yes.

4 Q And you said he'd been running for days. What do you
5 mean by that?

6 A Running about two days.

7 Q So running, getting high?

8 A Yes.

9 Q Getting high for two days. So he just had a funky
10 smell?

11 A Yes.

12 Q He didn't smell like gasoline?

13 A No.

14 Q Just his natural funkiness?

15 A Yes.

16 Q So you made him sleep on the couch?

17 A Yes.

18 Q Okay. So he went to sleep on the couch. What
19 happened next?

20 A He slept for a while. He slept for a while.

21 So I finally, you know, after I got through
22 cleaning, about 9, you know, I started -- I go to my
23 sister's house that stayed down the street.

24 I was walking to her house and I was passing by
25 Eboney's house. And all of a sudden I looked over at

1 Eboney's kitchen window and I looked and kind of got a --
2 I was like, how did she get tinted windows, because I
3 thought the windows was tinted.

4 Q Okay. By "tinted," what made you think she got
5 tinted windows?

6 A Because she got --

7 Q Did you want tinted windows?

8 A Yeah. You know, I was like, how did she get tinted
9 windows, we can't have tinted windows. That's my first
10 thought, you know.

11 Q Okay.

12 A But after looking at it, you know, real closely, I
13 was like, no, like burned or something, you know.

14 Q Okay. So this is about 8:30 in the morning. Who
15 came up? Do you remember who came up to you? Do you know
16 Nicole Jones?

17 A Yeah, I guess, Nicole Jones.

18 Q Now, this is not Nicole Grimes, right?

19 A No, it's not.

20 Q Who's Nicole Jones?

21 A Nicole Jones is a young lady that used to stay out
22 there and they had a relationship, her and Mad.

23 Q Okay. So her and Mad had a relationship?

24 A A relationship.

25 Q By "relationship," what type of relationship?

1 A Like messing around.

2 Q They were messing around.

3 So do you remember her coming up to you that
4 morning?

5 A Yes.

6 Q And what did she say when she walked up to you?

7 MR. SHEALEY: Objection, calls for hearsay.

8 THE COURT: Just a moment.

9 Objection sustained.

10 BY MS. SIMPSON:

11 Q After she walked up to you, did she -- what did you
12 do?

13 A We were talking about the windows, the way Eboney's
14 window was looking, and just started the conversation like
15 what could have happened, you know. And I was thinking,
16 well, maybe she left a pot on or something, you know what
17 I'm saying? That's what I was thinking, that maybe she
18 left a pot on or something and it burned up.

19 And then after everybody, you know, started
20 coming around, you know, me and her was still talking and
21 she got nervous and she said somebody -- that's what they
22 tell you -- and I was like, what?

23 MR. SHEALEY: Objection, Your Honor. This is
24 hearsay testimony.

25 THE COURT: Sustained.

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

57

1 BY MS. SIMPSON:

2 Q Okay. Let me back you up just for a moment.

3 So you and Nicole were looking at Eboney's
4 window?

5 A Uh-huh.

6 Q And you just think a pot or grease fire --

7 A Yes.

8 Q Was Eboney getting high, too?

9 A Yes.

10 Q Okay. So she would get high fairly frequently?

11 A And I knew she would do stuff like that, you know.

12 Q Leave something on?

13 A Yes.

14 Q So you really didn't think anything but, Oh, she had
15 a grease fire?

16 A Yes.

17 Q You and Nicole are talking. Now, you said she was
18 nervous. What do you mean by that?

19 A She was shaky, like, and kind of nervous. And I was
20 like, what's wrong with you, you know.

21 Q Now, you can't tell me what she said, but did you-all
22 have a conversation?

23 A Yeah.

24 Q Okay. And after you-all had that conversation, you
25 said everybody started coming around. Who's everybody?

1 A The neighbors in the neighborhood.

2 Q So this is probably about 9 o'clock in the morning or
3 so?

4 A Yes.

5 Q All right. And did you see your cousin at some
6 point, or your nephew, I'm sorry, Junior?

7 A Yes.

8 Q Okay. When you saw Junior, what did you do?

9 A I told him about it.

10 Q Okay. And did you-all do something?

11 A We went 'round to look -- he went -- we both walked
12 back around there and he looked at it, you know, he like
13 looked close to it and said, "Auntie, come here." I said,
14 "I'm not coming up there." And so he went and looked and
15 he say it's burnt. And I was like, "Burnt?" And he was
16 like, "Yeah, burnt." And I said, "Maybe she left a pot
17 on." And he's like, "I don't know." So he went back to
18 the office and got the manager.

19 Q Okay. And where did you go?

20 A I stayed with her.

21 Q So y'all are kind of looking --

22 A Just being nosy.

23 Q Just being nosy. So what happened after you-all are
24 being nosy, what happened after that?

25 A What now?

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

59

1 Q What happened after Junior left and you-all were
2 standing around?

3 A We were just standing there and everybody started
4 coming out, you know. And once the manager came around
5 and was looking, we were all still standing around.

6 Q Okay. Who's the manager; do you remember?

7 A Ms. Portier.

8 Q Ms. Portier. So what happened? You-all are standing
9 around. What do you see?

10 A They go into the apartment.

11 Q Okay. And by "they" you mean?

12 A The manager.

13 Q The manager, Ms. Portier?

14 A Uh-huh.

15 Q What happens after they go in? Are you still
16 watching?

17 A Yes.

18 Q What happens next?

19 A Then she came back out and she said it looked like a
20 body in there.

21 Q Looked like a body in there. And after that, what
22 happened? Did fire trucks come, police come?

23 A Yes.

24 Q And what were you doing during that time?

25 A Over there across the street and, like I say,

1 everybody out, everybody just conversating and talking.

2 Q So everybody's out. Do you recall whether you saw
3 Mad out there?

4 A Yes, I recall. I recall.

5 Q And did you see him?

6 A I didn't see him.

7 Q You didn't see him out there.

8 A Not that I recall.

9 Q But you were out there. Did you get Sean, was he out
10 there?

11 A Yes. I went and woke Sean up.

12 Q Okay. You woke him up?

13 A Yes.

14 Q And so you-all are standing around with him?

15 A Yes.

16 Q Now, after that, everything dies down, do you have a
17 conversation with Sean?

18 A Yes.

19 Q And was that conversation about the defendant?

20 A Yes.

21 Q After this day, after the day of Eboney's death, did
22 you see the defendant?

23 A No.

24 Q No. And he used to come to your house pretty
25 frequently, right?

CYNTHIA JACKSON - Direct Exam by Ms. Simpson

61

1 A Yes.

2 Q But after the day of Eboney's death, you didn't see
3 him anymore?

4 A No.

5 Q Did that seem kind of strange to you?

6 A (Witness shaking head.)

7 THE COURT: Can't hear you, ma'am.

8 MS.. SIMPSON: I'm sorry.

9 THE COURT: You asked a question.

10 BY MS. SIMPSON:

11 Q Did that seem kind of strange to you?

12 A Yes.

13 Q It did?

14 Now, Ms. Jackson, you've talked a little bit --
15 you've got a couple of prior convictions, right?

16 A Yes.

17 Q In 2002, I believe, you had a forgery?

18 A Yes.

19 Q And then in 2004, a shoplifting?

20 A Yes.

21 MS. SIMPSON: Beg the Court's indulgence.

22 (Pause.)

23 BY MS. SIMPSON:

24 Q And did the police talk to you after -- about this
25 incident?

1 A Yes.

2 Q Speak up just a little bit.

3 A Yes.

4 Q I'm sorry.

5 A Yes.

6 Q And did you tell them what you knew?

7 A Yes.

8 MS. SIMPSON: Thank you, Ms. Jackson.

9 MR. SHEALEY: May it please the Court.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. SHEALEY:

13 Q Good morning, Ms. Jackson. How are you doing today?

14 A Fine.

15 Q I just want to ask you a couple of things. Some of
16 it's going to be along the same grounds as Ms. Simpson,
17 but we'll try to be brief, all right?

18 A Yes.

19 Q You clearly remember February 3rd, 2009, right?

20 A Can you talk up a little bit? I'm hard of hearing.
21 You need to talk up a little bit.

22 Q You clearly remember February 3rd of 2009, right?

23 A Yes.

24 Q And shortly after, around that same time frame,

25 April 30th of 2009 is when police came and talked to you

CYNTHIA JACKSON - Cross-Exam by Mr. Shealey

63

1 to get your official statement about it, right? Do you
2 remember that?

3 A Yes.

4 Q And they recorded it, these gentlemen?

5 A Yes.

6 Q Okay. Now, you told Ms. Simpson that you-all were
7 over there at your place and you-all had been getting
8 high, right?

9 A Yes.

10 Q And back then you-all had a drug issue?

11 A Yes.

12 Q And Sean had a drug issue --

13 A Yes.

14 Q -- and you knew Ahmad, he'd come over and get high
15 with you-all at times, too?

16 A Yes.

17 Q But that day, and that evening particularly, you-all
18 were getting high and I think you were in bed you said,
19 right?

20 A Yes.

21 Q And the phone started ringing?

22 A Yes.

23 Q Okay. And you learned that it was Eboney looking for
24 some drugs, right?

25 A Yes.

1 Q And now, you remember telling police a specific time,
2 it's the same specific time you gave today, right?

3 A Yes.

4 Q 1 a.m. or 2 a.m.?

5 A Yes.

6 Q That hasn't changed, has it?

7 A No.

8 Q Okay. Now, I'm going to write that down just so I
9 don't forget it.

10 And that woke you up, so you remembered that
11 time because you had kids and they had school the next
12 morning, right?

13 A Yes.

14 Q And Sean -- I think Sean comes in, you say he's
15 looking for flour to fry chicken, right?

16 A Yes.

17 Q You didn't believe that, did you?

18 A What now?

19 Q You didn't believe he was going to fry some chicken
20 that late, did you?

21 A No.

22 Q But you-all didn't have any flour anyway, right?

23 A No.

24 Q No flour in the house?

25 A No.

1 Q Okay. And shortly after that Ahmad was out the door
2 and Sean right after that as well, right?

3 A No. Sean didn't leave. He left before -- when Mad
4 left, Sean didn't leave. He left after. Sean leave about
5 6 something because, like I said, we was waiting on Mad to
6 come back. Sean didn't leave right after him.

7 Q You're saying -- well, Mad left about 1 or 2, shortly
8 after there. But I'm saying you and Sean got in a little
9 argument because you didn't want him to go out that night?

10 A Yes.

11 Q Because you're going to lock him out?

12 A Yes.

13 Q You had a key and he didn't and you want him to stay
14 at home that night?

15 A Yes.

16 Q He had been doing drugs for a couple of days, and
17 being the woman in the relationship, you probably wanted
18 him to calm down a little bit?

19 A Yes.

20 Q So my understanding is shortly after Ahmad went out
21 the door, you and Sean got in a disagreement because you
22 wanted him to stay, right?

23 A Yes.

24 Q He wanted to go and he left?

25 A Yes.

1 Q And then he came back during the daylight hours the
2 next morning and you said he was stinking a little bit,
3 he'd been out, right?

4 A Yeah, he came back -- he left about -- he left about
5 6. Then he left about 6.

6 Q You're saying he left at 6?

7 A He left about 6. I wake my son up at 6 o'clock. My
8 son's bus comes at 6:30.

9 Q All right. So we've already established that Ahmad
10 left around 1 to 2 because that's when you know the phone
11 calls are coming in, but -- and I know it's been a long
12 time so I -- you did already recall giving this statement,
13 but here's a copy of a transcript of it and I want to ask
14 you turn to page eight. This will help refresh your
15 memory a little bit. There you go.

16 Now, if you'll look with me at the top of that
17 page, about one, two, three, four, five, six, where it
18 says "R," that stands for Reese, "How many minutes was it
19 after you knew Mad left that Sean left?

20 "Sean left about 15 to 20 minutes after Mad
21 left."

22 Okay. Does that kind of bring it back to you?

23 A Wait a minute. One, two, what?

24 Yeah, about 15 or 20 minutes.

25 Q Okay. So about 15 or 20 minutes after Mad left,

CYNTHIA JACKSON - Cross-Exam by Mr. Shealey

67

1 that's when Sean left and you locked him out. Does that
2 refresh your memory now?

3 A Yes.

4 Q Okay. It's been awhile. I understand.

5 But then you know he did come back in the
6 daylight hours the next day before your kids had to go to
7 school and he had been stinking a little bit?

8 A Yes.

9 Q And you-all had some more words at that point, too,
10 because you probably weren't happy that he'd been out all
11 night, right?

12 A I was not happy that he was out all night.

13 Q Yeah, that's what I --

14 A And I was upset because he was mad he couldn't find
15 Mad. Like I told you, he wanted to get high.

16 MR. SHEALEY: I got you. Now, hold on one
17 second. Beg the Court's indulgence.

18 (Pause.)

19 MR. SHEALEY: I appreciate it. I told you I
20 would be short and sweet.

21 That's all I have for you. Thank you,
22 Ms. Jackson.

23 MS. SIMPSON: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. SIMPSON:

1 Q Ms. Jackson, do you remember your phone number? Is
2 it the same?

3 A No.

4 MR. SHEALEY: Objection, Your Honor. This is
5 outside the scope of her direct, or actually, my cross.

6 MS. SIMPSON: Your Honor, he did discuss phone
7 calls and things of that nature. I think I'm allowed,
8 especially specifically with the time frame. At this
9 point it is relevant, and it's connected to his
10 cross-examination.

11 MR. SHEALEY: Your Honor, Ms. Jackson has not
12 been disputed as to time frame. She told Ms. Simpson 1 to
13 2, she told me 1 to 2. I don't think phone calls were the
14 subject of my cross, so I think it's improper redirect.

15 THE COURT: The objection's overruled.

16 MS. SIMPSON: Thank you.

17 THE COURT: No thanks -- no "thank you" is
18 necessary. Just the objection is overruled.

19 MS. SIMPSON: All right.

20 BY MS. SIMPSON:

21 Q Ms. Jackson, is your phone number different than it
22 was?

23 A Yes.

24 Q Do you remember what it used to be?

25 A 754-2938.

CYNTHIA JACKSON - Redirect Exam by Ms. Simpson

69

1 Q And that was one of your numbers. Do you also
2 remember having the number (803)735-8270?

3 A No, I'm not.

4 Q You're not sure?

5 A No.

6 Q But that could be right?

7 A Yes.

8 MS. SIMPSON: Thank you.

9 THE COURT: Anything further?

10 MR. SHEALEY: Yes, sir.

11 RECROSS-EXAMINATION

12 BY MR. SHEALEY:

13 Q That last number you just stated you weren't sure,
14 right? You don't remember?

15 A My phone's been cut off numerous times.

16 Q Right.

17 A I don't remember all my numbers.

18 MR. SHEALEY: Yes, ma'am. I understand.

19 Thank you.

20 THE COURT: You may step down, ma'am.

21 All right. Next witness.

22 MS. CAMPBELL: May it please the Court. The
23 State would call Nicole Grimes.

24 NICOLE GRIMES, after being duly sworn, testified
25 as follows:

1 THE CLERK: Have a seat in the witness box.

2 State your name for the record, please.

3 THE WITNESS: My name is Nicole Grimes.

4 THE BAILIFF: Speak loud enough for the judge to
5 hear and the jury, okay?

6 THE WITNESS: My name is Nicole Grimes.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q Ms. Grimes, how old are you?

10 A Twenty-six.

11 Q And where do you live?

12 A 6205 Bailey Street.

13 Q 6205 Bailey Street?

14 A Yes, ma'am.

15 Q You're kind of soft-spoken. If you can just speak up
16 a little bit for me, okay? Does that help?

17 A Yes, ma'am.

18 Q And who do you live with?

19 A Me and my three kids.

20 Q And your three kids?

21 A Yes, ma'am.

22 Q Do you know a man named Sean Grimes?

23 A Yes, ma'am.

24 Q And how do you know Sean Grimes?

25 A He's my uncle.

NICOLE GRIMES - Direct Exam by Ms. Campbell

71

1 Q And is Sean married?

2 A No, ma'am.

3 Q Does he have a -- has he been with somebody for 30
4 years or so?

5 A Yes, ma'am.

6 Q And who is that?

7 A Cynthia Jackson.

8 Q Is that who you passed, I think, right as you were
9 coming in?

10 A Yes, ma'am.

11 Q And they've been together a long time?

12 A Yes, ma'am.

13 Q And do you know where they live?

14 A I'm not sure of the building, but it's the Bishop
15 Apartments.

16 Q The Bishop. And when you say the Bishop, you're
17 referring to the Bethel Bishop Apartments?

18 A Yes, ma'am.

19 Q And how long have they been living there, do you
20 know?

21 A I'm not sure.

22 Q Did you ever live at the Bethel Bishop Apartments?

23 A Yes, ma'am.

24 Q And when did you live at Bethel Bishop?

25 A Since 2008.

1 Q Did you live there in 2009 as well?

2 A Yes, ma'am.

3 Q And who were you living in the Bethel Bishop
4 Apartments with?

5 A It was me, my two sons, and Ahmad Wilkins.

6 Q Ahmad Wilkins. Does Ahmad Wilkins have a nickname
7 that you know him by?

8 A Yes, ma'am.

9 Q What's his nickname?

10 A Mad.

11 Q And are you a little nervous here today?

12 A Yes, ma'am.

13 Q You don't want to be here, do you?

14 A No, ma'am.

15 Q And how long had you been living with Ahmad Wilkins
16 in the Bethel Bishop Apartments?

17 A I would say about a year and a half.

18 Q About a year and a half?

19 A Yes, ma'am.

20 Q And what kind of relationship did you have with Mad?

21 A It was kind of rocky. It was kind of -- it wasn't
22 the best.

23 Q But he was living with you there with your children?

24 A Yes, ma'am.

25 Q Did you-all actually have a child?

NICOLE GRIMES - Direct Exam by Ms. Campbell

73

1 A Yes, ma'am.

2 Q And he's the father of one of your children?

3 A Yes, ma'am.

4 Q When you-all were living there, do you remember what
5 your phone number was?

6 A No, ma'am.

7 Q Okay. Do you remember giving a statement to the
8 police?

9 A Yes, ma'am.

10 Q Would you have put your phone number on that or would
11 they have? Do you see it there on your statement?

12 A Yes, this could be it, ma'am. I'm not sure.

13 Q Okay. What number is reflected on the statement?

14 A 786-7765.

15 Q And your memory back when you gave this statement
16 back when this all happened would have been better than
17 now; is that correct?

18 A Yes, ma'am.

19 Q And the phone that you had at the time, was that a
20 cell phone or was that a landline or what kind of phone
21 was that, that 786-7765 number?

22 A I think it was a landline, ma'am.

23 Q A landline, but you aren't sure?

24 A Yes, ma'am.

25 THE COURT: Let's see. Ma'am, can you push your

1 chair up? You're sort of whispering. Do you normally
2 whisper or do you -- can you say something so we see how
3 your voice sounds? Can you talk louder?

4 THE WITNESS: Yes, sir.

5 MS. CAMPBELL: That's better.

6 THE COURT: Talk into the mic or something.

7 BY MS. CAMPBELL:

8 Q I want to turn your attention to February 2nd into
9 the 3rd of 2009, the night that Eboney was killed. Do you
10 remember that night?

11 A Yes, ma'am.

12 Q And what were you doing on the evening of the 2nd?
13 Were you there at Bethel Bishop?

14 A Yes, ma'am.

15 Q And who all was there in the evening of the 2nd into
16 the early morning hours of the 3rd?

17 A Well, I was at my sister's in the evening, but that
18 night I was home with me and the kids.

19 Q And, again, what building were you in?

20 A Thirteen.

21 Q Thirteen?

22 A But at night I stay at 25-H.

23 Q 25-H?

24 A Yes, ma'am, just me and my two boys.

25 Q And that evening around midnight do you remember what

- 1 you were doing?
- 2 A Laying down, me and my two boys.
- 3 Q Where was Ahmad?
- 4 A Outside.
- 5 Q At some point was he there with you at 25-H?
- 6 A Yeah.
- 7 Q What were you-all doing?
- 8 A Arguing.
- 9 Q At some point did he leave?
- 10 A Yes, ma'am.
- 11 Q And do you remember about time it was when he left
- 12 your apartment?
- 13 A I would say around about 1 o'clock.
- 14 Q Do you know where he was going?
- 15 A He said he going to get some cigarettes.
- 16 Q So he told you he was going to get some cigarettes
- 17 around 1 a.m.?
- 18 A Yes, ma'am.
- 19 Q And did you stay in your apartment -- is it Building
- 20 25?
- 21 A Yes, ma'am.
- 22 Q Did you stay there?
- 23 A Yes, ma'am.
- 24 Q When he left, did you do anything?
- 25 A Yes, ma'am, I locked the door.

1 Q And was he gone for some time?

2 A Yes, ma'am.

3 Q And do you remember how long he was gone?

4 A I would say around about, like, three hours.

5 Q About three hours. And specifically when he came
6 back, what happened? Tell the jury.

7 A When he came back in the house, I opened the door, I
8 let him in, and I went back to bed. When I went back to
9 bed, I kept hearing him pacing back and forth on the
10 floor, back and forth, back and forth. I got up to ask
11 what was wrong and he just kept telling me, "Nothing,
12 don't worry about it," so I went back to bed.

13 Q So when he came back -- and do you remember about
14 what time it was when he came back?

15 A About -- it was about 3:55, probably 4 o'clock,
16 somewhere around that time.

17 Q All right. Do you remember telling the police it was
18 3:55?

19 A I think so.

20 Q And would that have been in the morning, so that
21 would have been a.m.?

22 A Yes, ma'am.

23 Q And when you talked to police -- when you gave them a
24 statement -- I'll get back to that -- you were specific
25 about the time; is that right?

NICOLE GRIMES - Direct Exam by Ms. Campbell

77

1 A I think so, ma'am.

2 Q When he came back in, you said he was pacing. What
3 area was he pacing in?

4 A The living room. From the living room to the
5 kitchen, from the kitchen to the living room.

6 Q Was he saying anything?

7 A "Oh, my God."

8 Q And, in fact, you had gone back to bed, had you not?

9 A Yes, ma'am.

10 Q And you got up. Why was that?

11 A When I had -- the first time --

12 Q Pacing --

13 A When I heard the pacing, I got up and I asked him
14 what was wrong and he said, "Nothing," so I went back to
15 bed.

16 Q Why did you get up if he was pacing?

17 A Because I heard him pacing back and forth saying "Oh,
18 my God." That's what woke me up out of my sleep. I got
19 up and he was pacing back and forth and I asked him what
20 was wrong.

21 Q And do you remember about how long he was out there
22 pacing in the living room/kitchen area?

23 A I don't remember.

24 Q What happened with him eventually?

25 A He went to bed.

- 1 Q With you?
- 2 A Yes, ma'am.
- 3 Q And when he came into your bed what did he do?
- 4 A Just laid down and hold me.
- 5 Q Do you remember if Ahmad had a cell phone?
- 6 A I guess so, sometimes.
- 7 Q Do you remember the cell phone number?
- 8 A No, ma'am.
- 9 Q But you definitely had a landline?
- 10 A Yes, I had one.
- 11 Q During the time period when he was gone, did he call
- 12 you at any point?
- 13 A No, ma'am.
- 14 Q During the time period after he came back, did he
- 15 call you at any point?
- 16 A No, ma'am.
- 17 Q And once he came to bed you mentioned that he -- how
- 18 did you put it -- he curled up with you?
- 19 A Yes, ma'am.
- 20 Q Did you-all go to sleep?
- 21 A Yes, ma'am.
- 22 Q Did he stay in the apartment at that point?
- 23 A Yes, ma'am.
- 24 Q And you don't know where he was in that time period
- 25 he was gone until you say he came back at 3:55 a.m.?

NICOLE GRIMES - Direct Exam by Ms. Campbell

79

- 1 A Yes, ma'am.
- 2 Q But once he came back, he was there with you, either
- 3 pacing --
- 4 A Yes, ma'am.
- 5 Q And during that time period you didn't receive any
- 6 phone calls?
- 7 A No, ma'am.
- 8 Q And your phone wasn't ringing off the hook or
- 9 anything?
- 10 A No, ma'am.
- 11 Q You didn't hear Eboney or anybody else?
- 12 A No, ma'am.
- 13 Q That next day, what woke you-all up; do you remember?
- 14 A I heard a loud noise outside. I looked outside and
- 15 seen the police and EMS people out there.
- 16 Q And up until that point nobody tried to call you to
- 17 tell you what was going on?
- 18 A No, ma'am.
- 19 Q Your uncle hadn't called you or anything?
- 20 A No, ma'am.
- 21 Q There were no phone calls from Ahmad --
- 22 A No, ma'am.
- 23 Q -- because he was with you?
- 24 A Yes, ma'am.
- 25 Q And he wasn't making any phone calls about what had

1 gone on?

2 A No, ma'am.

3 Q You said you heard a lot of noise. Then what did you
4 do?

5 A Well, I looked out the window. That's when I seen
6 these people, the fire people and the police officer.

7 Q What happened next?

8 A I went and told him. We got up and we went outside.
9 I stood by the stairway and he walked across the bridge
10 towards my sister's building.

11 Q Who walked towards the bridge towards your sister's
12 building?

13 A Ahmad.

14 Q So you went over to where all the people were?

15 A Yes, ma'am.

16 Q And he went in which direction?

17 A The opposite, towards the bridge.

18 Q And why did you go over to where the people were?

19 A Because I wanted to know what was going on.

20 Q And he didn't go with you?

21 A No, ma'am.

22 Q And he actually went in the opposite direction?

23 A Yes, ma'am.

24 Q Were there other people that were going out to see
25 what was going on?

NICOLE GRIMES - Direct Exam by Ms. Campbell

81

1 A Yes, there was a lot of people there.

2 Q That afternoon, without saying what was said to you,
3 did you learn what was going on?

4 A Ma'am?

5 Q Did you learn what was going on?

6 A Yes, ma'am.

7 Q Do you know if Ahmad knew Eboney?

8 A I'm not sure if he knew her or not.

9 Q Do you know if Ahmad knew a Nicole Jones?

10 A No, ma'am.

11 Q When you went over to see what was going on with the
12 fire department and all that, did you talk to the police
13 that day?

14 A No, ma'am.

15 Q And they didn't come and talk to you that day?

16 A No, ma'am.

17 Q That next morning, do you remember whether or not you
18 asked Ahmad any more about why he was pacing the night
19 before?

20 A No, ma'am.

21 Q Did Ahmad ever come over to where you-all were
22 standing, watching the police and the fire department, or
23 anything like that?

24 A No, ma'am.

25 Q Did you-all ever talk about it later?

1 A No, ma'am.

2 Q Do you remember later that month, a couple of weeks
3 after this all happened, talking to the police and giving
4 them a statement?

5 A Yes, ma'am.

6 Q And I believe I just showed you a copy of it. Do you
7 remember that statement?

8 A Yes, ma'am.

9 Q And did you tell them what you knew about the night
10 when Eboney was murdered?

11 A Did I tell them about the night when who?

12 Q When Eboney was murdered, about what happened that
13 night as far as Ahmad was concerned?

14 A Oh, yes. I wrote a statement. That's what I told
15 them.

16 Q And in this statement, again, you were specific about
17 the 3:55 time?

18 A Yes, ma'am.

19 Q Did you and Ahmad stay together after Eboney was
20 murdered?

21 A Yes, ma'am.

22 Q And are you still boyfriend and girlfriend?

23 A No, ma'am.

24 Q Do you still talk to him?

25 A No, ma'am.

1 Q Do you still go to visit him?

2 A No, ma'am.

3 Q Did you-all continue to be boyfriend -- and I don't
4 mean to mischaracterize it. You tell me what -- did
5 you-all continue to be seeing each other after all this
6 happened?

7 A Yes, ma'am.

8 Q And did he continue to live with you?

9 A Yes, ma'am.

10 Q Did he ever tell you that it was important for him to
11 be home by 4 o'clock that morning?

12 A No, ma'am.

13 Q So the 3:55 a.m. you just came up with on your own?

14 A No, ma'am.

15 Q When you gave the police the statement -- and I
16 believe that was on February 20th, I don't want to
17 misquote you -- is that the date reflected?

18 A Yes, ma'am.

19 Q On February 20th, you told them about the pacing and
20 everything?

21 A Yes, ma'am.

22 Q And you're sure you didn't receive any other phone
23 calls that night?

24 A No, ma'am.

25 Q From Ahmad or from Sean or from any of the people?

1 A No, ma'am.

2 Q And your phone didn't ring?

3 A No, ma'am.

4 Q How long did you stay seeing Ahmad?

5 A All the way until he got out of jail for some
6 burglaries.

7 MR. SHEALEY: Your Honor, objection.

8 THE COURT: Objection sustained.

9 BY MS. CAMPBELL:

10 Q Can you tell me the time period, how long did you
11 stay with him? Was it months, weeks?

12 A Months.

13 Q Did he continue to live with you in Bethel Bishop
14 Apartments?

15 A Yes, ma'am.

16 Q And did you continue to live there yourself?

17 A Yes, ma'am.

18 Q Did you become aware that he got arrested for this
19 murder case?

20 A Yes, ma'am.

21 Q And did you continue to stick with him after that?

22 A No, ma'am.

23 Q Do you remember having phone calls with Sean where
24 you talked -- not Sean, excuse me -- with Ahmad Wilkins
25 where you talked about what had happened that night and

NICOLE GRIMES - Direct Exam by Ms. Campbell

85

1 what the police knew?

2 A No, ma'am.

3 Q Do you remember talking with him about how they'd
4 shown you a picture of the glove?

5 A No, ma'am.

6 Q Now, in 2008, you were convicted of larceny by trick?

7 A Larceny by who?

8 Q By trick?

9 A By trick? What is that?

10 Q Do you want to see your rap sheet?

11 Larceny, stealing?

12 A Yes, ma'am.

13 Q And then also in 2008, you got arrested -- excuse
14 me -- convicted of a false statement to police?

15 A Yes, ma'am.

16 MS. CAMPBELL: Beg the Court's indulgence.

17 (Pause.)

18 BY MS. CAMPBELL:

19 Q The phone number that you gave was 786-7765?

20 A Yes, ma'am.

21 Q And do you know why there would have been a phone
22 call from Ahmad Wilkins' cell phone, 446-0191, to your
23 house, 786-7765, at 5:30 a.m. the morning that Eboney
24 Williams was killed?

25 A No, ma'am.

1 Q And your testimony is he wasn't calling you for help?

2 A Ma'am, if I'm not mistaken, that's my sister's home
3 phone number when she was staying in the Bishop.

4 Q And why there was another call to that phone at
5 6:11 a.m.?

6 A No, ma'am.

7 Q And another call to that phone that morning at
8 6:19 a.m.?

9 A No, ma'am.

10 Q Because he was with you after 3:55 a.m. and he wasn't
11 calling you?

12 A No, ma'am.

13 MS. CAMPBELL: That's all I have, ma'am. Thank
14 you.

15 THE COURT: Mr. Shealey.

16 MR. SHEALEY: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. SHEALEY:

19 Q Hi, Nicole. How are you doing?

20 Do you go by Nicole or Nicky?

21 A Whichever one you prefer.

22 Q I'll just call you Nicole.

23 Now, Ms. Campbell just showed your statement
24 that you gave on February 20th, 2009 to law enforcement,
25 right?

NICOLE GRIMES - Cross-Exam by Mr. Shealey

87

1 A Yes, sir.

2 Q And, ma'am, do you still have that statement in front
3 of you?

4 A No, sir.

5 Q Okay. We'll give you a copy of it if you don't mind.

6 If you look at that, the date's February 20th,
7 2009, right? And you recall writing on that statement
8 that you signed that Ahmad came back to the house at 3:55,
9 right?

10 A Yes, sir.

11 Q Okay. And I think the investigator in that case that
12 was there with you, Investigator McCracken it looks like,
13 but if you go to page three of four, he asked you again at
14 what time Ahmad leaves, at 1 a.m., and at what time he
15 returned back again, and you write as the answer in the
16 middle of the page there "3:55," right?

17 A Yes, sir.

18 Q Ma'am?

19 A Yes, sir.

20 Q Okay. And you lived -- at that time did you live on
21 the second or the first floor? The second floor, isn't
22 it?

23 A Upstairs.

24 Q Okay. And you had to let him in the house at 3:55,
25 didn't you?

- 1 A Yes, sir.
- 2 Q Because you had locked the door?
- 3 A Yes, sir.
- 4 Q Okay. And you were trying to sleep, right?
- 5 A Yes, sir.
- 6 Q Okay. But there was some pacing that woke you up?
- 7 A Yes, sir.
- 8 Q Okay. Now, do you know, have you observed Ahmad do
- 9 drugs?
- 10 A Yes, sir.
- 11 Q Okay. Cocaine. Did you ever observe him high on
- 12 cocaine?
- 13 A Yes, sir.
- 14 Q Okay. And what does cocaine do, in your observation,
- 15 with Ahmad? Does it make him hyper or would it make him
- 16 calm?
- 17 A Sometimes hyper.
- 18 Q Okay. In fact, you've seen him pacing around the
- 19 floor, haven't you?
- 20 A Yes, sir.
- 21 Q Okay. Now, that number that Ms. Campbell keeps on
- 22 referring to, 786-7765, that's actually coming from
- 23 Cynthia Jackson's house, isn't it?
- 24 A I'm not sure. I never had her phone number.
- 25 Q Okay. Or Venchie's number, right?

NICOLE GRIMES - Cross-Exam by Mr. Shealey

89

1 A That's what I was trying to tell her, I think that
2 number was my sister's.

3 Q That's what you told her, right?

4 A Yes.

5 MR. SHEALEY: Beg the Court's indulgence.

6 (Pause.)

7 BY MR. SHEALEY:

8 Q Nicole, now your sister lives in 13?

9 A Yes, sir.

10 Q Okay. And that's the number we're talking about?

11 A Yes, sir.

12 Q And you were in 25-H?

13 A Yes, sir.

14 MR. SHEALEY: No further questions at this time.

15 THE COURT: Anything further?

16 MS. CAMPBELL: No, sir.

17 THE COURT: Thank you, ma'am. You may step
18 down.

19 Ladies and gentlemen, we'll take a short break
20 now. And when you return, Juror No. 280, Ms. Trenery, I'm
21 appointing you to be the foreperson of the jury. If
22 you'll take the foreperson's seat, and you'll serve as the
23 spokesperson for the jury, will preside over the jury
24 deliberations, and complete the verdict form representing
25 the unanimous verdict of the jury.

1 We'll take about five minutes or so. Please do
2 not discuss the case.

3 (The jury left open court at approximately
4 11:00 a.m.)

5 (A recess in the trial was taken while other
6 court proceedings were had.)

7 (WHEREUPON, Defendant's Exhibits Nos. 10-13 were
8 marked for identification only.)

9 THE COURT: Bring us the jury.

10 (The jury came into open court at approximately
11 11:16 a.m.)

12 THE BAILIFF: The jurors are all present, Your
13 Honor.

14 THE COURT: All right. The jurors would like
15 the witnesses and attorneys to speak up, please. They're
16 having difficulty hearing.

17 All right. And, Madame Forelady, how is the
18 jury doing?

19 THE FOREPERSON: We're doing well.

20 THE COURT: Very good. All right. Continuing
21 with the State's case. Your next witness.

22 MS. WALKER: Thank you, Your Honor.

23 The State calls Tena Goff.

24 TENA GOFF, after being duly sworn, testified as
25 follows:

NICOLE GRIMES - Cross-Exam by Mr. Shealey

91

1 THE CLERK: Have a seat in the witness box.

2 State your name for the record.

3 THE WITNESS: Tena Goff.

4 DIRECT EXAMINATION

5 BY MS. WALKER:

6 Q Ms. Goff, where are you currently employed?

7 A The Richland County Sheriff's Department.

8 Q And what do you do at the Richland County Sheriff's
9 Department?

10 A I'm one of the evidence technicians.

11 Q And what is your role as an evidence technician?

12 A Part of our job is to accept evidence into the
13 evidence room, whether by hand to hand or by locker or
14 temporary locker, log it in, maintain it, sign it out when
15 it's out for court or for testing, return it.

16 Q And did you gather or receive certain items related
17 to this case?

18 A Yes, ma'am.

19 Q Specifically, I would like to turn your attention to
20 what you guys label as Item No. 2, brown gloves. Did you
21 receive that?

22 A Yes, ma'am.

23 Q From whom did you receive that?

24 A I received it from Tammy Moore from the City of
25 Columbia Police Department.

1 Q And was it properly packaged when you received it?

2 A Yes, it was.

3 Q While it was in your custody was it tampered with in
4 any way?

5 A No, ma'am.

6 Q And after you received it, did you then give it to
7 Rachel Grant at some point in time?

8 A I did.

9 Q And on what date did you give it to Rachel Grant?

10 A February 17th, 2009, at 12:06 in the afternoon.

11 Q And it was properly sealed and packaged when you gave
12 it to Rachel Grant?

13 A Yes, ma'am.

14 Q And Item No. 3 is a neck ligature. Did you receive
15 that?

16 A Yes, I did.

17 Q And you received that from Tammy Moore?

18 A I did.

19 Q When did you receive that from Tammy Moore?

20 A February 17th, 2009, 10:30 in the morning.

21 Q And did that leave your custody at some point?

22 A It did.

23 Q And it was properly packaged and sealed while you had
24 it?

25 A Yes.

TENA GOFF - Direct Exam by Ms. Walker

93

1 Q And it wasn't tampered with in any way?

2 A No.

3 Q And, I'm sorry, you said you released it when?

4 A February 17th, 2009, 12:06.

5 Q And to whom did you give that?

6 A DNA analyst Rachel Grant.

7 Q Item No. 5 in this case was a leg ligature. Did you
8 receive that?

9 A I did.

10 MR. MAY: Your Honor, I'm going to object and
11 inquire if the witness is reading something, we'd like to
12 see what the witness is reading. We don't believe it's
13 been provided in the file.

14 THE COURT: The objection is overruled.

15 BY MS. WALKER:

16 Q You said you did receive that?

17 A I did.

18 Q And when did you receive it?

19 A February 17th, 2009, at 10:30 in the morning.

20 Q And did you release that at some point?

21 A February 17th, 2009, at 12:06 in the afternoon.

22 Q And when you received it, it was properly packaged,
23 sealed?

24 A Yes, ma'am.

25 Q And it wasn't tampered with while it was in your

1 custody?

2 A No, ma'am.

3 Q Okay. And the last item I'd like to speak with you
4 about is Item No. 1, which was a rape kit. Did you
5 receive that?

6 A Yes.

7 Q And it was -- was it properly sealed and packaged
8 when you received it?

9 A Yes, ma'am.

10 Q Can you tell us what -- how that property exchanged
11 hands while you had it?

12 A I'm not sure.

13 Q When did you receive it?

14 A I received it on February 17th, 2009, at 10:30 in the
15 morning from Officer Tammy Moore from the City of Columbia
16 Police Department.

17 Q Okay. Did you release it later?

18 A I did.

19 Q And to whom did you release it?

20 A DNA analyst Rachel Grant.

21 Q Did you receive it back from Ms. Grant?

22 A I did.

23 Q And when did you receive it back from Ms. Grant?

24 A June 23rd, 2009, at 11 o'clock in the morning.

25 MS. WALKER: Thank you, ma'am. I have no

1 further questions.

2 THE COURT: Cross-examination.

3 MR. MAY: Yes, sir. Beg the Court's indulgence.

4 (Pause.)

5 CROSS-EXAMINATION

6 BY MR. MAY:

7 Q I apologize. I just didn't catch it. That's my
8 fault. But what are the last two dates you gave? When
9 did you give this piece of evidence, the rape kit, to
10 Rachel Grant?

11 A The first time it was given to Rachel Grant was
12 February 17th, 2009, at 12:06 in the afternoon.

13 Q Okay. Yes, ma'am. And when did you get it back? I
14 apologize.

15 A June 23rd, 2009, at 11:03 a.m.

16 Q And that's the last contact you had with that piece
17 of evidence?

18 A No, sir.

19 Q It's not?

20 A No, sir.

21 Q Can I see what you're looking at, by chance? Do you
22 mind?

23 (Pause.)

24 MR. MAY: Your Honor, I'd renew my objection.

25 We have not received this and I believe this is what we

1 specifically requested in pretrial motions. This has not
2 been provided, and I need this for cross-examination.

3 THE COURT: All right. Take your time.

4 MR. MAY: I'll give it right back.

5 THE WITNESS: Yes, sir.

6 (Pause.)

7 MR. MAY: Your Honor, may we approach?

8 THE COURT: Ladies and gentlemen, I'm going to
9 have you go to your jury room for a few minutes.

10 (The jury left open court at approximately 11:26
11 a.m.)

12 THE COURT: Yes, sir.

13 MR. MAY: Yes, sir. Your Honor, I just wanted
14 to approach and say, Your Honor, we just need a little bit
15 of time. We have them referenced -- it's all by reference
16 number. This was the reason why we're asking for it
17 before the trial, this is the reason why we requested it
18 over and over. It goes directly to big parts of the
19 motions regarding chain.

20 I just ask the Court's indulgence to be able to
21 make a copy of this and go over it with co-counsel, just
22 so that we know how to proceed.

23 Again, that's the reason why -- the motions in
24 pretrial were to get this, they said they didn't have it,
25 and now we didn't want to do this, but we need time to be

1 able to review this.

2 THE COURT: All right. From the State?

3 MS. WALKER: Your Honor, I don't think we ever
4 told Mr. May that we didn't have it. Mr. May,
5 Mr. Shealey, and the other Mr. Shealey as well as the law
6 clerk came to our office and reviewed all the evidence in
7 this case last week, chain is on the evidence. They had
8 an opportunity to look at it and view that. We haven't
9 turned it over before we put up the witness right now to
10 establish the chain. I don't know -- if Mr. May needs
11 more time, any more time, but this isn't anything out of
12 the ordinary.

13 MR. MAY: Your Honor, specifically, this is the
14 reason we made Motion No. 11. This is what we wanted. We
15 asked for it, any kind of internal chain. They didn't --
16 they said we received everything. As an officer of the
17 court, I've never seen this. I just need time to go over
18 it with co-counsel. That way we can be effective.

19 THE COURT: How much time do you need?

20 MR. MAY: Probably 25, 30 minutes.

21 Your Honor, if you'd like to take a look,
22 everything's by item number and we just have to
23 cross-reference by item numbers. I'm not trying to delay.

24 THE COURT: All right. Who's your next witness?

25 MS. CAMPBELL: I can put up Patruan Hare.

1 THE COURT: All right. We'll have this witness
2 step down. And you can study it all you want and then she
3 can come back later.

4 MR. MAY: Ms. Goff, I'm going to make a copy of
5 this and return this to you. Is that all right?

6 THE WITNESS: You can have that copy.

7 MR. MAY: Okay.

8 THE COURT: All right. You may step down,
9 ma'am.

10 And bring the jury back.

11 Is Mr. Hare here?

12 MS. CAMPBELL: Yes, he's in the holding cell.

13 THE COURT: All right.

14 THE BAILIFF: All jurors are present, Your
15 Honor.

16 THE COURT: All right. Thank you.

17 (The jury came into open court at approximately
18 11:31 a.m.)

19 THE COURT: Rather than continue waiting, we've
20 had that witness to step down and have the State to call
21 another witness. That witness will come back later.

22 MS. CAMPBELL: Thank you, Your Honor.

23 The State calls Patruan Hare.

24 PATRUAN HARE, after being duly sworn, testified
25 as follows:

PATRUAN HARE - Direct Exam by Ms. Campbell

99

1 THE CLERK: Have a seat in the witness box.

2 State your name for the record.

3 THE WITNESS: My name is Patruan Hare.

4 DIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q Mr. Hare, how old are you?

7 A Thirty-one.

8 Q And where are you from?

9 A Columbia, South Carolina.

10 Q Are you currently incarcerated?

11 A Yes, ma'am.

12 Q What are you serving time for?

13 A Conspiracy, crack cocaine.

14 Q And you were convicted in what court?

15 A Federal court.

16 Q And you've actually been convicted and sentenced in
17 that court?

18 A Yes, ma'am.

19 Q What sentence are you currently serving?

20 A A 15-year sentence.

21 Q And when did you get convicted of that?

22 A 2010, April 2010.

23 Q Do you know a man named Ahmad Wilkins?

24 A I do.

25 Q Tell this jury how you know him.

1 A I know him through my cousin, Terraneo.

2 Q Your cousin who?

3 A Terraneo.

4 Q Terraneo?

5 A Yeah.

6 Q And had you met him before you went to prison?

7 A Yes, ma'am.

8 Q And what was your relationship like with him, was he
9 an acquaintance, a friend, or how would you characterize
10 him?

11 A Friend.

12 Q A friend?

13 A Yes, ma'am.

14 Q When did you get incarcerated on these drug charges
15 you were convicted of?

16 A I was indicted in 2008, but they didn't serve the
17 indictment until 2009.

18 Q So while you were awaiting trial or conviction in
19 this case, where were you incarcerated?

20 A Lexington County, Alvin S. Glenn Detention Center.

21 Q Alvin S. Glenn Detention Center? Is that here in
22 Richland County out on Bluff Road?

23 A Yes, ma'am.

24 Q And how long were you at the Alvin S. Glenn Detention
25 Center?

PATRUAN HARE - Direct Exam by Ms. Campbell

101

- 1 A From February to October.
- 2 Q Of what year; do you remember?
- 3 A 2011.
- 4 Q What dorm were you in?
- 5 A I started off in J Dorm.
- 6 Q J Dorm. Do they call it Juliette?
- 7 A Yes, ma'am.
- 8 Q And were you in there for a period of time?
- 9 A Yes, ma'am.
- 10 Q And while you were in the Juliette dorm, did you come
- 11 in contact with a person you knew as Ahmad Wilkins?
- 12 A Yes, ma'am.
- 13 Q And how did that happen?
- 14 A They put me in a dorm and he was in there.
- 15 Q And explain to the jury how the dorms are set up.
- 16 A The dorms are set up when you -- you know what I'm
- 17 saying -- go in, and when they have recreation, everybody
- 18 have recreation together. And, you know, they have
- 19 recreation together, and me and Ahmad know each other, so
- 20 we started talking to one another.
- 21 Q And you-all had known each other before?
- 22 A Yes, ma'am.
- 23 Q And when you were talking to one another, what
- 24 information was he able to give you?
- 25 A Well, he was asking me -- you know what I'm saying --

1 what I was back for -- you know what I'm saying -- what I
2 was there for, and I was telling him, you know, I asked
3 him the same thing, and he explained to me that, you know,
4 he was down there for murder.

5 I was asking him, I say, "A murder?" He said
6 yeah. I said, "Murdering who?" You know what I'm saying?
7 He said, "They got me for" -- he asked me did I hear about
8 the thing that happened in Bethel Bishop about the girl
9 Eboney Williams -- you know what I'm saying -- being
10 burned up and told me that they got him for that, you
11 know.

12 So I'm, like, you know, I really couldn't
13 believe it -- you know what I'm saying -- because he was
14 like, "Yeah, they got me for it, but they ain't got
15 nothing on me "-- you know what I'm saying -- so he ain't
16 worrying about it.

17 Q What else did he tell you about what happened?

18 A He told me, he said, that Eboney called him one
19 night -- you know what I'm saying -- that she -- well,
20 first he said the investigators -- you know what I'm
21 saying -- questioned him about it, but they didn't have
22 that number, so they had to let him go. You know what I'm
23 saying? So he went to jail -- you know what I'm saying --
24 for nine months.

25 MR. SHEALEY: Objection, Your Honor. Subject to

PATRUAN HARE - Direct Exam by Ms. Campbell

103

1 pretrial motions exactly on this point, 404(b).

2 THE COURT: The objection's overruled.

3 BY MS. CAMPBELL:

4 Q You can continue.

5 A So he told me that -- telling me what the detectives
6 didn't have and what they -- you know what I'm saying --
7 they had to have, because if they would have had
8 everything they wouldn't have let him go the first time.
9 He went to jail for nine months, came back, came back out.

10 After they let him out -- you know what I'm
11 saying -- they came to Bethel Bishop trying to find him --
12 you know what I'm saying? After they tried to find him,
13 you know, they was out there with pictures trying to find
14 him. He walked right past them.

15 Once he walked right past them, they couldn't --
16 after they couldn't find him, he called his dad. His dad
17 came -- you know what I'm saying -- to get him from Bethel
18 Bishop, took him to a room where he had a car waiting --
19 you know what I'm saying -- he's supposed to have called
20 the detective. He got a room from the Parkview Motel, you
21 know.

22 After he sat there a couple -- you know what I'm
23 saying -- a minute or so -- you know what I'm saying -- he
24 got drunk, he got high, and he went to the phone booth and
25 called the detective. After he called the detective, he

1 walked across the street to the PJS Soul Food restaurant.

2 After he called -- you know what I'm saying --
3 the detectives and the polices swarmed the phone booth
4 looking for him, you know. It's like, you know, he sent
5 them on a wild goose chase, you know. My thing was, if
6 you ain't did nothing, you innocent -- you know what I'm
7 saying -- just go talk to the people.

8 Q And did he say whether or not he had talked to the
9 people, the investigators?

10 A He said he talked to them once before, if they had
11 anything on him, they would have charged him, but the
12 second time they was looking for him, he just basically
13 dodged them, sent them on a wild goose chase about coming
14 to talk to them.

15 Q Did he say anything about when they were talking to
16 him the second time, about trying to get his DNA?

17 A Oh, yes, ma'am. He said, you know, the second time
18 when they -- you know, once he got apprehended, he said
19 that, you know, they was trying to get his DNA, he was too
20 smart for that. They kept offering him, do you want
21 something to drink. He's telling them no. Do he want a
22 cigarette -- you know what I'm saying -- and they give him
23 a cigarette. In order for them not to get his DNA, he ate
24 the cigarette butt so -- you know what I'm saying -- they
25 wouldn't get his DNA.

1 Q And that's what he told you about the investigation,
2 what was going on?

3 A Yes, ma'am.

4 Q Did he tell you anything about what happened that
5 night with Eboney?

6 A Well, he didn't never really tell me -- you know what
7 I'm saying -- he killed her, but he say Eboney called him,
8 you know, that night to come chill with her and, you know,
9 they was, you know, in her living room on a love seat and,
10 you know, he said -- you know, he said, you know, if she
11 had not drunk up -- you know what I'm saying -- drunk up
12 his shit and smoked his shit, she was going to do
13 something -- you know what I'm saying?

14 And, you know, just he say the cameras caught
15 him out there like 3 -- like 2 or 3 in the morning, but it
16 couldn't prove -- you know what I'm saying -- that it was
17 him, and he say he was going to tell the investigators
18 that his alibi was he was at this girl's house, but this
19 girl wouldn't vouch for him, so he was just going to tell
20 that he was sitting under the bridge at 3 in the morning.
21 The cameras don't go under the bridge.

22 Q So he indicated to you what his alibi was going to
23 be?

24 A That he was under the bridge drinking.

25 Q And that he talked about his girl?

1 A Yeah, that she said that he wasn't there, so that's
2 what the alibi that he was going to have to go with, that
3 he was under the bridge.

4 Q He also talked about that night that he went to
5 Eboney's house?

6 A Yes, ma'am.

7 Q And what did he say that they were doing when he was
8 over at Eboney's house?

9 A Drinking and smoking.

10 Q And did he indicate that at some point he wanted more
11 from Eboney?

12 A Yes, ma'am.

13 Q What did he indicate he wanted?

14 A Sex. And she wasn't with it.

15 Q She wasn't with it?

16 A (Witness shaking head.)

17 Q What did he tell her when she said she wasn't with
18 it?

19 A She was going to do something, not drink and smoke
20 all his shit.

21 Q Did he indicate what happened next?

22 A They started arguing.

23 Q And did he indicate what he did when they started
24 arguing?

25 A Said he choked the bitch, but it wasn't the same

1 night that she's supposed to have passed.

2 MR. SHEALEY: Your Honor, at this time I would
3 object to this testimony as in my pretrial objection
4 regarding 404(b), this being an unrelated bad act.

5 THE COURT: The objection's overruled.

6 BY MS. CAMPBELL:

7 Q Did he ever tell you how Eboney was killed?

8 A He say he strangled her and burned her up.

9 Q Did he say what he strangled her with?

10 A Bathrobe --

11 MR. SHEALEY: Objection, Your Honor.

12 THE COURT: Just a moment.

13 THE WITNESS: He didn't say that --

14 THE COURT: Just a moment.

15 MR. SHEALEY: The witness never said --

16 THE COURT: Just a moment.

17 You have an objection. I've heard the
18 testimony. What's your objection, legal basis?

19 MR. SHEALEY: She's leading, Your Honor.

20 THE COURT: All right. The objection is
21 sustained.

22 BY MS. CAMPBELL:

23 Q What did he say about how Eboney died?

24 A He said she got strangled and she got burnt up.

25 Q Did he say what strangled her?

1 A He said that they say a bathrobe.

2 Q Did he say anything about what was on the -- the
3 thing that was strangled, what was on it?

4 A His DNA.

5 Q And did he make any other comments about why his DNA
6 would be on the bathrobe?

7 A He explained it because he worked at -- his brother
8 is maintenance and him and his friend Flip, if I recall
9 right, Flip -- you know what I'm saying -- worked there.

10 And he also said that, you know, that when the
11 detectives went to the girl's house, you know, they
12 found -- well, at the scene when they found his DNA -- you
13 know what I'm saying -- on the bathrobe, that they found
14 traces of -- when they went to the girl's house, they
15 found traces of flammable gas on the flannel jacket that
16 they took and a shoe print inside Eboney's house of some
17 all-black Jordans that they confiscated from, but it all
18 could be explained because he worked there and his
19 brother's maintenance.

20 Q And he admitted to you that it was his DNA on that
21 belt?

22 A Yes, ma'am.

23 Q Did he talk to you a lot about the investigators
24 themselves?

25 A Say it again?

1 Q About the investigators and what they were trying to
2 do?

3 A Yes, ma'am.

4 Q And when he was talking to you about that, what was
5 his attitude?

6 A It was just -- you know what I'm saying -- real
7 bragadocious, he was real arrogant. It was really kind of
8 like sickening in my stomach to see him the way that --
9 you know what I'm saying -- he did that because -- you
10 know what I'm saying -- I share a similar -- you know what
11 I'm saying -- testimony the same way that -- you know what
12 I'm saying -- the way the family going through because I
13 had a -- you know what I'm saying -- a sister that
14 basically went through the same thing with somebody that
15 she trusts. So, in all, that's what made me -- you know
16 what I'm saying -- do this to Ahmad.

17 Q In fairness, you've got a prior record?

18 A Yes, ma'am.

19 Q You've been convicted of drugs before?

20 A That's right.

21 Q Strong arm robbery?

22 A Yes, ma'am.

23 Q You're currently serving 15 years for selling drugs?

24 A Yes, ma'am.

25 Q And you're hoping to get some reward out of this,

1 aren't you?

2 A It really don't matter. If I can, it would be all
3 right, but if not, you know, I'm trying to change and I'm
4 just doing it out of the goodness of my heart. And plus,
5 you know, I'm doing this for the Williams family -- you
6 know what I'm saying -- because they've got to have
7 closure, too. You know what I'm saying?

8 Like I say, I can accept responsibility for what
9 I did, which I have -- you know what I'm saying -- that's
10 all in pleading guilty to my case. But what I feel like
11 what he done and he's got no remorse for it and
12 bragadocious -- you know what I'm saying -- Eboney didn't
13 deserve that or her family don't deserve that, but what
14 they do deserve is closure.

15 Q But under the federal system, if they determine
16 you've testified truthfully -- it's not my system; it's
17 not the state, it's federal court -- you could get some
18 reward for this?

19 A I could, yes, ma'am.

20 Q Or you could, it's up to them to determine?

21 A Yes, ma'am.

22 Q Has anybody else promised you anything in exchange
23 for your testimony?

24 A No, ma'am.

25 Q You actually contacted the police with this

PATRUAN HARE - Direct Exam by Ms. Campbell

111

1 information?

2 A Yes, ma'am.

3 Q And, again, for the same reasons you just stated?

4 A Yes, ma'am.

5 Q The person that you knew as Ahmad Wilkins, did he
6 have a nickname you knew about?

7 A Mad.

8 Q Is he in here, in the courtroom?

9 A Yes, ma'am.

10 Q Where is he?

11 A (Witness indicating.)

12 Q Is he seated at the table?

13 A Yes, ma'am.

14 Q What's he wearing?

15 A What's that, a burgundy or maroon sweater.

16 MS. CAMPBELL: Your Honor, may the record
17 reflect he's --

18 THE COURT: It does.

19 MS. CAMPBELL: That's all I have.

20 THE COURT: Cross-examination.

21 MR. SHEALEY: May it please the Court.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. SHEALEY:

25 Q All right. You're currently at Alvin S. Glenn?

- 1 A I am.
- 2 Q That's where you got bussed over from here today,
- 3 right?
- 4 A What was that?
- 5 Q That's where you got bussed over from here today?
- 6 A Yes, sir.
- 7 Q You've been at Alvin S. Glenn since April 4th. Does
- 8 that sound about right?
- 9 A Sounds right.
- 10 Q All right. But your real home is federal prison?
- 11 A That's right.
- 12 Q Williamsburg?
- 13 A Right.
- 14 Q Big concrete building, right?
- 15 A Correct.
- 16 Q Chain link fence, barbed wire all around, right?
- 17 A Correct.
- 18 Q So that's home for you?
- 19 A That's home.
- 20 Q All right. Now, jail and prison ain't that much
- 21 different, are they? Can't go anywhere, right? Are you
- 22 allowed to go anywhere?
- 23 A No, sir.
- 24 Q Can't walk out the front door?
- 25 A No, sir.

1 Q All right. And you just told the Solicitor you're
2 doing 15 years?

3 A I am...

4 Q And you told her it was for drugs; isn't that
5 correct?

6 A Yes, sir.

7 Q And you also have a consecutive gun charge; is that
8 correct?

9 A Yes, sir.

10 Q Now, prison, you got a cell. That's what you sleep
11 in at night is a cell, right?

12 A Right.

13 Q Concrete walls, cinder blocks?

14 A Right.

15 Q Not very big, is it? About me to you maybe, a bunk?

16 A Maybe.

17 Q You got a cellmate?

18 A I do.

19 Q You don't even have your own privacy. You've got a
20 steel toilet, right?

21 A Correct.

22 Q All right. You got a rec yard, right?

23 A I do.

24 Q Dirt on the ground. At Alvin S. Glenn, they've got a
25 rec yard, too. It's a concrete cage, isn't it?

1 A Uh-huh.

2 Q You go back today and you want to get a little
3 exercise after this testimony, you're pacing in a concrete
4 cage, aren't you?

5 A Uh-huh.

6 Q You've got a basketball goal in there, but there's
7 not even a hoop next to it, attached to it, is there?

8 A No.

9 Q That's not much fun. They don't give you a
10 basketball either, do they?

11 A I don't play ball.

12 Q Okay. You're playing ball here today, but we'll get
13 to that.

14 MS. CAMPBELL: Objection, Your Honor.

15 THE COURT: Objection's sustained. It's not a
16 question.

17 BY MR. SHEALEY:

18 Q Now, do you recognize this book? This is the
19 Williamsburg Correctional Institution Orientation Manual.
20 You got one when you got to prison, right?

21 A I may have.

22 Q This book tells you how to live your life in prison.
23 That's not very fun, is it?

24 You like that? You're told when to go to bed,
25 correct?

PATRUAN HARE - Cross-Exam by Mr. Shealey

115

1 A You break the rules -- you got to comply by them.

2 Q You're told when it's quiet time, correct?

3 A You break the rules -- you got to comply by them or
4 you suffer the consequences.

5 Q I agree with that.

6 Now, you're told what to eat, right?

7 A You ain't told what to eat. They give you what to
8 eat and it's up to you whether you eat it or not.

9 Q Right. But you don't have a buffet every day now, do
10 you? You can't -- they're not going to take you out for
11 trips to Chick-fil-A, are they? Is that a yes?

12 A No, sir.

13 Q Okay. It's not fun, is it? Is it fun?

14 A Of course not.

15 Q All right. You don't want to be there.

16 Now, I'm going to show you a couple of documents
17 about why you're in there.

18 I'm going to show you a couple things that I've
19 been provided.

20 Do you recognize this? It says "judgment" in
21 your case.

22 Turn to the back page of that for me, will you?

23 All right. It looks like your judgment, right?

24 That's your sentence?

25 A Yes, sir.

1 Q All right. One hundred eighty months on drugs --

2 A Uh-huh.

3 Q You got 60 consecutive on the gun.

4 Now, you know what "consecutive" means, don't
5 you?

6 A Of course.

7 Q That means that you don't get to run the sentences at
8 the same time. You're doing 180 months on drugs and then
9 your gun time starts. That's a pain, isn't it?

10 A It's a consequence.

11 Q Right. That's consequences.

12 Now, 180 months, that's 15 years. Sixty is five
13 years consecutive. So what you actually were adjudicated,
14 ordered to serve is 20 years. That's the judgment, right?
15 Right?

16 A I don't know.

17 Q Now, let me show you another document.

18 Just answer the question yes or no. Isn't that
19 what your judgment was? Cameron Currie sentenced you to
20 that?

21 A Yes, sir.

22 Q Okay. Do you recognize this?

23 A My indictment, I think.

24 Q What does that say right there?

25 A Plea agreement.

1 Q Plea agreement. All right.

2 Now, do you recognize that?

3 A My signature.

4 Q All right. This is your plea agreement, isn't it?

5 A I think so, yes.

6 MR. SHEALEY: Your Honor, at this time I'd offer
7 Mr. Hare's judgment and plea agreement into evidence.

8 THE COURT: What says the State?

9 MS. CAMPBELL: Your Honor, it's not admissible.

10 MR. SHEALEY: Your Honor, I would argue that the
11 plea agreement --

12 THE COURT: The Court hasn't requested any
13 argument.

14 MR. SHEALEY: Yes, sir.

15 THE COURT: The objection's sustained.

16 MR. SHEALEY: All right. Would you like to
17 hear -- all right.

18 BY MR. SHEALEY:

19 Q Let me give you a copy of these things so we can go
20 over them a little bit. We'll have to do some reading.

21 I would like you to turn to that plea agreement
22 for me. And what we mean by plea agreement, you probably
23 know some things about this, that when the federal
24 government indicts you, as they have --

25 A Uh-huh.

1 Q -- you basically -- as part of being sentenced, you
2 pretty much agree to a lot of things. You do a federal
3 debriefing, right?

4 A Yes.

5 Q Okay. And that includes essentially telling them
6 everything you've ever done and everything you ever know,
7 right, because it can help your sentence at the time of
8 sentencing?

9 A Of course.

10 Q And you have to be truthful at that point to them,
11 completely honest?

12 A Completely.

13 Q All right. So pursuant to that, they decide how to
14 sentence you, right? And we talked about your sentence.

15 A Correct.

16 Q Now, they give you this agreement, which is a
17 contract between you and the federal government, and turn
18 to page seven of that for me.

19 Are you at page seven?

20 A Yes, sir.

21 Q All right. Paragraph 11, top of that, it does say --
22 correct me if I'm wrong -- "Provided defendant cooperates
23 after sentencing, and the cooperation is deemed by the
24 government as providing substantial assistance in the
25 investigation or prosecution of another person who has

1 committed an offense; the government agrees to move the
2 court for a reduction of sentence pursuant to 18 United
3 States Code 35-53(E) and/or Federal Rule of Criminal
4 Procedure 35(B)."

5 All right. "The defendant further understands
6 that any such motion by the government is not binding upon
7 the court, and should the court sentence the defendant
8 within the guidelines to the maximum penalty prescribed by
9 law, or refuse to reduce the sentence imposed, the
10 defendant can't withdraw."

11 So what that does under 35(B) in that rule is
12 allow you to ask for a reduction in your sentence if you
13 provide substantial assistance in the prosecution of
14 another person, right? And you knew that when you signed
15 off on that plea agreement?

16 A Federal.

17 Q It doesn't say that. It says, "substantial
18 assistance in the prosecution of another person."

19 What are you doing today?

20 A What am I doing?

21 Q You're providing substantial assistance to who?
22 Who's that lady?

23 A I don't know.

24 Q Is that the government, you think?

25 A I don't know.

1 Q You don't know why you're here?

2 A Never met her.

3 Q Never met her?

4 A I'm here to testify.

5 Q You're helping testify in a murder case?

6 A Correct.

7 Q Right? Wouldn't you agree that's substantial
8 assistance to the government?

9 A Truthful.

10 Q Substantial?

11 A And truthful.

12 Q And that will help you get out of that concrete cell,
13 that will help you not have to use that steel toilet, that
14 will help you play somewhere that's not a concrete cage,
15 correct?

16 MS. CAMPBELL: Objection, Your Honor. If he'd
17 allow him to answer.

18 THE WITNESS: True.

19 THE COURT: Just a moment.

20 Your objection is overruled.

21 You may proceed. Did you finish with that
22 question?

23 MR. SHEALEY: Yes, sir. It was a somewhat long
24 question.

25 THE COURT: All right. I think he's answered

1 it. Your next question.

2 MR. SHEALEY: He did answer it.

3 BY MR. SHEALEY:

4 Q All right. And that's a pretty handy little clause
5 in there, isn't it? Correct?

6 A I didn't understand the question.

7 Q That's a nice little clause in there for you because
8 it helps you get out if you help the government in another
9 case, right?

10 A If that's what you say.

11 Q You're a smart guy; you've read this before, haven't
12 you?

13 A I haven't.

14 Q And we'll talk about some other things, but did --
15 your federal lawyer didn't tell you about that provision?

16 A Federal drug cases.

17 Q Okay. And you've done some help on that, too,
18 haven't you?

19 A I have.

20 Q All right. Now, as part -- you already mentioned
21 this federal debriefing, right? When you first got
22 arrested, you've got to tell them everything you know to
23 help you get a decent, good sentence at the time of your
24 plea, right?

25 A I cooperated.

1 Q Right. Now, as part of the debriefing, you told them
2 everything, you told us it was the truth, and I don't want
3 to go over everything that you've ever said, but I do want
4 to address some things that you admitted in your
5 debriefing were lies and dishonest, okay? Because you had
6 to tell them everything at that point, including all the
7 bad stuff. Do you agree with that?

8 A Yes, I do.

9 Q All right. Do you remember in your federal
10 debriefing telling the federal agents that you had lied to
11 police before, given them false information?

12 A No.

13 Q You don't remember that?

14 A I don't remember.

15 Q Okay. Let me pass up something to help you to
16 remember, a copy of your federal debriefing. Take a copy
17 of that. If you'd just turn to page three. The pages are
18 all numbered at the top. That third graph which starts
19 "In March," you admit to giving police a false name; do
20 you agree with that?

21 A Where you at?

22 Q Third paragraph, starting "In March 2009." Just read
23 it to yourself.

24 Are you still reading?

25 A I am.

1 Q Take your time.

2 A Yeah, I remember this.

3 Q So you remember that now?

4 A Uh-huh.

5 Q And that was dishonest, wasn't it?

6 A I was dishonest.

7 Q You gave them false information.

8 All right. Now, a lot of what you told was
9 about your life as a drug dealer, and that's what you were
10 convicted for, right?

11 A Of course.

12 Q Okay. And some of the things you mentioned was that
13 you would give your clients a fake product sometimes,
14 which wasn't real drugs, and then just keep the money,
15 right?

16 A Of course.

17 Q And that wasn't truthful to your clients; that was
18 dishonest, right?

19 A Of course.

20 Q I mean, that's kind of like what you're doing now,
21 you've got a fake product to your -- you're trying to rip
22 off the client, which is the jury?

23 MS. CAMPBELL: Objection, Your Honor.

24 THE COURT: The objection is sustained. It's
25 argumentative.

1 MR. SHEALEY: Yes, sir. I'll move along.

2 BY MR. SHEALEY:

3 Q All right. Now, Ms. Campbell was going through your
4 rap sheet a little bit and you've got a couple of drug
5 convictions, you've got a robbery conviction, right?

6 A True.

7 Q Okay. And robbery, did you know that robbery in our
8 laws, in our court system is considered a crime of
9 dishonesty? Did you know that?

10 A True. It's true.

11 Q All right. And when you're talking about this whole
12 situation, you said the word bragadocious, right?

13 A I did. Arrogant.

14 Q You felt like Ahmad was doing something that you took
15 personally, you were personally offended by?

16 A I was.

17 Q Because you told Ms. Campbell you had some similar
18 situation, right?

19 A Yes.

20 Q And you would never do anything like that, would you?

21 A Of course not.

22 Q Okay. So you would never kill anybody, would you?

23 A Not intentionally.

24 Q Do you have a conviction for voluntary manslaughter?

25 A I do.

1 Q Okay. You killed somebody?

2 A Uh-huh.

3 Q Okay. But you thought him telling you about his case
4 was bragging?

5 A Bragging.

6 Q All right. Let's talk exactly somewhat about what
7 you told Ms. Campbell you said --

8 A The truth.

9 Q -- you said Ahmad told you while you were housed with
10 him.

11 Now, you said you were housed in J dorm, right?
12 That stands for Juliette?

13 A I did.

14 Q Okay. And you were in there a little bit with him
15 and said, Hey, what are you in here for? And he told you
16 what the charge was, right?

17 A He told me the details of the crime and what all the
18 detectives did and what they had and what they had to have
19 to convict him.

20 Q Right. He told you a lot about the evidence in this
21 case the detectives had been telling him, right?

22 A And what the detectives was telling him and what he
23 said.

24 Q Okay. And he told you that they claim it was a
25 murder, that she was strangled. He never told you that he

1 killed her, did he?

2 A He didn't.

3 Q Okay. He told you about allegedly they said he had
4 footprints, there's a footprint; that's what you said in
5 your statement, right?

6 A Yeah. What I said was, he said that they caught
7 footprints. He didn't say that they said that. He said
8 they caught footprints there.

9 Q Right. And he's being told that by police; that's
10 the evidence in his case allegedly, right?

11 Would it surprise you to find out that
12 footprints aren't involved in this case at all?

13 A That's what he said. He said it.

14 Q He's telling you what police are telling him, right?
15 Does that surprise you?

16 THE COURT: Just allow him to -- which question
17 do you want him to answer?

18 MR. SHEALEY: I'm asking if he's surprised by
19 that.

20 THE COURT: If he's surprised by what?

21 MR. SHEALEY: By the fact that footprints aren't
22 involved in this case.

23 THE COURT: All right. What's your answer to
24 that question?

25 BY MR. SHEALEY:

PATRUAN HARE - Cross-Exam by Mr. Shealey

127

1 Q Are you surprised?

2 THE COURT: I'm asking the witness to answer the
3 question. Don't ask another question.

4 MR. SHEALEY: He's looking at me. I'm just --

5 THE WITNESS: I'm confused by the question.

6 THE COURT: All right. Well, restate the
7 question, then, and give the witness an opportunity to
8 answer it before you ask him another question.

9 MR. SHEALEY: Yes, sir.

10 BY MR. SHEALEY:

11 Q He told you something about a footprint being
12 involved in this case?

13 A Me and him?

14 Q Right.

15 A Uh-huh.

16 Q And you agree that he learned that from police
17 telling him that's the evidence in the case?

18 A Uh-huh.

19 Q Now, is it surprising for you now to know that
20 there's no footprints even in this case?

21 A Why would it be surprising to me?

22 Q Because he's talking about evidence, but it's not in
23 the case.

24 Okay. I will move on.

25 Now, along the same line he told you about they

1 found DNA on cigarettes, right, that that was a concern?

2 A Uh-huh.

3 Q That's what they had on him?

4 A That's what he told him, that he left his DNA -- you
5 know what I'm saying -- on cigarettes on the table in
6 front of the love seat.

7 Q Is it surprising to know that his DNA's not on any
8 cigarettes in this case?

9 A Why would it be surprising?

10 Q Because if they told you -- because that's what
11 police are telling him throughout their interrogation.

12 Does that make sense to you?

13 THE COURT: Is that a statement or a question?

14 MR. SHEALEY: It's a question, Your Honor.

15 THE COURT: All right. You can answer the
16 question, if you can.

17 BY MR. SHEALEY:

18 Q Does that make sense?

19 Are you going to answer the question?

20 A Oh, what's the question?

21 Q Does that make sense to you?

22 A Repeat the question.

23 Q The fact that there ain't no cigarettes with his DNA
24 in this case?

25 A He said it.

PATRUAN HARE - Cross-Exam by Mr. Shealey

129

1 Q Okay. Okay. Now, allegedly you claim he's talking
2 about traces of gas on his clothes that police found,
3 right?

4 A Flammable traces of gas on a flannel shirt that they
5 confiscated from his girlfriend's house along with a pair
6 of Air Jordans.

7 Q All right. And are you surprised to know that that's
8 not involved in this case, there's no gas on his clothes?

9 A Why would I be surprised?

10 Q Because he's claiming it's involved in the case.
11 Shouldn't it be there?

12 A He said it.

13 Q Okay. Okay. Okay. Now, the reason why you're here,
14 point blank, is because --

15 A The truth.

16 Q Right. Right, you said that. Let me finish.

17 The reason why you're here, point blank, is
18 because you told Ms. Campbell and you told A.L. Thomas
19 back in June of last year that he got in an argument with
20 her, but it wasn't the same night as what we're even
21 talking about, right?

22 A I never, never talked to Ms. Campbell, but I have
23 talked to Al Thomas.

24 Q Right. And, of course, you think she talks to
25 Mr. Thomas?

1 A I don't know. You'd have to ask her.

2 Q But that's why we're here. But what allegedly was
3 said to you isn't even about the same night that she ended
4 up dead, per your words; isn't that true?

5 A That's what he said.

6 Q All right. Patruan, this isn't the first time you've
7 helped out on a City of Columbia case, is it?

8 A City of Columbia, meaning federal?

9 Q No. You've helped on cold case homicides before,
10 right?

11 A I have.

12 Q Okay. You've given statements in those cases in the
13 past?

14 A I have.

15 Q All right. Statements with your signature just like
16 you signed here, right?

17 A I have.

18 Q Would it surprise you to know that the last time you
19 did that --

20 MS. CAMPBELL: Objection, Your Honor. May we
21 approach?

22 THE COURT: The objection is sustained.

23 MR. SHEALEY: Beg the Court's indulgence.

24 (Pause.)

25 MR. SHEALEY: That's all I've got for you.

PATRUAN HARE - Cross-Exam by Mr. Shealey

131

1 THE COURT: Redirect.

2 MS. CAMPBELL: Thank you, Your Honor. Just a
3 few more questions.

4 REDIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q You actually gave your statement to Mr. Thomas back
7 in June of 2011?

8 A Yes, ma'am.

9 Q And then you pled guilty to the strong arm robbery
10 charges at the end of October of 2011; is that correct?

11 A Yes, ma'am.

12 Q Who was your lawyer that was representing you when
13 you gave the statement?

14 MR. SHEALEY: Objection, Your Honor. This is
15 improper.

16 THE WITNESS: Mr. Shealey.

17 MR. SHEALEY: And he just answered the question.

18 THE COURT: Are you still objecting? He's
19 answered the question.

20 MR. SHEALEY: Yes, sir. I ask it be stricken.
21 We addressed this at length pretrial.

22 THE COURT: Ms. Campbell.

23 MS. CAMPBELL: May we be heard, Your Honor?

24 THE COURT: Yes.

25 MS. CAMPBELL: Your Honor, it's the truth and --

1 MR. SHEALEY: Can we approach? Let's not have
2 this -- may we please approach?

3 THE COURT: Before you say your last statement
4 or her statement?

5 MR. SHEALEY: I don't know what she's going to
6 say, but --

7 THE COURT: Ladies and gentlemen, I'll have you
8 step out just for a moment. Please do not discuss the
9 case.

10 (The jury left open court at approximately
11 12:11 p.m.)

12 THE COURT: All right. Ms. Campbell.

13 MS. CAMPBELL: May it please the Court, Your
14 Honor.

15 THE COURT: Yes.

16 MS. CAMPBELL: The whole reason we had the
17 pretrial hearing is we brought it up as a possible
18 conflict. You even mentioned that it could be used
19 actually in our favor and that's, I think, why you
20 inquired whether or not Mr. Wilkins would waive any
21 possible conflict in the case.

22 You actually made mention that this could come
23 out with this witness and that he was represented by
24 Mr. Shealey and that would work for the State. I'm merely
25 following up on the truth, which was -- he's been attacked

1 about his credibility and whether he's telling the truth
2 and who his lawyer was when he actually made this
3 statement that's been impugned by the defense. And that
4 was something you brought up and brought to their
5 attention, that this could work both ways, and they chose
6 to waive the conflict.

7 THE COURT: All right. Mr. Shealey.

8 MR. SHEALEY: Your Honor, there's no rule that
9 allows her to reference who his lawyer was at that time.
10 What was said at pretrial and was known is that
11 Mr. Shealey, who was his lawyer at the time, had no idea
12 about this statement. So it's not relevant, number one.
13 And she's trying to let the jury know that maybe Mr. Hare
14 is less reluctant to be a strong witness in front of
15 the -- you know, because he was his lawyer. It's improper
16 in front of this jury.

17 THE COURT: Was it proper for you to tell the
18 jury that this is something that we discussed in pretrial?

19 MR. SHEALEY: I'm objecting without referencing
20 that to our objection, noting that in pretrial when we
21 went over this extensively, I did not think Ms. Campbell
22 would try to go down this path because I thought you said
23 it had no place. This is his trial. I thought you said
24 that this was his trial. We weren't talking about a PCR
25 issue or something like that. It has no place in this

1 courtroom.

2 I impeached him on his convictions, the things
3 he told the feds, whether he's cooperated before, but to
4 then say who his lawyer was and make it seem strange in
5 front of the jury that you -- essentially my understanding
6 was that by not granting their continuance to eject this
7 case out of our office, that this was a moot point. And I
8 don't know honestly what rule would allow her to get into
9 this.

10 THE COURT: Anything else?

11 MS. CAMPBELL: May it please the Court.

12 THE COURT: Yes.

13 MS. CAMPBELL: Your Honor, his credibility is
14 essential here. They've attacked his credibility and
15 they've attacked that he made all these plea agreements
16 and everything.

17 And as you said in pretrial, this is something
18 that could come out that could actually help us, and
19 that's, I think, why you inquired of his client as to
20 whether or not he wanted to waive that possible conflict.

21 It was Mr. Wilkins' conflict to waive, as you
22 pointed out pretrial, but you mentioned that it could come
23 up as part of what comes out, that he was actually
24 represented and that could actually bolster. Because our
25 worry was that his testimony would be chilled or have a

1 chilling effect because his own lawyer is representing
2 Mr. Wilkins. All that was discussed.

3 THE COURT: All right. We'll take about a
4 two-minute break at this time.

5 (A break was taken.)

6 THE COURT: I'm going to sustain the objection.
7 I don't think we need to go down in that area. The
8 question is the credibility of the witness, not the
9 credibility of the lawyer, or the credibility of the
10 lawyer in questioning the witness. I think it's just a
11 dangerous direction to go in.

12 MS. CAMPBELL: Your Honor, I just was basing
13 that off of what I recall from pretrial. And I apologize,
14 but I think it's proper.

15 THE COURT: It's an intriguing issue, but I
16 think it's just best to leave it alone.

17 I sustain the objection.

18 MS. CAMPBELL: And, Your Honor, I would just
19 note that you also ruled that they shouldn't go into
20 voluntary manslaughter, but that didn't seem to preclude
21 them from going there.

22 MR. SHEALEY: He opened the door and they didn't
23 object.

24 THE COURT: Well, you didn't object when he
25 attempted to lead him down that path to get it in despite

1 the Court's indication, but there was no objection from
2 the State, so it's the same without objection.

3 Bring us the jury.

4 Wait just a moment. All right. Thank you.

5 MR. SHEALEY: And, Your Honor, based on your
6 ruling, I would ask to strike that.

7 THE COURT: I will give them a complete
8 instruction recalling the answer -- the question, the
9 answer, and telling them to disregard it and why, if
10 that's what you want me to do.

11 MR. SHEALEY: It's not what we'd like to do,
12 Judge, but just ask that it be ordered that his testimony
13 be stricken.

14 THE COURT: I have to tell them what the
15 testimony is if we're going to be striking it.

16 MR. SHEALEY: I'll just leave it in your
17 discretion, Judge. I'd ask you not -- I'm just asking
18 what we asked for.

19 THE COURT: All right. Let's bring them on.

20 (The jury came into open court at approximately
21 12:21 p.m.)

22 THE BAILIFF: The jurors are all present, Your
23 Honor.

24 THE COURT: Thank you.

25 The jury is to disregard the last question and

PATRUAN HARE - Redirect Exam by Ms. Campbell

137

1 response.

2 You may proceed.

3 BY MS. CAMPBELL:

4 Q Mr. Hare, he also asked you about a manslaughter
5 conviction?

6 A Yes, ma'am.

7 Q How old were you when that happened?

8 A 14, 15.

9 Q And was that an intentional act on your part?

10 A No, ma'am.

11 Q But you took responsibility for that?

12 A I did.

13 Q Did you brag about it?

14 A No, ma'am.

15 Q He also asked you about the information that was
16 related to you by the defendant in this case about what
17 happened that night --

18 A Would you repeat it, please?

19 Q -- the night that Eboney was killed?

20 A Yes, ma'am.

21 Q And just as you did in your statement to the police,
22 you told this jury basically what he told you about what
23 happened that night?

24 MR. SHEALEY: Your Honor, I'd ask that she not
25 lead, please.

1 THE COURT: Don't lead the witness.

2 MS. CAMPBELL: Yes, sir.

3 THE WITNESS: Yes, ma'am.

4 BY MS. CAMPBELL:

5 Q And do you remember what he told you happened?

6 A Yes, ma'am.

7 Q And what was that?

8 A Everything that's stated on these statements right
9 here.

10 Q Can you tell the jury what that was, about what
11 happened with Eboney?

12 A Yes, ma'am. He said Eboney called him to chill with
13 him -- I mean to chill with her, and they was -- you know
14 what I'm saying -- shooting powder, getting high, it was
15 late and, you know, he was trying to get some sex with the
16 girl --

17 MR. SHEALEY: Objection, Your Honor. The
18 witness is reading. I don't think he said he doesn't
19 remember, so I'd ask that he just testify from his own
20 memory.

21 THE COURT: The objection's overruled.

22 MS. CAMPBELL: Thank you.

23 BY MS. CAMPBELL:

24 Q Continue. I'm sorry.

25 A He said he was, you know, drinking and smoking with

PATRUAN HARE - Redirect Exam by Ms. Campbell

139

1 her, he was trying to get some sex, but she didn't want to
2 give no sex.

3 Q So then what did he say he did?

4 A He choked the bitch.

5 Q Did he mention anything about any cell phone calls?

6 A Saying her number was the last in, you know, in his
7 cell phone calls, that's the only -- that's another thing
8 that they got -- you know what I'm saying -- to get him
9 back -- you know what I'm saying -- about the last phone
10 call.

11 For the record, you know, I never did needed the
12 notes or none of that when I made the statement. When I
13 made the statement and I was talking to Mr. Al Thomas, I
14 told him verbatim what happened on -- you know what I'm
15 saying -- without -- you know what I'm saying -- with
16 Ahmad, what the conversation that we had, and he asked me,
17 like, Well, are you willing -- you know what I'm saying --
18 to go get your notes? I told him I didn't really need the
19 notes because when I went and got the notes -- I went and
20 got the notes and then he gave me a professional sheet to
21 put the paper -- I mean to document the statement on, but
22 I never did really need the notes, you know. The truth
23 don't need notes in them.

24 Q And that's the same information you gave this jury?

25 A Same information. The investigator came, you know,

1 for the defense.

2 MS. CAMPBELL: Thank you.

3 MR. SHEALEY: Briefly, Judge.

4 RECROSS-EXAMINATION

5 BY MR. SHEALEY:

6 Q Patruan, you took notes?

7 A I did.

8 Q You took notes over several days, didn't you?

9 A I did.

10 Q Squirreling away all the nuggets of goodness, right?

11 A I did.

12 Q So you can take it all into federal court and say,
13 Please let me out of this steel cage, right?

14 A No, sir.

15 Q Did you give the notes to Mr. Thomas?

16 A I did.

17 Q Okay. You didn't keep a copy for yourself in your
18 diary?

19 A I didn't.

20 Q Okay. So you took notes over several days plotting
21 to see what you could do to get yourself out of prison;
22 isn't that true?

23 A Wrong.

24 MR. SHEALEY: Okay. Nothing further, Judge.

25 THE COURT: All right. Thank you, sir. You may

PATRUAN HARE - Recross-Exam by Mr. Shealey

141

1 step down.

2 MS. WALKER: At this time the State would like
3 to recall Tena Goff.

4 MR. MAY: Your Honor, over the break we received
5 even more chain evidence that was not --

6 THE COURT: Sir, the State has called a witness.
7 Are you ready to cross-examine the witness or not?

8 MR. MAY: No, sir.

9 THE COURT: All right. We will not call this
10 witness at this time.

11 Next witness.

12 MS. CAMPBELL: The State would call Scott
13 McDonald.

14 SCOTT McDONALD, after being duly sworn,
15 testified as follows:

16 THE CLERK: Have a seat in the witness box.
17 State your name for the record, please.

18 THE WITNESS: Scott McDonald.

19 DIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q Lieutenant McDonald, where are you employed?

22 A Richland County Sheriff's Department.

23 Q What do you do there, sir?

24 A I'm the lieutenant of the major crimes unit.

25 Q And what are your duties as a lieutenant of the major

1 crime units? Do you often deal with cell phone records?

2 A Yes, I do.

3 Q Can you tell us, sir, a little bit about your
4 education and your training as far as investigations of
5 cell phone records?

6 A I first became involved in cell phone record
7 investigation back in 2001 on a murder I worked at the
8 Lowe's on Two Notch Road here in Columbia when it became
9 an issue. Since then, I've probably worked on 100 to 200
10 cell phone records in that period of time, attended
11 several classes, certification and that type thing to
12 better understand these records.

13 Specifically in 2007, I attended a class in
14 Lexington that was hosted by a national speaker that came
15 in and instructed us on the proper way to track cell
16 phones and illustrating towers and things like that.

17 I had another class similar to that in June of
18 2008. In May of 2008, I also attended the world
19 conference in Chicago. That's a week-long series of
20 lectures and seminars dealing with these same issues.

21 Q In that time period since 2001, have you been
22 consistently working with cell phone records?

23 A Yes. I've spent hundreds of hours on the phone with
24 the analysts at all the major cell phone companies and
25 technicians at these cell phone companies.

1 Q And have you been qualified before as an expert in
2 cell phone investigation on multiple occasions?

3 A I have on at least four occasions.

4 MS. CAMPBELL: Your Honor, at this time we'd
5 offer him as an expert in cell phone investigation.

6 MR. MAY: Your Honor, we object as a matter of
7 law.

8 THE COURT: What's the basis for the objection?

9 MR. MAY: Yes, sir, Your Honor, Ms. Campbell
10 gave us a packet of information which I believe that she
11 intends to show the jury. This has not been provided
12 until about three hours ago at most.

13 We have experts for this kind of information who
14 can review this to determine whether or not McDonald is
15 telling the truth or is adequately trained in this area.
16 We've not provided any of this information.

17 As a result, this is Sixth Amendment right to
18 confrontation. We don't believe that it's proper to go
19 forward right now.

20 Your Honor, we've not been provided this.
21 Again, it's a Rule 5 discovery violation as well as the
22 right to a complete and full defense.

23 THE COURT: All right. And your complete
24 speaking response.

25 MS. CAMPBELL: My complete speaking response is,

1 Your Honor, all the information that's in this
2 presentation is demonstrative. It has been provided to
3 them, including cell tower information, cell phone
4 records. All this information has been provided to them.
5 We've merely done a brief presentation, which as he just
6 asked me is the same one we always use that is
7 demonstrative of that. It has nothing in it that hasn't
8 been provided to the defense, other than it explains
9 briefly how cell phone towers work in placing cell phones.

10 THE COURT: The objection's overruled.

11 MS. CAMPBELL: Thank you.

12 MR. MAY: For the record, Your Honor, this has
13 not been provided.

14 BY MS. CAMPBELL:

15 Q Were you requested to assist the Columbia Police
16 Department in analyzing some cell phone records that were
17 provided in this case?

18 A Yes, I was.

19 Q And I show you what's been marked as State's
20 Exhibit No. 115 as well as cell phone records that were
21 provided from two different numbers in this case; is that
22 correct?

23 A That's correct. I believe one of them may have been
24 a residential landline, two phone records for those.

25 Q Okay. And what were the numbers that were provided

SCOTT McDONALD - Direct Exam by Ms. Campbell

145

1 to you, the cell phone numbers?

2 A The cell phone record was (803)446-0191.

3 Q Uh-huh.

4 A From a T-Mobile cell phone.

5 Q Were there some additional records provided to you?

6 A There was. There was some AT&T records for the phone
7 number of (803)754-8216.

8 Q And was there subscriber information attached to at
9 least one of those phone numbers?

10 A There was.

11 Q And was that for a Ms. Williams?

12 A I was provided with Ms. Williams' phone number from
13 AT&T, and I was also provided a subscriber name for the
14 T-Mobile.

15 Q As part of your analysis, tell this jury generally
16 what you received, the cell phone records, what you do and
17 what you did in this case.

18 A I try to get a little bit of a background on the
19 crime if I'm not working it, where this is not a Richland
20 County case.

21 I met with the Solicitor to get a little more
22 information on the case, the incident date that they
23 believe this crime occurred, whose number they were
24 providing me with, and then from there, I kind of narrow
25 the scope down. I have probably 30, 40 pages of phone

1 records encompassing several days. I immediately compress
2 that down to the incident date, incident times that are
3 probably most critical in this case.

4 And from there, I try to, looking at the
5 information provided, which is the cell phone towers that
6 these calls actually hit off, we can do sector analysis or
7 place the cell phone in a sector relevant to a cell phone
8 tower at the time a call is made or completed with another
9 party. And this becomes very important in murder
10 investigations, and really all investigations, trying to
11 establish locations of defendants and/or witnesses or
12 victims.

13 Q And why is it important to try to establish who a
14 person may have been talking to right before their death?

15 A That's a potential lead, a potential witness,
16 potential co-defendant. It's unknown until it's explored
17 that all these numbers are relevant, especially around the
18 time of the crime to see what was being said to who.

19 Oftentimes we're able to get text messages in
20 these type searches as well, which is even more -- can be
21 even more incriminating.

22 But these begin a process of the investigation
23 and provide substantial leads that the investigators can
24 follow up with to try to determine what may have happened.

25 Q And just for the record, State's Exhibit 111 was the

1 second set of records that were provided to you?

2 A That's correct.

3 Q Once you got these records, were you able to focus in
4 on a certain time period that's significant as to this
5 murder investigation?

6 A Yes, I was.

7 Mainly, I started basically any time after
8 midnight and I ran that out through, I believe, 9:52 that
9 morning, knowing that this murder more than likely
10 occurred somewhere around 4 o'clock, 3 o'clock, possibly
11 in that time frame there.

12 So I went before and after that estimate of time
13 when this crime would have occurred to try to place this
14 cell phone and see where it was at, who the person was
15 talking to on that cell phone at this time.

16 Q And in State's Exhibit 117 -- this is for ID purposes
17 only -- did you prepare a demonstrative demonstration as
18 far as what the cell phone records show, the cell towers
19 and things of that nature?

20 A Yes, I did, and a brief PowerPoint to illustrate the
21 location and how I was able to come up with this
22 information.

23 Q And that is all garnered from these cell phone
24 records that were provided to you?

25 A The cell phone records provide tower numbers. I then

1 have to cross-reference the actual number of that cell
2 phone to get a physical location or address for that
3 location where the cell tower is located.

4 That is done -- either the provider, in this
5 case T-Mobile, provides it during the search or there's a
6 website that's called the CALEA website, which is a
7 national website, Communications Assistance for Law
8 Enforcement, where all the cell phone companies in the
9 United States provide locations of their cell phone towers
10 as part of the agreement, and this is monitored by the FBI
11 for accuracy.

12 And these tower locations are updated sometimes
13 monthly, sometimes every few months, and we go back to the
14 time period of this particular incident with the tower
15 locations as they were reported at that time for the
16 physical locations. It's just a matter of
17 cross-referencing a number and it pops up with the address
18 and the orientation of the particular tower.

19 Q Would it assist you in your testimony to this jury in
20 order to show them this Power Point and explain some of
21 the things we've been talking about?

22 A Yes, it would.

23 MS. CAMPBELL: Your Honor, at this time we'd ask
24 permission to show the Power Point.

25 THE COURT: All right.

SCOTT McDONALD - Direct Exam by Ms. Campbell

149

1 MR. MAY: Your Honor, we'd object. And if I can
2 approach, I can show you what they're about to do. It's
3 hearsay.

4 THE COURT: All right.

5 (A bench conference was held with the judge and
6 attorneys in the presence of the jury but out of the
7 hearing of the jury.)

8 (WHEREUPON, State's Exhibit No. 117 was marked
9 for identification only.)

10 THE COURT: The objection is overruled.

11 MS. CAMPBELL: Thank you.

12 Beg the Court's indulgence.

13 (Pause.)

14 MS. CAMPBELL: Your Honor, may the witness step
15 down?

16 THE COURT: Yes, ma'am.

17 MS. CAMPBELL: And you've got to keep your voice
18 way up, okay?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Ms. Campbell, has this witness been
21 offered as an expert in any particular field?

22 MS. CAMPBELL: I'm sorry, Your Honor, cell phone
23 investigations.

24 THE COURT: All right. And what says the
25 defense to the State's offering him as an expert in cell

1 phone investigations?

2 MR. MAY: Your Honor, we'd object under Rule 5,
3 Sixth Amendment, Fourteenth Amendment.

4 THE COURT: All right. He's admitted over
5 objection as an expert in this field.

6 MS. CAMPBELL: Thank you, Your Honor.

7 BY MS. CAMPBELL:

8 Q What does this show, sir?

9 A This basically shows how a cell phone operates,
10 what's involved when you place a call from a cell phone,
11 why we have cell phone records that we're able to track.

12 As you see here, Cell Phone A decides to make a
13 call. Your phone, when it's in the on position, it's
14 constantly searching for the best signal, which is
15 generally the closest tower to where you're at. It's
16 constantly searching that so when you place a call, it
17 goes to that tower which then sends that call into a
18 switch which verifies that that is a valid customer number
19 that is good to go for a call to be completed.

20 From there, that call is routed and begins
21 looking for the Cell Phone No. B, or Letter B, the phone
22 that A is trying to connect with. Once again, a switch
23 verifies that that customer is a valid customer and then
24 begins to search globally for that particular cell phone.

25 Once again, if that cell phone is on, it's

1 constantly sending a signal where it's at, what's the
2 closest tower, strongest tower to complete this call with
3 the best quality possible.

4 Once that has been verified, the call is
5 connected, and all this happens within a matter of
6 seconds.

7 Cell phone towers are configured generally in a
8 three-sector arrangement. Each of the sectors is broken
9 into a 120-degree area, compiling 360 degrees. These
10 sectors are labeled 1, 2, 3/A, B, C, generally in that
11 fashion.

12 Here is a picture of an actual cell tower. As
13 you can see, the three sides are demonstrated here. Some
14 of your brand new towers in large metropolitan areas will
15 have multiple sides. Traditionally, we have a three-sided
16 sector, and that was what was present in these records
17 that we're going to look at today.

18 Q Okay. What is this?

19 A These are the cell phone records of the defendant in
20 the case, his T-Mobile number, (803)446-0191.

21 These records were imported into a software
22 program I use to help me analyze cell phones. They're
23 chronological. They begin at 2:30 in the morning on
24 February 3rd. And when I bring this in, it automatically
25 populates known numbers of subscribers, Eboney Williams,

1 Kenyata Banks, Cynthia Jackson; some of these other names.
2 Some of these names were provided to me as part of this
3 investigation.

4 This shows the calls -- go back -- this shows
5 the time of call; the initial call; the end of the call;
6 the length of call in seconds; whether it was an inbound
7 or outbound call, meaning that the cell phone called that
8 number or did another number call his cell phone.

9 All these ones up here obviously are outbound
10 calls, so that means this 446 number called this person.

11 Q And the LEI actually signifies whether it's an
12 outgoing or an incoming call?

13 A That's correct.

14 Q So you can tell which number is called?

15 A That's correct.

16 Q So where it says an "0" and the next number is
17 446-0191, that's an outgoing call?

18 A It's an outgoing call from this cell phone,
19 Mr. Wilkins' cell phone, to this number here.

20 Q And the first call that is on the side lists
21 different peoples' names?

22 A Yes.

23 Q And what's the first number?

24 A The first number with a name --

25 Q -- Eboney Williams --

1 A Ebony Williams is at 2:56:40 -- I'm sorry --
2 2:56:02, which would be a.m. That was a 46-second phone
3 call.

4 This call right here is a 46-second call. It's
5 an outbound call from Mr. Wilkins' phone to Ms. Williams'
6 phone as demonstrated here.

7 Q Okay. And as the calls continue on, when is the last
8 call made to Ebony Williams' phone?

9 A This call right here at 4:13:26 would be 4 a.m.

10 Q And between 2:56, almost 3 a.m. in the morning, until
11 about that last one at 4:13, how many phone calls from the
12 defendant and Ebony Williams, Ebony Williams' phone
13 number and the defendant's?

14 A Nine.

15 Q And those are reflected there?

16 A They're reflected there, yes.

17 Q And the last phone call at 4:13:26 a.m. lasted
18 approximately how long?

19 A Sixty-eight seconds.

20 Q And, again, all these are on what day?

21 A February 3rd, 2009.

22 Q Can we go back? Then after that last phone call from
23 her at 4:13, there are two phone calls at what time to
24 Cynthia Jackson's number?

25 A 4:19 and 4:20.

1 Q Go ahead.

2 A 4:19 was an outbound call from that cell phone to
3 Ms. Jackson's phone of zero seconds, meaning the call
4 apparently did not complete, but that was the number
5 dialed.

6 Q And then the next one is at what time?

7 A And then at 4:20:21, Ms. Jackson calls that number
8 back, and there is a 24-second duration of that phone
9 call.

10 Q And by the duration of the phone call, can you tell
11 whether or not it's answered?

12 A Generally. Twenty-four seconds, that could have been
13 a voice mail or that could have been an actual
14 conversation. I can't say for sure.

15 Q And then at 5:30:08, an hour and ten minutes later,
16 what do you see?

17 A I see another phone call, a nine-second phone call,
18 an inbound phone call from that 786-7765 phone number.

19 Q 786-7765?

20 A Yes.

21 Q You weren't aware, to your knowledge, that
22 Eboney's --

23 A Not when I compiled these records, I'm not aware of
24 this. I'm now aware of who that belongs to, but I wasn't
25 at the time of these records.

1 Q Next sheet.

2 A This is the original sheet I began focusing in on
3 where I qualified that I started right around midnight.

4 As you can see, these calls here are one at
5 2338, and I focused right here at the first one after
6 midnight, which was at 00:15:55, so that would be
7 12:15 a.m. That's the start time, the end time. That's
8 the initial cell phone tower and that's a number called
9 the LAC, L-A-C, which is a number used to help locate
10 where the tower is as well.

11 Q What information were you attempting to garner in
12 this situation?

13 A Trying to establish where this cell phone was from
14 basically midnight on. At this particular time, this
15 particular call was hitting off Cell Phone Tower 3941-1/2
16 Farrow Road, Sector B, orientation is 180 degrees.

17 What I can explain to you about that -- and
18 you'll see it illustrated in a minute -- is the
19 orientation is a big factor because all these towers are
20 not absolutely consistent, so we have to look for the
21 orientation to tell if the tilt is off slightly. That
22 affects the 360-degree circle. So when they go by an
23 orientation of 180, and I know that 60 degrees either side
24 of 180 is the sector that that phone call was hitting
25 off -- and I'll explain it here in a couple of slides --

1 likewise, as I continued on down through these other phone
2 calls, they're all hitting off that same tower, too, but
3 changed sector to a different sector, which will be
4 illustrated later.

5 And all these phone calls from 0017 hours on,
6 12:17 a.m. on, through, I believe, 9:52 the following
7 morning, all are hitting off the exact same tower, the
8 exact same orientation.

9 Q Next one.

10 A This next one is just a continuation of what I just
11 said. This is showing how these calls are all bouncing
12 off Sector A of that same cell tower on Farrow Road right
13 up to 9:52 a.m.

14 Q And were you able to determine what area of town
15 those would be reflected in?

16 A Yes.

17 Q The next one. What does this show?

18 A This here -- this is the tower here at 3941 Farrow
19 Road, just off 277. This is the tower located right here.

20 This is Sector A -- I'm sorry -- Sector B, which
21 was that first phone call I showed you where the midpoint
22 of the orientation was 180 degrees. So if you go 60
23 degrees either side of that, you have a sector that that
24 cell phone was in, somewhere within this area, hitting on
25 this side of the tower at the time the call was placed. I

1 can't say exactly where the phone was. I can just say it
2 was within this general area.

3 Q That that was the call that was shortly after
4 midnight that night?

5 A That's the first call after midnight, 13 minutes
6 after, 15 minutes after, that's correct.

7 Q But then the rest of the calls from that night were
8 in a different sector?

9 A Yes, they were.

10 Q And in this circle as far as the -- what does the
11 circle represent and what does it show as far as the area?

12 A This area I went out 1.5 miles. It's usually one and
13 a half to two miles in town, residential, high population
14 area on these cell phone towers.

15 They can go anywhere from two to five miles.
16 Sometimes in the country they'll range up to ten miles or
17 more.

18 These are the three sectors of the tower based
19 on the orientation.

20 I built straight from where the crime scene was
21 in this particular case, right here in the Bethel Bishop
22 Apartments. And this is the time, 2-3-2009 at 00:16:41,
23 that this call was placed and this sector receiving the
24 call.

25 Q But as far as all the calls after that, one shortly

1 after midnight, they were all in the same sector?

2 A The next slide will show that sector they were in.

3 All the rest of the calls on the early morning
4 hours of February 3rd, 2009, from 0017 hours all the way
5 up through 0952 hours, 9:52 a.m., all those phone calls
6 you saw are all hitting off this side for that tower
7 somewhere in this geographical area. I can't pinpoint
8 exactly where, I just know it was in this general area.

9 Q And in that general area which you point out, all
10 those calls during the course of that night, would that
11 include the Bethel Bishop apartment complex?

12 A Yes. Bethel Bishop would be right in this area here.

13 Q So your findings are all the calls shortly after
14 midnight into the morning hours are consistent with being
15 from Bethel Bishop?

16 A In that sector where Bethel Bishop is located, yes.

17 Q As far as the defendant's phone, the records that you
18 reviewed, I want to ask you specifically about a number of
19 calls that from 5:30 a.m. on are concerned.

20 A Yes, ma'am.

21 Q That would be the 446-0191 number?

22 A That's correct.

23 Q Specifically turning your attention to one at
24 5:30:17, that would be 5:30 a.m., what number was he
25 calling and the direction of that call?

SCOTT McDONALD - Direct Exam by Ms. Campbell

159

1 A His phone was calling the phone number (803)788-7765.

2 Q Is that 788 or 786?

3 A I'm sorry (803)786-7765. It was a nine-second phone
4 call that began at 5:30:08 and terminated at 5:30:17.

5 Q And who had been -- which phone was placing that
6 call?

7 A The defendant's phone, Mr. Wilkins.

8 Q And that was what, to 786-7765?

9 A That's correct.

10 Q And turning your attention to approximately 6:11:04
11 that morning, was there another phone call?

12 A There was another phone call from this cell phone,
13 the defendant's, to that very same number. It was a
14 17-second duration phone call beginning at 06:10:47, and
15 terminated at 06:11:04.

16 Q And that same number that morning at 6:19:16?

17 A That is correct. The defendant's cell phone, once
18 again, calls that same number, (803)786-7765, a 19-second
19 duration that began at 06:18:57 and terminated at
20 06:19:16.

21 Q And then finally at 06:16:01, was there a phone call
22 made by the defendant's phone to another number?

23 A Yes, to an (803)210-8863 number. It had zero
24 duration. The call must not have been completed.

25 Q And, again, all the phone calls we just referenced

1 that occurred between 5:30 and 6:30 a.m. that morning were
2 made by the defendant's phone?

3 A Yes, they were.

4 MS. CAMPBELL: I have nothing further.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. MAY:

8 Q Are you aware of what Accurint is?

9 A Yes, I am.

10 Q What is Accurint?

11 A It is a search engine database, a paid database that
12 law enforcement subscribes to.

13 Q Okay. And normally you can match up telephone
14 numbers with addresses if it's a landline, correct?

15 A Sometimes.

16 Q All right. I'm going to show you something. Does
17 that look like an Accurint report to you?

18 A Yes, it does.

19 Q And just if you could bear with me for a second.

20 Ms. Campbell just had you read out a number and
21 recall the calls that were made. That was a 786 number,
22 correct?

23 A Yes.

24 Q She actually wrote it up as you were sitting here on
25 another witness, correct? 786 -- what is it?

SCOTT McDONALD - Cross-Exam by Mr. May

161

- 1 A 7765.
- 2 Q 7765. What address is that telephone number linked
3 to?
- 4 A According to this Accurint report?
- 5 Q According to the data that law enforcement subscribes
6 to, what address?
- 7 A According to this report, it says [REDACTED]
8 Avenue, Apartment 13-A --
- 9 Q 13-A?
- 10 A -- as of January '09 through May of '09.
- 11 Q January 2009 through May of '09. And February would
12 fall in there, wouldn't it, McDonald?
- 13 A Yes.
- 14 Q And whose name is the registered resident at 13-A?
- 15 A The one that's on this report is Venchie Grimes,
16 V-E-N-C-H-I-E.
- 17 Q Do you mind if I see it real quick?
- 18 Okay. Right below it, do you see the person's
19 name right below it?
- 20 A Yes, I do.
- 21 Q And it's Nicole Grimes, correct?
- 22 A Nicole Denise Grimes, yes.
- 23 Q And her address is 25-H, correct?
- 24 A That's correct.
- 25 Q And Venchie Grimes, it's a landline attached to 13-A,

1 correct?

2 A I'm not -- I don't know if it tells on there if it's
3 a landline or not. It doesn't, whether or not it is.

4 MR. MAY: No further questions.

5 THE COURT: Any redirect?

6 MS. CAMPBELL: No, sir.

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

8 Ladies and gentlemen, it is 1 o'clock. We're
9 going to break for a couple of hours. We need you back at
10 3:15. 3:15, two hours and 15 minutes.

11 Thank you.

12 (The jury left open court at approximately
13 12:58 p.m.)

14 THE COURT: Is there anything before we break?

15 MS. CAMPBELL: No, sir.

16 THE COURT: All right. We'll be in recess until
17 that time.

18 (A recess was taken.)

19 THE COURT: Anything else before the jury comes
20 in?

21 MS. CAMPBELL: No, Your Honor.

22 THE COURT: All right. Bring us the jury.

23 Is this exhibit marked Defendant's Exhibit
24 No. 2, is it in evidence or not?

25 MS. CAMPBELL: I'm sorry, Your Honor, which one

1 is it?

2 THE COURT: Some kind of -- it says DDCNA
3 Service Request.

4 MS. CAMPBELL: Yes, sir, that's in evidence.

5 THE COURT: All right.

6 (The jury came into open court at approximately
7 3:22 p.m.)

8 THE BAILIFF: All jurors are present, Your
9 Honor.

10 THE COURT: Very good. Your next witness,
11 please.

12 MS. WALKER: Your Honor, at this time the State
13 would recall Tena Goff.

14 THE COURT: Cross-examination.

15 MR. MAY: Yes, sir. Briefly, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MAY:

18 Q All right. Ms. Goff, after looking at your chain, it
19 appears -- and you have a copy with you, don't you?

20 A Yes, sir, I do.

21 Q On page four, items -- for lack of saying the actual
22 case numbers -- Item No. 1 and Item No. 2 were released
23 from the property room; is that correct?

24 A Yes, they were.

25 Q All right. Now, looking at -- now, this is a log

1 that's generated from the property room of the Richland
2 County Sheriff's Department?

3 A Yes. It's all computer based.

4 Q It's all computer based.

5 Now, looking back, those two items never come
6 back into Richland County property evidence locker room;
7 is that correct?

8 A Items 1 and 2 --

9 Q Yes, ma'am.

10 A -- as described, the actual Items No. 1 and 2 never
11 come back.

12 MR. MAY: Beg the Court's indulgence.

13 (Pause.)

14 MR. MAY: No further questions, Your Honor.

15 THE COURT: Any redirect?

16 MS. WALKER: Yes.

17 REDIRECT EXAMINATION

18 BY MS. WALKER:

19 Q Ma'am, you said Items 1 and 2 never came back. Were
20 they at some point renumbered?

21 A Yes, they were.

22 Q And what were they renumbered as?

23 A Item No. 1 was resubmitted and came back in as Item
24 No. 11.

25 Q And when was that done?

TENA GOFF - Redirect Exam by Ms. Walker

165

1 A Officer Nelson from CPD brought them back on
2 October 1st, 2009, at 1:15 in the afternoon.

3 Q And the other item?

4 A Well, Item No. 2 came back in as Item No. 12, and it
5 was brought back the same day as Item 11, or No. 1, and
6 renumbered No. 12.

7 Q Okay. And do you know Stephen Griffey?

8 A Yes, ma'am.

9 Q Does he work with you?

10 A He works for the department, but no longer works in
11 evidence.

12 Q When you were collecting -- or when you were
13 receiving evidence in this case, did he work in the
14 evidence department then?

15 A Yes, he did.

16 Q And in reference to Item No. 21, did he receive that
17 item from Tammy Moore on July 22?

18 A Yes, he did.

19 Q Do you recognize this?

20 A It is one of our evidence bags, and it's been bar
21 coded as Item No. 21.

22 MS. WALKER: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. WALKER:

25 Q Can you explain, please, why they were renumbered at

1 a different point?

2 A With our computer system, AFIS, we can't sub-item or
3 bring an item back in that's already been finally
4 released. Once it's out of our inventory and released, it
5 can't be brought back as that initial item. It can be
6 brought in as an additional item, and by doing so, the
7 computer automatically generates the next numerical number
8 in sequence of items being brought in to us for that case.

9 So each time that item is transferred or
10 released out, if it's a final release, if it's brought
11 back again, it will be given yet a different number.
12 That's why our descriptions, our item descriptions, are
13 very particular and very precise.

14 MS. WALKER: Thank you. I have nothing further.

15 THE COURT: Anything further?

16 MR. MAY: Yes, sir.

17 RE CROSS-EXAMINATION

18 BY MR. MAY:

19 Q Just help me out here. Item No. 1 is the rape kit,
20 right? And we're very particular and very precise. And
21 you said 21 now is the rape kit, correct?

22 A No, sir, I didn't say 21 was the rape kit.

23 Q You said No. 1 turned into 21, is what you just
24 testified to.

25 A No. 1 turned into No. 11.

TENA GOFF - Recross-Exam by Mr. May

167

1 Q I'm sorry, No. 11. Okay.

2 A It was released and then brought back and it came
3 back in as Item No. 22.

4 Q No. 22, all right. And No. 22, the last -- the only
5 time it ever came back in was March 8th, 2012, correct?

6 A Item 22 -- the first time that Item 22 came into our
7 hands was on March 28th of 2012.

8 Q So just a few week ago?

9 A Yes, sir.

10 MR. MAY: So from the time that it gets checked
11 out, the rape kit gets checked out back in 2009, until
12 just a few weeks ago, it never came back through the
13 Richland County property room.

14 No further questions.

15 THE COURT: Is that a question or a statement?

16 MR. MAY: That's a question.

17 BY MR. MAY:

18 Q Is that correct? Is there any record of it?

19 A Yes, sir, it did come back in.

20 Q Okay. When? Let's look at 22.

21 THE COURT: Just a moment. You've asked the
22 question. The witness can answer.

23 MR. MAY: Okay.

24 BY MR. MAY:

25 Q When?

1 A Item No. 1, which is the rape kit, CPD Item No. 1 --

2 Q Yes, ma'am.

3 A -- came in initially on February 17th, 2009.

4 Q I agree.

5 A Item No. 1 was released on September 3rd, 2009, at
6 9:52 in the morning.

7 Q Okay.

8 A October 1st, 2009, No. 11, which was originally
9 No. 1, the rape kit, CPD Item No. 1 --

10 Q Okay.

11 A -- was brought back into evidence on October 1st,
12 2009.

13 Q Okay.

14 A No. 11 was released back to CPD on November 19, 2010.

15 Q Okay.

16 A Item 22, which is still the same rape kit, was
17 brought back to the sheriff's department to our evidence
18 room on March 8th of 2012.

19 Q All right.

20 A On April 10th, 2012, we released that rape kit to the
21 Solicitor's office to come to court.

22 MR. MAY: Okay. Beg the Court's indulgence for
23 one second.

24 (Pause.)

25 BY MR. MAY:

1 Q All right. So you're saying on October 1st, the rape
2 kit is in y'all's custody on October 1st, 2009?

3 A That came in along with items -- all the way to Item
4 20.

5 Q But it's in y'all's custody?

6 A That's what it says, yes, sir.

7 MR. MAY: Thank you.

8 THE COURT: You may step down, ma'am.

9 Next witness.

10 MS. WALKER: Your Honor, the State calls William
11 Cedarstaff.

12 WILLIAM CEDARSTAFF, after being duly sworn,
13 testified as follows:

14 THE CLERK: Have a seat in the witness box.

15 State your name for the record, please.

16 THE WITNESS: William Cedarstaff.

17 DIRECT EXAMINATION

18 BY MS. WALKER:

19 Q Good afternoon, sir.

20 A Good afternoon.

21 Q Where do you currently work?

22 A Richland County Sheriff's Department.

23 Q And what do you do at the sheriff's department?

24 A I'm an evidence technician.

25 Q And what are your roles as an evidence technician?

1 Are they the same as Ms. Goff's?

2 A That's correct.

3 Q And did you have an opportunity to receive certain
4 pieces of items in this case?

5 A Certain items, yes, ma'am.

6 Q I would like to turn your attention to what was
7 marked as Richland County Sheriff's Department Item No. 2
8 of 12, which is a brown glove. Did you receive that on
9 September 3rd, or did you have that on September 3rd?

10 A On September 3rd?

11 Q Yes, sir. 2009?

12 A You said Items 1 and 2?

13 Q Item 2, the brown glove.

14 A Yes, ma'am.

15 Q What did you do with that item?

16 A I released it to Paul Nelson of Columbia CPD on
17 September 3rd at 9:52 in the morning.

18 Q And was it properly packaged while it was in your
19 possession?

20 A Yes, it was.

21 Q Was it tampered with in any way?

22 A No, it was not.

23 Q And on October 9th, 2009, did you then give that to
24 Rachel Grant, that same brown glove?

25 A That was Item 12?

WILLIAM CEDARSTAFF - Direct Exam by Ms. Walker

171

1 Q Yes, sir.

2 A Yes, I gave it to her at 11:26 on October 9th.

3 Q Okay. I'd like to move your attention to Item -- the
4 item that's No. 3 and 13 respectively. Did you receive --
5 it's a neck ligature. Did you receive that on
6 September 3rd of 2009?

7 A What item number was it you said?

8 Q It's labeled as Richland County Sheriff's Department
9 Items No. 3 and 13.

10 A Three and 13?

11 Q Yes, sir.

12 A On September 9th?

13 Q September 3rd, sir.

14 A September 3rd?

15 Q Yes, sir.

16 A September 3rd, I released Item 3 to Officer Nelson of
17 Columbia PD.

18 Q Okay. And that same item, on October 9th did you
19 release that to Rachel Grant?

20 A I did.

21 Q And turning your attention to the leg ligature in
22 this case marked as Sheriff's Department Item No. 5, did
23 you receive that on September 3rd?

24 A I released it to Nelson, Paul Nelson of Columbia CPD
25 on September 3rd.

1 Q That's also marked at some point as Item No. 15. I'd
2 like to turn your attention to October 9th. Did you
3 release that leg ligature to Rachel Grant?

4 A Yes, I did, at 11:26 in the morning.

5 Q I would like to show you this item first.

6 (WHEREUPON, State's Exhibit No. 118 was marked
7 for identification only.)

8 MS. WALKER: I'd like to mark it for
9 identification purposes at this point, Your Honor.

10 BY MS. WALKER:

11 Q Can you -- is this y'all's property label?

12 A Yes, this is our property label.

13 Q And when it says "items obtained," what does it say
14 there?

15 A It says one rape kit, one glove -- it says one rape
16 kit, CPD No. 1; one glove, CPD No. 29; one neck ligature,
17 CPD No. 35; nail scrapings, CPD No. 39; and leg ligature,
18 CPD No. 40.

19 Q And would those items have been wrapped in this box,
20 individually packaged in this box; do you know?

21 A I do not know because the box had been sealed.

22 Q And it wasn't tampered with while you had it?

23 A No, it wasn't.

24 Q And was Item No. 1, which is the rape kit -- I would
25 like to turn your attention to September 3rd. Did you

WILLIAM CEDARSTAFF - Direct Exam by Ms. Walker

173

1 release the rape kit at that point to P.J. Nelson?

2 A Yes, I did at 9:52 in the morning.

3 Q Okay. And, lastly, sir, on October 9th of 2009, did
4 you release that same item to Rachel Grant?

5 A Yes, I did.

6 Q And the last item that I would like to speak with you
7 about is Item No. 21, which is the Buccal swab of Ahmad
8 Wilkins. Did you release that to Donna Martin on
9 September 20th, 2010?

10 A Yes, I released it to Donna Martin.

11 MS. WALKER: No further questions.

12 THE COURT: Any questions for this witness?

13 MR. MAY: No, Your Honor.

14 THE COURT: Thank you, sir. You may step down.
15 Next witness.

16 MS. WALKER: Your Honor, the State calls Theresa
17 Dixon.

18 TRACY DIXON, after being duly sworn, testified
19 as follows:

20 THE CLERK: Have a seat in the witness box.
21 State your name for the record, please.

22 THE WITNESS: Tracy Dixon.

23 DIRECT EXAMINATION

24 BY MS. WALKER:

25 Q Ma'am, where are you currently employed?

1 A At the Columbia Police Department.

2 Q And what do you do at the police department?

3 A I'm an evidence clerk.

4 Q And what are your duties as an evidence clerk for the
5 Columbia Police Department?

6 A I log in property that's been tagged in by the
7 officers and place it in a proper location until trial or
8 court.

9 Q And did you receive property in this case?

10 A Yes.

11 Q I'd like to turn your attention to Item No. 29, the
12 brown glove. On February 6th, 2009, did you receive that
13 from Tammy Moore?

14 A Yes, I did.

15 Q Okay. And a week later on February 13th, did you
16 release that back to Tammy Moore?

17 A Yes.

18 Q Okay. And you received it from her again that same
19 day?

20 A Yes.

21 Q And it was released back to her on February 17th?

22 A Yes.

23 Q And then on September 3rd of 2009, you received it
24 from T.J. Nelson?

25 A Yes.

TRACY DIXON - Direct Exam by Ms. Walker

175

1 Q Okay. And Item No. 38, which is the neck ligature in
2 this case, did you receive that from Ms. Moore on the
3 13th? Officer Moore, excuse me.

4 A Yes.

5 Q And, again, it was released to her that same day?

6 A Yes.

7 Q And on the 17th you gave it to Ms. Moore?

8 A Yes.

9 Q And on September 3rd of 2009, did you receive it from
10 Officer Nelson?

11 A Yes.

12 Q Okay. And Item No. 39, which is the leg ligature in
13 this case, on February 13th did you give that to Tammy
14 Moore?

15 A Yes.

16 Q And she returned it to you later that day?

17 A Yes.

18 Q And then four days later on the 17th you released it
19 back to Ms. Moore?

20 A Yes.

21 Q And on the 3rd you received it from T.J. Nelson?

22 A Yes.

23 Q And Item No. 1, which is the rape kit, did you
24 release that to Officer Moore on February 13th?

25 A Yes.

1 Q And you received it back from her that day?

2 A Yes.

3 Q And did you come into contact with that item again on
4 September 3rd, 2009?

5 A Yes.

6 Q And from whom did you receive it?

7 A From Officer Paul Nelson.

8 Q And while you had these items, were they tampered
9 with in any way?

10 A No.

11 MS. WALKER: No further questions.

12 THE COURT: Any questions for this witness?

13 MR. MAY: No, Your Honor.

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

15 Next witness.

16 MS. SIMPSON: The State calls Donna Martin.

17 DONNA MARTIN, after being duly sworn, testified
18 as follows:

19 THE CLERK: Have a seat in the witness box.

20 State your full name for the record, please.

21 THE CLERK: Donna Martin.

22 DIRECT EXAMINATION

23 BY MS. SIMPSON:

24 Q Good afternoon, Ms. Martin. Where do you work?

25 A City of Columbia Police Department, evidence unit.

DONNA MARTIN - Direct Exam by Ms. Simpson

177

1 Q And how long have you been with the City of Columbia?

2 A Fifteen years.

3 Q And have you been in the evidence unit that whole
4 time?

5 A Yes.

6 Q And what do you do there?

7 A I'm the evidence supervisor.

8 Q Supervisor. And as supervisor, tell us a little bit
9 about what that entails.

10 A As Tracy stated before, we log in property, we hold
11 it for evidence or for trial, and I oversee what the other
12 three employees do.

13 Q And so you log in. And describe for the jury the
14 evidence room. What is the evidence room?

15 A Evidence and property, anything from found property
16 until cases such as these, murder trials. We take in
17 evidence, and depending on the case, we have a certain
18 amount of time we hold it. And if anything's needed for
19 trial, that's what we hold it for, we sign it back and
20 forth out to the officers for court.

21 Q And when an item of evidence comes to you, do you
22 have certain protocols and procedures in place, that it
23 has to be properly packaged --

24 A Yes.

25 Q -- and things of that nature?

1 A Yes. Whether it comes from the locker or from the
2 officer themselves, we stamp date it, put our initials on
3 it, whoever receives it from the locker, whoever receives
4 it from the officer, and then it goes through -- I'd say
5 like Tracy, she logs in drugs, so drugs goes to her, or if
6 it's property, it goes to Amanda or Shane right now.

7 Q Okay. And individual items of evidence, are they
8 each separately packaged or how does that work?

9 A Yes.

10 Q Okay. And by separately packaged, is it in its own
11 box or its own bag?

12 A Or its own bag, yes.

13 Q You don't combine items --

14 A No.

15 Q -- in the actual bag?

16 A No, we do not.

17 Q And are there times that individual items will be
18 placed in a bigger box or a bigger bag together?

19 A Yes.

20 Q Tell the jury a little bit about that.

21 A As evidence comes in for a case, it may start off in
22 a bag, but it gets logged in and goes into a box, but
23 nothing has been changed as far as it being tampered with
24 or anything like.

25 Or if it's sent out for testing with SLED or

DONNA MARTIN - Direct Exam by Ms. Simpson

179

1 Richland County, it may go out in that bag and it may come
2 back in the box that you saw earlier with Richland County.
3 Because I believe they had like four or five items in that
4 box. Based on our ID, the person signed out four or five
5 items and what they did was put it in that box.

6 Q We'll get back to that in just a minute.

7 A Uh-huh.

8 Q And when any piece of evidence is in the custody of
9 the evidence room at the Columbia Police Department, is it
10 tampered with or altered in any way?

11 A No.

12 Q And you have several employee in that unit, right?

13 A Yes.

14 Q Now, I will go directly to this case.

15 Did you actually handle some individual items
16 with respect to this case?

17 A Yes.

18 Q I want to turn and focus your attention on CPD Item
19 No. 29, which I believe is a brown glove?

20 A Yes.

21 Q All right. Did you receive that piece -- or did you
22 release that piece of evidence on October 1st of 2009 to
23 Officer P.J. Nelson?

24 A Yes.

25 Q And while it was in your custody it wasn't -- was it

1 altered or tampered with in any way?

2 A No.

3 Q Turning your attention to CPD Item No. 38, which I
4 believe is the neck ligature?

5 A Yes.

6 Q On February 10th of 2009, did you receive that item?

7 A Yes, I did from ID Tech Moore.

8 Q And on October 1st of 2009, did you release that item
9 to Officer Nelson?

10 A Yes.

11 Q And, again, was this item tampered with or altered in
12 any way?

13 A No.

14 Q Moving to CPD Item 39, which is a leg ligature, on
15 February 10th of 2009, did you receive that piece of
16 evidence?

17 A Yes.

18 Q Who did you receive it from?

19 A ID Tech Moore.

20 Q And when that came to you, it was properly sealed,
21 packaged, things of that nature?

22 A Yes.

23 Q And with respect to that piece of evidence, did you
24 release it to Officer Nelson on October 1st of 2009?

25 A Yes.

DONNA MARTIN - Direct Exam by Ms. Simpson

181

1 Q Now, turning your attention to CPD Item 1, which is
2 the rape kit, with respect to this, did you receive that
3 piece of evidence -- or, I'm sorry -- did you release that
4 to P.J. Nelson on October 1st of 2010?

5 A Yes, sir.

6 Q Okay. And we'll have to clarify some things because
7 I know this is the piece that would have been packaged in
8 State's Exhibit 118. Just take a look at it. Do you
9 recognize it?

10 A Yes.

11 Q Okay. And is that a box that actually contains some
12 individual items?

13 A Yes.

14 Q And were those individual items in this box
15 separately packaged and sealed?

16 A Yes.

17 Q So this big box is one of those circumstances where
18 you placed it in the box?

19 A Right. It has several items on there, I guess, that
20 went out to the Richland County lab, so all they did was
21 put it all in a box and if it's the same case, they put it
22 in the same box, but individually packaged.

23 Q And, now, the rape kit in this case, Item 11, did you
24 receive information that Item 11 had not actually made it
25 into this box to go to Richland County?

1 A No.

2 Q The rape kit? It would have been Item 11 of 15 and I
3 want to turn your attention --

4 A Okay.

5 Q I know you deal with -- how much evidence would you
6 say you deal with?

7 A Right now, I have over 100,000 pieces of property in
8 there.

9 Q So you keep notes.

10 Would you recall a conversation at some point in
11 2009 where you learned from Investigator Thomas that a
12 piece of item -- or, I'm sorry -- a piece of evidence,
13 Item 11, the rape kit, was not located in the box 11
14 through 15 that went to --

15 MR. MAY: Objection, Your Honor. She's
16 testifying.

17 MS. SIMPSON: Your Honor, I'm just trying to
18 streamline this as far as -- I apologize.

19 THE COURT: By creating an objection or what?

20 MS. SIMPSON: No, Your Honor, just directing to
21 specific points. I won't lead.

22 MR. MAY: Thank you, ma'am.

23 THE COURT: All right.

24 BY MS. SIMPSON:

25 Q Did you have a conversation with Investigator Thomas

DONNA MARTIN - Direct Exam by Ms. Simpson

183

1 about some evidence in this case?

2 A Yes.

3 Q And did you also speak with the DNA analyst with
4 Richland County at some point about this case?

5 A Yes, I remember the conversation.

6 Q And what was that? Was that about an item of
7 evidence?

8 A Item No. 1.

9 Q Okay. Oh, I've been calling it 11. I'm sorry.

10 A Yes, I'm following, No. 11 for Richland County.

11 Q Okay. So let's clear it up. We have about three or
12 four different numbers for everything.

13 CPD Item 1 is what?

14 A Right. It's a rape kit.

15 Q And does Richland County have its own numbers that
16 you're aware of?

17 A Yes.

18 Q So CPD Item 1 is the rape kit?

19 A Yes.

20 Q Did you receive information about the rape kit in
21 this case?

22 A Yes.

23 Q And when that happened -- occasionally are there
24 times when this might happen, that an individual piece
25 doesn't make it into a box?

1 A Sometimes, yes.

2 Q Okay. But that doesn't mean that -- or does that
3 mean that the individual packaging was tampered with in
4 any way?

5 A No. Unh-unh. No, ma'am.

6 Q Okay. So when you receive calls or conversation --
7 or you had a conversation with Ms. Grant. Do you recall
8 speaking with her a number of times?

9 A Yes.

10 Q And as a result of those conversations, what did you
11 do?

12 A I went looking for the property.

13 What we do is -- say I turn it back in versus
14 whatever, but we go search for the property and there it
15 was. It was in other items that were already been sent
16 out because this case had a lot of things going back and
17 forth, and the rape kit was one of those items that went
18 back and forth, but we did have it.

19 Q Okay. So you did have it, it was just a matter that
20 it was separately?

21 A Right.

22 Q And how many agencies did y'all actually release
23 evidence to in this case? It wasn't just Richland County,
24 was it?

25 A No, SLED also.

DONNA MARTIN - Direct Exam by Ms. Simpson

185

1 Q SLED also.

2 And once you found CPD Item No. 1, what did you
3 do? Or was somebody else responsible for it? I
4 apologize.

5 A No. We just let Ms. Grant know that we did have it
6 and then, I guess, from there they signed it back out,
7 back and forth for testing.

8 Q Okay. And I want to turn your attention to
9 January 4th of 2010, and we're still talking about CPD
10 Item No. 1, the rape kit. Did you release that item of
11 evidence to Officer Nelson?

12 A Yes, I did.

13 Q And, again, while all this evidence was in your
14 custody and the custody and control of the Columbia Police
15 Department evidence room, was it altered or tampered with
16 in any way?

17 A No.

18 Q And when it came to you, was it always properly
19 packaged and sealed?

20 A Yes.

21 Q And labeled and identified?

22 A Yes.

23 MS. SIMPSON: Thank you.

24 THE COURT: By the defense.

25 MR. MAY: Yes, sir. May it please the Court,

1 Your Honor.

2 THE COURT: Yes.

3 CROSS-EXAMINATION

4 BY MR. MAY:

5 Q Are you referring to notes right now, ma'am?

6 A Yes.

7 Q Do you mind if I see those, please?

8 (Pause.)

9 BY MR. MAY:

10 Q All right, ma'am. Now, you said that you have a
11 100,000 pieces of evidence, right?

12 A Yes.

13 Q I mean, in fact that's overwhelming. For every CPD
14 case where evidence is collected they generally store it
15 with you?

16 A Yes.

17 Q And you-all have to be responsible for it?

18 A Yes.

19 Q You have to make sure nothing happens to it? You
20 have to make sure they can find it, you have to account
21 for it, correct?

22 A Yes.

23 Q You have to make sure that there's always knowledge
24 of where something is so that way you can prove that
25 something is what it claims to be, correct?

1 A Yes.

2 Q Because a lot of times -- guns have serial numbers.

3 A lot of things don't have serial numbers, correct?

4 A Correct.

5 Q There's a lot of times you have to prove what
6 something is and that's what largely your job is, to allow
7 them to be able to prove what things are, correct?

8 A And log it in, yes.

9 Q You have to log it in to make sure you can find it so
10 that way nothing's lost and nothing's replaced, correct?

11 A Correct.

12 Q All right. Now, I didn't see it in your notes, but
13 Ms. Grant -- did you know that Ms. Grant contacted
14 Investigator Thomas regarding a missing rape kit in this
15 case?

16 A Right, yes.

17 Q All right. And she actually contacted you a few
18 times, correct?

19 A Yes.

20 Q And do you remember a conversation you had on
21 12-10-2009 with Ms. Grant?

22 A Concerning the rape kit, yes.

23 Q Yes. And you said you'd try to find it?

24 A Yes.

25 Q All right. She called you back and then you said,

1 Hey, I'll get to you -- I'll get back with you, I've got
2 to still find it. That was -- the first conversation was
3 on December 10th. Do you remember that?

4 A Yes.

5 Q And then another conversation on December 15th --

6 A Uh-huh.

7 Q -- and you said you had to get back to her?

8 A Yes.

9 Q And this piece of evidence had been missing from --
10 at least it was noticed it was missing since
11 October 19th. Do you have any records of that?

12 A And it never was missing.

13 Q It never was missing?

14 A No, sir.

15 Q All right. Now, on 12-18, you informed Ms. Grant
16 that you hadn't looked in the back.

17 Again, your job is to make sure that everything
18 is accounted for, correct?

19 A Yes.

20 Q And make sure that you can find it, correct? Make
21 sure it never goes missing, correct?

22 A Right.

23 Q All right. Now, on 12-22, the last notes we have
24 from Ms. Grant state that she received a message from you
25 stating the rape kit cannot be located, okay? And that

DONNA MARTIN - Cross-Exam by Mr. May

189

1 was on 12-22.

2 A Okay.

3 MR. MAY: Beg the Court's indulgence.

4 (Pause.)

5 BY MR. MAY:

6 Q All right. Ma'am, just one last thing.

7 A Yes, sir.

8 Q On October 10th -- I'm sorry -- on October 1st, 2009,
9 in your notes you released the rape kit to Officer Nelson,
10 correct?

11 A Yes.

12 MR. MAY: And then it went missing or it's noted
13 as missing on October 19th.

14 Thank you, ma'am.

15 MS. SIMPSON: Brief redirect, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. SIMPSON:

18 Q Okay. Was the evidence actually ever missing?

19 A No.

20 Q Where was it?

21 A It was in one of the four boxes that we do have on
22 that case.

23 Q Okay. And, again, going back to the box, you said
24 the Item 11 or -- sorry -- CPD 1 was released on
25 October 9th to Nelson?

1. A Uh-huh.

2. Q Was CPD Item 1 packaged with anything else in this
3 box, State's Exhibit 118?

4 A Yes, with four other items in this box.

5 Q Okay. But in this box they were individually
6 packaged?

7 A Yes.

8 Q So essentially what would have happened is --

9 MR. MAY: Objection, Your Honor. She's
10 testifying.

11 BY MS. SIMPSON:

12 Q What would have happened if the rape kit wasn't in
13 here?

14 A I would let them know. I would call Richland County
15 and let them know that I do not have one of the items.

16 Q Okay. So -- but you-all, did you have the item?

17 A Yes, we did.

18 Q And it was properly sealed and package individually
19 while it was in your custody?

20 A Yes.

21 Q So was it ever missing?

22 A No.

23 MS. SIMPSON: Nothing further, Your Honor.

24 THE COURT: Anything further?

25 MR. MAY: Beg the Court's indulgence.

DONNA MARTIN - Recross-Exam by Mr. May

191

1 (Pause.)

2 RECROSS-EXAMINATION

3 BY MR. MAY:

4 Q Again, ma'am, you were informed on October 19th that
5 the rape kit can't be found, and on 12-7 the Columbia
6 Police Department's informed again. On 12-10 you're
7 informed personally.

8 MS. SIMPSON: Your Honor, is there a question
9 here?

10 MR. MAY: I'll rephrase it. Thank you, sir.

11 THE COURT: You're asking one question at a time
12 or a series of questions that you want her to answer all
13 at one time or --

14 MR. MAY: However she wants to handle it, but
15 I'll rephrase, Your Honor.

16 THE COURT: Well, there's an objection which is
17 sustained.

18 MR. MAY: Okay.

19 BY MR. MAY:

20 Q On 10-19, Columbia Police Department is informed that
21 a rape kit is missing, correct?

22 A Yes.

23 Q On 12-7-2009, it's inquired again where is this rape
24 kit, correct?

25 A Yes.

1 Q And 12-10-2009, Richland County personally spoke with
2 you regarding this rape kit and you said you would take a
3 look into it, correct?

4 A Yes.

5 Q "12-15-2009, called Donna in the evidence room, she
6 will get back with me," correct?

7 A Yes.

8 Q 12-17-2009 --

9 MS. SIMPSON: Your Honor, I'm going to object.
10 He's going over in his cross testimony the direct
11 testimony. I believe it's been asked and answered and
12 it's getting into -- outside the scope of my redirect.

13 THE COURT: Objection's overruled.

14 MR. MAY: Thank you, sir.

15 BY MR. MAY:

16 Q 12-18-2009, spoke with you, had to look in the back,
17 correct?

18 A Yes.

19 Q 12-22-2009, the rape kit cannot be located, correct?

20 A No.

21 Q Is that not the message you gave Rachel Grant on
22 12-22-2009?

23 A No, I did not give her that message.

24 MR. MAY: Okay. Thank you.

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

1 Next witness.

2 MS. WALKER: The State calls Paul Nelson.

3 PAUL NELSON, after being duly sworn, testified
4 as follows:

5 THE CLERK: Have a seat in the witness box.

6 State your name for the record.

7 THE WITNESS: Officer Paul Nelson.

8 DIRECT EXAMINATION

9 BY MS. WALKER:

10 Q Good afternoon, sir.

11 A Good afternoon, ma'am.

12 Q Where are you currently employed?

13 A City of Columbia Police Department, the crime scene
14 unit.

15 Q And what do you do in the crime scene unit?

16 A They investigate major crimes, serious incidents
17 involving crimes.

18 Q Back in 2009, what was your role at the Columbia
19 Police Department?

20 A I was with the crime scene unit.

21 Q Were you in evidence at that time?

22 A Or I handled evidence.

23 Q Handling evidence?

24 A Yes.

25 Q And did you handle evidence in this case?

1 A I did.

2 Q I would like to turn your attention to the Columbia
3 Police Department Item No. 29, which is a brown glove.

4 On September 3rd of 2009, did you give that to
5 Theresa Dixon?

6 A I did.

7 Q And on October 1st of 2009, did you receive it from
8 Donna Martin?

9 A I did.

10 Q And then did you give it to Curtis Burnett on
11 October 1st of 2009?

12 A I did.

13 Q And turning your attention to Item No. 38, which was
14 the neck ligature that was found in this case, on
15 September 3rd, did you give that to Theresa Dixon?

16 A I did.

17 Q And did you receive it from Donna Martin on
18 October 1st of 2009?

19 A I did. That's correct.

20 Q And did you then give that item, the glove, to Curtis
21 Burnett on October 1st of 2009?

22 A Which item again are you talking about?

23 Q Item No. 38, the neck ligature.

24 A I did. That's right.

25 Q Item No. 1, which was the rape kit --

PAUL NELSON - Direct Exam by Ms. Walker

195

1 A Correct.

2 Q -- on September 3rd of 2009, did you receive that
3 from William Cedarstaff?

4 A Yes, I did, along with some other pieces of evidence.

5 Q Okay. On October 1st, 2009, did you receive it from
6 Donna Martin? I'm sorry -- yes, did you receive it Donna
7 Martin?

8 A Right. Correct.

9 Q And then did you come into contact with that item
10 again on January 1st -- or, I'm sorry -- October 1st,
11 2009?

12 A Right.

13 Q And January 4th, that rape kit, did you receive it
14 from Donna Martin?

15 A Right, and I transported it out to the sheriff's
16 department.

17 Q The rape kit you hand-delivered yourself to the
18 sheriff's department?

19 A Right, the 1st of January -- the 4th day 2010 at
20 11:15.

21 Q And while you had these items, were they properly
22 sealed and packaged?

23 A Yes.

24 Q Were they tampered with in any way, sir?

25 A No.

1 MS. WALKER: Thank you. Nothing further.

2 THE COURT: By the defense.

3 MR. MAY: Yes, sir. Beg the Court's indulgence
4 for one second.

5 (Pause.)

6 MR. MAY: May it please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. MAY:

10 Q Do you have this?

11 A Yes, I do.

12 Q And do you do one of these on every case?

13 A Pretty much, yes, I do.

14 Q Pretty much, or yes?

15 A Yes.

16 Q And when would this have been produced?

17 A A couple of weeks before trial.

18 Q So you didn't produce this until a couple of weeks
19 before trial?

20 A This case, right.

21 Q All right. On September 3rd, 2009, you picked up a
22 bunch of evidence from the evidence locker at Richland
23 County Sheriff's Department, correct?

24 A From Cedarstaff. It was turned over to me.

25 Q And Cedarstaff is an evidence technician and

1 Cedarstaff works in the evidence department, correct?

2 A Correct.

3 Q You obtained a bunch of evidence, everybody thought
4 they were done testing it --

5 A Correct.

6 Q -- checked it into the Columbia evidence locker room?

7 A Correct.

8 Q And then that same evidence you checked out on
9 10-1-2009?

10 A Correct.

11 Q Returned it back to Richland County Sheriff's
12 Department?

13 A That's correct.

14 MR. MAY: Beg the Court's indulgence.

15 (Pause.)

16 MR. MAY: No further questions at this time.

17 THE COURT: By the State.

18 MS. WALKER: None, Your Honor.

19 THE COURT: Thank you. You may step down, sir.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Next witness.

22 MS. WALKER: The State calls Leonard Bradley.

23 LEONARD BRADLEY, after being duly sworn,
24 testified as follows:

25 THE CLERK: Have a seat in the witness box.

1 State your name for the record, please.

2 THE WITNESS: Leonard Bradley.

3 DIRECT EXAMINATION

4 BY MS. WALKER:

5 Q Sir, where do you work?

6 A Richland County Coroner's Office.

7 Q And did you work there back in 2009?

8 A I did.

9 Q Did you receive a rape kit as it relates to this
10 case?

11 A A rape kit?

12 Q Yes.

13 A I would have to see some documentation as to whether
14 I did or not.

15 MS. WALKER: Beg the Court's indulgence for a
16 moment.

17 (Pause.)

18 BY MS. WALKER:

19 Q All right. Sir, do you recognize this?

20 A I do.

21 THE COURT: Ladies and gentlemen, I'm going to
22 have you go to the jury room for a break. Please do not
23 discuss the case.

24 (The jury left open court at approximately
25 4:10 p.m.)

LEONARD BRADLEY - Direct Exam by Ms. Walker

199

1 THE COURT: We'll be in recess.

2 (A recess was taken.)

3 THE COURT: All right. Are we ready now? Ready
4 to go?

5 MS. WALKER: Yes, sir.

6 THE COURT: Let's bring us the jury.

7 (The jury came into open court at approximately
8 4:32 p.m.)

9 THE BAILIFF: All jurors are present, Your
10 Honor.

11 THE COURT: All right. You may proceed.

12 BY MS. WALKER:

13 Q Okay, sir. You said you work at the coroner's
14 office, right?

15 A I do.

16 Q Did Ms. Davis Moore attend an autopsy?

17 A She did, back on February 4th, 2009.

18 Q And was a sexual assault evidence collection kit
19 taken during that autopsy?

20 A It was collected at that time on that day. It was
21 collected on the 4th.

22 Q And that was turned over to Ms. Moore?

23 A It was turned over to Ms. Moore the next day.

24 MS. WALKER: Thank you, sir. No further
25 questions.

1 THE COURT: By the defense.

2 MR. MAY: No, sir.

3 THE COURT: Thank you, sir. You may step down.
4 Next witness.

5 MS. WALKER: Your Honor, the State calls
6 Sergeant Robert Waters.

7 ROBERT WATERS, after being duly sworn, testified
8 as follows:

9 THE CLERK: Have a seat in the witness box.
10 State your name for the record, please.

11 THE WITNESS: Sergeant Robert Waters.

12 DIRECT EXAMINATION

13 BY MS. WALKER:

14 Q Sir, where do you work?

15 A At the Alvin S. Glenn Detention Center.

16 Q What do you do over at the detention center?

17 A I'm assistant watch commander. I work in
18 professional standards, internal affairs.

19 Q When phone calls are made out of Alvin S. Glenn
20 Detention Center, are they recorded?

21 A Yes, they are.

22 Q And do you guys record those phone calls in the
23 ordinary course of y'all's business?

24 A Yes.

25 Q And were you asked to get certain phone calls in this

1 case?

2 A Yes.

3 Q And did you do that?

4 A Yes.

5 Q I'm going to show you what's going to be marked as
6 State's Exhibit No. 119.

7 (WHEREUPON, State's Exhibit No. 119 was marked,
8 for identification only.)

9 BY MS. WALKER:

10 Q Do y'all keep these phone calls?

11 A Yes, we do.

12 MS. WALKER: Your Honor, at this time the State
13 would offer Exhibit 119 into evidence.

14 MR. MAY: I mean, Your Honor, if we may
15 approach?

16 (A bench conference was held with the judge and
17 attorneys in the presence of the jury but out of the
18 hearing of the jury.)

19 THE COURT: It's admitted subject to being
20 reviewed.

21 (WHEREUPON, STATE'S Exhibit No. 119 was admitted
22 into evidence.)

23 MS. WALKER: No further questions.

24 THE COURT: By the defense.

25 MR. MAY: Yes, sir. Beg the Court's indulgence.

1 (Pause.)

2 MR. MAY: Briefly, Your Honor.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. MAY:

6 Q And you just testified that you-all record telephone
7 calls. Is it every call that leaves?

8 A Any call that's made out of the unit from the
9 detainees are recorded.

10 Q And that's for several reasons, right?

11 A Yes.

12 Q One, you want to protect other detainees, you don't
13 want to have anything, contraband coming in?

14 A Right.

15 Q You don't want to have any weapons coming in?

16 A Yes, sir.

17 Q You want to make sure there's nobody escaped, fixing
18 to escape?

19 A That's correct.

20 Q As well as law enforcement likes for you-all to
21 listen in because most of the time when people kill
22 people, they confess, correct?

23 A That's correct.

24 MR. MAY: No further questions.

25 THE COURT: Anything further?

1 MS. WALKER: No, Your Honor.

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

3 Next witness.

4 MS. WALKER: The State calls Captain Moore.

5 WASHAVA MOORE, after being duly sworn, testified
6 as follows:

7 THE CLERK: Have a seat in the witness box.

8 State your name for the record, please.

9 THE WITNESS: Washava Moore.

10 DIRECT EXAMINATION

11 BY MS. WALKER:

12 Q Captain Moore, where do you work?

13 A Alvin S. Glenn Detention Center.

14 Q What do you do at the Alvin S. Glenn Detention
15 Center?

16 A I am the division manager of operations and I am the
17 keeper of records..

18 THE COURT: Raise your mic some so we can hear
19 you better.

20 BY MS. WALKER:

21 Q You say you're custodian of records?

22 A Yes.

23 Q The records that you guys keep, do you-all keep track
24 of where inmates are housed at particular times?

25 A Yes, ma'am.

1 Q Do you-all keep those records in the ordinary course
2 of y'all's business?

3 A Yes.

4 Q I would like to show you what will be State's Exhibit
5 No. 120.

6 (WHEREUPON, State's Exhibit No. 120 was marked
7 for identification only.)

8 BY MS. WALKER:

9 Q Do you recognize these?

10 A Yes, ma'am.

11 Q And what are they?

12 A These are the tracking documents of where each
13 individual has been housed throughout their direction of
14 incarceration at the facility.

15 Q And was Ahmad Wilkins housed in the Juliette dorm
16 from February 6th of 2011 to March 9th of 2011?

17 A Yes, ma'am.

18 Q And Patruan Hare, was he housed in that same dorm
19 from February 27th of 2011 until April 1st of 2011?

20 A Yes, ma'am.

21 MR. MAY: Your Honor, may we approach?

22 THE COURT: Yes, sir.

23 (A bench conference was held with the judge and
24 attorneys in the presence of the jury but out of the
25 hearing of the jury.)

1 MR. MAY: All right. Your Honor, we will be
2 happy to stipulate that Patruan Hare and Ahmad Wilkins
3 were located in the Juliette dormitory of Alvin S. Glenn
4 Detention Center between February 27th of 2011 and
5 March 9th of 2011.

6 THE COURT: Does the State accept that
7 stipulation?

8 MS. WALKER: Yes, Your Honor.

9 THE COURT: All right. Ladies and gentlemen,
10 the parties, the State and the defense, have stipulated to
11 the stipulation just referenced by Mr. May. That means
12 that no further proof on that issue is required.

13 Is there anything further of this witness?

14 MS. WALKER: There's nothing, Your Honor.

15 THE COURT: All right. You may step down.

16 Next witness.

17 MS. CAMPBELL: May it please the Court. The
18 State calls Rachel Grant.

19 RACHEL GRANT, after being duly sworn, testified
20 as follows:

21 THE CLERK: Have a seat in the witness box and
22 state your name for the record, please.

23 THE WITNESS: Rachel Grant.

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q You have to talk really loud because the microphone's
2 just not working.

3 A Okay.

4 Q Ms. Grant, where are you employed?

5 A The Richland County Sheriff's Department.

6 Q What do you do there?

7 A I am a DNA analyst.

8 Q As a DNA analyst, what do your duties include?

9 A Basically we try to develop DNA profiles from any
10 biological evidence found at a crime scene.

11 Q You have to talk louder. I can't hear. I'm sorry.

12 A We develop DNA profiles from any biological evidence
13 found at a crime scene. We report on those findings and
14 we testify in court.

15 Q Okay. Can you tell this jury a little bit about your
16 education and your training in the field of DNA analysis?

17 A I have a bachelor's degree in biology from Winthrop
18 University along with a chemistry minor. I've just
19 completed my master's degree in forensic serology and DNA
20 from the University of Florida.

21 Since starting my career with Richland County,
22 I've undergone extensive forensic serology and DNA
23 training. I have been trained by two court-certified DNA
24 analysts and I have successfully completed competency as
25 set forth by the FBI and the DNA Advisory Board.

1 Q The laboratory where you work, where is it located?

2 A It's 5623 Two Notch Road.

3 Q And is that the Richland County Sheriff's Department
4 headquarters?

5 A It is.

6 Q And is it unusual for y'all to assist other agencies
7 in testing DNA, with DNA from crime scenes?

8 A Yes, sometimes we do assist other agencies.

9 Q Have you ever been qualified before as an expert in
10 DNA analysis?

11 A Yes, I have.

12 Q And how many times approximately have you been
13 qualified as a DNA analyst?

14 A It would be six times.

15 MS. CAMPBELL: Your Honor, at this time I'd
16 offer her as an expert in DNA analysis.

17 THE COURT: What says the defense?

18 MR. MAY: No voir dire at this time, Your Honor.

19 THE COURT: All right. Ladies and gentlemen,
20 this witness is qualified as an expert witness in DNA
21 analysis.

22 As with any and all witnesses qualified as
23 expert witnesses, they are allowed to offer an opinion
24 based on their education, training or experience in a
25 particular area, whereas lay witnesses generally cannot

1 offer opinions.

2 This witness has been qualified as an expert in
3 DNA analysis.

4 BY MS. CAMPBELL:

5 Q Let me ask you this. In the laboratory where you
6 work, is it accredited in any way?

7 A It is accredited.

8 Q And who accredits your lab?

9 A It's the American Society of Crime Lab Directors.

10 Q Are there certain protocols or certain measures that
11 are put in place because of your accreditation to ensure
12 the quality of your results?

13 A Yes, there are.

14 Q And there's certain safety protocols followed by your
15 laboratory to make sure that your results are reliable?

16 A Correct.

17 Q Do you undergo every year certain testing and are
18 certain measures taken to make sure that your work is up
19 to par?

20 A Correct. We are sufficiency tested twice a year.

21 Q And that's part of the protocol?

22 A Yes.

23 Q And as far as the accreditation that you've received
24 at the Richland County Sheriff's Department, were there
25 certain things and certain protocols that you-all had to

1 go through to attain that accreditation?

2 A We did.

3 Q And, in fact, in the southeast, is it -- you're one
4 of the few that's accredited?

5 A Right. Basically everybody strives to be accredited.

6 Q And you received that; is that correct?

7 A Yes, we did.

8 Q Whenever you receive evidence in a case, tell the
9 jury generally how you receive evidence and what you look
10 for before you do any testing.

11 A When I pick up evidence from our evidence room
12 downstairs, I will verify the case number on that
13 particular item of evidence with the evidence label and
14 then I'll be sure that it's sealed properly and that the
15 sealer's initials and date are on that seal as well.

16 Q Okay. And in this case you received property over
17 the course of almost two years, I guess, two or three
18 years in this case; is that correct?

19 A That is correct.

20 Q And is it unusual for evidence to be submitted once
21 and then later submitted, say, either at the State or the
22 defense's request?

23 A Yes, that's common.

24 Q That's common.

25 And in this case -- let me back up a minute.

1 In doing DNA testing, tell this jury generally
2 what you're able to test for and what your conclusions
3 mean as far as evidence from a crime scene.

4 A Basically to develop a DNA profile you need to have
5 the DNA molecule present and in the molecule you have the
6 cell and in that cell there's a nucleus. So any potential
7 cell that has a nucleus in it we can develop a DNA profile
8 from that particular contributor or whoever's DNA it
9 belongs to.

10 Q And are there different ways of how DNA can be left,
11 say, at a crime scene?

12 A Yes, there are.

13 Q And what types of ways can DNA be tested in?

14 A Well, first of all, bodily fluids are an excellent
15 source of DNA. So if we screen for blood, if we happen to
16 detect saliva or semen, there's a good chance that we'll
17 get a very good DNA profile from that. Technologies are
18 so sensitive these days that even touch DNA, we can obtain
19 profiles from somebody just simply touching an item.

20 Q Okay. And you mentioned that body fluids are an
21 excellent source; is that true?

22 A That is true.

23 Q So say that if someone comes up and smokes a
24 cigarette or something, is that an excellent source of
25 DNA?

1 A Yes. It usually is, yes.

2 Q And it comes from the cells actually in the saliva in
3 your mouth; is that correct?

4 A Correct. The touch DNA or the cells that are in
5 saliva are your epithelial cells that are sloughed off and
6 those are the nucleus cells that we are targeting to
7 develop those DNA profiles.

8 Q And as far as another type of body fluids, say at the
9 scene involved a shooting or a stabbing, blood at the
10 scene, would that be another excellent source for DNA
11 analysis?

12 A Yes, it is.

13 Q Also finally, you also mentioned that -- and
14 typically in rape cases there can be semen or evidence
15 from the rape kit itself?

16 A Correct, yes.

17 Q And what type of evidence are you looking for that
18 you may be able to test, say, for the presence of semen or
19 spermatozoa?

20 A Depending on the circumstances of the case, most of
21 the time for sexual assaults we're looking for the
22 presence of semen, and with that, we're looking for the
23 presence of seminal fluids and spermatozoa, which is the
24 nucleus cells we can develop that DNA profile from.

25 Q And in some certain homicides where the circumstances

1 are unusual or suspicious at first, is it unusual for,
2 say, that the autopsy or a rape kit to be done as a matter
3 of precaution?

4 A It's not unusual, no.

5 Q You also mentioned that there is -- you can actually
6 leave DNA, say, at the crime scene on an item just with
7 what's called touch DNA?

8 A Correct.

9 Q Is that more -- I guess I don't want to use the word
10 "fragile," but is it maybe less likely to leave DNA from
11 touch DNA?

12 A Correct.

13 Q And explain that to the jury.

14 A Basically if somebody touches something, there's
15 several factors that can kind of determine whether or not
16 enough DNA is left behind for us to develop a profile:
17 How often the item is touched by that one person; have
18 other individuals touched it; is that person sweating; is
19 that item left out, say, in the humidity or the heat; all
20 of those factors will affect whether or not a DNA profile
21 will be able to be obtained from that particular item.

22 Q So if I walk up and touch this bench right in front
23 of you, just like that, am I necessarily going to leave
24 DNA that can later be developed and compared to a known
25 standard?

1 A It may or may not.

2 Q And does that depend on the person as well as the
3 other factors that you just mentioned?

4 A Correct, yes.

5 Q However, with body fluids and things of that nature,
6 it can be a more -- you have a better likelihood of a
7 result?

8 A Yes, that's correct.

9 Q However, even if it's touch DNA or DNA left by body
10 fluids or --

11 MR. MAY: Objection, Your Honor. I'd ask that
12 Ms. Campbell not testify and let's let the witness
13 testify.

14 THE COURT: All right. Don't lead the witness.

15 MS. CAMPBELL: Yes, sir.

16 BY MS. CAMPBELL:

17 Q And the difference between touch DNA and/or body
18 fluids, that doesn't change the results? There isn't any
19 different type of testing to be done just because it's
20 left by touch or by a body fluid?

21 MR. MAY: Objection, Your Honor. I'd ask that
22 she not lead anymore or suggest an answer.

23 THE COURT: Don't lead the witness.

24 MS. CAMPBELL: Yes, sir.

25 THE WITNESS: The same type of analysis -- we

1 perform the same type of analysis whether it's a body
2 fluid versus a touch DNA sample.

3 BY MS. CAMPBELL:

4 Q If an item of evidence such as, say, a weapon at the
5 scene is submitted into your laboratory, do you do certain
6 testing to detect whether or not DNA is there that may be
7 suitable?

8 A Yes. We typically -- depending on the circumstances
9 of the case and information that we have obtained from the
10 investigation, we try to pinpoint the best places where we
11 would obtain the most DNA off of those items.

12 Q And prior to doing any testing, even if a number of
13 items are submitted, is it unusual for you to meet with
14 the investigator?

15 A It is not unusual, no.

16 Q And why would you do that?

17 A Just to get some more details of the case and
18 specifically just to narrow down what the best evidence in
19 the case is in order for us to develop a DNA profile.

20 Q Once you develop a DNA profile, typically do you need
21 to have what's known as a known standard to compare it to?

22 A Yes, we do.

23 Q And how is a known standard typically collected in
24 this day and age?

25 A Typically because saliva is such a great source of

1 DNA, we take a -- well, we don't, but when the person's
2 known standard is collected, it's a sterile cotton swab
3 and it's simply rubbed on the inside of their mouth and
4 it's dabbed in the epithelial cells that are inside the
5 lining of their cheek.

6 Q And that's what's called a Buccal swab that we'll be
7 referring to in this case?

8 A Yes, it is.

9 Q And that's a way of collecting a known standard of
10 DNA; is that correct?

11 A Yes, it is.

12 Q In this case were there certain items that were
13 submitted to you for testing?

14 A There were.

15 Q And when you originally received those items of
16 evidence, were the known standards submitted?

17 A It was not.

18 Q And I'll get back to that later.

19 When you received -- what items did you receive
20 in this case?

21 A From my first report I received Item 1, which was the
22 criminal sexual conduct kit; Item 2, which was the glove;
23 Item 3, which was the neck ligature; Item 4, which was
24 nail scrapings; Item 5, which was a leg ligature; Item 6
25 was bedding and shorts; Item 7 were a series of cigarette

1 butts; Item 8 was a beer can; Item 9 was another series of
2 cigarette butts; No. 10 was another beer can; and Item 21
3 was the Buccal swab from Ahmad Wilkins.

4 Q And that was submitted at a later date; is that
5 correct?

6 A That is correct.

7 Q Of the items that were initially submitted to you, I
8 want to show you what's been marked as State's No. 102 and
9 first ask if you recognize that.

10 A I do.

11 Q And was that one of the items submitted to you?

12 A Yes, it was.

13 Q And which item is that?

14 A This is item two, which is the glove.

15 Q The glove. And when that was submitted to you, was
16 it properly packaged and submitted?

17 A It was.

18 Q And if there is any evidence of any tampering or
19 anything, would you note that or do any further testing?

20 A Correct. We would not use it for testing and we
21 would document it.

22 Q And was this properly submitted?

23 A It was.

24 Q And when you received it, it was all intact and
25 sealed?

1 A Yes.

2 MS. CAMPBELL: Your Honor, at this time we would
3 offer State's 102 into evidence.

4 THE COURT: What says the defense?

5 MR. MAY: Your Honor, no objection at this time.

6 THE COURT: It's admitted without objection.

7 (WHEREUPON, STATE'S Exhibit No. 102, having been
8 previously marked, was admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q The next item I want you to look at is State's
11 Exhibit No. 106.

12 A Yes, I do recognize this.

13 Q Which item is that?

14 A That is the rape kit and also Item 11. It's Item 1
15 and 11.

16 Q One and 11?

17 A Yes.

18 Q And the numbering, is it unusual for an item to be
19 renumbered if it's resubmitted into evidence?

20 A I believe that's how the software works.

21 Q Okay. And that was also submitted to you for
22 testing?

23 A It was.

24 Q Initially?

25 A Yes.

1 Q And then Item No. 105, do you recognize that?

2 A I do.

3 Q And was that another item that was submitted to you
4 for testing initially?

5 A Yes, it was.

6 Q And Item 104, was that also submitted to you for
7 testing as well?

8 A Yes, it was.

9 Q And what is Item 104?

10 A This is the neck ligature.

11 Q The neck ligature?

12 A Yes.

13 Q And then Item 105 I believe is the leg one?

14 A Yes, it is.

15 MS. CAMPBELL: Your Honor, at this time we'd
16 offer 104 and 105 at this time.

17 THE COURT: Any objection?

18 MR. MAY: Beg the Court's indulgence, Your
19 Honor.

20 (Pause.)

21 MR. MAY: Your Honor, without objection.

22 THE COURT: It's admitted without objection.

23 (WHEREUPON, STATE'S Exhibits Nos. 104-105,
24 having been previously marked, were admitted into
25 evidence.)

1 BY MS. CAMPBELL:

2 Q I believe you also mentioned that other items were
3 submitted to you to be tested besides the CSC kit, the two
4 ligatures and the glove; is that correct?

5 A Yes.

6 Q And did those include some beer cans and cigarette
7 butts?

8 A Yes.

9 Q And tell this jury, you didn't have a known standard,
10 so what tests did you do initially when those items were
11 submitted to you?

12 A Just the basic DNA analysis to attempt to get a DNA
13 profile, unknown at that point. Since there was no
14 standard, there was nothing to compare it to.

15 Q And typically with a piece of evidence such as a
16 piece of cloth like a neck ligature or something of that
17 sort, how do you go about collecting the DNA from the item
18 itself? Because you can't actually run the item itself
19 through the system, can you?

20 A Correct. Since it was believed in this investigation
21 that that particular item was touched, we attempt to get
22 as much information as possible, and by doing that, we'll
23 take a scraping and a swabbing of that item.

24 Q And that was done in this case?

25 A It was.

1 Q On each of the items we talked about, but
2 specifically the glove as well as the neck ligature?

3 A Correct.

4 Q And in this case I don't believe there was any
5 testing done on the leg ligature?

6 A I believe not. No, there was not.

7 Q Did you also test the nail scrapings from the left
8 hand?

9 A Yes, I did.

10 Q And the CSC kit?

11 A Correct.

12 Q When you got these items of evidence -- and
13 specifically, what first testing did you do on the CSC kit
14 that's done by protocol in your office?

15 A When we receive the sexual assault kit, the first
16 thing that we do is we try to identify any body fluids
17 that may be in that kit. So typically because it's a
18 sexual assault, we will screen it for seminal fluid or
19 semen at that point.

20 Q And in this sexual assault kit there are swabs that
21 are collected, in this case at autopsy, in a rape case it
22 may be at the hospital, but where did those swabs come
23 from, what areas were submitted to you?

24 A Swabs from the vaginal, rectal, and oral areas were
25 collected and submitted.

1 Q Is that typical in a rape kit or a CSC kit?

2 A It is typical, yes.

3 Q And when I keep saying "CSC kit," what does that
4 stand for?

5 A Criminal sexual conduct kit.

6 Q In this case you said you did some preliminary
7 testing before doing any DNA testing. And what were you
8 looking for?

9 A The presence of semen, basically.

10 Q And why are you doing that test first?

11 A Just because some -- in most cases the victim is a
12 female. So if we find the presence of semen, then we know
13 that there is a male contributor present, and from that
14 point we can try to develop a DNA profile and male DNA
15 profile. So we screen the evidence first. If there's no
16 indication that semen is present, then we won't further
17 our analysis with that.

18 Q Okay. And you mentioned the word or used the words
19 "screen the evidence first for the presence of semen."
20 Typically is that something you do prior to doing the DNA
21 testing to see if it's worthwhile for further testing?

22 A Yes, correct.

23 Q And that was done in this case?

24 A It was.

25 Q And at that point what was the result of your testing

1 for semen or spermatozoa?

2 A The kit was negative for semen.

3 Q And that would be each of the separate swabbed areas
4 which would include vaginal?

5 A The vaginal, the rectal and oral swabs were negative
6 for PSA, which stands for prostate specific antigen. And
7 then slides also come with those particular areas as well
8 as it being swabbed and those slides were negative for
9 spermatozoa.

10 Q And what's the difference between semen and
11 spermatozoa?

12 A Spermatozoa is the actual cells where the DNA is
13 located. So when we screen for seminal fluid, we're
14 looking for a protein that's seminal fluid, and then in
15 conjunction with that, identifying spermatozoa will give
16 us semen.

17 Q And in this case in your review of the slides as well
18 as the swabs that were collected in the rape kit, it was
19 all negative?

20 A It was all negative.

21 Q And at that point did you think it appropriate to do
22 any further DNA testing?

23 A Not on those items, no.

24 Q And why not?

25 A Because there was no indication that there was semen

1 present.

2 Q And that's what you're testing for?

3 A Correct.

4 Q And that's the purpose of the CSC kit?

5 A Correct.

6 Q The other items that were tested were what items?

7 A There was Item 2, which is the glove; Item No. 3, the
8 neck ligature; Item No. 4, which was the nail scrapings;
9 Item No. 7, which was the series of cigarette butts; and
10 Item 21, which was the Buccal swab from Ahmad Wilkins.

11 Q When were the items initially submitted to you for
12 your testing?

13 A I'm sorry, can you repeat the question?

14 Q When were the items originally submitted?

15 A I don't have a chain in front of me, but I started my
16 analysis on February 17th, 2009.

17 Q February 17th of 2009?

18 A Yes.

19 Q And at that point, again, you did not have a known
20 standard from anybody to compare it to?

21 A That's correct.

22 Q But you went ahead and did testing. Is that unusual?

23 A No, it's not unusual.

24 Q And first what are you testing for and then what were
25 the results in this case?

1 A We're just essentially developing a DNA profile from
2 any of the biological evidence from those items.

3 From the initial analysis, the DNA profile from
4 Item 2 is a mixture. Eboney Williams is excluded as a
5 contributor to this mixture and Ahmad Wilkins cannot be
6 eliminated as a contributor of this mixture. Based on the
7 genetic results obtained, greater than 99.95 percent of
8 the Caucasian population can be excluded from this mixture
9 and greater than 99.95 percent of African Americans can be
10 excluded.

11 Q Okay. We have to back up for a minute.

12 A Okay.

13 Q First of all, if an item is submitted, are you
14 necessarily going to be able to get DNA from that item?

15 A No, not necessarily.

16 Q And when we're referring to a DNA profile, explain to
17 this jury, what is a DNA profile? Is that what you're
18 looking at?

19 A Yes.

20 Q And how do you develop a DNA profile?

21 A The first thing that we do is once we get the cutting
22 or the swab from the item that we're looking at, we're
23 going to do what's called an extraction. And basically we
24 want to break up that cell if there's anything present,
25 get that DNA out free by itself. We want to get it

1 isolated and purified.

2 From there we're going to do what's called a
3 quantitation and basically that's going to tell us how
4 much DNA we have. So once we do that step we can find out
5 if we have a lot, we may have a little. If we don't have
6 anything, then we will cease our analysis right there
7 because there's no point in going on.

8 After that, once we find out how much we have,
9 we do what's called an amplification and it's just making
10 copies of those particular fragments of DNA that we're
11 looking at.

12 Then from there, once the DNA's amplified, we
13 have plenty of copies, we will develop a DNA profile from
14 that and begin analyzing it in the laboratory.

15 Q So it's fair to say the first step is, number one,
16 just to test the exact DNA that can be tested and compared
17 later?

18 A Correct, yes.

19 Q And if there is no DNA, then there can be no further
20 testing?

21 A Correct.

22 Q No comparison, because there's nothing to compare it
23 to?

24 A Correct.

25 Q And the second step is then to develop the profile

1 itself from an amplification?

2 A Yes, that's correct.

3 Q And that was done in this case?

4 A Yes, it was.

5 Q And the first thing that you mentioned that you did
6 was you also had a standard for the victim in this case?

7 A I did have a standard from the victim, yes.

8 Q And is that always important for purposes of
9 elimination?

10 A It is.

11 Q In doing DNA profiling, can you tell by looking at
12 someone's DNA profile, the one you develop,
13 characteristics about the person?

14 A No. We can't tell anything about an individual based
15 on their DNA that we're looking at with the exception of
16 whether it's male or female.

17 Q And so you can tell, though, whether it's male or
18 female, just nothing else about them?

19 A That's correct.

20 Q You can't tell hair color, eye color, race, anything
21 of that nature?

22 A No, we can't tell any of that.

23 Q But you can tell whether it's female or male?

24 A Correct.

25 Q You also mentioned the words when you were telling