

ORIGINAL

VOL I of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Carmen T. Mullen, Circuit Court Judge

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DEC 08 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JERRY SCANTLING,

APPELLANT

APPELLATE CASE NO. 2013-000488

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS
COURT:**

**STATE'S EXHIBIT# 3 (PHOTOGRAPH), STATE'S
EXHIBIT# 31 (PHOTOGRAPH) AND STATE'S EXHIBIT#
32 (PHOTOGRAPH)**

1 STATE OF SOUTH CAROLINA

2 COUNTY OF BEAUFORT

CIRCUIT COURT

2010-GS-07-01315

2011-GS-07-01326 - 01328

5 STATE OF SOUTH CAROLINA,

6 -vs-

TRANSCRIPT OF RECORD

7 JERRY SCANTLING,
8 Defendant.

11 Heard on Monday, February 25, 2013

12 Beaufort, South Carolina

14 BEFORE:

15 THE HONORABLE CARMEN T. MULLEN

17 APPEARANCES:

18 Counsel on Behalf of the State:
19 Sean Paul Thornton, Esq.

20 Counsel on Behalf of the Defendant:
21 Matthew Lee Walker, Esq.

22 Cheri L. Young, RPR
23 Circuit Court Reporter
24 P O Box 5232
25 Aiken, SC 29804-5232

EXAMINATION INDEX.

ROBERT E. BROMAGE

DIRECT BY MR. THORNTON

8

CROSS BY MR. WALKER

25

EXHIBIT INDEX

MAR ADM

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1 ON MONDAY, FEBRUARY 25, 2013 AT 3:13 P.M.:

2 (Court's Exhibits all marked and agreed upon prior to
3 the hearing using same numbers as prior trial, as follows:

4 Court's Exhibit No. 2, BCSO Miranda rights;

5 Court's Exhibit No. 4, papers retrieved from
6 Scantling's cell;

7 Court's Exhibit No. 5, one page retrieved from
8 Scantling's cell;

9 Court's Exhibit No. 8, photo lineup;

10 Court's Exhibit No. 9, photo lineup;

11 Court's Exhibit No. 10, photo lineup;

12 Court's Exhibit No. 11, photo lineup.)

13 MR. THORNTON: May it please the Court, Your Honor.

14 Judge, as you know this case is a mistrial. This is a
15 re-trial of the case of the State versus Jerry Scantling.

16 In the previous case, Judge, we had a Neal versus
17 Biggers hearing and while we certainly realize Your Honor
18 needs to make a fresh determination on these issues, I've
19 talked to Mr. Walker and because it's already so late in
20 the day, there are four witnesses who basically would
21 testify that within hours of when the victim was killed
22 the Defendant showed up at the Hilton Head Gardens where
23 they reside or were on the night of -- the night of the
24 killing and early morning hours of the day after in the
25 victim's vehicle and trying to sell it to them.

1 So it's basically, the purpose of the hearing we had
2 was a Biggers hearing for identification purposes. All of
3 them were shown photo lineups and we had a fairly
4 extensive testimony about it.

5 In an effort to try to expedite that, Mr. Walker and I
6 have agreed that they would essentially get up and say the
7 same thing that they did before.

8 I will give to the Court, if Your Honor would be okay
9 doing this, the transcript. And it's from 201 to 240 that
10 you, obviously, Your Honor, could rule on this by in the
11 morning.

12 THE COURT: Okay.

13 MR. THORNTON: I'm sorry. Altaveese (phonetically)
14 Green is through 256. I apologize, Judge. Mr. Walker has
15 it in there. He has a copy of the transcript also.

16 And it's obviously indexed. And I'm just going to
17 hand the whole transcript to you.

18 I would re-put in as Court's Exhibits the
19 previously-marked photo lineups which are previously
20 marked Court's Exhibits Eight, Nine, 10 and 11 for record
21 purposes, Your Honor. And they've already previously been
22 marked.

23 (Court's Exhibits 8, 9, 10 and 11, handed to the
24 Court, introduced into evidence.)

25 MR. THORNTON: And I think that would handle that part

1 of the hearing if Your Honor's okay deciding it on that
2 basis. And then if there were any additional questions
3 obviously that would take up a lot less time, you know,
4 keeping the jury out or whatever. It shouldn't take that
5 long.

6 THE COURT: Okay.

7 MR. THORNTON: If Your Honor's okay with doing that,
8 the State is okay with it and Mr. Walker on behalf of the
9 Defendant tells me he's okay with it.

10 Otherwise we're going to have four people basically
11 get up and say the same thing they did a couple months
12 ago.

13 THE COURT: Okay. Is that correct, Mr. Walker?

14 MR. WALKER: That's correct. And I'll just follow up
15 a little bit.

16 There is some -- in the argument portions I had made a
17 motion that certainly, you know, based -- if the ruling --
18 if it was ruled as being proper IDs then my only real
19 objection at that point was the entering of the actual
20 lineups themselves under Traylor as evidence.

21 And not -- that they could certainly testify that they
22 identified him from a lineup but that because they were
23 made-up mug shots, under Traylor they wouldn't be
24 appropriate. Judge Hayes ruled that way and the
25 solicitor's a office in this instance has also agreed to

1 abide by that ruling.

2 So when that's discussed in there, I think we've
3 agreed that both those issues kind of run together and we
4 submit the rest on the transcripts.

5 MR. THORNTON: That is correct, Your Honor.

6 THE COURT: Okay.

7 MR. THORNTON: May I go ahead and pass these up, Your
8 Honor?

9 THE COURT: You may.

10 MR. THORNTON: And I checked with our court reporter,
11 Your Honor, first, because I always rely on their
12 expertise and she told me that as long as I stated that on
13 the record that there would be really no need to remark
14 them. So I'm going to hand them up --

15 THE COURT: Okay.

16 MR. THORNTON: -- with the previously marked Eight,
17 Nine, 10 -- sorry, Judge. Eight, Nine, 10, and 11,
18 Court's Exhibits, along with the transcript of that
19 hearing.

20 THE COURT: Thank you. Okay.

21 (Documents handed to the Court.)

22 MR. THORNTON: And if the Court is okay with that,
23 Your Honor, I like to go ahead and move into the Jackson
24 V. Denno.

25 THE COURT: Certainly.

ROBERT E BROMAGE - DIRECT

1 MR. THORNTON: And, Your Honor, I apologize. There
2 was a brief statement that I actually referenced at the
3 bench during one of our sidebar conferences about Matt
4 Rouche, one of the State's -- no, that -- actually that
5 was back in the back, Your Honor, when we were having our
6 pretrial meetings. I do not have Mr. Rouche here. It was
7 one statement. I'm sorry. We will have to take that up
8 when he gets into town to testify. I apologize. I didn't
9 think to have him here.

10 The majority of the statements though were taken in
11 front of Bob, Captain Bob Bromage. And I'll be calling
12 him to the stand now with the Court's permission.

13 THE COURT: All right.

14 ROBERT E. BROMAGE, having been duly sworn, was
15 examined and testified as follows:

16 THE CLERK: Please be seated. State your name and
17 spell it for the Court, please.

18 THE WITNESS: Robert -- sorry.

19 DIRECT EXAMINATION

20 BY MR. THORNTON:

21 Q. Captain Bromage, would you state your name for the
22 record?

23 A. Robert E. Bromage, B-R-O-M-A-G-E.

24 MR. THORNTON: Your Honor, again it's because we have
25 such a convoluted prior history with this. Forgive me for

ROBERT E BROMAGE - DIRECT

1 having to keep putting things on the record. I just want
2 everything clean.

3 There are three videotaped interviews which Mr. Walker
4 has copies of. I am not at this point going to try to
5 seek to introduce those into evidence. The reason being,
6 Judge, because there's references in here to the burglary
7 first. There's other references which would, in my
8 opinion would be inadmissible. The burglary first, as you
9 know that Your Honor has severed from the trial of this
10 case.

11 I'm going to have and I'm letting Mr. Walker know
12 this, it's the same as I was going to do before. Captain
13 Bromage is going to testify both now and at trial, if you
14 were to let these statements in, as to what the Defendant
15 told him.

16 The only time that would change, Judge, is if
17 Mr. Walker gets and -- which I don't think he's going to
18 and says, well, where's this mysterious videotape?
19 Weren't these videotaped? At which point I would have no
20 choice but to put them in, but out of an abundance of
21 caution I will not be introducing the videotapes
22 themselves.

23 Q. Captain Bromage, who do you work for, sir?

24 A. Beaufort County Sheriff's Office.

25 Q. In what capacity?

ROBERT E BROMAGE - DIRECT

1 A. I'm the captain of the criminal investigations branch.

2 Q. And did you work for the Beaufort County Sheriff's
3 Office on or about May the 27th of 2010?

4 A. I did.

5 Q. And did you have an occasion to work on the case that
6 we're here about today, the State versus Jerry Scantling?

7 A. I did.

8 Q. Did you take any statements or have any discussions
9 with Mr. Scantling about his possible involvement in the
10 murder of Leonard Green?

11 A. Yes, sir; on three separate occasions.

12 Q. All right, sir. And was the first occasion on or
13 about May the 27th of 2010?

14 A. It was.

15 Q. I'm going to show you what's been previously marked at
16 a prior hearing, Court's Exhibit Two. I ask if you can
17 identify that, Mr. Bromage?

18 A. I can. It's a Beaufort County Sheriff's Office
19 statement of Miranda rights and waiver of rights.

20 Q. All right. And is that, Court's Exhibit Number Two,
21 is that any particular waiver of rights or is there
22 anything filled out on it that would indicate who you
23 talked to using that waiver of rights?

24 A. Yes. It's the Miranda warning and waiver of rights of
25 Jerry Scantling.

ROBERT E BROMAGE - DIRECT

1 Q. And is that the Defendant in this case?

2 A. It is.

3 Q. And is -- did you show the Defendant what's been
4 marked for identification previously as Court's Exhibit
5 Number Two, to the Defendant prior to talking to him?

6 A. I did.

7 Q. And was this the first time you talked to him about
8 this case?

9 A. It was.

10 Q. And could you tell the Court the -- could you recite
11 the contents of that document, please?

12 A. Yes, sir. Statement of Miranda rights. Place,
13 Beaufort LEC which is also known as the law enforcement
14 center. The date is 5-27-2010. The time is 11:46 a.m.

15 It states: Before we ask you any questions you must
16 understand your rights. You have the right to remain
17 silent, which he initialed next to with JS.

18 Anything you say can and will be used against you in a
19 court of law. He initialed again, JS.

20 You have the right to talk to an attorney for advice
21 before we ask you any questions. Again, he initialed JS.

22 If you cannot afford to hire -- afford an attorney,
23 one will be appointed for you before any questioning if I
24 wish. He again put, JS.

25 If you decide to answer questions now without an

ROBERT E BROMAGE - DIRECT

1 attorney you will still have the right to stop answering
2 at any time. You also have the right to stop answering at
3 any time until you talk to an attorney. He initialed JS
4 next to that.

5 Q. All right, sir. Did you read each of those rights to
6 Mr. Scantling on May the 27th of 2010 prior to talking to
7 him?

8 A. Yes, sir.

9 Q. Did he seem to understand those rights?

10 A. He did.

11 Q. Was he under the influence of any alcohol or drugs
12 that you could tell?

13 A. No, sir.

14 Q. Did he appear to know what he was doing?

15 A. Yes, sir.

16 Q. Did he appear to understand your discussions with him?

17 A. He did.

18 Q. Do you remember about how long the interview lasted?

19 A. Better than an hour, I'd say.

20 Q. Was it more than, say, five to 10 hours? Or was it
21 less than that?

22 A. Oh, it was less than five hours. Probably less than
23 an hour and a half.

24 Q. And how were you -- do you remember how you were
25 dressed that day?

ROBERT E BROMAGE - DIRECT

1 A. Suit and tie, like I always am. Like today.

2 Q. And, were you there -- while you were there, did
3 either yourself or anybody else threaten Mr. Scantling in
4 any way?

5 A. No, sir.

6 Q. And did you make any promises to him about leniency?

7 A. No, sir.

8 Q. And did -- after you read each of these rights, you
9 had talked about the fact that Mr. Scantling initialed
10 them; is that correct?

11 A. That's correct. There's also a waiver of rights
12 beneath that that he also initialed indicating that he
13 understood the rights.

14 Q. All right. And after doing all of that did he agree
15 to talk to you?

16 A. He did.

17 Q. And that was on May the 27th of 2010; is that right?

18 A. Yes, sir.

19 Q. Has that form, Court's Exhibit Number Two, been
20 altered or changed in any way?

21 A. No, sir. The signature of myself and Master Sergeant
22 Mike Riley right at the bottom and Jerry Scantling.

23 MR. THORNTON: Your Honor, I would ask that this, for
24 purposes of this hearing, be moved into evidence as
25 Court's Exhibit Two.

ROBERT E BROMAGE - DIRECT

1 MR. WALKER: No objection.

2 THE COURT: Without objection.

3 (Thereupon, Court's Exhibit No. 2, BCSO Miranda rights
4 form, was received into evidence.)

5 BY MR. THORNTON:

6 Q. Did Mr. Scantling talk to you on the 27th?

7 A. At length.

8 Q. Okay. And what are some of the things that you talked
9 about with him about this case? Or, what are some of the
10 things he told you?

11 A. The question was in reference to Leonard Green, the
12 murder of Leonard Green. He stated he never rode with
13 him. When being asked if he had ever been in Leonard
14 Green's truck, he stated he saw him at the Wal-Mart that
15 day but didn't ride with him. Asked him for a ride but
16 then walked away.

17 Then posed a question to us: What if I said this man
18 was trying to kidnap me, when being confronted with the
19 actual murder itself.

20 Q. So his story started out, would it be fair to say,
21 that he didn't know him, never rode with him before?

22 A. Total denial of anything up front.

23 Q. And over the course of the interview, over the course
24 of that somewhere more-than-an-hour-but-less-than-five,
25 over the course of that interview, did some of that

ROBERT E BROMAGE - DIRECT

1 change?

2 A. Yes, it did.

3 Q. And one of the statements, I believe, you just
4 testified to was: What if I told you he tried to kidnap
5 me?

6 A. Yes.

7 Q. And he being in reference to who?

8 A. Jerry Scantling.

9 Q. And the he that Mr. Scantling was referencing?

10 A. Leonard Green, the victim of the murder.

11 Q. Did he also -- did he also make the statement to you:
12 What am I looking at if I tell you how it went down?

13 A. Yes, he did. He said: What am I looking at if I tell
14 you how it went down. I believe that was right before one
15 of our -- I think we took two or three breaks during that
16 first interview, but that was his suggestion prior to
17 going on that break.

18 Q. Now let me ask you a question, Captain Bromage.

19 There's no question he was in custody; correct?

20 A. He was in custody.

21 MR. THORNTON: And, Your Honor, for purposes of the
22 record we're going to stipulate that he was in custody
23 during all three of these discussions.

24 Q. Where did this take place? Where did the interview
25 take place?

ROBERT E BROMAGE - DIRECT

1 A. Beaufort Law Enforcement Center in the conference room
2 there which is, got comfortable chairs. It's kind of a
3 comfortable environment.

4 Q. All right. Was he allowed to take a break if he asked
5 for one?

6 A. He had numerous breaks that day.

7 Q. And did at some point, I believe about 26 minutes in,
8 did at some point he admit to seeing the victim?

9 A. He said -- he admitted seeing the victim later that
10 night which was referencing the Saturday night of the --
11 of --

12 Q. Would that be the night of the murder?

13 A. It would be.

14 Q. And did he at some point indicate -- and I'm sorry, I
15 didn't mean to interrupt you, Captain. Did he at some
16 point indicate that, he being obviously Mr. Scantling,
17 what time he may have seen or been with Leonard Green, the
18 victim?

19 A. Eleven or 12 that night.

20 Q. Which would have been that Saturday night?

21 A. That Saturday night going into Sunday morning.

22 Q. And when was the body -- as an aside, when was the
23 body of Leonard Green found?

24 A. The following morning, Sunday morning, right at around
25 first light, a little after.

ROBERT E BROMAGE - DIRECT

1 Q. Did he ever admit to taking a ride at some point
2 during the day with the victim?

3 A. Give me one second, please.

4 Q. I believe it would be about the 63-minute mark. So
5 about an hour and three minutes in.

6 A. He admitted to being in the truck with the victim
7 during the daytime at Wal-Mart. States he caught a ride
8 to the Hilton Head Gardens.

9 Q. And did he also talk about, about Mr. Green trying to
10 make a move on him?

11 A. He did.

12 Q. What did he say?

13 A. The dude tried to make a move on me and I wasn't
14 having it.

15 Q. And did he -- at some point did he admit to being or
16 to stealing a car out of Savannah?

17 A. He did admit to it, at about one hour into the
18 interview..

19 Q. And was that the Monte Carlo he was found in?

20 A. It is.

21 Q. And finally and as to that first interview, did he
22 ever admit to you whether or not he used the victim's
23 phone, Leonard Green's phone?

24 A. Towards the end of the interview he admits to using
25 the victim's phone but denied calling Dirty Red which is

ROBERT E BROMAGE - DIRECT

1 Donald Cooper.

2 Q. And is Donald Cooper one of the witnesses we have
3 subpoenaed in this case?

4 A. He is.

5 Q. All right. So those are some of the statements that
6 he made that you would testify to if these statements were
7 admissible in evidence; is that correct?

8 A. Yes, sir.

9 Q. All right. Did you interview him again at your -- you
10 said you talked to him three times. Was your second
11 interview the next day, on the 28th?

12 A. Yes, it was.

13 Q. Now did you do a written Miranda form as to that
14 interview?

15 A. I did not.

16 Q. And did you provide any Miranda rights whatsoever to
17 Mr. Scantling?

18 A. I did. I provided the Miranda warning off my SCLEA,
19 card, the Miranda warning.

20 Q. Do you have that card with you?

21 A. I do.

22 Q. Would you please recite -- is that the same card that
23 you would have had then or one that's identical to it?

24 A. Same exact card.

25 Q. All right. Would you please recite the warnings that

ROBERT E BROMAGE - DIRECT

1 you gave to Mr. Scantling on that day, the 28th of May,
2 2010?

3 A. Yes, sir. You have the right the remain silent.

4 At that point I would ask him and I did ask him: Do
5 you understand that right which he answered affirmative as
6 yes.

7 Anything you say can and will be used against you in a
8 court of law. Again, I asked him if he understood that
9 right. He said he did.

10 You have a right to talk to a lawyer and have him
11 present with you while you're being questioned. I asked
12 him if he understood that right. He said yes.

13 If you cannot afford to hire a lawyer one will be
14 appointed to represent you before any questioning if you
15 wish. Again, I believe I asked him if he understood that
16 right as well. He said yes.

17 Q. And on the 28th, did he appear -- where did he spend
18 the night on the 27th? And I apologize. He being Jerry
19 Scantling.

20 A. Jerry Scantling spent the night in the Beaufort County
21 Detention Center on the 27th.

22 Q. So he was in custody the night of the 27th into the
23 28th when you talked to him for interview two?

24 A. Yes, sir. I had him brought over from the jail on
25 both occasions.

ROBERT E BROMAGE - DIRECT

1 Q. So, again, no question he was in custody?

2 A. No question.

3 Q. And after you gave him his Miranda warnings verbally,
4 did he agree to talk to you?

5 A. He did.

6 Q. Now on the second interview, did you make him any
7 promises whatsoever?

8 A. No, sir; I did not.

9 Q. Did you threaten him in any way?

10 A. No, sir.

11 Q. Did anyone else in your presence?

12 A. I believe I was alone that day talking to him;
13 no.

14 Q. And while you were talking with him again, did you
15 offer him any sense of leniency if he told you what you
16 wanted to hear?

17 A. No, sir. I believe in one of the interviews, also, I
18 told him I would not make any promises. It wasn't my job,
19 and I can't do that by law, so ...

20 Q. Did he agree to talk to you after the interview -- I'm
21 sorry, after you gave him his Miranda warnings?

22 A. Yes, sir; he did.

23 Q. As a matter of fact, that would have been the second
24 set of Miranda warnings he received in as many days; is
25 that correct?

ROBERT E BROMAGE - DIRECT

1 A. I think he actually received two. I'm not mistaken,
2 two the first day and then one again the next day.

3 Usually when you take a lengthy break you read them the
4 Miranda again after you come back from the break to make
5 sure they understand their rights.

6 Q. All right. Captain, did he agree to talk to you on
7 the 28th?

8 A. Yes, sir.

9 Q. And what were some of the things he told you in his
10 second interview?

11 A. He identified a red Ford pickup truck that Leonard
12 Green was driving that day.

13 Said, something ain't right about him. Somebody would
14 bust his ass. Never got a ride from Wal-Mart as he
15 indicated he did the day before.

16 Q. So his story was changing from one day to the next?

17 A. Considerably.

18 Q. Did he ever identify the victim as the person who he
19 was with between 11 and 12?

20 A. He did. I showed him a photograph of Leonard Green.
21 He said that was the guy that offered him a ride and
22 confronted him that evening and day.

23 Q. And that was the guy that he had been talking about
24 that he was with and in the red Ford truck; is that
25 correct?

ROBERT E BROMAGE - DIRECT

1 A. Yes, sir.

2 Q. Did he -- did you also show him -- I'm sorry. I
3 apologize, Judge.

4 Did he again admit to being left there and stealing a
5 car from Savannah?

6 A. He said, I'm a thief. I stole a car from Savannah.

7 Q. What else did he say?

8 A. Never used a phone. He never was in a red Ford pickup
9 truck. I think he reiterated that a couple of times.
10 Then he said between 11 and 12 the red truck did a U-turn
11 on Matthew Drive, saw the truck coming off of Marshland
12 Road, swerved in front of him near the fire station. He
13 talked to him for three, four, or five minutes.

14 Q. All right. And so he's gone from admitting to being
15 in the truck. Now he denies ever being in the truck?

16 A. Right. Yes, sir.

17 Q. Did you talk to him a third time?

18 A. I did, about a year later when we had all the
19 forensics back.

20 Q. All right. And did you show him a written Miranda
21 form on the third interview?

22 A. No, sir. I didn't.

23 Q. And was that interview conducted on or about June 9th
24 of 2011?

25 A. It was, sir.

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1 Q. And how -- did you read him any Miranda rights?

2 A. Yes. Same ones I had used.

3 Q. Same card?

4 A. Yes.

5 MR. THORNTON: So we don't have to go right back over
6 the same card, I'd ask the Court to take judicial notice
7 he would read the same rights off the same card.

8 THE COURT: Any objection?

9 MR. WALKER: No, Your Honor.

10 THE COURT: All right.

11 BY MR. THORNTON:

12 Q. Captain Bromage, did you read the rights exactly as
13 you just recited them a few moments ago with regard to the
14 second interview?

15 A. I did.

16 Q. And are those the same rights you read during your
17 third interview?

18 A. Yes, sir.

19 Q. Again, no question he was still in custody; correct?

20 A. No question.

21 Q. When you talked to him, sir, after you gave him all of
22 those warnings, did he agree to talk to you?

23 A. He did.

24 Q. And was this interview somewhat shorter?

25 A. Yes, it was.

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1 Q. What if anything significant did Mr. Scantling say in
2 this case? Did you show him -- let me rephrase that. Did
3 you show him any documents or photographs?

4 A. I did. I showed him a photograph of, or actually from
5 the video, a video print.

6 Q. And what was that video print of?

7 A. It was of a subject matching the description of Jerry
8 Scantling that looked a lot like him to me, going into the
9 Wal-Mart in Savannah where Mr. Green's, the victim's phone
10 was recovered in the trash.

11 Q. All right.

12 A. On the day it was recovered.

13 Q. Okay. And when you -- did you show that still shot to
14 Jerry Scantling?

15 A. I did.

16 Q. Did he make any statement about it?

17 A. He did. He said: I ain't going to say it's me, I
18 ain't going to say it ain't. And then he went on to say
19 he didn't want to incriminate himself.

20 Q. So is it fair to say that in these three statements
21 that he was less than consistent?

22 A. Yes, sir.

23 Q. And, but he did admit to the things that you've talked
24 about here today?

25 A. Yes, sir.

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1 Q. And that would be at least the majority of what your
2 testimony would be at trial; is that correct?

3 A. Yes, sir.

4 Q. At any time in any of the three interviews, is there
5 any question in your mind as to whether Jerry Scantling
6 understood what he was doing or was under the influence of
7 any alcohol or drugs?

8 A. No, sir.

9 Q. And your testimony is that neither you nor anyone else
10 in your presence made any threats, promises or hope of
11 reward; is that correct?

12 A. Yes, sir.

13 Q. You didn't threat in him in any way?

14 A. No, sir.

15 MR. THORNTON: Your Honor, with that the State rests.

16 THE COURT: Okay. Yes, sir.

17 MR. THORNTON: I'm sorry. As to this witness.

18 THE COURT: Okay. Mr. Walker?

19 MR. WALKER: Thank you, Your Honor. May I approach,
20 Your Honor?

21 THE COURT: You may.

22 CROSS-EXAMINATION

23 BY MR. WALKER:

24 Q. I want you to look at that one thing. I'm sorry.
25 Looking at Court's Exhibit Number Two, the Miranda rights,

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1 it's from the first interview on 5-27-10; correct?

2 A. Yes, sir.

3 Q. And you did not do another one of these for the other
4 two interviews?

5 A. No, sir.

6 Q. And on May 27th you said the interview occurred at the
7 sheriff's department; correct?

8 A. At the sheriff's office. At the law enforcement
9 center in a conference room; yes, sir.

10 Q. Okay. How did Mr. Scantling get to the sheriff's
11 office?

12 A. Had patrol deputies pick him up and bring him over
13 there.

14 Q. Picked him up from where?

15 A. From the Beaufort County Detention Center.

16 Q. And they were in uniform?

17 A. They were.

18 Q. How many deputies?

19 A. One I believe, but two at the most.

20 Q. And how -- describe for me the process of picking
21 someone up from the detention center and getting --

22 A. They go into the sally port, announce their presence,
23 go in and ask for Jerry Scantling and ask him if he wanted
24 to come talk to me. At that point he would be released.

25 I haven't signed somebody out myself in probably 15

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1 years. I don't want to testify to something I'm not sure
2 of, but he would be -- we have to drive them over even
3 though it's about 50 yards. Go out the back of the
4 sally port, bring them around the back of the law
5 enforcement center where you come in the back door and
6 actually I greeted him outside so I would have been right
7 there.

8 Q. And you don't know what was said to Mr. Scantling by
9 the officers actually at the jail?

10 A. I told them not to talk about the case at all -- no --
11 so I wasn't there to witness what was said at all.

12 Q. What did you tell them to say?

13 A. Nothing at all. Would you like to come talk to
14 Captain Bromage. Jerry's known me about 15 years, yeah.

15 Q. And then, who was in the room during the interview?

16 A. The first interview?

17 Q. The first interview. That's what I'm talking about.

18 A. The -- Master Sergeant Michael Riley and myself.

19 Q. What was Master Sergeant Rowell wearing?

20 A. Riley.

21 Q. Riley.

22 A. The same thing I wear.

23 Q. A suit?

24 A. Yes, sir.

25 Q. And the officers that had transported him from the

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1 jail, where were they?

2 A. Outside the door.

3 Q. Okay.

4 A. Came in with us, we shut the door, you know, to create
5 an atmosphere where he's more comfortable.

6 Q. And did the same officers return him to the jail that
7 brought him?

8 A. Yes, sir; I believe so. As a matter of fact, it was
9 not a patrol deputy. It would have been a civil deputy
10 that actually brought him over because patrol deputies
11 respond to calls.

12 So I correct myself on that point probably.

13 Q. One moment. (Pause.)

14 Now I'm going to move to the interview on May 28th.

15 Did anything different as far as the transport or the
16 number -- is that basically the same procedure you used on
17 the 28th?

18 A. It's going to be one officer to transport him, but,
19 again, it wasn't a big detail I was paying attention to
20 that day. It was a civil officer went over, signed him
21 out. A civil deputy brought him back over to the law
22 enforcement center where I walked him back.

23 Q. And then went back to the conference room?

24 A. Same place; yes, sir.

25 Q. Same people in the room?

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1 A. Just me this time, I believe. I believe. Hold on one
2 second (looking through papers).

3 Q. And again, no new written thing. You just read in the
4 card on, out of your wallet?

5 A. Yes, sir.

6 Q. Okay. And returned to the jail the same way?

7 A. The same way. The officer that brought him over
8 transported him back to the detention center.

9 Q. And I'll ask the same questions moving all the way to
10 the 11th. Are any procedures different than you've
11 described?

12 A. Talking about the year later, June 9th?

13 Q. Yeah, 6-9-11.

14 A. Nothing different. I had a different person in the
15 room with me at that time.

16 Q. That was a SLED agent; correct?

17 A. That was the captain of behavioral science from SLED;
18 yes.

19 Q. And what was he wearing?

20 A. Same thing I'm wearing; a shirt and tie.

21 Q. Okay. And, again, officers outside in the hall?

22 A. Outside, out of view.

23 Q. And that's --

24 A. Right.

25 Q. -- for all three times?

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1 A. Yes, sir.

2 Q. And again, no new written advisement of rights, just
3 from the card in your wallet?

4 A. The card in the wallet, sir; yes, sir.

5 Q. Now the third time -- the first two times
6 Mr. Scantling was in custody on burglary charges; correct?

7 A. Yes, sir.

8 Q. 5-27 and 6-9?

9 A. Yeah. Burglary and possession of a stolen vehicle, I
10 think, out of Savannah.

11 Q. And he was unrepresented?

12 A. I'm not sure if he was represented or not, sir. He
13 was not represented in the Leonard Green murder. So I
14 knew I could go talk to him about that.

15 Q. You were talking to him about the burglary and stuff
16 on 5/27; weren't you?

17 A. He had not been appointed a lawyer at that point;
18 right.

19 Q. So your testimony is you didn't know whether or not he
20 was represented on 6-9-11?

21 A. Right. I didn't check whether he was represented on
22 the burglary or the possession of a stolen vehicle. I
23 didn't check. I didn't ask him.

24 Q. And it's in fact true and you knew early on -- I'll
25 leave that.

1 I don't have anything else for this witness.

2 THE COURT: Okay. Anything further?

3 MR. THORNTON: Nothing further, Judge.

4 THE COURT: You may step down, sir. Thank you.

5 MR. THORNTON: Your Honor, I'd ask to go ahead and go
6 to argument. That will be the last witness unless
7 Mr. Walker has a witness.

8 THE COURT: Mr. Walker?

9 MR. WALKER: I have no witnesses, Your Honor.

10 MR. THORNTON: Again, Your Honor, for record purposes,
11 the only other statement that's coming to mind right now
12 is a very brief one sentence he said to Matt Rouché when
13 he was apprehended out of the Monte Carlo which I
14 apologize but I'll have Mr. Rouché here and it shouldn't
15 take but just a minute.

16 THE COURT: We'll take that up then. Okay. Any
17 argument?

18 MR. WALKER: Yes, Your Honor.

19 Two statements occurring very close together, not very
20 close. I mean, there's a day separation but as opposed to
21 the other which is over a year later and they relate to
22 burglary charges that Mr. Scantling was arrested on.

23 In the interim I had been appointed to represent him.
24 I find it troubling that a sheriff's officer is talking to
25 someone that's been in jail for over a year and makes no

1 attempt to ascertain whether or not they're represented by
2 counsel before questioning him on matters which they
3 believe are at least tangentially related if not actually
4 related. But that's neither here nor there.

5 I guess my primary motion would be as to the
6 statements on 5-28-10 and 6-9-11, that those statements
7 are per se -- what am I trying to say, per se, involuntary
8 is the word I'm looking for, Your Honor. In that taking
9 the proposition that an improper advisement of Miranda is
10 no advisement of Miranda, that the advisement of Miranda
11 on 5-28-10 of someone in custody, and of course, you know,
12 someone's in custody who's not been advised of Miranda
13 it's per se involuntary.

14 Under Kennedy, the advisement of rights from Officer
15 Bromage's card is incorrect. It does not fully advise
16 Mr. Scantling of his rights. He does have the right to
17 terminate his interaction with law enforcement at any
18 time.

19 The cite for Kennedy is 479 Southeast Second 838. And
20 which, I believe, the South Carolina Supreme Court, I dare
21 say that, of course truly while a word-for-word totem-like
22 incantation of Miranda is not necessary it does encompass
23 these elements. And the last element is not incorporated
24 into the card that Mr. Scantling was read, but it is
25 incorporated on the written form that he signed on the

1 27th. But I think under that case law the other two
2 statements would be inadmissible, Your Honor.

3 THE COURT: Mr. Thornton?

4 MR. THORNTON: Thank you, Your Honor.

5 Your Honor, the first thing, and I know Mr. Walker
6 didn't really address it too much but it does get
7 mentioned. And I keep hearing it get mentioned from time
8 to time.

9 And law enforcement is not -- no longer under a duty
10 at all to determine whether somebody is represented before
11 they go to talk to them regardless of what it's about,
12 including the case that the lawyer is appointed on.

13 Under Montego versus Louisiana, all of that case law
14 has been overruled. Law enforcement can go talk to any
15 Defendant they want to. There is no Sixth Amendment right
16 to counsel anymore. It's strictly a Fifth Amendment
17 analysis; is the waiver knowing and voluntarily made.

18 So I just -- you know, I know Mr. Walker wasn't so
19 much arguing that, but it did get mentioned and I hear it
20 mentioned over and over again. Law enforcement no longer
21 is under an obligation to do that.

22 That's the position of the State and that's what I
23 tell them when they ask.

24 Your Honor, with regard to these statements,
25 Mr. Walker is -- does have a correct recitation of what

1 Kennedy says which is that there is no magic talismanic, I
2 believe is the word, incantation.

3 The fact of the matter is that when you look at all of
4 these statements, you've got statements made on three
5 different dates. He's read Miranda three different times,
6 that under the totality of what is read to him that he
7 does understand his rights.

8 It's the position of the State that it was a knowing
9 and voluntary waiver each time, as to the 27th statement,
10 the 28th statement and the statement on the 11th because
11 he's been, you know, he's gone through a complete written
12 waiver on the 27th. He gets another verbal one on the
13 28th. And he gets another one, obviously it's -- more
14 distance has passed on -- a year later on the 11th on this
15 same thing, same case by the same officer under the same
16 circumstances wearing the same clothes.

17 I'm sure not the exact same suit but under the same
18 circumstances combined with no threats. There's been no
19 evidence, no testimony presented of any threats, any
20 promises or anything else, Your Honor.

21 The State feels like that Mr. Scantling was
22 sufficiently advised of his Miranda rights. He agreed to
23 waive them three separate times and talk to Captain
24 Bromage.

25 I'd ask that the statements be admissible with regard

1 to the statement on the 27th, 28th and June 9th of 2011.

2 THE COURT: Do you want to respond at all?

3 MR. WALKER: Just again, this is very similar to
4 Kennedy. The right to stop questioning is the right you
5 left off in Kennedy. There's not a specific wording that
6 has to be issued but all five rights do need to be touched
7 on.

8 And the point we make is, you know, you wouldn't say
9 somebody had been given a Miranda if the police officers
10 gave him the other four but left off the you-have-the-
11 right-to-remain silent. You know, an incomplete
12 recitation of Miranda is not Miranda. And to argue that
13 to pull someone that's in custody in a year and I submit a
14 full day separation while in custody is certainly not --
15 you would need to re-Mirandize.

16 But, you know, I don't know anyone would, that would
17 say a year later you can pull someone out of custody and
18 not properly Mirandize them. You know, I think the case
19 law is pretty well on point. You know, if they're in
20 custody they have to be Mirandized and it wasn't done
21 properly.

22 THE COURT: Well, doesn't it still require the police
23 coercion? There still has to be at some point evidence of
24 some type of police coercion.

25 MR. WALKER: Well, for someone that's not in custody

1 but for someone that is in custody, no Miranda, it's
2 assumed that there's coercion because of the custodial
3 situation.

4 THE COURT: Let me re-read Kennedy. Does someone have
5 a copy of it? Or, Allison can pull it up. Either way.

6 MR. WALKER: I don't have a hard copy, Your Honor.
7 I'm sorry.

8 MR. THORNTON: I'm sorry, Judge, I don't.

9 THE COURT: That's okay.

10 MR. WALKER: I don't know if you took it down but it's
11 479 Southeast Second 838.

12 THE COURT: Okay.

13 MR. THORNTON: Frankly, Your Honor, I'd like an
14 opportunity to kind of review that one again myself if we
15 could. If you're going to look that over again, if we
16 could have maybe 30 seconds tomorrow to argue that if
17 necessary. I've got to look at it again.

18 THE COURT: Okay. All right. What else do we have?

19 MR. THORNTON: The other issue we have, Your Honor, is
20 some documents that were found. For the purposes of this
21 hearing, I think we can agree they were found in
22 Mr. Scantling's cell and I would attribute them to
23 Mr. Scantling.

24 I'd like them broken in into two separate, which is
25 what they were broken up into before, Your Honor. One is

1 a large collection of papers which is previously marked as
2 Court's Exhibit Four. And the other one is Court's
3 Exhibit Five which is a smaller -- it's just one page.

4 THE COURT: Okay.

5 MR. THORNTON: In essence, Your Honor, what you have
6 here and I'll pass these up if that's all right.

7 (Documents handed to the Judge.)

8 And for purposes of this hearing, Judge, I'd ask they
9 go ahead and be admitted into evidence for your
10 consideration unless Mr. Walker has an objection, for
11 purposes of this hearing.

12 THE COURT: Any objection?

13 MR. WALKER: No objection to the Court's Exhibit.

14 (Court's Exhibit No 4, collection of papers from
15 Scantling's cell, and Court's Exhibit No. 5, one page
16 found in Scantling's cell, were received into evidence.)

17 MR. THORNTON: Basically, Judge, those were -- both
18 Court's Exhibit Four and Five are papers that were found
19 in the cell of Mr. Scantling. They were found, I believe,
20 in a desk drawer by Mr. Vordish (phonetically) with the
21 detention center.

22 Your Honor, the reason I want to introduce them, and I
23 think that they're relevant. Obviously Mr. Walker has a
24 different take on it. The larger collection of documents
25 which I believe is State's Four or, excuse me, Court's

1 Exhibit Four.

2 THE COURT: Uh-huh.

3 MR. THORNTON: Basically is a road map to criminal
4 activity that Mr. Scantling wants to engage in once
5 released. He apparently sees himself as some type of
6 criminal mastermind.

7 The reason I think it's relevant to this case is he
8 mentions the following things. He wants to go do
9 robberies in the Yamacraw Area or Fahm Street of Savannah
10 which is where the victim's vehicle was abandoned. It's
11 also where the Monte Carlo he stole and brought back to
12 Beaufort was stolen from.

13 He mentions his two guns of choice being either a .357
14 Magnum or a .45. In this case he used a .45.

15 He talks about his car of choice being a Monte Carlo
16 and that's what he wants to make sure he gets. In this
17 case he steals a Monte Carlo to come back.

18 There are so many things that are very similar to the
19 facts and circumstances of this case, I believe that it is
20 relevant to, as to the conduct in this case because there
21 are so many similarities.

22 With regard to Number Five, Court's Exhibit Five, that
23 is actually a -- and, Your Honor, may I approach? I want
24 to make sure that I got --

25 THE COURT: Sure.

1 MR. THORNTON: If I could look at it. (Pause.)

2 Your Honor, there apparently is a part of that that's
3 missing. Court's indulgence for just a moment.

4 Well, actually, Your Honor, the only thing that's
5 missing was the flip side of that document. That's
6 actually -- it was found on -- but I would like to go
7 ahead and have that put in for your consideration, Your
8 Honor.

9 (Attorneys conferring.)

10 MR. WALKER: Right.

11 MR. THORNTON: Actually, Your Honor, I'll just discuss
12 it with you. If you feel like it's necessary because you
13 pulled -- the burglary's been severed.

14 THE COURT: Right.

15 MR. THORNTON: Basically Beaufort County has a victim
16 notification form which is what the backside of Court's
17 Exhibit Five is of.

18 THE COURT: Okay.

19 MR. THORNTON: On the front side, it listed Sam
20 Crews. And this would have been part of the discovery
21 materials. Sam Crews which is where the firearm was
22 burglarized from.

23 So he would have been the victim of the burglary where
24 Mr. Scantling and Mr. Crews's son, Justin Crews, were
25 charged with stealing the pistol that was used in the

1 murder in this case.

2 And what it references on the front is under
3 Mr. Crews's information is the snitch's dad's info. And
4 then on the back if you'll notice, Your Honor, it
5 basically says: Snitches if opportunity presents itself,
6 do these, and I'll just use the abbreviation, MF-er's
7 dirty.

8 And then Mr. Scantling goes on to list a bunch of the
9 witnesses against him; Brittany Raines, Donald Cooper,
10 Ishmael Frazier, William Barnes, all of whom have been
11 subpoenaed to testify, Justin Michael Crews, who is his
12 co-defendant who agreed to testify.

13 It just lists several of them, basically talks about
14 wanting -- you know, calling them snitches and wanting
15 either himself or someone else to do them harm.

16 I think that is certainly relative to the case at bar
17 because generally speaking, Judge, innocent people don't
18 refer to witnesses against them as snitches and don't ask
19 people to do them dirty, under his words. I think that is
20 very relevant to the case at bar.

21 And it, you know, again, Judge, it would be no
22 different than if he made a verbal statement to Captain
23 Bromage that, yeah, I'm going to get all those snitches or
24 I'm going to do something to those snitches. It would
25 come in then.

1 And this is -- again, I understand Mr. Walker can
2 argue it's not his, but it was find in his cell on the
3 back of material provided to him through discovery.

4 So those are the State's arguments, Judge, as to Four
5 and Five. And without belaboring the point that's why I
6 think both of them should come into evidence.

7 THE COURT: Mr. Walker?

8 MR. WALKER: Thank you, Your Honor.

9 We will concede that the contents of those writings
10 are fairly terrible. You know, I have no idea why he
11 would write all of that stuff but he did.

12 Judge Hayes took over and I ask you to read through
13 it, we brought these motions up before.

14 THE COURT: Yeah.

15 MR. WALKER: And, of course, you know, there are the
16 similarities to Jerry's wanting to commit criminal acts,
17 you know. I think Judge Hayes might have said, you know,
18 his ambition to become a master criminal upon his release
19 or something like that.

20 But the relevant issue was that these were written
21 almost a year after the incident in question. And,
22 really, are quite a lot of just rambling about committing
23 criminal acts, you know. If they -- arguably, I guess, if
24 they had predated the incident they might show some sort
25 of planning but, really, all it is, it just goes to his

1 character, you know, these writings and I'm talking about
2 the first larger set.

3 THE COURT: Okay.

4 MR. WALKER: Goes to his writing, really just goes to
5 his character, you know, to show that he's, you know, in a
6 disturbed frame of mind, I guess, would be the type of
7 person that would do what he's accused of here.

8 But have no relevance for a jury of proving whether or
9 not he did the actual offense that happened far prior to
10 these writings when they were written down.

11 And, again, I believe the writings were not any in any
12 way specific to the event here. They're just describing
13 similarities later on, which, you know, a year later he's
14 been charged and given discovery and, you know, all of
15 that information which could arguendo, I'm not going to
16 argue they're not his. They were taken out of his cell.
17 That's not the issue.

18 The second sheet or the one with the listing of the
19 names.

20 THE COURT: Uh-huh.

21 MR. WALKER: I think previously the State had kind of
22 argued that it showed it was, again one -- in addition to,
23 you know, that it shows he's mad, that he wanted to get
24 revenge on these people and only a guilty person would be
25 doing that.

1 And of course my argument in response to that is,
2 well, if you're innocent and someone was accusing you of
3 murder and trying to put you into jail you'd be pretty mad
4 at that anyway.

5 But I think the dispositive issue for Judge Hayes
6 might have been that these were basically more of like a
7 witness tampering kind of thing. And had they not, you
8 know, they might have had some relevance had they been
9 communicated to the individuals in question or had some
10 action been taken by Mr. Scantling through an associate or
11 somebody to try and accomplish some harm to these people,
12 you know, then that would have some relevance to the trial
13 here.

14 But here, again, it's just un-communicated threats for
15 lack of a better word and, again, doesn't really give the
16 jury information to decide what happened back in 2010 and
17 really is more prejudicial than probative, anything that
18 the jury would need to consider.

19 And I'll rest there.

20 And I believe the State handed up the transcript of
21 the prior trial. I believe those arguments are on page 61
22 and 62 of that transcript as well.

23 THE COURT: Did you give me the whole transcript?

24 MR. THORNTON: I did, Your Honor. I didn't want to, by
25 mistake, leave something out so I just gave you my copy.

1 MR. WALKER: But under 404, you know, it's really the
2 kind of the evidence that 404 is meant to exclude there.
3 You know, I want to put this in because we want you to
4 believe that this is a confirmation that he's a bad guy
5 and these are the kind of things he does versus the
6 evidence showing he did this particular bad act.

7 And thank you, Your Honor.

8 THE COURT: Okay. All right. So, it sounds to me
9 like I need to read the transcript as far as that.

10 MR. THORNTON: Your Honor, I'm thinking that if I
11 could have a moment to talk to Mr. Walker, I think that
12 may be it.

13 THE COURT: Sure.

14 (Off-the-record discussion. Attorneys conferring.)

15 MR. THORNTON: Your Honor, there may be -- obviously
16 there's always by definition things that come up, I mean,
17 during trial. But I think we've managed to knock out --
18 we've taken care of Jackson V. Denno. We've taken care of
19 Neals versus Biggers which are the two biggest ones I know
20 of other than these few matters we've just talked about
21 today, Court's -- now in evidence for your consideration,
22 Court's Four and Five.

23 I believe that covers it. Unless Mr. Walker has
24 something additional, I believe that covers it.

25 MR. WALKER: I think that covers most of them.

1 MR. THORNTON: Yeah, I think that covers the vast
2 majority.

3 MR. WALKER: I have a few.

4 THE COURT: Well, what do you have?

5 MR. WALKER: Just to kind of summarize where we are.
6 Due to the severance of the burglary, it's my
7 understanding you wouldn't be calling Justin Crews at this
8 point; is that correct?

9 MR. THORNTON: That is correct, Your Honor.

10 MR. WALKER: So I had some stuff there and I won't go
11 there.

12 And, again, just to reiterate. We basically agree
13 that there won't be an attempt to introduce the actual
14 physical lineups into evidence but certainly we don't have
15 any problems with testimony about them, you know, should
16 Your Honor rule that the identifications are okay after
17 reviewing the transcript but our only reservation --

18 THE COURT: The photographs of the mug shots.

19 MR. WALKER: Then come into evidence.

20 THE COURT: I understand that.

21 MR. WALKER: And again we're relying on the
22 transcript.

23 We talked about this in chambers. I think we need to
24 put it on the record. I made a motion to sever the
25 burglary charge which Your Honor granted.

1 But I also made a motion to sever the stolen vehicle
2 charge. Our reasoning on that is that is just to get to
3 maintain the record. The allegations are that
4 Mr. Scantling murdered the victim at the boat landing,
5 took his truck, took that to Savannah, disposed of it
6 somehow and then one, two to three days later stole a
7 Monte Carlo out of Savannah and returned to Beaufort.

8 Our argument is that it's a separate bad act unrelated
9 to the boat landing murder. Being apprehended in a stolen
10 vehicle has nothing to do with the boat landing murder as
11 far as proof for the jury. You know, it's not like it
12 would be evidence of flight. He's not taking that to
13 another state. He's coming back home.

14 We argued that there's a separation of intent and
15 events that aren't necessarily connected just by Jerry
16 Scantling.

17 THE COURT: My understanding is there is no DNA on the
18 gun that was recovered, is that correct, that was believed
19 to be the murder weapon and in the Monte Carlo that was
20 stolen and brought back, that there was in fact blood
21 found in that car; correct?

22 MR. THORNTON: That is correct, Your Honor.

23 THE COURT: Okay.

24 MR. THORNTON: Additionally, Your Honor -- I'm sorry,
25 Matt. Are you done?

1 MR. WALKER: I just saying that there is DNA on the
2 gun.

3 THE COURT: There is DNA. Y'all told me back in
4 chambers that --

5 MR. WALKER: Not Jerry Scantling's DNA.

6 MR. THORNTON: There's no DNA from Jerry Scantling on
7 the gun. There is a profile that was recovered which
8 obviously is problematic for me but Mr. Scantling's nor
9 his fingerprints are anywhere on the gun.

10 THE COURT: Okay.

11 MR. WALKER: I mean, I understand. I just wanted for
12 you to know the difference.

13 THE COURT: Okay. I appreciate that.

14 MR. THORNTON: The only other thing I would add,
15 Judge, the other argument I made in the back was the fact
16 that these are very closely related in time.

17 And not just time, Judge, but, you know, basically
18 what Mr. Scantling did was go, you know, it's the State's
19 position that he went to dump and get rid of evidence and
20 get rid of the victim's car. And stealing the Monte Carlo
21 was the way that he gets back across the bridge and gets
22 back home.

23 And I realize that there were a couple of days but it
24 is part of one. Otherwise, how did he get back. And the
25 jury needs it for a complete understanding of the chain of

1 events that occurred.

2 Plus you have the gloves that were found which very
3 well, at least it's arguable it's a jury question as to
4 whether maybe that's why there's no touch DNA from
5 Mr. Scantling or fingerprints on the gun.

6 THE COURT: Okay.

7 MR. WALKER: My next issue, Your Honor -- or did you
8 want to --

9 THE COURT: Yeah. I just need -- for completeness, I
10 do think that it was relevant obviously and that it was
11 proper to -- we haven't started yet, of course, we read
12 that off the charge that we're going forward on. So I
13 think it's appropriate.

14 MR. WALKER: The State has provided me with updated
15 rap sheets. And so that's taken care of. They gave me
16 those earlier today.

17 THE COURT: As to the witnesses?

18 MR. WALKER: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. WALKER: And, again, just for the record, put on a
21 motion to reveal the deal, especially really as to
22 Brittany. Well, as to any State's witnesses, but I think
23 it's especially relevant to Brittany Raines and Cynthia
24 Padgett.

25 MR. THORNTON: I will tell you that I'm not aware of

1 any charges that Ms. Raines even has on her at this
2 point. I can double check and I've actually made sure
3 I've stayed separate from that.

4 Cynthia Padgett does have current charges and I will
5 put on the record for the Court and I'll be happy to find
6 out exactly whatever offer was made in her charges. One
7 has nothing to do with the other and I went so far to
8 protect our office from that that normally as Your Honor
9 knows, I review all non-probation offer pleas.

10 I -- when I found out she still had charges, I turned
11 that over to Hunter Swanson. I have not even been
12 contacted about a deal or anything regarding Ms. Padgett
13 just so that there was no overlap in the cases. So I have
14 not offered her any deal nor to my knowledge has anybody
15 in our office.

16 However, she does have pending charges and I believe
17 an offer on those charges has been made. Again, that has
18 nothing to do with this case or her testimony. She gave a
19 statement without any promise of anything so, you know,
20 whether she cooperated or not, I'd put her on the stand
21 and impeach her with her statement.

22 But I will make sure that the Court and Mr. Walker
23 know whatever it was that she was offered in her other
24 case. I don't think that's part of any -- well, it's not
25 part of any deal. I don't think that's admissible but for

1 the Court's knowledge and Mr. Walker's, I will be happy to
2 make sure that -- it's Price Sumner is the assistant
3 solicitor and I had the permission or whatever,
4 supervision of that case transferred to Hunter Swanson so
5 that I would have no connection to it.

6 MR. WALKER: Thank you, Your Honor. I guess we'll
7 revisit that when we're provided that information.

8 Also I don't think we brought this up to the Court,
9 but the State and the defense have entered into a
10 stipulation as to some of the DNA on the weapon. That the
11 weapon was stolen from a home of Mr. Samuel Crews. And
12 they did DNA swabs of Mr. Samuel Crews and his son, Justin
13 Crews.

14 So we've stipulated that their DNA is not on the
15 weapon. And I think we have that written out if you want
16 to read it into the record.

17 MR. THORNTON: We do if I can find it, Your Honor.
18 Basically it says that -- I'm sorry, I don't. I'll show
19 it to Your Honor before I read it, but basically it says
20 that this gun was stolen from the home of Sam Crews and
21 neither his nor his son, Justin Crews's DNA was found on
22 the gun.

23 THE COURT: Okay.

24 MR. THORNTON: And when we say that, we really ought
25 to separate out and I will try to do it for trial

1 purposes, touch DNA. There is DNA on the gun and there is
2 one piece of touch DNA but none of it comes back to
3 anybody; Mr. Crews, Justin Crews or Mr. Scantling.

4 MR. WALKER: And I think the final matter I'd have
5 today, are we going be in courtroom one or two?

6 THE COURT: One. We're trying it in one.

7 MR. WALKER: That takes care of that.

8 Last time we were here I had a little issue with how
9 close we were to the jury with some items on the table.
10 But that shouldn't be a problem in courtroom one.

11 And then finally I had made a motion last time, the
12 State had eventually agreed. There is DNA evidence in
13 this case. There is DNA evidence where they can say it is
14 not person X, they can say it is person X. And then
15 there's DNA that says well, it may or may not be person
16 X.

17 And my motion was that these findings say, well, you
18 know, we can't exclude them but we can't say it's them.
19 Don't really tell us anything. It's confusing to the
20 jury, you know; it may or may not be them.

21 The State had agreed to avoid those types of DNA,
22 those non-dispositive types of DNA results. And if
23 they're willing to abide by that stipulation, then I'm
24 fine or we can go into it more.

25 MR. THORNTON: Well, the reason I agreed to it last

1 time was because I knew I was already losing that battle
2 based on what the Judge was saying. I would like to at
3 least bring it Your Honor's attention and find out where
4 you're going to sit on it. So if you want to go into it
5 more.

6 MR. WALKER: Yeah. Again. It's -- our perspective is
7 it doesn't tell the jury anything to say, well, there's
8 DNA there and it could be Jerry, it could not be, we
9 really don't know. You know, it could be any one of
10 millions of people.

11 THE COURT: So the point is it doesn't aid the jury in
12 any way if the expert can't help them --

13 MR. WALKER: Our position is it would be confusing to
14 say, you know, well it could be Jerry, it could be
15 anybody. And it doesn't -- it doesn't really help them
16 decide anything.

17 There's lots of DNA that is Jerry's DNA. Jerry's DNA
18 was found on some headphones that were at the murder
19 scene. It's definitely Jerry's DNA.

20 And then there's a lot of items where, you know, Jerry
21 was excluded. Everybody was excluded. We don't know who
22 they are. We know this was the victim's DNA or whatever.

23 There's a number of swabs that say, well, we can't
24 really tell whose it is. We can't exclude them. We can't
25 say that it wasn't them or we can't say it was.

1 And I don't know that that tells the jury anything.
2 You know, if you start talking about we have this DNA, you
3 know, it's already kind of a confusing subject. And if
4 you're telling the jury, well, it may be or maybe not,
5 then why do they even need to know that? Why do they need
6 to hear about really an inconclusive DNA result?

7 THE COURT: Go ahead.

8 MR. THORNTON: I'll make the same argument I made last
9 time. If everybody in this room has possibly touched a
10 gun and all of us are statistically through the alleles
11 excluded except one person, I think that's relevant to the
12 jury. They can say, we can tell that you these nine
13 didn't touch it.

14 THE COURT: Right.

15 MR. THORNTON: I can't tell you whether this is his or
16 not because he cannot be excluded based on what we have.

17 And what that generally means is, Judge, that like
18 maybe they only pulled three alleles. All three of
19 them -- and for lack of it, I'll use Mr. Walker as an
20 example. If there are only three alleles out of whatever
21 DNA strand they pull and all three of them match
22 Mr. Walker's alleles, they still can't say it's
23 Mr. Walker's DNA. What they say is he can't be excluded.

24 THE COURT: Right.

25 MR. THORNTON: Now if none of the three match my DNA,

1 even though they can't say it's a match because there's
2 not enough alleles, they can say Mr. Thornton is excluded
3 because of the three we have none of his match.

4 I do think that's relevant and I do think it's
5 different. It's not saying maybe it is, maybe it isn't.
6 It's saying we can't exclude him as a matter of
7 statistical priority but we can exclude others. And I do
8 think that's the relevance.

9 I understand it's a risk of, you know, being confusing
10 to the jury. And I'll try to be very careful with that,
11 but I very strongly disagree that it doesn't have some
12 relevance or some probative value because if you can
13 exclude everyone but one, I think that is, you know, it's
14 not a match but it is different than being excluded.

15 And that would be where this would come up because
16 there are a few pieces of evidence. And it may not come
17 up. You know, Judge, if I get in the middle of it and it
18 looks like it's going to be confusing to the jury, I won't
19 touch it but I would like at least the opportunity to do
20 it.

21 And my argument is that it's not just saying well
22 maybe it is, maybe it isn't. There's a difference between
23 this group being excluded and somebody who we can't say
24 it's a match but we can say that they are not excluded.

25 THE COURT: I can tell you that I tend to agree with

1 you, Mr. Thornton, that if -- there is some assistance if
2 they can say, well, we can't say yes or no it's this
3 person but these people can be excluded. I do think that
4 offers something for the jury to be able to use.

5 But I don't know exactly they're going to testify. So
6 what I suggest to do is if you intend on using that, let's
7 just do an in-camera proffer and that way I can hear it
8 and see exactly what they're going to testify to and
9 whether or not it will assist the jury.

10 And certainly also at that point based on all the
11 evidence, you have to remember it's not groundhog day for
12 me. You all have done this before. I haven't. I know
13 very little about this case and I'll be the first to tell
14 you that.

15 So, again, I think what we're going to have to do is
16 just at that point that you put those witnesses on the
17 stand, we're going to have to revisit it if you intend on
18 using it.

19 MR. THORNTON: Yes, ma'am.

20 THE COURT: I certainly understand that, both
21 arguments. I just want to make sure at the juncture where
22 we are and whatever evidence has been put up so far, I can
23 make a better determination whether or not it's going to
24 be more confusing to the jury or not.

25 MR. WALKER: Thank you, Your Honor.

1 And just a brief response to what you were saying. I
2 would kind of agree with him when he said we can exclude
3 all these people but we can't say it's him. That might be
4 probative but the risk -- our argument is it's much more
5 prejudicial than probative because they can't exclude
6 everybody. They can exclude the law enforcement personnel
7 and one or two other people that they typed, and they
8 can't exclude him.

9 So it's not an exclusion of the pool. It's the
10 exclusion of the people that they've typed.

11 But it seems like putting it up to the jury, well,
12 everybody else's DNA, it's theirs. They're trying to
13 elevate their probability to say well, you know, if it's
14 not theirs it's probably Jerry's. And that's kind of the
15 worry that we have that, the prejudicial effect.

16 Because it is, it's a confusing subject. And, you
17 know, and I'll leave it there. And I think maybe once if
18 it's proper then we can have a proffer but that's -- I
19 just wanted to correct that idea that we've excluded
20 everybody because really the pool --

21 THE COURT: I understand. It's just --

22 MR. WALKER: -- is millions of people.

23 THE COURT: -- those that they've tested.

24 MR. WALKER: And a lot of those are law enforcement
25 personnel for purposes of contamination and things like

1 that.

2 THE COURT: Okay. Which is used for reasonable
3 doubt. So, anyway.

4 I think I certainly understand what the issue is. I
5 just need to see --

6 MR. WALKER: I think if I were to argue that it was
7 contaminated by so and so, then that would be proper to
8 say we can exclude that person. But, you know, I don't
9 intend to do that.

10 THE COURT: How far did you get in the last trial
11 before there was a mistrial and we lost the 12th juror?
12 How many witnesses were put in?

13 MR. THORNTON: We got through not a great number
14 because of all the pretrial stuff we were doing in the
15 middle. That was really -- the pretrial stuff was one of
16 the last things. We got through Officer Moran which was,
17 one, two, three --

18 MR. WALKER: Two officers, two paramedics, the coroner
19 and Officer Moran.

20 MR. THORNTON: Six, seven.

21 THE COURT: Okay.

22 MR. THORNTON: Seven, roughly.

23 THE COURT: All right. Anything else? Did you all
24 have an agreement as to sequestering witnesses, yes or no,
25 last time? Did anybody make that motion?

1 Now are there any other things that you all have
2 agreed upon that I don't know about? Because I know you
3 all have been through this and done it before but, again,
4 I don't have the benefit of.

5 MR. THORNTON: I don't think so, Your Honor. We
6 didn't do -- sequestration was not asked for last time.

7 THE COURT: Okay.

8 MR. THORNTON: So we didn't do it. Neither the State
9 nor the defense asked for it.

10 MR. WALKER: And I will make that motion now
11 because -- as to the identification witnesses. I don't
12 really care as to law enforcement as far as the
13 sequestration, but I would like the identification
14 witnesses sequestered.

15 THE COURT: Okay. All right. Well, we'll go ahead
16 and sequester them. All right. Well, what I need to do
17 then obviously is go read the portions of it, the argument
18 and look at these exhibits.

19 Anything else for today?

20 And I plan we all meet back here, and everyone be on
21 time, at nine a.m. tomorrow morning. I will hopefully be
22 able to go ahead and rule for these issues with you. And
23 we'll be able to start at 9:30.

24 MR. THORNTON: Yes, ma'am. Thank you, Judge.

25 MR. WALKER: Thank you.

1 THE COURT: No one be late.

2 MR. THORNTON: No, ma'am.

3 THE COURT: Thank you.

4 END OF PROCEEDINGS: 4:15 P.M.

5 CERTIFICATE OF REPORTER

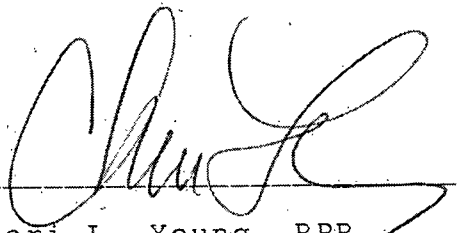
6 STATE OF SOUTH CAROLINA)

7 COUNTY OF AIKEN)

8 I, Cheri L. Young, Registered Professional Reporter
9 and Official Court Reporter for the State of South
10 Carolina, Second Circuit-At Large, do hereby certify that
11 the foregoing proceedings were written stenographically by
12 me using computer-aided translation; further, that the
13 foregoing is a true, accurate and complete record, to the
14 best of my skill and ability, of all the proceedings had
15 and evidence introduced in the hearing of the captioned
16 case, relative to appeal, in the Court of General Sessions
17 for Beaufort County, on the 25th day of February, 2013.

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

20 I have hereunder set my hand this Friday, the 11th day
21 of October, 2013.

22
23
24 
25 Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT) CASE NO.: 2010-GS-07-01315

STATE OF SOUTH CAROLINA)
)
VS.)
)
JERRY SCANTLING,)
)
DEFENDANT.)
_____)

JURY TRIAL

VOLUME 1 OF 4

held before the Honorable Carmen T. Mullen
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Beaufort County Courthouse
Beaufort, South Carolina
on Monday, February 25, 2013, Commencing at 12:34 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
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1 point, I don't think it's really necessarily anything.
2 It doesn't go to common scheme or plan. At the
3 outset, too, I truly believe that the prejudice would
4 outweigh any probative value under a 403 evaluation.
5 However, like I said, if something starts happening
6 with these witnesses and people start flipping and it
7 looks like they have been gotten to, then we can have
8 a whole other discussion on it. Okay?

9 MR. THORNTON: Thank you, Your Honor.

10 THE COURT: Absolutely.

11 Okay. I believe that's all I had, at this
12 point, under advisement; is that correct? Just so
13 we're clear.

14 MR. THORNTON: It is, Your Honor.

15 THE COURT: Okay.

16 MR. THORNTON: I did want to bring one other
17 thing up, if that's all right.

18 THE COURT: Sure. Absolutely.

19 MR. THORNTON: I was going to read this into the
20 record. And I believe Mr. Walker -- and I've shown it
21 to him this morning. This is a stipulation we entered
22 into last time, which is that the State and the
23 defendant in this case stipulate that the gun found at
24 the boat landing was stolen from the home of Sam Crews
25 and that both Sam Crews and his son, Justin Crews,

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OPENING STATEMENT

MR. THORNTON: This case is about murder. Now, the judge has told you what the indictments are. There are several charges against the defendant in this case, Jerry Scantling, but, in essence, this case is about an armed robbery and murder.

May the 22nd, 2010, on a Saturday late into the evening, early into the morning of Sunday, May the 23rd, 2010, this occurred at-- a lot of y'all may know where this is -- the Pinckney Island boat landing here in Beaufort County. Jerry Scantling murdered Leonard Green. Shot him to death, stole his truck, took it to Savannah, abandoned it, stole another car, came back to Beaufort, and was caught. In essence, that's what this case is about.

You're going to hear -- I know probably everybody in this room got real nervous when you heard that list of witnesses being read off. There was about eighty of them. All of those people are not going to testify. Those are just potential witnesses. But some of the things that you're going to hear, you're going to hear witnesses that see Jerry Scantling early in the morning of Sunday, May 23rd, 2010, attempting to sell Leonard Green's truck for cash. You're going to hear testimony from the

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1 officers and from Mr. Hyatt, who went out to Pinckney
2 Island boat landing that day, about where they found
3 Leonard, about what condition his body was in. You're
4 going to hear from some folks from the South Carolina
5 Law Enforcement Division about DNA, what's there and
6 what isn't. You're going to get to see the murder
7 weapon which was recovered. And what's also very
8 important in this case, in addition to all this other
9 evidence, you're going to hear several statements that
10 were made by the defendant, Jerry Scantling. Some of
11 them were made to other what we would call lay
12 witnesses and some of them were made to Captain Bob
13 Bromage, with the Beaufort County Sheriff's Office.
14 And all that the State or the judge or the defense can
15 ask you to do, ladies and gentlemen, is listen to all
16 of the evidence before you make up your mind.

17 I've been doing this about fifteen years now,
18 and this same statement has been made to just about
19 every jury that I've ever been in front of or listened
20 to. It's been made by the judge or by one of the
21 lawyers. And it's the truth. You were picked partly
22 because of your common sense. You should not leave
23 that at the door. We want you to use your common
24 sense, we want you to use your life experiences. And
25 the most important thing is to listen to all the

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1 evidence when it comes in, because the evidence is not
2 what I tell you, it's not what Mr. Walker tells you.
3 The only evidence is going to be what comes from that
4 stand either from testimony from the witnesses or from
5 exhibits that are put in, that are allowed, into
6 evidence. And I believe in this case we're going to
7 have a stipulation, which is just an agreement by the
8 parties, that a fact is a fact that you have to take
9 as a fact. That's the evidence. And at the close of
10 that evidence, the only verdict in this case that
11 you're going to be able to reach, ladies and
12 gentlemen, it's the position of the State, is a
13 verdict of guilty on all charges. Thank you.

14 THE COURT: Thank you, Mr. Thornton.

15 Mr. Walker?

16 MR. WALKER: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, sir.

19
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OPENING STATEMENT

1
2 MR. WALKER: Apparently, Mr. Thornton and I want
3 exactly the same thing in this trial, which doesn't
4 usually happen, but we want you to listen to the
5 evidence before you make up your mind. If you do
6 that, that's really all I can ask for.

7 You've heard a lot of talk about evidence, what
8 is it, why do we -- you know, you see it on Law and
9 Order all the time. But evidence is simply something
10 that makes the issue at hand more or less likely. And
11 it's up to you, as the judge said, as determiners of
12 the facts, to decide what weight to give the evidence.
13 And, you know, by weight we mean importance. You
14 know, if you heard from a friend of a friend of a
15 friend of a friend that I robbed a bank, that might be
16 less, you know, important to you than if you saw a
17 video of me robbing a bank. So that's -- use your
18 common sense, and you weigh out the evidence.

19 You know, it's kind of interesting we talk about
20 weighing the evidence because one of the examples --
21 well, really, you know, one of the symbols of the
22 court is Lady of Justice holding a scale where she is
23 literally weighing evidence.

24 And some of you may have served or been on a
25 civil trial where, you know, there are different

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1 standards of evidence or standards of proof in civil
2 court than criminal court. And in civil court -- and
3 if you've been there or heard about it, you know that
4 someone in civil court, like a car wreck, only has to
5 prove that it's just slightly more likely than not. I
6 mean, fifty percent plus point one. Just a little
7 more to tip that scale on their side and you win in
8 civil court because a preponderance of the evidence
9 standard is a more likely than not standard. All
10 right? So they say, you know, he was negligent in the
11 car wreck and, you know, that might have happened.
12 Well, then they have to prove that it probably
13 happened to win in civil court. And there's a
14 different standard for a day in general session court,
15 and it's beyond a reasonable doubt, because it's
16 something we want to be sure of. It's not, well, it
17 probably happened, it might have happened, it could
18 have happened but we're convinced, firmly convinced,
19 that it did happen, there are no lingering questions
20 in our mind about the facts.

21 The judge will tell you that a reasonable doubt
22 is the kind of doubt that would cause a reasonable
23 person to hesitate to act in making an important life
24 decision, the kind of doubt that -- you know, a
25 decision that you're firmly convinced of or -- and if

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1 you're not firmly convinced, that would be reasonable
2 doubt. But as you consider the evidence -- you know,
3 you're going to hear from all these witnesses, so
4 you're going to consider it.

5 Now, I think where Mr. Thornton and I differ is
6 the conclusions you'll draw from the evidence. And he
7 says it's about a murder, but it's really just four
8 different charges you heard. And each one has
9 specific elements to them. So you have to weigh the
10 evidence you hear in light of each element of each
11 charge, because they have to prove beyond a reasonable
12 doubt to you each element of each charge. And it's
13 possible to prove some and not others. And so we --
14 you know, we have a murder charge that the judge will
15 go into, and I'm sure the State will go into later,
16 each individual element of that, each individual
17 element of the armed robbery.

18 One thing I would say going forward, just to
19 keep in mind on that particular charge, is lay-people,
20 sometimes I think that they equate robbery and theft
21 and -- and they do, kind of go hand-in-hand. But,
22 legally, they're different things. You know, theft is
23 called larceny in our state. And that's just a
24 taking. A robbery involves a larceny accompanied by
25 some degree of force. And then we have the -- you

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1 know, the force in this case is that a pistol was
2 used. So that's possession of a weapon during the
3 violent crime of murder. And they allege that all
4 those things happened out at the Pinckney Island boat
5 landing, that Jerry did it, and so forth. Then we --
6 and they're going to seek to introduce evidence which
7 they would submit proves those facts and we will
8 submit does not.

9 And then we kind of have a separate incidence of
10 a black Monte Carlo that was stolen in Savannah.
11 Jerry was stopped in it here. And, you know, the
12 evidence does prove that. You know, you kind of --
13 you need to put that out of your mind. At the end of
14 the trial, you're going to mark guilty on possession
15 of a stolen vehicle. And you do that, hey, because
16 Jerry told them: I stole the car. He admitted it.
17 But on an evidence-based standpoint, you would look at
18 the elements: a person that is in possession of a
19 vehicle which has reason to believe or know it was
20 stolen. Right?

21 So we -- they stopped Jerry. He was driving the
22 car, with someone else in the car. And he was driving
23 it, so he's in possession, so that's that element
24 proved through evidence. And then, well, it's stolen
25 -- we know it to be stolen -- and he knows that

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1 because he told the cops, yeah, I stole it. So he may
2 satisfy those elements of that particular crime
3 through the introduction of the evidence that they're
4 going to put up to you and that's how you -- from your
5 -- feel confident and have no doubts that we should
6 find him guilty of that charge.

7 And we run all that through you guys. I mean,
8 that's -- you know, the beauty of our system is that
9 we have an independent group of people, to stand kind
10 of between the State and the loss of freedoms and
11 liberties of someone accused of a crime, and we say --
12 we say that the State has to prove it. That's not
13 something that's not always been the case, even in
14 U.S. tradition. It's something that's come through.
15 But we are where we are now and we're very grateful
16 that we have it. Certainly, a lot of countries in the
17 world don't enjoy that kind of thing.

18 Like I said -- that gate-keeping role is why you
19 are here. And, you know, we asked all those
20 questions, do you know me, do you know the solicitor,
21 do you know anybody involved, because we want
22 impartial people that don't have preconceived notions
23 of how the case should turn out or anybody involved in
24 the case -- because we want fair and impartial viewing
25 of that evidence that we talked about -- that can

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1 weigh it fairly. But the fact that we are -- the fact
2 that you impartially don't know anything about the
3 case and you come in and there's evidence that's in
4 dispute and both sides say here's two conflicting
5 explanations, or what that evidence can show, and
6 you're in your mind, well, how do I decide.

7 And that's where the law comes in and kind of
8 nudges your impartiality because it says when you
9 start a trial, there's a tie in your mind that I can't
10 in my mind weigh one side over another more, they kind
11 of come out as a wash, or it's not there -- if you
12 have that lingering doubt, the law says you have to
13 resolve that in favor of somebody accused of the
14 crime, you have to resolve that in favor of Jerry.

15 The beginning of a trial, it's just as if you're
16 sitting there accused and you want the State to
17 present every particular piece of evidence to move you
18 from one side to the other. I kind of think you'll do
19 that because it's a duty that, in my experience,
20 people take seriously because it's certainly as
21 serious as it gets in the criminal courts.

22 The solicitor and I want the same thing. Listen
23 to the evidence, weigh it carefully, hold the State to
24 their burden. They have to prove their case beyond a
25 reasonable doubt. If there's lingering doubt, if

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1 there's probably, maybe, could have, might, they
2 haven't done their job.

3 Please give your attention to the State's first
4 witness.

5 THE COURT: If the State will call their first
6 witness.

7 MR. THORNTON: Thank you, Your Honor. The State
8 calls John Hyatt to the stand.

9 THE COURT: Come on forward, Mr. Hyatt.

10 [Whereupon, Mr. Hyatt comes forward]

11 THE COURT: Come right over here. If you'll
12 place your left hand on the Bible and raise your right
13 hand, Lasandra is going to go ahead and administer the
14 oath, sir.

15 [Whereupon, Mr. Hyatt is duly sworn by the clerk
16 of court as follows: do you solemnly swear to
17 truthfully answer all questions asked of you by this
18 Court, so help you God]

19 THE WITNESS: So help me God.

20 THE CLERK OF COURT: Please be seated.

21 [Whereupon, Mr. Hyatt takes the witness stand]

22 THE CLERK OF COURT: State your name and spell
23 it for the court, please.

24 MR. THORNTON: Mr. Hyatt, would you please state
25 your name and spell it for the record.

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1 THE WITNESS: It's John Hyatt. J-O-H-N
2 H-Y-A-T-T.

3 THE COURT: Thank you, sir.

4 MR. THORNTON: Thank you, Mr. Hyatt.

5 - - - - -

6 JOHN HYATT,

7 Having Been First Duly Sworn,

8 was Examined and Testified as Follows:

9 DIRECT EXAMINATION

10 BY MR. THORNTON:

11 Q. Mr. Hyatt, where do you live, sir?

12 A. I live at Street, Hilton Head.

13 Q. And who do you work for?

14 A. I work for the Hilton Head Public Service
15 District.

16 Q. I realize that might be a silly question,
17 considering you have their shirt on right now. Mr. Hyatt,
18 did you work for them on or about Sunday, May the 23rd of
19 2010?

20 A. Yes, I did.

21 Q. And were you doing anything for them at that
22 time?

23 A. I was on the way to the office and I checked in
24 there to see how the landing was doing. And we've got a
25 water line in there, and I just periodically have been

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1 going through -- back and through in there.

2 Q. All right. And what landing are you talking
3 about, Mr. Hyatt?

4 A. Pinckney Island landing.

5 Q. And what county is that located in?

6 A. Beaufort.

7 Q. All right, sir. Go ahead. I'm sorry. Go
8 ahead. You went there that morning to check --

9 A. Yeah.

10 Q. -- a line?

11 A. I went there that morning and I drove down a --
12 they've got a -- they were constructing a double landing
13 there for the boats and stuff, and I rode down towards the
14 end of it, parked right there, and just kind of looked
15 around and everything. I wasn't there but a couple of
16 minutes, or whatever, looking around. And I walked back
17 towards the truck and I happened to look over towards to
18 the right, which was kind of in the parking area in front
19 of the dock area where it goes down towards the water.

20 Q. All right, sir. Did you see anything unusual?

21 A. I saw something bright, like a red -- like a
22 reddish shirt. Well, not a shirt, because I didn't know
23 what it was. But a red -- something red, and it caught my
24 eye.

25 Q. And what happened next?

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1 A. I got in the truck. I drove over there towards
2 where it was. It's probably a couple hundred feet or
3 whatever. I drove over there where it was and I saw then
4 that it was a shirt, and that it had a gun on it, and some
5 other stuff, some credit cards or -- I don't know what
6 they were.

7 Q. All right. What did you do once you noticed the
8 gun on what you thought looked like a shirt -- or red
9 shirt?

10 A. Yeah. I called 911.

11 Q. All right. And did you stay there until law
12 enforcement arrived?

13 A. Yes, I did.

14 Q. Mr. Hyatt, I realize it's been a while back, but
15 do you remember about what time of the morning this would
16 have been?

17 A. I'm thinking it's probably around 7:30 or a
18 little after.

19 Q. Okay. And once again, this is the Pinckney
20 Island boat landing here in Beaufort County?

21 A. Yes.

22 Q. All right. Other than staying there, once law
23 enforcement got there did they talk to you?

24 A. Yes. Yes, they did. I -- yes.

25 Q. And did -- after they spoke with you, sir, did

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1 you do anything else with this case other than leave at
2 that time?

3 A. I left at that time after they talked to me.

4 MR. THORNTON: Thank you. No further questions.

5 Thank you, Mr. Hyatt. Please answer anything
6 Mr. Walker has for you.

7 MR. WALKER: Good morning, Mr. Hyatt.

8 THE WITNESS: Good morning.

9 MR. WALKER: If you can't hear me or anything,
10 just holler out and I'll --

11 THE WITNESS: I hear you.

12 MR. WALKER: Okay.

13 CROSS-EXAMINATION

14 BY MR. WALKER:

15 Q. Can you tell us again what time of day you
16 arrived at the boat landing?

17 A. Around 7:30.

18 Q. It was light out?

19 A. It was light out.

20 Q. And you said that you were parked by the boat
21 itself?

22 A. Yes. Straight in towards it.

23 Q. Okay. And so from the boat landing it's about
24 200 feet --

25 A. Somewhere in that area --

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1 Q. -- to where you saw the red item with the gun?

2 A. The red item. Right.

3 Q. And then after you called the police, how long
4 did it take for them to come?

5 A. I would say about twenty minutes.

6 Q. So close to eight o'clock, maybe?

7 A. Yeah.

8 Q. And how many officers came to talk to you?

9 A. I just -- I just remember one at the truck with
10 me. And I'm not sure. There may have been another one
11 there. I'm not sure if he was the first one that come up
12 or --

13 Q. Did you ever get out of the truck?

14 A. No, never got out.

15 Q. What did you see the officer do that came and
16 talked to you?

17 A. Well, I asked him if it was loaded. And he had
18 already picked it up and checked and it -- he said, yes,
19 it's loaded. And I -- and he said, you know, I could go
20 ahead and leave so I went ahead and left.

21 Q. What time do you think you left?

22 A. Eight -- 8:15 or somewhere -- it's been a long
23 time ago.

24 Q. Yes, sir.

25 Did you have any interaction with the other

1 officer that -- you're not even sure if you saw another
2 officer; is that correct?

3 A. Well, I was -- I was on the way to the office
4 and I was called back.

5 Q. Back to the scene?

6 A. Right.

7 Q. Okay. So you had a second interaction later?

8 A. Yes. And I think there was more than one there
9 and I wrote out a -- what I had done and what was going
10 on.

11 Q. So you wrote out a statement --

12 A. Right.

13 Q. -- the second time you were there?

14 A. Right.

15 Q. Okay. But you only interacted with the one
16 officer the first time?

17 A. I think it was -- it was -- I think the other --
18 there was another one there and he had -- I think he's the
19 one that told me to write out, you know, something on it.
20 But it's -- I can't remember. I --

21 Q. My question is when you wrote the statement,
22 that was the second time you came back out; is that
23 correct?

24 A. Correct.

25 Q. So when you were first there, you only

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1 interacted with one officer? -

2 A. Yes.

3 Q. Okay. It was daylight?

4 A. It was daylight.

5 Q. And what kind of weather was it?

6 A. Clear.

7 Q. Other vehicles around?

8 A. Not that I noticed, no. I don't think so.

9 Q. Okay. You said there was some construction
10 going on. That's why you were there; right?

11 A. Right.

12 Q. Was there any construction-related activity?

13 A. No, there was no activity going on.

14 Q. Was there like construction equipment stuff
15 there that you remember?

16 A. I think they -- it almost is getting pretty much
17 completed. So whatever construction -- there may have
18 been a barge or something out in the water, or whatever,
19 but I'm not -- I can't remember what.

20 MR. WALKER: I don't have anything else. Thank
21 you.

22 THE WITNESS: Okay.

23 THE COURT: Anything further?

24 MR. THORNTON: Nothing further, Your Honor.

25 THE COURT: Any objection to Mr. Hyatt being

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1 excused? From anyone?

2 MR. THORNTON: None from the State, Judge.

3 MR. WALKER: None from the defense.

4 THE COURT: You are excused, Mr. Hyatt.

5 THE WITNESS: Okay.

6 THE COURT: Thank you, sir.

7 THE WITNESS: All right. Thank you.

8 [Whereupon, Mr. Hyatt is excused and exits the
9 witness stand]

10 THE COURT: If the State will call their next
11 witness.

12 MR. THORNTON: Your Honor, the State calls John
13 Klein.

14 THE COURT: Come on forward, sir.

15 [Whereupon, Mr. Klein comes forward]

16 THE CLERK OF COURT: Would you place your left
17 hand on the Bible and raise your right hand for me,
18 please, sir.

19 [Whereupon, Mr. Klein is duly sworn by the clerk
20 of court as follows: do you solemnly swear to
21 truthfully answer all questions asked of you by this
22 Court, so help you God]

23 THE WITNESS: I do.

24 THE CLERK OF COURT: Please be seated.

25 [Whereupon, Mr. Klein takes the witness stand]

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1 THE CLERK OF COURT: State your name and spell
2 it for the court, please.

3 THE WITNESS: It's John Klein. K-L-E-I-N.

4 - - - - -

5 JOHN KLEIN,

6 Having Been First Duly Sworn,

7 was Examined and Testified as Follows:

8 DIRECT EXAMINATION

9 BY MR. THORNTON:

10 Q. Officer Klein, I'm going to ask you one of those
11 dumb questions I have to ask in pretty much every trial we
12 do.

13 Who do you work for, sir?

14 A. I work for the Beaufort County Sheriff's Office.

15 Q. And what is your current rank?

16 A. Corporal.

17 Q. Corporal Klein, did you work for the Beaufort
18 County Sheriff's Office on or about May the 23rd, 2010?

19 A. Yes, sir.

20 Q. What did you do for them?

21 A. I was under southern enforcement.

22 Q. All right. And does that mean road deputy?

23 A. Road deputy. Uniformed patrol.

24 Q. And is that what you do now, also, sir?

25 A. Yes, sir.

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1 Q. And did you respond out to any particular
2 locations on the early-morning hours of May the 23rd,
3 2010?

4 A. I did.

5 Q. Where did you go?

6 A. The Pinckney Island boat landing.

7 Q. And what were you dispatched out for?

8 A. I was originally responding out there for a
9 found firearm.

10 Q. Is that -- obviously you were in here and you
11 say Mr. Hyatt testify. Is that who you went out and saw
12 when you got there?

13 A. Yes, sir.

14 Q. All right. What did you do once you arrived at
15 the boat landing?

16 A. When I arrived at the boat landing, I spoke and
17 interviewed Mr. Hyatt. Got a verbal statement from him.
18 He pointed out where the firearm and the other articles
19 that he had called in reference to. Put on latex gloves,
20 secured the weapon, and secured the weapon in my patrol
21 vehicle.

22 Q. All right. And when you secure a gun, what do
23 you do with it?

24 A. I remove the magazine, and then clear the
25 chamber and make sure that it is not loaded, and then also

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1 take it away from the area where anyone else might have
2 access to it.

3 Q. So in clearing the gun, is that what you would
4 call racking it back?

5 A. Correct.

6 Q. And does that discharge any bullet that might be
7 in the chamber?

8 A. Yes, sir.

9 Q. All right. What happened next? What did you do
10 once you secured the firearm?

11 A. Once I secured the firearm and the rest of the
12 articles that were on the ground, that was when Corporal
13 Stuckey, who was also out there at the scene with me, had
14 grabbed my attention and pointed out to where he had found
15 an unresponsive individual in the bushes.

16 Q. All right. To put it in laymen's terms, he
17 found a body?

18 A. Correct.

19 Q. All right. And was the body alive -- or excuse
20 me. Was it moving?

21 A. No, sir.

22 Q. All right. Now, had you known there was a --
23 arguably, a dead body at the boat landing, would you have
24 touched the weapon or moved it in any way?

25 A. Absolutely not.

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1 MR. THORNTON: Your Honor, may I approach?

2 THE COURT: You may.

3 MR. THORNTON: Your Honor, for the Court's
4 information, as well as Mr. Walker, the firearm in
5 this case has been rendered safe pursuant to Supreme
6 Court guidelines.

7 Q. [Mr. Thornton] Corporal, I'm going to show you
8 what's been marked for identification as State's Exhibit
9 1-A and 1-B and ask you if you can identify either or both
10 of those items.

11 A. The 1-A is the firearm, the .45 caliber
12 Highpoint that was found -- that I found at the boat
13 landing and collected, and the 1-B are the four .45
14 caliber rounds that were in the weapon.

15 Q. And were they in the magazine?

16 A. Correct.

17 Q. Let me ask you a question. Have -- testing that
18 was done on them aside, have they been mechanically
19 altered or changed in any way?

20 A. No, sir.

21 Q. All right. And have they remained in the same
22 condition, does it appear, mechanically, as it was when
23 you first found it at the boat landing?

24 A. Yes, sir.

25 MR. THORNTON: Your Honor, at this time I would

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1 ask State's 1-A and 1-B be moved into evidence.

2 THE COURT: Any objection?

3 MR. WALKER: No objection.

4 THE COURT: Without objection, they're in
5 evidence.

6 [Whereupon, State's Exhibit Number 1-A is
7 admitted into evidence by the Court]

8 [Whereupon, State's Exhibit Number 1-B is
9 admitted into evidence by the Court]

10 MR. THORNTON: Your Honor, at this time, before
11 I ask my next question, I think it would be
12 appropriate to read the stipulation into the record.

13 THE COURT: That's fine.

14 MR. THORNTON: Your Honor, and ladies and
15 gentlemen of the jury, both the State and the
16 defendant in this case stipulate that the gun found at
17 the boat landing was stolen from the home of Sam Crews
18 and that both Sam Crews and his son, Justin Crews,
19 were excluded as having any DNA on the gun.

20 THE COURT: Thank you.

21 MR. THORNTON: The reason I wanted to do it
22 there, Your Honor, will become evident in your next
23 question.

24 THE COURT: Okay.

25 Q. [Mr. Thornton] Once you secured the weapon,

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1 before the body was discovered, did you do anything with
2 dispatch?

3 A. Yes.

4 Q. What did you do?

5 A. I checked the serial number, over the radio,
6 with my dispatcher to make sure if it was stolen or not.

7 Q. And did it come back stolen?

8 A. Yes, sir.

9 Q. And is that what -- the stipulation I just read,
10 it was stolen out of the home of Sam Crews?

11 A. Correct.

12 MR. THORNTON: Your Honor, it has been rendered
13 safe. May I publish?

14 THE COURT: Certainly.

15 Q. [Mr. Thornton] This is the Highpoint that you
16 found at the murder scene on Pinckney Island boat landing?

17 A. Yes, sir.

18 Q. You said it's a Highpoint. Is that the brand
19 name?

20 A. Yes, sir.

21 Q. What caliber gun is this?

22 A. .45.

23 Q. Still loaded when you found it; is that correct?

24 A. Yes, sir.

25 MR. THORNTON: The Court's indulgence one

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1 moment, Your Honor.

2 [Whereupon, State's Exhibit Number 56 is marked
3 by the court reporter]

4 Q. [Mr. Thornton] Corporal, I'm going to hand you
5 a stack of photographs that have been marked for
6 identification as State's Exhibit 3 through 40, with the
7 exception of 37. That Number 37 is not in these photos.

8 I would ask you to take a look at, with the
9 exception of 37, which is not here, 3 through 40. Can you
10 identify those for me?

11 [Whereupon, the witness reviews documents]

12 A. Yes, sir.

13 Q. [Mr. Thornton] All right. And what are those?

14 A. They are pictures from the Pinckney Island boat
15 landing.

16 Q. All right. And have you had a chance to look at
17 all of those photographs?

18 A. Yes, sir.

19 Q. And do they all accurately represent the scene
20 as you saw it there that day?

21 A. Yes, sir.

22 Q. Now, are there some photographs that have, for
23 lack of a better word, placards or little numbers on them?

24 A. Yes, sir.

25 Q. And what are those numbers? Were they already

1 out there or were those numbers placed by someone in your
2 department?

3 A. Those were placed by the investigators that had
4 responded.

5 Q. Other than the placing of those numbers by
6 members of your department, do those photos accurately
7 depict the scene as you saw it that day?

8 A. Yes, sir.

9 Q. Have they been altered or changed in any way?

10 A. No, sir.

11 MR. THORNTON: Your Honor, I would ask that 3
12 through 36 and 38 through 40 be moved into evidence.

13 MR. WALKER: Renew my earlier objection.

14 THE COURT: Okay. Subject to your prior
15 objection, I'm going to let them in.

16 [Whereupon, State's Exhibit Numbers 3 through 36
17 are admitted into evidence by the Court]

18 [Whereupon, State's Exhibit Numbers 38 through
19 40 are admitted into evidence by the Court]

20 MR. THORNTON: Thank you, Your Honor.

21 Q. [Mr. Thornton] Also, Corporal, I'm going to
22 hand you what's been --

23 MR. THORNTON: Do you have gloves?

24 THE WITNESS: I do. Yes, sir.

25 MR. THORNTON: Would you please put them on.

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1 [Whereupon, the witness complies]

2 Q. [Mr. Thornton] I'm going to ask you -- this has
3 been marked as State's Exhibit, for identification, 2.

4 MR. THORNTON: Your Honor, forgive me. I'm not
5 sure where the tag is.

6 THE COURT: Okay.

7 MR. THORNTON: This is State's Exhibit Number 2.

8 THE COURT: Okay.

9 MR. THORNTON: I'll find it momentarily.

10 Q. [Mr. Thornton] Can you identify that for me?

11 A. This would be the red shirt that was found at
12 the Pinckney Island boat landing.

13 Q. Is that what the -- what State's Exhibit 1, the
14 .45 caliber gun -- is that what was underneath the gun or
15 next to the gun?

16 A. Correct.

17 Q. And is it -- excuse me. Is that shirt in
18 substantially the same condition as it was when you found
19 it?

20 A. Yes, sir.

21 Q. And does it appear -- other than testing, does
22 it appear to have been altered or changed in any way?

23 A. No, sir.

24 MR. THORNTON: Your Honor, at this time I would
25 ask that it be admitted into evidence.

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1 MR. WALKER: No objection.

2 THE COURT: Without objection, it's in evidence.

3 [Whereupon, State's Exhibit Number 2 is admitted
4 into evidence by the Court]

5 MR. THORNTON: Corporal, if you would go ahead
6 and re-bag that --

7 Tell me: is there an item 2 listed on there
8 somewhere?

9 THE WITNESS: There is.

10 MR. THORNTON: Your Honor, there is an item 2
11 marking that.

12 THE COURT: All right.

13 Q. [Mr. Thornton] Corporal, I'm going to ask you
14 another question. Are there any -- in State's Exhibits 3
15 through 36, 38 through 40, the photographs from the
16 landing that day, are there any photographs of the gun as
17 it was where it was located on that day?

18 A. No, sir.

19 Q. And why is that?

20 A. Because the firearm, and the other things that
21 you had just mentioned, were removed prior to discovering
22 the victim.

23 Q. All right. Which is -- in other words, it's
24 standard procedure to go ahead and secure the firearm.
25 Would that be correct?

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1 A. Correct.

2 Q. Had you known there was a body there, you would
3 have treated it differently; is that right?

4 A. Yes, sir.

5 Q. Now, let me ask you this. When you noticed --
6 when you were notified by --

7 Who was it that was there with you?

8 A. Corporal Stuckey.

9 Q. And is he the -- without referencing, obviously,
10 anything he told you, did he get your attention?

11 A. Yes, sir.

12 Q. And did you then go over to where he was and
13 locate a body?

14 A. Yes, sir.

15 Q. It's already in evidence, obviously. State's
16 Exhibit Number 5: is that the condition of how you found
17 Leonard Green?

18 A. Yes, sir.

19 Q. And was he moving?

20 A. No, sir.

21 Q. Did he have any signs of life?

22 A. No, sir.

23 Q. Were you able to notate any trauma that he had
24 to his body?

25 A. Not at the time when I had saw him.

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1 Q. Did you note anything unusual about where he was
2 or what condition he was in?

3 A. He was covered in palm fronds and other leaves
4 and landscaping debris, I guess would be the best term,
5 and in some bushes.

6 Q. And did -- was there anything unusual about his
7 pants?

8 A. His pants were closer to his knees than up by
9 his waist.

10 Q. This would be State's Exhibit 19. Is that a
11 photograph of what you were just describing?

12 A. Yes, sir.

13 Q. In your experience as a law enforcement officer,
14 how does somebody's pants get like that?

15 A. They're generally usually pulled by somebody.

16 Q. Anything at the crime scene, that you noticed,
17 that would indicate that Mr. Green had been drug or pulled
18 along?

19 A. There were noted marks in the gravel and the
20 dirt that led to where Mr. Green was found.

21 Q. Looked like drag marks?

22 A. Yes, sir.

23 Q. All right. And were those also found by
24 Corporal Stuckey?

25 A. Yes, sir.

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1 Q. And is it Corporal Stuckey? I always like to
2 get everybody's ranks right. Is he Corporal Stuckey?

3 A. He's a corporal, yes, sir.

4 Q. All right. What else did you do at the scene
5 once you discovered the body? Once you and Corporal
6 Stuckey discovered the body, what did you do?

7 A. I notified, through my dispatch of EMS, to have
8 EMS respond to the scene, and also my supervisor at the
9 time, which was Sargent Callendine.

10 Q. And did EMS respond out?

11 A. Yes, sir.

12 Q. And did a detective come out on scene, as well?

13 A. Yes, sir.

14 Q. And was John Adams also -- was John Adams
15 dispatched from the detective division?

16 A. Yes, sir.

17 Q. Were you there when EMS got there?

18 A. Yes, sir.

19 Q. Okay. Did you allow anybody else near the body,
20 or to touch the body, other than yourself and Corporal
21 Stuckey?

22 A. No.

23 Once we notified EMS and the supervisor, we had
24 put up and secured the area with sheriff's office tape.

25 MR. THORNTON: The Court's indulgence, Your

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1 Honor, please.

2 [Whereupon, Mr. Thornton reviews documents]

3 MR. THORNTON: I have nothing further at this
4 time, Your Honor.

5 THE COURT: Mr. Walker?

6 MR. WALKER: Good morning.

7 THE WITNESS: Good morning.

8 CROSS-EXAMINATION

9 BY MR. WALKER:

10 Q. So what time did you get to the boat landing?

11 A. A little bit after eight o'clock. I believe it
12 was about 8:20.

13 Q. Okay. And who was there when you got there?

14 A. Mr. Hyatt.

15 Q. You didn't see anybody else?

16 A. No, sir.

17 Q. You say that Officer Stuckey arrived pretty
18 shortly thereafter; is that correct?

19 A. Correct.

20 Q. How shortly?

21 A. Within a minute or two, at the most.

22 Q. So what -- so when you get there, where did you
23 go?

24 A. I went straight to where Mr. Hyatt was.

25 Q. So you pulled your car right up to his?

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1 A. Not right up to his, no, sir. I was pulled up
2 behind his car. I got out and walked up to his driver
3 window.

4 Q. Okay. And what kind of day was it?

5 A. A clear day.

6 Q. Okay. So easy to see?

7 A. Yes, sir.

8 Q. And it wasn't raining?

9 A. No.

10 Q. And it wasn't cold out?

11 A. No, it was not cold.

12 Q. And, obviously, 8:20 in the morning it would be
13 bright sunlight?

14 A. Sunlight, yes, sir.

15 Q. So did you -- so you testified already that you
16 picked up the gun and secured it. And where did you
17 secure it at?

18 A. In the trunk of my vehicle.

19 Q. Okay. And did you do that with the other items,
20 as well?

21 A. Yes, sir.

22 Q. Okay. So everything that was there was in your
23 trunk?

24 A. Correct.

25 Q. Okay. And did Mr. Hyatt leave at that point?

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1 A. I don't remember.

2 Q. You say Officer Stuckey is the one that got your
3 attention about, hey, look over here in the brush;
4 correct?

5 A. More or less.

6 Q. Well, I mean, how -- if he didn't get your
7 attention --

8 A. I don't --

9 Q. -- how was your attention drawn there?

10 A. I don't remember what he said.

11 Q. Okay.

12 A. But, yes, sir, he got my attention.

13 Q. Okay. Was Mr. Hyatt still there?

14 A. I don't remember.

15 Q. About how long were you at the boat landing
16 before Officer Stuckey got your attention?

17 A. I would probably say about ten to fifteen
18 minutes.

19 Q. Okay. Were there other vehicles in the parking
20 lot?

21 A. There were a couple. A handful. I don't
22 remember how many. But, yes, I did see other vehicles in
23 the parking lot.

24 Q. What kind of vehicles?

25 A. There were some vehicles that you would probably

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1 just see in a normal parking lot. You know, personal
2 vehicles. There was -- the landing itself was under
3 construction at the time so it had some construction
4 equipment around, as well, but there were no construction
5 workers there on Sunday.

6 Q. So there were personal cars there but no people;
7 correct?

8 A. Correct.

9 Q. Did you take note of the license plates or
10 registration info from any of those vehicles that were
11 there?

12 A. I did not.

13 Q. All right. Do you know if anyone did?

14 A. I'm not sure.

15 Q. All right. How far away from where you found
16 the gun and the shirt and the other items was it to where
17 you saw the body -- where you ultimately found the body?

18 A. I did not measure the distance.

19 Q. Ballpark.

20 A. Probably seven to a hundred feet.

21 Q. Okay. And did you or Officer Stuckey touch the
22 body?

23 A. I don't know whether -- I don't know what
24 Officer Stuckey did. I did not touch the body, no, sir.

25 Q. I mean, he was right there. You could see him;

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1 right?

2 A. [No response]

3 Q. I mean, you saw what Officer Stuckey was doing.
4 You didn't see him touch the body?

5 A. Not when I was standing around the body, no,
6 sir.

7 Q. All right. Had he seen the body before he
8 called you or --

9 A. Yes.

10 Q. Okay. So he found the body and said, hey, come
11 here and look at this --

12 A. Yes.

13 Q. -- basically?

14 A. Basically, yes, sir.

15 Q. So you get there at 8:20. What time do you
16 leave?

17 A. It's on my report. It was a while.

18 Q. Okay. What's a while?

19 A. It was after lunch. Afternoon.

20 Q. All right. What were you doing there the whole
21 time?

22 A. I was doing the crime scene log.

23 Q. Okay. What's a crime scene log?

24 A. The crime scene log is to log the persons coming
25 in, and for what reason, or who were there representing

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1 what organization they're with, and also to keep their
2 times of when they came in, a log.

3 Q. Okay. So you testified earlier that you
4 notified dispatch, you found the body, then you put up
5 that -- you said sheriff's -- that yellow tape --

6 A. Correct.

7 Q. -- what we call crime scene tape; right?

8 A. Yes, sir.

9 Q. And over how big of an area did you put that
10 tape?

11 A. I didn't measure the amount of tape that we put
12 out there.

13 Q. Ball park. Did you tape off an area the size of
14 this room or --

15 A. It was pretty much larger than the size of this
16 room, if I remember correctly, yes, sir.

17 Q. Okay. And so when you say you're keeping a
18 crime scene log, do you mean to say that everybody that
19 went inside that taped-off area you wrote down?

20 A. Right. While I was there.

21 Q. Okay. Did you hand over the crime scene log
22 duties to anyone when you left?

23 A. No, sir.

24 Q. So everyone that was in that crime scene would
25 be in your log?

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1 A. Correct.

2 Q. Okay. So why do we keep a crime scene log?

3 A. It helps with the people who come in, and the
4 collecting of evidence, to preserve the evidence that's
5 within the crime scene.

6 Q. Well, why do we want to know who's in there?

7 A. To preserve the integrity of the evidence that
8 is found at the scene.

9 Q. Okay. So that -- okay. I'll leave it at that.

10 Now, does this boat landing have a reputation
11 among law enforcement?

12 A. I don't think it's any different than any other
13 park or boat landing in Beaufort County. Any secluded
14 area at night generally has a reputation.

15 Q. This is your regular patrol area; right?

16 A. Correct.

17 Q. And so you patrol that boat landing regularly?

18 A. Correct.

19 Q. And have you found illegal activity to have
20 occurred at this boat landing?

21 A. Yes, sir.

22 Q. What kind of illegal activity?

23 A. There has been drug use, firearm possession, and
24 burglary -- not burglaries -- car break-ins and thefts.

25 Q. So would it be unusual to find those types of

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1 activities at that boat landing or other boat landings --

2 A. Correct.

3 Q. -- is what your testimony is?

4 Did you have a chance to look at any of the
5 other vehicles that were -- I mean, you said you saw some.
6 Did you go look at the vehicles that were parked there
7 that you identified previously? You said there were
8 construction vehicles and personal vehicles there. Did
9 you go look at them?

10 A. No.

11 Q. So you don't know if there's any damage to those
12 or if they're unlocked or locked or anything like that?

13 A. No.

14 Q. Now, the photograph that you were shown earlier,
15 the body wasn't covered with leaves. Did you move those
16 leaves?

17 A. I did not.

18 Q. Who did that?

19 A. The EMS.

20 Q. Okay. So I think the solicitor asked you about
21 the condition it was when you found it. But really it was
22 really more concealed when you found it; is that correct?

23 A. It wasn't that much more concealed, no.

24 Q. Okay. But this photo really actually shows the
25 condition after EMS had come in and moved some stuff; is

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1 that right?

2 A. Moved the palm fronds? Is that what you're --

3 Q. Yes.

4 A. Yes.

5 Q. Okay. Does the boat landing, that you regularly
6 patrol, have a reputation for illicit homosexual activity?

7 A. Not to my knowledge.

8 Q. Okay. You've never encountered it in your
9 patrols?

10 A. No, sir.

11 MR. WALKER: The Court's indulgence.

12 Oh. I'm sorry. Let me --

13 Q. [Mr. Walker] I want to go back a little bit
14 more through the time line of what you actually did
15 between getting there and leaving.

16 A. Okay.

17 Q. So you notify dispatch for the body, you put up
18 the crime scene tape over a very wide area. And I'm
19 assuming, you know, that stirs up the hornet's nest and
20 people start arriving; correct?

21 A. People meaning?

22 Q. I'm assuming there would be some response to
23 your calling in a dead body to the dispatch.

24 A. You mean sheriff's office personnel?

25 Q. Yeah.

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1 A. Yes.

2 Q. Okay. And, I mean, other people. You've got
3 EMS there and --

4 A. Correct.

5 Q. Okay. So once all these people start arriving,
6 what did you do? Who did you interact with? I guess --
7 who did you interact with first after you called it in?

8 A. My supervisor, direct supervisor, Sargent
9 Callendine, was the first one to respond after that. And
10 from then on is whoever came in in that log I spoke with
11 and then they came in.

12 Q. So Callendine basically said when he got there,
13 I'll do other stuff, you just keep a log of who's here?

14 A. Correct.

15 Q. Okay. Did the gun stay in the trunk of your
16 car? What happened with that?

17 A. That was then -- Tim French responded out there,
18 as well. He's one of the people that responded, and he
19 did what he did with the weapon.

20 Q. Did what he did. He's a DNA technician; right?
21 He swabbed it for DNA. Okay. And that -- and then what?
22 Put it back in your trunk?

23 A. For a little bit, yes.

24 Q. Okay. Did you, yourself, turn the weapon into
25 evidence or did you give it to somebody else?

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1 A. I gave it to somebody else.

2 Q. There at the scene?

3 A. Yes.

4 Q. Who did you give it to?

5 A. To Sargent Adams.

6 Q. Okay. And I assume you gave all the items you
7 collected to Sargent Adams?

8 A. Correct..

9 Q. So Callendine comes, says you keep the crime
10 log. French comes, you get the stuff out of the car and
11 he swabs it. Then you give it to Adams. Did you do
12 anything else related to the investigation of this case
13 there right then?

14 A. [No response]

15 Q. Did you assist in the collection of any other
16 evidence?

17 A. No, sir.

18 Q. Did you take any photographs?

19 A. No, sir.

20 Q. Did you help anybody -- did you help move the
21 body or anything like that?

22 A. No, sir.

23 Q. So it's safe to say once you turned over the
24 evidence, your only other involvement was the keeping the
25 crime scene log?

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1 A. Yes.

2 Q. And so -- you say after lunch. Was everybody
3 done and said, okay, take off? Or what happened? How
4 did, I guess, the investigation conclude that you could --
5 no longer needed to keep track of who was there?

6 A. From the Pinckney Island boat landing?

7 Q. Yes.

8 A. That's pretty much -- once they were done with
9 what they needed to do, they let me know that we could
10 clear the scene. I removed the sheriff's office tape, and
11 everyone left about the same time.

12 Q. So you're pretty much the first one there, last
13 one to leave?

14 A. Yes, sir.

15 MR. WALKER: Okay. The Court's indulgence.

16 I don't have anything else. Thank you.

17 THE COURT: Anything further?

18 MR. THORNTON: Nothing further, Judge. But I
19 would ask he be subject to recall, as I generally do
20 with all officers.

21 THE COURT: Thank you.

22 All right. Corporal Klein, you may step down,
23 but of course you are subject to being brought back.

24 [Whereupon, Mr. Klein exits the witness stand]

25 THE COURT: If the State will call their next

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1 witness.

2 MR. THORNTON: Yes, ma'am. Jason Stuckey.

3 [Whereupon, Mr. Stuckey comes forward]

4 THE CLERK OF COURT: Would you place your left
5 hand on the Bible and raise your right hand for me,
6 please, sir.

7 [Whereupon, Mr. Stuckey is duly sworn by the
8 clerk of court as follows: do you solemnly swear to
9 truthfully answer all questions asked of you by this
10 court, so help you God]

11 THE WITNESS: Yes, ma'am.

12 THE CLERK OF COURT: Please be seated.

13 [Whereupon, Mr. Stuckey takes the witness stand]

14 THE CLERK OF COURT: State your name and spell
15 it for the Court, please.

16 THE COURT: State your name for the record, sir,
17 and spell your last name.

18 THE WITNESS: Jason Stuckey. S-T-U-C-K-E-Y.

19 THE COURT: Thank you, sir.

20

21

22

23

24

25

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JASON STUCKEY,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q. Mr. Stuckey, who do you work for?

A. Beaufort County Sheriff's Office.

Q. And are you currently a corporal?

A. Yes, sir, I am.

Q. Corporal Stuckey, did you work for the Beaufort
County Sheriff's Office on or about May the 23rd of 2010?

A. Yes, sir, I did.

Q. And what did you do for them at that time?

A. I am a road deputy for the southern enforcement.

Q. And were you a road deputy for southern
enforcement then, also?

A. Yes, sir.

Q. And did you respond out to any particular scene
on or about the morning hours of Sunday, May 23rd, 2010?

A. Yes, sir, I did. I responded to between the
Hilton Head and Bluffton -- the Pinckney Island boat
landing.

Q. And what did you do when you got there?

A. I assisted Corporal Klein. He was already on
the scene. After assisting Corporal Klein, I basically

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1 walked around the -- started beginning to walk around the
2 area. I noticed the drag mark, leading toward the water,
3 which looked very unusual. I, in turn, followed that drag
4 mark, walking to the side of it, at which point I maybe
5 walked twenty or thirty yards and noticed a black male
6 lying in the bushes partially covered with palm fronds,
7 not moving.

8 Q. Let me ask you a question. You say you noticed
9 drag marks. Were these just where dirt was moved around,
10 or was this an actual mark or a trail into something?

11 A. It appeared to be like a trail moving toward the
12 water, with rocks and the dirt drag toward the water area.

13 Q. Did it appear to be -- well, let me just show
14 you. State's Exhibit 25 and 26 that are already in
15 evidence, are those the drag marks that you're talking
16 about?

17 A. Yes, sir.

18 Q. And is that the trail that led to the body?

19 A. Yes, sir.

20 Q. And that was where Leonard Green was found?

21 A. Yes, sir.

22 Q. I'm looking at the -- the mark actually appears
23 to be a different color. Would that be accurate?

24 A. Yes, sir.

25 Q. Earlier Mr. Walker was asking questions, and

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1 perhaps I did not state it as clearly as I should have, or
2 asked even the wrong question. I'm going to show you
3 State's 3 and 4. Is that fairly accurate as far as a
4 photograph of how the body was discovered?

5 A. Yes, sir.

6 Q. And is it covered by anything?

7 A. Yes, sir. Brown palm fronds.

8 Q. And is that the -- some of the vegetation that's
9 just naturally -- well, not -- maybe naturally occurring
10 is not the right word.

11 Is that some palm trees and other things out
12 there?

13 A. Yes, sir.

14 Q. So if you were going to cover a body up, that's
15 what would be available to cover it?

16 A. Yes, sir.

17 Q. I'm going to show you now what's been marked as
18 State's 5 and has been entered into evidence. Is that a
19 picture after EMS had checked Leonard Green?

20 A. Yes, sir.

21 Q. So would it be fair to say your testimony is
22 State's 3 and 4 show more covered -- Leonard Green more
23 covered and 5 shows him after some of the items had been
24 removed?

25 A. Yes, sir.

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1 Q. What did you do after noticing Leonard Green's
2 body?

3 A. I immediately got Corporal Klein's attention, at
4 which time I advised him what I seen lying in the bushes,
5 which was the black male later identified as Mr. Green,
6 and we secured the area and we contacted Sargent
7 Callendine, which is our direct supervisor.

8 Q. All right. And were you there when Sargent
9 Callendine arrived?

10 A. I did -- I was.

11 Q. And was EMS -- did they arrive shortly
12 thereafter?

13 A. I was not there when EMS actually arrived. Once
14 Sargent Callendine -- I was relieved of my duty there and
15 went back on patrol.

16 Q. And other than that, did you have anything else
17 to do with this case?

18 A. No, sir.

19 Q. All right. So you left even before EMS got
20 there?

21 A. Yes, sir.

22 MR. THORNTON: All right. Thank you. I have
23 no further questions. Please answer any questions
24 Mr. Walker has.

25 THE WITNESS: Yes, sir.

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1 MR. WALKER: Good morning.

2 THE WITNESS: Good morning.

3 CROSS-EXAMINATION

4 BY MR. WALKER:

5 Q. You testified a moment ago that when you
6 arrived, you assisted Corporal Klein. What did that
7 assistance consist of?

8 A. Basically being in the area with him to make
9 sure -- you know, just look around the area, you know.
10 And then that's when I noticed the drag marks leading
11 toward the water.

12 Q. So you didn't handle any of the items Corporal
13 Klein --

14 A. No, sir.

15 Q. -- was handling?

16 All right. Did you have any interaction with
17 Mr. Hyatt?

18 A. I did not.

19 Q. Was Mr. Hyatt still there when you arrived?

20 A. I do not remember. But I did not speak to
21 Mr. Hyatt.

22 Q. Okay. So when you say assist, it was -- is more
23 assist-if-needed kind of thing?

24 A. Right. Yes, sir.

25 Q. You weren't actually in there engaging and

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1 handling anything or talking to anybody?

2 A. No, sir.

3 Q. Okay.

4 A. No. That's his case. I was just there if he
5 needed me for anything.

6 Q. And how long would you say you were there before
7 you noticed the drag marks and found the body?

8 A. Five to ten minutes, I would say.

9 MR. WALKER: The Court's indulgence.

10 [Whereupon, Mr. Walker reviews documents]

11 Q. [Mr. Walker] So when you arrived, what kind of
12 day is it?

13 A. Clear. Clear day.

14 Q. Warm?

15 A. It was getting warm, yes.

16 Q. No rain?

17 A. No, sir.

18 Q. The sun was up?

19 A. Yes, sir.

20 Q. And the drag marks: you know, Corporal Klein is
21 there and he's dealing with Mr. Hyatt, or maybe Mr. Hyatt
22 is already gone, but we have -- we're at the location
23 where the pistol was found, and the red shirt and the
24 other items. Did you ever see those items or --

25 A. I did not.

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1 Q. -- were they already --

2 Okay. So they --

3 A. The only thing I observed was the drag marks
4 which I followed to --

5 Q. Well, that's kind of my question. You know, did
6 the drag marks start over here from where Officer Klein
7 was?

8 A. They were not right in front of where he was
9 standing or where his car was. They were a little bit
10 farther away.

11 Q. Okay. And what's a little bit?

12 A. Maybe ten or fifteen feet, maybe. Twenty. You
13 know, just an area. I didn't measure it out or anything,
14 so I'm not --

15 Q. Right.

16 A. -- exactly sure exactly how far it was.

17 Q. From me to you? Or farther away?

18 A. It could have been a little farther.

19 Q. From me to the rail there?

20 A. Somewhere in that area.

21 Q. Okay. Would you agree it was probably twenty-
22 five, thirty feet?

23 A. Sure.

24 Q. Okay. So you follow those. You see Mr. Green,
25 or find who you learned is ultimately Mr. Green. So what

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1 do you do then?

2 A. I immediately notified Corporal Klein, let him
3 know what I found, and we secured the area and we
4 contacted Sargent Callendine.

5 Q. Okay. So this is a parking lot; right?

6 A. Yes, sir.

7 Q. And Mr. Green is found kind of off the parking
8 lot in some bushes?

9 A. [Indicates affirmatively].

10 Q. All right. Did you exit the parking lot area
11 and go into the bushes yourself?

12 A. I went close to the bushes. I didn't actually
13 go in them. I could see him from where I was standing,
14 which was probably about maybe ten or fifteen feet. I
15 could see him --

16 Q. -- Mr. Green.

17 A. -- after following the drag marks.

18 Q. And so you're still pretty much in the parking
19 lot when you say, Klein, come over here and check this
20 out?

21 A. Which the parking lot towards the water -- I
22 mean, there's all kinds of parking. It's not a lined-off
23 parking lot.

24 Q. Right.

25 A. It's just a kind --

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1 Q. It's really just an open gravel area; right?

2 A. -- of a dirt area.

3 Q. Okay. You know, a place where people park, not
4 necessarily a parking lot?

5 A. Correct.

6 Q. And did you look at other places around that
7 area?

8 A. After I saw the drag mark, I followed that.
9 Once I saw -- once I saw the black male, which turned out
10 Mr. Green, I then notified Corporal Klein and had no other
11 dealing in the investigation or anything.

12 Q. Did you see other vehicles in the area?

13 A. I did. Normal vehicles. I didn't take down
14 their plates or anything.

15 Q. Normal vehicles? Just, you know, sedans,
16 trucks, personal vehicles?

17 A. Correct.

18 Q. As opposed to commercial or construction
19 vehicles?

20 A. I do not remember seeing any other vehicles
21 there.

22 Q. Okay. And you say you didn't take down any
23 information about him. Did you have a chance to actually
24 go look at him or anything --

25 A. No, sir, I did not.

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1 Q. -- look in him -- okay.

2 Do you know if anybody -- do you know of anybody
3 that did that?

4 A. I'm not sure.

5 Q. And this is your regular patrol area, as well;
6 correct?

7 A. Yes, sir.

8 Q. And is it safe to say that you have regular
9 crime happening in this location?

10 A. Occasionally. I mean, not -- nothing more than
11 anything normal. I mean, occasionally something here or
12 there.

13 Q. Okay. Like what?

14 A. Maybe a car break-in, you know, whatever. I
15 mean, whatever our dispatch sends us. I mean, we don't --

16 Q. That's the first thing that comes to your mind,
17 though? When I say what kind of crime, you would say car
18 break-in?

19 A. Yes, sir. I've had one there before.

20 MR. WALKER: Okay. I don't have anything else.

21 Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: Anything further?

24 MR. THORNTON: Nothing further. Ask that he be
25 excused subject to re-call, Your Honor.

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1 THE COURT: All right. Corporal Stuckey, you're
2 excused, sir.

3 THE WITNESS: Thank you.

4 THE COURT: Thank you.

5 [Whereupon, Mr. Stuckey is excused and exits the
6 witness stand]

7 THE COURT: Ladies and gentlemen of the jury, I
8 think now is a good time to take a break.

9 Again, I need to remind you, and I will do this
10 every time I send you back to your jury room, that you
11 are not to discuss this case with each other. And the
12 reason, again, is because you have not heard all the
13 evidence, nor the arguments from the lawyer, nor -- or
14 the lawyers, excuse me, nor my charge on the law.

15 Ladies and gentlemen, go back and get a cup of
16 coffee. Feel free to refresh yourself. If you want
17 to bring coffee back into the courtroom, you certainly
18 are permitted to do so. All right? And we'll be
19 right back with you shortly. Thank you.

20 THE BAILIFF: Thank you, Your Honor.

21 [Whereupon, the jury exits the courtroom at
22 11:02 a.m.]

23 THE BAILIFF: The jury is clear, Your Honor.

24 THE COURT: Thank you, Jody.

25 We're going to go ahead and take a ten-minute

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1 break.

2 Is there anything we need to put on the record?
3 Are we fine?

4 MR. THORNTON: I think we're fine, Your Honor.

5 THE COURT: I intend on running until about one
6 o'clock, if that suits Mr. Thornton, just depending on
7 where you -- would be the best break. And if you need
8 to get someone in, and if we could get them in by
9 about 1:30, I'm happy to do that, too. So you tell
10 me.

11 MR. THORNTON: Judge, I think -- obviously, I
12 won't know exactly but when we get approaching that
13 time, I'll try to gauge it that way. I've got enough
14 witnesses to carry us through. I would tell the Court
15 that obviously it's hard to judge. And based on Your
16 Honor's rulings on a couple of matters, it's actually
17 shortened up my witness list. So, you know, I hope
18 the Court will forgive me if I can't get us until 5:00
19 or 5:30. I've got -- you know, I had the first
20 nineteen witnesses here for today's testimony, which
21 has now been cut to probably thirteen to fifteen. So
22 we will get over half the witnesses done today, even
23 with that.

24 THE COURT: Okay.

25 MR. THORNTON: But, again, I'm not planning on

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1 ending at 3:00 or 4:00 but I'm just -- you know, I've
2 got X number and I can't get the rest here until in
3 the morning. But based on everything I've seen, I
4 don't think we'll be past -- I should be done with my
5 side by Wednesday afternoon, Thursday morning at the
6 latest.

7 THE COURT: Great. Okay. Thank you.

8 MR. THORNTON: Yes, ma'am.

9 THE COURT: All right. We'll be at ease for ten
10 minutes.

11 MR. THORNTON: Yes, ma'am.

12 [Whereupon, a recess is taken from 11:02 a.m. to
13 11:39 a.m.]

14 THE COURT: Is the State ready?

15 MR. THORNTON: The State is ready, Judge.

16 THE COURT: Is the defense ready?

17 MR. WALKER: Your Honor, I have --

18 THE COURT: Yes?

19 MR. WALKER: At some point -- I don't know if
20 this is the right time. I understand your ruling, as
21 far as the admissibility of the statements. I do have
22 an argument as to why we think the rule doesn't apply
23 and we can do it after the crime -- today or we can do
24 it after the jury is done this afternoon.

25 THE COURT: We'll do it after the jury is gone

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1 for the afternoon, if we have some time. Okay?

2 MR. WALKER: Otherwise, we're ready, Your Honor.

3 THE COURT: Let's go. Let's bring the jury in.

4 THE BAILIFF: Yes, Your Honor.

5 THE COURT: Yes.

6 MR. WALKER: Your Honor, I would say --

7 THE COURT: Just a moment. I'm sorry. Go
8 ahead.

9 MR. WALKER: I understand your ruling. I
10 just -- I really just want a clear appellant argument.

11 THE COURT: That's fine.

12 MR. WALKER: Thank you.

13 THE COURT: That's fine.

14 [Off the record momentarily]

15 THE BAILIFF: The jury is entering, Your Honor.

16 [Whereupon, the jury enters the courtroom at
17 11:41 a.m.]

18 THE COURT: Thank you.

19 THE BAILIFF: The jury is seated, Your Honor.

20 THE COURT: Thank you. Welcome back, ladies and
21 gentlemen.

22 If the State will call their next witness.

23 MR. THORNTON: Christopher Boltin.

24 [Whereupon, Mr. Boltin comes forward]

25 THE CLERK OF COURT: Would you place your left

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1 hand on the Bible and raise your right hand for me,
2 please.

3 [Whereupon, Mr. Boltin is duly sworn by the
4 clerk of court as follows: do you solemnly swear to
5 truthfully answer all questions asked of you by this
6 Court, so help you God]

7 THE WITNESS: I do.

8 THE CLERK OF COURT: Please be seated.

9 [Whereupon, Mr. Boltin takes the witness stand]

10 THE CLERK OF COURT: State your name and spell
11 it for the Court, please.

12 THE WITNESS: Chris Boltin. B-O-L-T-I-N.

13 - - - - -

14 CHRISTOPHER BOLTIN,

15 Having Been First Duly Sworn,
16 was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MR. THORNTON:

19 Q. Mr. Boltin, who do you work for, sir?

20 A. Beaufort County EMS.

21 Q. And did you work for them on or about May the
22 23rd of 2010?

23 A. Yes, sir.

24 Q. And did you respond out to any -- first of all,
25 what do you do for them?

MIA PERRON, CVR-CM-M

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1 A. I'm a paramedic and a tactical paramedic for
2 EMS.

3 Q. And were you a paramedic at that time? May the
4 23rd of 2010.

5 A. Yes, sir.

6 Q. Did you respond out to any particular scenes
7 that Sunday morning?

8 A. I went to the Pinckney Island boat landing, yes,
9 sir.

10 Q. What did you do when you got there?

11 A. We were called for an unconscious victim. We
12 were met by the sheriff's office deputies. They told us
13 what they found. They took our names down before we went
14 in, and we went and checked the victim to see if he was
15 alive or dead.

16 Q. All right. And what did you -- when you found
17 him, was he alive or dead?

18 A. He was dead.

19 Q. And did you -- what types of things did you
20 notice about the victim later identified as Leonard Green?
21 What did you notice about him when you got there?

22 A. Initially, we weren't allowed to touch the body
23 until after Deputy Klein took some pictures. We found him
24 covered with some palm fronds, branches, leaves. We
25 removed that, noticed that he had some blood on his shirt

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1 and had a laceration above his -- above his eye. He was
2 not breathing, and he had no pulse, and rigor had also set
3 in.

4 Q. All right. And did -- is there anything -- and
5 did you find any other wounds on him?

6 A. After we -- after the initial pulse check, we
7 did check for injuries. Pulled his shirt up and found I
8 believe it was two bullet -- two entry wounds in the left
9 upper quadrant of the abdomen, and another laceration, one
10 above his eye, his left eye, and a laceration to his left
11 arm, left wrist.

12 Q. And you said two -- what you would deem two --
13 what appeared to be entry wounds consistent with what type
14 of wound?

15 A. What do you mean?

16 Q. Did they -- I mean, how long have you been a
17 paramedic?

18 A. I've been a paramedic since 2007.

19 Q. All right. So how many wounds on people have
20 you seen, do you think, since 2007?

21 A. Quite a few.

22 Q. Have you ever seen somebody that's been stabbed
23 with a knife?

24 A. Yes, sir.

25 Q. Is that what these looked like?

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1 A. No, sir.

2 Q. That's what -- when I say what kind of wound,
3 that's what I mean. What did they look like to you?

4 A. They were definitely a penetrating-type injury.
5 Round. I mean, they definitely looked like bullet entry
6 wounds.

7 Q. So it would be consistent with bullet wounds?

8 A. Yes, sir.

9 Q. After you obviously established that he no
10 longer needed your care, because he was dead, you examined
11 the body. What else did you do, if anything?

12 A. At that time we notified the coroner, which is
13 our standard procedure.

14 Q. Yes, sir.

15 A. And we exited the scene. Let the sheriff's
16 office know what we found and we -- and then we actually
17 left the scene.

18 Q. And did you do anything else pertaining to this
19 investigation?

20 A. Other than write my report, no, sir.

21 MR. THORNTON: Thank you very much, Mr. Boltin.

22 I appreciate it. If you'll answer any questions

23 Mr. Walker has.

24 THE COURT: Mr. Walker?

25 MR. WALKER: Good morning.

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1 THE WITNESS: Good morning.

2 CROSS-EXAMINATION

3 BY MR. WALKER:

4 Q. You've been an EMT since '76?

5 A. I've been an EMT since 2004 --

6 Q. Four.

7 A. -- but I've been a paramedic since 2007.

8 Q. That's different than an EMT?

9 A. Yes, sir.

10 Q. Is it a higher level?

11 A. Yes, sir.

12 Q. And what's the difference?

13 A. EMT, there's three levels. An EMT is basically
14 your lowest level: basic bandaging, oxygen
15 administration, stuff like that. The next level is your
16 intermediate. You're allowed to do IVs. And the highest
17 level is paramedic and you do everything from cardiac
18 monitoring to defibrillation to intubation, along with all
19 the basic and intermediate skills.

20 Q. And, you know, you've thrown out some terms
21 there. Defibrillation, that's what we see on -- you know,
22 clear --

23 A. Yes. That's where they shock somebody.

24 Q. And intubation is putting a breathing tube in --

25 A. A tube down their throat.

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1 Q. -- in their lungs? Okay.

2 And that's what you are is the paramedic level?

3 A. Yes, sir. I'm the lead person on that ambulance.

4 Q. Okay. How many people are in the ambulance?

5 A. Two.

6 Q. And so you arrive that morning. Was this your
7 first call of the day, or you had been on all night, or how
8 did --

9 A. Our dispatch time was 8:30, so, yes, sir. We
10 come on shift at eight o'clock, so it probably would have
11 been our first call.

12 Q. And so you pull up to the boat landing. And
13 where do you go?

14 A. When we pulled up I believe we were met by Deputy
15 Klein as soon as we got out and we were told, you know,
16 what they found. The crime scene tape was already up, so
17 we weren't allowed in until after he took down our names.
18 He also requested we wait to move anything on the body
19 until after he took some pictures.

20 Q. So you stopped your ambulance outside the yellow
21 tape?

22 A. Yes, sir.

23 Q. About like by his police vehicle?

24 A. I can't tell you exactly where it was. I will
25 say we were facing the boat landing.

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1 Q. Were you with him when he took the pictures?

2 A. Yes, sir.

3 Q. Okay. So he took your information and then y'all
4 all walked together to where they had discovered the body?

5 A. Yes, sir.

6 Q. And you say he took some pictures. And then you
7 had a partner with you and you --

8 A. Yes, sir.

9 Q. -- and your partner then approached the body?

10 A. Yes, sir.

11 Q. And so what's your drill that you do when you're
12 doing that? What do you check for?

13 A. We check for signs of life. You know, breathing,
14 movement, the color of the skin, whether or not the patient
15 is in rigor. You know, the temperature of the skin.

16 Q. So you would have touched Mr. Green's body?

17 A. Yes, sir.

18 Q. Okay. And so where do you take the pulse at?

19 A. In the neck.

20 Q. Okay. And I guess you just, from observation,
21 see there's no breathing?

22 A. Yes, sir.

23 Q. And you said a minute ago that rigor had set in
24 for -- what is rigor?

25 A. Rigor is a chemical reaction in the muscles where

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1 lactic -- you know, lactic acid builds up and causes the
2 muscles to become stiff.

3 Q. Okay. So what does that indicate?

4 A. It indicates no life.

5 Q. All right. Do you recall giving testimony in
6 this matter before?

7 A. I'm sorry?

8 Q. I mean, does rigor indicate to you anything, as a
9 paramedic, as to how long the body's been there?

10 A. Yes, sir.

11 Q. Did the rigor here indicate anything to you?

12 A. It indicated about, you know -- about the time
13 line, you know, as far as when the injuries occurred.

14 Q. Okay. And when would that have been?

15 A. Rigor sets in at about I believe two to four
16 hours.

17 Q. Well, let me ask you this. Do you remember
18 giving some testimony in this matter before?

19 A. Yes, sir.

20 Q. Do you remember testifying that when you arrived,
21 the body was in full rigor?

22 A. Yes, sir.

23 Q. All right. And do you remember testifying that
24 that meant that he had been dead for a while and he had
25 been dead for around twelve hours?

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1 A. Anywhere from ten to twelve hours, yes, sir.

2 Q. Was it a nice day?

3 A. Yes, sir.

4 Q. Okay. You could see everything easily?

5 A. Yes, sir.

6 Q. From where they stopped you outside the tape,
7 were you able to see the body?

8 A. I don't recall.

9 Q. Okay. But they led you to where it was?

10 A. Yes, sir.

11 Q. So after you check the pulse, check the
12 breathing, noticed rigor, checked the bullet wounds, what
13 did you do then?

14 A. At that time we, you know, notified the sheriff's
15 office of what we found, notified the coroner over the
16 radio, and left the scene.

17 Q. Okay. So you didn't stay for when the coroner
18 arrived?

19 A. No, sir.

20 Q. Okay. You just basically checked for life and
21 left?

22 A. Yes, sir. Which is standard practice. We turn
23 it back over to the sheriff's office and let them proceed.

24 Q. How long would you say you were on the scene,
25 total?

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1 A. Arrival time was 8:39 and our clear time was
2 8:56. So twenty minutes, twenty-five minutes.

3 MR. WALKER: I don't have anything further.
4 Thank you.

5 THE COURT: Mr. Thornton?

6 MR. THORNTON: I don't have anything. Thank you
7 very much.

8 THE COURT: Any objection to Mr. Boltin being
9 excused? From anyone?

10 MR. THORNTON: I ask that he be excused.

11 MR. WALKER: No objection.

12 THE COURT: You may be excused, sir. Thank you.

13 [Whereupon, Mr. Boltin is excused and exits the
14 witness stand]

15 THE COURT: Call your next witness.

16 MR. THORNTON: Ed Allen.

17 [Whereupon, Mr. Allen comes forward]

18 THE CLERK OF COURT: Would you place your left
19 hand on the Bible and raise your right hand for me,
20 please.

21 [Whereupon, Mr. Allen is duly sworn by the clerk
22 of court as follows: do you solemnly swear to
23 truthfully answer all questions asked of you by this
24 Court, so help you God]

25 THE WITNESS: I do.

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1 THE CLERK OF COURT: Please be seated.

2 [Whereupon, Mr. Allen takes the witness stand]

3 THE CLERK OF COURT: State your name and spell it
4 for the Court, please.

5 THE WITNESS: Joseph Edward Allen. A-L-L-E-N.

6 MR. THORNTON: Good after -- actually, it's still
7 morning. Good morning, Mr. Allen.

8 THE WITNESS: Good morning, sir.

9

10 JOSEPH EDWARD ALLEN,

11 Having Been First Duly Sworn,

12 was Examined and Testified as Follows:

13 DIRECT EXAMINATION

14 BY MR. THORNTON:

15 Q. Mr. Allen, what do you do for a living, sir?

16 A. Beaufort County coroner.

17 Q. And were you with the Beaufort County coroner's
18 office on or about May the 23rd of 2010?

19 A. Yes, sir.

20 Q. And did you respond out to any particular
21 location on that day?

22 A. Yes, sir.

23 Q. Where did you go, sir?

24 A. To the Pinckney Island boat landing.

25 Q. And what did you do when you got there,

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1 Mr. Allen?

2 A. Once I arrived on the scene, checked in with the
3 law enforcement personnel that was on scene. They advised
4 me of the location of the remains. Took a quick survey of
5 the area to make sure that I didn't disturb anything. Went
6 over, looked at the body and established that the person
7 was, in fact, dead.

8 Q. And is that one of your duties as coroner is to
9 establish death or certify death?

10 A. Yes, sir.

11 Q. And the victim in this case, Leonard Green, who's
12 body was discovered at Pinckney Island boat landing, was he
13 deceased upon your arrival, sir?

14 A. Yes, sir.

15 Q. And did you pronounce him dead at that time?

16 A. Yes, sir.

17 MR. THORNTON: Thank you.

18 Your Honor, I have no further questions.

19 Thank you, Mr. Allen. Please answer any
20 questions Mr. Walker has.

21 THE COURT: Mr. Walker.

22 MR. WALKER: Good morning, sir.

23 THE WITNESS: Good morning.

24 - - -

25 - - -

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CROSS-EXAMINATION

BY MR. WALKER:

Q. When you arrived, the paramedics had left;
correct?

A. Correct.

Q. Okay. And so you conducted an examination of the
body independently?

A. Yes, sir.

Q. Okay. And it's your job, really, to be the
official person that does a pronouncement; is that correct?

A. Yes, sir.

Q. How long were you there at the scene?

A. All total, I was probably on scene actually
probably two or three hours.

Q. Okay. And so what is your role after that
pronouncement of death?

A. After pronouncement of death, try to make contact
with the next of kin to make a notification to the death of
the victim. Also then to process and prepare the remains
for transport. If --

Q. And your office is the one that actually does --

A. Yes, sir.

Q. -- the transfer of the body?

A. Yes, sir. And then to notify -- we have our
forensic autopsies done at the Medical University of South

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1 Carolina in Charleston. I will generally call up, get in
2 touch with the forensic pathologist on call, give them a
3 preliminary as to what we found on the scene -- if
4 necessary, have them speak with law enforcement that is on
5 scene -- and then have the body transported to the Medical
6 University and then go to my office, prepare the
7 authorization for autopsy.

8 Q. When you arrived, did you park outside of the
9 roped-off area?

10 A. Yes, sir.

11 Q. Could you see the body from where you parked?

12 A. No, sir.

13 Q. Okay. You had to be shown where it was?

14 A. I had to enter the protective perimeter, sir.

15 Q. And then someone just actually took you to show
16 you where it was?

17 A. Correct.

18 Q. Okay. It was a nice day?

19 A. [No response]

20 Q. Well, let me -- you had no problems because
21 visibility was good --

22 A. Visibility was fine, yes, sir.

23 Q. And there were indications that the body had been
24 there for a while?

25 A. Yes, sir.

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1 Q. And what were those?

2 A. Well, the body was covered with palmetto fronds,
3 also some foliage that was in the area. Cadaver lividity
4 was present. Rigor mortis was present. There were also
5 some other activity for fiddler crabs, and also flies at
6 the scene, sir.

7 Q. And you mentioned -- the first thing you
8 mentioned was lividity.

9 A. Correct.

10 Q. Can you tell us what that means?

11 A. All right. Cadaver lividity is the settling of
12 the blood in the body. Once circulation ceases, then the
13 blood will start settling to the independent parts so that
14 protect -- depending on what position the body is is that
15 the -- it will gravitate to that area. Looking at it,
16 you'll see a discoloration in the skin because of that
17 positioning.

18 Q. Is that a process that takes a period of time?

19 A. Yes, sir.

20 Q. What's the time frame for something like that?

21 A. Depending on the individual, the size of them,
22 and also the environment that they are involved in or
23 they're, you know --

24 Q. Well, I mean, in this specific case, what did the
25 lividity that you observed indicate to you?

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1 A. Well, I would rely more on rigor mortis than the
2 lividity, because if -- you're standing there right now.
3 If you stand there a while, then you're going to get some
4 lividity within your hands that's going to -- the pressure
5 points, there's not going to be circulation in that area so
6 you'll have some difference in your discoloration in your
7 hands.

8 Q. Okay. So rigor mortis is the more accurate way
9 to determine that?

10 A. Yes, sir.

11 Q. And, you know, other than the dealing with the
12 remains and notifying the family, you don't take any part
13 in the investigation that the sheriff's office is doing; is
14 that correct?

15 A. The sheriff's office would survey the area. They
16 would recover evidence that is present. If there's
17 something that I see that's obvious, I may also communicate
18 with the officers on the scene and may point something out
19 to them.

20 MR. WALKER: Thank you. I don't have anything
21 else.

22 THE WITNESS: Okay.

23 THE COURT: Anything further?

24 MR. THORNTON: Nothing further. Ask that Mr.

25 Allen be excused.

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1 THE COURT: Any objection?

2 MR. WALKER: No objection.

3 THE COURT: You're excused, Mr. Allen. Thank
4 you.

5 [Whereupon, Mr. Allen is excused and exits the
6 witness stand]

7 MR. THORNTON: Tim French.

8 [Whereupon, Mr. French comes forward]

9 THE CLERK OF COURT: Would you place your left
10 hand on the Bible and raise your right hand for me,
11 please.

12 [Whereupon, Mr. French is duly sworn by the clerk
13 of court as follows: do you solemnly swear to
14 truthfully answer all questions asked of you by this
15 Court, so help you God]

16 THE WITNESS: I do.

17 THE CLERK OF COURT: Please be seated.

18 [Whereupon, Mr. French takes the witness stand]

19 THE CLERK OF COURT: State your name and spell it
20 for the Court, please.

21 THE WITNESS: Tim French. F-R-E-N-C-H.

22 MR. THORNTON: Your Honor, I apologize. The
23 Court's indulgence for one moment.

24 THE COURT: Okay.

25 [Whereupon, Mr. Thornton reviews documents]

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1 MR. THORNTON: Sorry for the delay, Judge.

2
3 TIM FRENCH,

4 Having Been First Duly Sworn,
5 was Examined and Testified as Follows:

6 DIRECT EXAMINATION

7 BY MR. THORNTON:

8 Q. Mr. French, who do you work for?

9 A. I work for the Beaufort County Sheriff's Office.

10 Q. What do you do for them, sir?

11 A. I'm a DNA analyst in the DNA lab.

12 Q. And did you work for the Beaufort County
13 Sheriff's Office on or about May 23rd of 2010?

14 A. Yes.

15 Q. And did you do the same DNA work then, as well?

16 A. Not exactly. The lab wasn't fully functioning at
17 that point and so -- we were still in the process of
18 setting the lab up.

19 Q. Okay. And did you do the same type of work then?

20 A. Yes.

21 Q. On May the 23rd of 2010, did you respond out to
22 any particular scene that day?

23 A. Yes, I did.

24 Q. Okay. And where did you respond out to, sir?

25 A. I was called to respond to the Pinckney Island

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1 boat landing.

2 Q. And what did you do when you got there?

3 A. I was asked to swab some items to look for the
4 presence of DNA.

5 Q. And what were the items at that time at the scene
6 that you swabbed?

7 A. There were some ID proximity cards. The ID card
8 has a name of Leonard Green. A proximity card is like what
9 you use for the card readers to go through security doors.
10 I was also asked to swab a firearm, a handgun, and take
11 some swabs from what looked like a blood trail on the
12 ground.

13 Q. And did you swab the firearm that was located --
14 that had been located at the scene?

15 A. Yes.

16 Q. And I'm going to hand you what's been marked as
17 State's Exhibit Number 53. And did we open that, at a
18 previous hearing, in my presence?

19 A. Yes.

20 Q. And other than that, was it in the sealed
21 condition -- did that envelope come out in a sealed
22 condition from the South Carolina Law Enforcement Division?

23 A. Yes.

24 Q. All right, sir. If you would examine the
25 contents of what's been marked for identification as

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1 State's Exhibit 53 and see if you can identify those for
2 me.

3 [Whereupon, the witness complies]

4 A. Yes. These are the swabs that I collected from
5 those items. There's an additional box containing two
6 swabs that I did not collect.

7 Q. [Mr. Thornton] Okay. Which swabs did you not
8 collect, sir?

9 A. The swabs from a Verizon phone.

10 Q. All right. Other than the interior bag marked
11 swabs from a Verizon phone, did you take all the rest of
12 those swabs?

13 A. Yes, I did.

14 Q. And how do you know that?

15 A. The listing of what the item was that was
16 swabbed.

17 Q. And that's all written down on the packaging; is
18 that correct?

19 A. That's correct.

20 Q. And are those interior packets now sealed?

21 A. Yes, they are.

22 Q. And is that the way they typically come back from
23 SLED?

24 A. Yes.

25 Q. And when you take a swab, do you seal it at that

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1 time?

2 A. It depends. In this case I did not. I took
3 swabs and then turned the -- after you take a swab, you put
4 it in a cardboard box that allows the swab to dry while
5 it's in the box. I actually handed those swabs over to
6 Investigator Adams.

7 Q. And after you handed them to Investigator Adams,
8 did you analyze those particular swabs or were you just at
9 that time responsible just for the collection?

10 A. Just collection.

11 MR. THORNTON: If you would, please, make sure
12 we've got those back in the bag for me.

13 THE WITNESS: Uh-huh.

14 MR. THORNTON: Thank you, sir.

15 [Whereupon, the witness complies]

16 Q. [Mr. Thornton] Some of those swabs that are in
17 State's Exhibit for identification fifty -- I believe
18 that's 43, some of those reference stain marker; is that
19 correct?

20 A. Yes.

21 Q. All right. And were those stain markers from
22 particular places at the crime scene?

23 A. Yeah. They're the placards that they use for
24 identifying things at a scene.

25 Q. All right. Then can you tell me which ones those

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1 are, sir?

2 A. For the trail on the ground they were 3 and 7.

3 Q. I'm going to hand you what's been already entered
4 into evidence as State's 24 and 26. Are those the areas
5 that you took -- the drag marks that you took a swab from?

6 A. Yes.

7 Q. And you also mentioned an ID card; is that
8 correct?

9 A. That's correct.

10 Q. I'm going to hand you what's been marked as
11 State's Exhibit 17. Is that the ID card?

12 A. Yes, it is.

13 Q. And is that what was found at the scene?

14 A. Yes.

15 Q. And is that -- is there any name referenced on
16 that ID?

17 A. The name on there is Leonard Green.

18 Q. Is that the ID card that was located near the
19 body?

20 A. I believe it was. The body was removed prior to
21 my arrival.

22 Q. Mr. French, did you also do some work or some DNA
23 testing on -- or attempt to do some collection for DNA
24 testing on a red Ford pickup?

25 A. Yes.

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1 Q. And was that the victim's pickup?

2 A. I believe it was, yes.

3 Q. Where was that -- where was that red Ford pickup
4 located?

5 A. It was in the impound lot at the Savannah Metro
6 Police Department.

7 Q. And did anyone go with you, sir?

8 A. Yes. Investigator Cooler.

9 Q. After that, sir, did you do anything else in
10 regard to this case?

11 A. No, I did not.

12 Q. And the lab here -- Beaufort now actually has its
13 own lab; is that correct?

14 A. That's correct.

15 Q. And your testimony earlier was it was not set up;
16 is that right?

17 A. Well, it's wasn't functioning for case work.
18 Physically it was set up.

19 Q. What would -- typically, what would you have done
20 or what would an investigator had done at that time to get
21 DNA or anything? Where would it have been sent?

22 A. At that time?

23 Q. Yes.

24 A. To SLED.

25 Q. Okay. So is that also South Carolina Law

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1 Enforcement Division?

2 A. Yes, it is.

3 MR. THORNTON: Thank you. I have nothing further
4 at this time, Your Honor. Thank you.

5 MR. WALKER: Hello.

6 THE WITNESS: Hi.

7 CROSS-EXAMINATION

8 BY MR. WALKER:

9 Q. So what time did you get out to the boat landing
10 that day?

11 A. I got there about 11:45.

12 Q. Okay. And you responding to -- who called you
13 up?

14 A. Captain Bromage.

15 Q. And you recall that for the specific purpose of
16 doing DNA evidence collection?

17 A. Correct.

18 Q. That's pretty much what you were doing at the
19 time? That was one of your primary jobs?

20 A. No, not really.

21 Q. No?

22 A. No. Primarily, we were setting up the lab.
23 Collection of DNA is kind of a side thing.

24 Q. Well, why -- is there somebody that primarily
25 does that?

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1 A. Typically, the investigators at the scene will do
2 it.

3 Q. Okay. So why didn't they do it this time?

4 A. I don't know.

5 Q. So it was actually unusual for you to be out
6 there doing it?

7 A. Somewhat, yes.

8 Q. Okay. And so you get out there and Investigator
9 Bromage is there?

10 A. Yes.

11 Q. Okay. And they -- do they tell you -- do you
12 say, I want to take samples of this, or do they say, we
13 want you to take samples of this?

14 A. No. They directed me to which items they would
15 like me to swab.

16 Q. Okay. And stepping back, I mean, you've got a
17 whole DNA lab. You're swabbing. Why do we like DNA?

18 A. To try to identify the person who could have
19 contributed DNA to a certain sample.

20 Q. Okay. What is good about DNA as a form of
21 evidence?

22 A. What is good about it?

23 Q. Yeah.

24 A. Everyone has DNA.

25 Q. Okay. And it's unique?

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1 A. Yeah. Other than identical twins it is.

2 Q. So it's kind of like fingerprints?

3 A. Yes, sir.

4 Q. And I know you testified you took a number of
5 swabs and you sent them to SLED. Have you been consulted
6 about those results?

7 A. No. I didn't send them to SLED. I said they --

8 Q. They were --

9 A. -- that's where they would be sent to.

10 Q. Okay.

11 A. I turned the swabs over to Investigator Adams.

12 Q. So it would have been Investigator Adams that
13 sent them to SLED?

14 A. Someone, yes.

15 Q. Okay. Have you had any involvement with those
16 samples or those results since then?

17 A. No.

18 MR. WALKER: Excuse me. Your Honor, I'm going to
19 leave the keys to the barrel lock with the court
20 reporter.

21 THE COURT: Okay.

22 [Off the record momentarily]

23 Q. [Mr. Walker] I'm going to hand you a Highpoint
24 .45, that's been entered into evidence in this case, and
25 could you indicate for the jury where on that weapon you

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1 would have attempted to retrieve DNA?

2 A. I can't say for sure on this weapon. Typically,
3 where I'll swab a handgun is I'll swab the grips.

4 MR. WALKER: And can you hold it up above the
5 level --

6 A. I'll swab the grip area here; sometimes the
7 trigger, although we don't typically get very good results
8 from that because it's a very small area; and then the
9 slide where somebody would grab it to rack it back.

10 Q. [Mr. Walker] Okay. Because those are high
11 viability areas of someone touching it?

12 A. That's correct.

13 Q. And I'll also hand you the magazine from the
14 weapon and ask you to again indicate where you would
15 typically seek to gain samples.

16 A. This I would swab pretty much the whole thing
17 because you would handle it -- put it in the weapon like
18 this, and when you load it you would have to hold pretty
19 much the whole surface area.

20 Q. So your goal is really to maximize the surface
21 area you cover to get any traces of DNA?

22 A. Yes.

23 Q. Now, if this case were to happen today, you would
24 be the one analyzing the DNA; correct?

25 A. Yes.

1 Q. And does it require anything from the person
2 handling something or me handling this pen -- do I have to
3 do anything to leave any DNA on the -- on an item? How is
4 DNA transferred?

5 A. As far as like touch DNA?

6 Q. You're the man. You tell me.

7 A. Well, you can get touch DNA just by touching an
8 item similar, like you said, to fingerprints. But just
9 like fingerprints, sometimes someone can touch an item and
10 you don't get fingerprints. It depends how much they
11 handle the item, how hard they touch it, how much their
12 hand is sweating, or even if they have gloves on, whether
13 you're going to find DNA or not.

14 Q. And you say that's called touch DNA when you --

15 A. Contact DNA --

16 Q. -- one of the other --

17 A. -- touch --

18 Q. -- kinds of DNA that -- contact or touch.

19 A. Well, you can have DNA from a blood stain, semen
20 stain, saliva stain. Any type of cell in your body has
21 DNA.

22 Q. So does that have a name like a fluid -- is that
23 a bodily fluid, I guess, would give you --

24 A. Yes.

25 Q. -- a DNA sample?

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1 A. Uh-huh.

2 Q. And those are the two basic types --

3 A. Pretty much, yes.

4 Q. -- that you look for? The touch or a bodily
5 fluid of some sort?

6 A. Yes.

7 Q. Okay. How long did it take you to swab the
8 various areas that you were --

9 A. I was at the scene for a total of forty-five
10 minutes.

11 Q. Okay. Was the body still there?

12 A. No. It had been removed.

13 Q. Do you -- when you do one of these situations
14 where you're -- well, how do you avoid when taking -- like
15 we just did when you showed the jury the weapon and
16 everything, how do you avoid getting your own DNA on it?

17 A. I take precautions to -- that's called cross-
18 contamination. We take --

19 Q. That's bad; right?

20 A. -- precautions. Yes.

21 Q. Why is that?

22 A. Well, in a case of my own DNA, I can identify my
23 own. I analyzed it --

24 Q. Well, let me -- why do we not want cross-
25 contamination?

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1 A. Because you can put DNA there that didn't come
2 from that item.

3 Q. Okay. So you want to -- you want to safeguard
4 the DNA that's on that particular weapon and you take steps
5 to avoid doing it?

6 A. That's correct.

7 Q. Okay. So continue your explaining how do you
8 take those steps?

9 A. You wear gloves, obviously, first thing. You try
10 not to touch that item to any other item that could have
11 DNA on it. So in the case of the ID cards, they were on
12 the ground. I picked them up with gloved hands, swabbed
13 the items, put the cards back. In the instance of the
14 blood trail, that's just swabbing a stain that's on the
15 ground. There's really not that much, other than sweating
16 or, you know, coughing on the blood stain, that I could do
17 to contaminate that.

18 The weapon was placed on -- I don't recall what
19 it was. There was something on the hood on a vehicle. It
20 was either a piece of paper, or perhaps the cardboard box
21 that the weapon is in now, holding the weapon to prevent it
22 from touching anything that was on the vehicle.

23 Q. And you said something about you would have a way
24 to check and make sure you haven't cross-contaminated
25 anything?

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1 A. No. I just said that I could -- if I
2 contaminated something with my own DNA, I could identify it
3 because I know my profile.

4 Q. Okay. And that's something that is on file?

5 A. Yes. Uh-huh.

6 Q. So they could automatically check anything you
7 submit against your profile?

8 A. Yes.

9 Q. I'm sorry. You may have said this already.
10 About what time did you get called out there?

11 A. I got called at 11:15, I arrived about 11:45, and
12 I was done at 12:30.

13 Q. Okay. I would like to move from the boat landing
14 and direct your attention to the other swabs that you took.
15 You say you went to Savannah --

16 A. Yes.

17 Q. -- and took some swabs from what you were told
18 was the victim's truck; correct?

19 A. That's correct.

20 Q. Can you go through and tell us, you know, about
21 that process? What you swabbed, who -- you know, again,
22 did you choose, or were you directed, that sort of thing?

23 A. In that instance it was what I thought needed to
24 be swabbed. Investigator Cooler was collecting items that
25 were in the vehicle, which may or may not prove to be some

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1 type of evidence. I was primarily interested in swabbing
2 surfaces that somebody could have touched, so steering
3 wheel, gear shifter, doorknobs, radio knobs, anything like
4 that.

5 Q. Can you go through and tell us what you did, in
6 fact, swab?

7 A. Would you like me to list the swabs that I did?

8 Q. I would, yes.

9 A. Okay. I took four swabs from the steering wheel,
10 four swabs from the driver's door armrest, two swabs from
11 the driver's doorhandle and window crank, four swabs from
12 the center armrest, two swabs from the driver's headrest,
13 two swabs from the driver's side rear armrest, two swabs
14 from the passenger-side rear armrest, four swabs from the
15 passenger-side front armrest, two swabs from the passenger-
16 seat headrest, two swabs from the passenger doorhandle and
17 window crank, two swabs from the dashboard knobs, and two
18 swabs from the gearshift knob.

19 Q. And what did you do with all those swabs that you
20 collected?

21 A. Just like I did at the boat landing. I packed
22 them in the proper cardboard tubes and then turned them
23 over to Investigator Cooler.

24 Q. And then it would have been up to him to then
25 forward them I guess -- you still weren't operating and it

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1 was SLED --

2 A. That's correct.

3 Q. -- that analyzed those?

4 A. That's correct.

5 Q. And have you had any further contact with those
6 swabs or results since then?

7 A. No.

8 MR. WALKER: I don't have anything else. Thank
9 you.

10 THE COURT: Anything further?

11 REDIRECT EXAMINATION

12 Q. [Mr. Thornton] What day -- do you have the date
13 of when you went to Savannah and swabbed the truck?

14 A. It was the -- yeah -- 17th of June.

15 Q. Okay. So almost a -- not quite a month, but
16 about a month later?

17 A. Yes.

18 MR. THORNTON: Nothing further.

19 THE COURT: Anything further?

20 MR. WALKER: Just one follow up.

21

22

23

24

25

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1 RE CROSS-EXAMINATION

2 BY MR. WALKER:

3 Q. Does the passage of time -- does DNA naturally,
4 and of its own, go away?5 A. Not of its own. Depending on the condition of
6 where it is. Say you touch somebody's windshield on a
7 vehicle, the sun and the rain --

8 Q. It could be washed --

9 A. -- it would wash it off.

10 Q. -- away? It could be wiped away?

11 A. Yes. If it's in --

12 Q. It's not like a puddle of water that's going to
13 evaporate --

14 A. Correct.

15 Q. -- if it's not collected within a certain time?

16 A. Right. If it's indoors, fairly environmentally
17 controlled, it could last potentially indefinitely.

18 MR. WALKER: Thank you.

19 THE COURT: Anything further?

20 MR. THORNTON: Just one question.

21 FURTHER REDIRECT EXAMINATION

22 BY MR. THORNTON:

23 Q. If somebody is wearing gloves, is that less
24 likely they would leave touch DNA?

25 A. Yes.

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1 MR. THORNTON: Thanks. Nothing further.

2 THE COURT: Anything further?

3 FURTHER RECROSS-EXAMINATION

4 BY MR. WALKER:

5 Q. DNA we've already talked about as transferable;
6 correct?

7 A. Yes.

8 Q. Okay. So it's not like a fingerprint where it
9 can only come from one place and if you cover that place --
10 I guess what I'm saying is if I was wearing gloves and I
11 touched something, you couldn't get my fingerprints off of
12 it; correct?

13 A. Correct.

14 Q. But if I put on a glove, I could -- with my hand
15 that wasn't gloved, I could be getting DNA on that glove;
16 correct?

17 A. You could, yes.

18 Q. Because anything I touch can have DNA on it?

19 A. Yes.

20 Q. As opposed to a fingerprint which might -- the
21 surface of my finger actually has to make contact with the
22 gloves?

23 A. That's correct.

24 MR. WALKER: Thank you.

25 THE COURT: Anything else?

1 MR. THORNTON: Actually, Judge, I'm sorry, but I
2 do.

3 THE COURT: That's all right.

4 FURTHER REDIRECT EXAMINATION

5 BY MR. THORNTON:

6 Q. There was a stipulation entered into earlier that
7 said that this pistol belonged -- State's Exhibit Number 1
8 is owned by one Sam Crews and was stolen from his home and
9 that neither his DNA or touch DNA or his son's was anywhere
10 on it. Since we know who owned it, ostensibly they would
11 have touched it. So it's possible to touch things and not
12 leave touch DNA. Is that not correct?

13 A. Yes, it is.

14 Q. Even if you didn't have gloves on?

15 A. Yes, it is.

16 Q. After I touch this gun, is it possible that you
17 could test it and couldn't find DNA on it?

18 A. It's possible, yes.

19 Q. All right. And if I had gloves on, it would be
20 more likely or less likely?

21 A. Less likely.

22 MR. THORNTON: Thank you. I have no further
23 questions.

24 THE COURT: Anything further?

25 MR. WALKER: Nothing further. Thank you.

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1 THE COURT: You may step down, Mr. French.

2 [Whereupon, Mr. French is excused and exits the
3 witness stand]

4 MR. THORNTON: Your Honor, if I could have the
5 Court's indulgence for one moment --

6 THE COURT: Sure.

7 MR. THORNTON: -- before the next witness.

8 THE COURT: Okay. Actually, we're going to go
9 ahead and take a break right now.

10 MR. THORNTON: Okay.

11 THE COURT: All right. Ladies and gentlemen,
12 we're going to go ahead and break for lunch at this
13 time. I can tell you, as I'm sure you saw coming into
14 the courthouse, we are undergoing construction and
15 we've got a lot going on. And with the rain, we've had
16 some leaks in here. And I can tell you that I am being
17 snowed on, as I sit here, from probably fourteen years
18 worth of vents and everything else up there. We're
19 going to do our best. There is a chance that we may
20 have to move to another courtroom. We've been pretty
21 lucky so far, as far as no terrible leaks, but we do
22 have some this morning. So I think right now I'm going
23 to give them an opportunity to get in here and see what
24 they can do to make things shored up a bit.

25 Ladies and gentlemen, by the clock in the back of

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1 the courtroom it's 12:20. I am going to ask that y'all
2 be back in your jury room at 1:30, when we're going to
3 go ahead and continue the trial of this case. Go get a
4 bite to eat, come back.

5 Ladies and gentlemen, I have to caution you again
6 that you are not to discuss this case with anyone. You
7 are not to do any of your own independent research.
8 Get a bite to eat, come back, and I look forward to
9 seeing y'all at 1:30. Thank you.

10 THE BAILIFF: Thank you, Your Honor.

11 [Whereupon, the jury exits the courtroom at
12 12:22 p.m.]

13 THE COURT: Anything we need to put on the
14 record?

15 MR. THORNTON: Not from me, Your Honor. I didn't
16 know when you -- if you wanted to wait until after
17 lunch and put what Mr. Walker talked about earlier on
18 the record.

19 THE COURT: We can put that later. I don't think
20 there's any pressing concern at this time. So we'll
21 just all be back at 1:30. Go grab lunch, y'all, and
22 we'll put it on at the end of the day.

23 MR. THORNTON: Yes, ma'am.

24 THE COURT: Thank you.

25 [Whereupon, a recess is taken from 12:22 p.m. to

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1 1:42 p.m.]

2 THE COURT: All right. All the jurors are back.
3 Is the State ready?

4 MR. THORNTON: The State is ready, Your Honor.

5 THE COURT: Is the defense ready?

6 MR. WALKER: Yes, Your Honor.

7 THE COURT: All right. Let's bring the jury in.

8 [Off the record momentarily]

9 THE BAILIFF: The jury is entering, Your Honor.

10 [Whereupon, the jury enters the courtroom at

11 1:42 p.m.]

12 THE BAILIFF: The jury is seated, Your Honor.

13 THE COURT: Welcome back, ladies and gentlemen.

14 [Off the record momentarily]

15 THE COURT: At this time we are going to go ahead
16 and continue with the trial of this case.

17 Mr. Thornton, if you'll call your next witness.

18 MR. THORNTON: Yes, Your Honor. Jeff Moran.

19 [Whereupon, Mr. Moran comes forward]

20 THE CLERK OF COURT: Place your left hand on the
21 Bible and raise your right hand for me.

22 [Whereupon, Mr. Moran is duly sworn by the clerk
23 of court as follows: do you solemnly swear to
24 truthfully answer all questions asked of you by this
25 Court, so help you God]

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1 THE WITNESS: I do.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, Mr. Moran takes the witness stand]

4 THE CLERK OF COURT: State your name and spell it
5 for the Court, please.

6 THE WITNESS: My name is Jeff Moran. M-O-R-A-N.

7 - - - - -

8 JEFF MORAN,

9 Having Been First Duly Sworn,

10 was Examined and Testified as Follows:

11 DIRECT EXAMINATION

12 BY MR. THORNTON:

13 Q. Mr. Moran, who do you work for, sir?

14 A. The Beaufort County Sheriff's Office.

15 Q. And what do you do for the Beaufort County
16 Sheriff's Office?

17 A. I'm assigned as an investigator in the criminal
18 investigations division.

19 Q. So would it be fair to call you a detective?

20 A. Yes, it would.

21 Q. When you -- did you work for the Beaufort County
22 Sheriff's Office in that capacity in May of 2010?

23 A. I did.

24 Q. Did you on May 23rd respond out to any particular
25 scene?

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1 A. I did. At about 9:45 I responded to the what's
2 been referred to as the Pinckney Colony [phonetic] boat
3 landing to meet with Investigator Adams.

4 [Whereupon, Mr. Thornton and Mr. Walker confer]

5 THE COURT: While they're discussing something,
6 ladies and gentlemen, I will tell you that sound we
7 keep hearing over here is the wind. It's not actually
8 rain. When they opened up the stucco to take out the
9 inside and any rot that's involved, before putting
10 stucco on and finishing it off, they left it unsealed.
11 And so that's what you hear is the wind being sucked in
12 and out. They are doing their very best to close that
13 up right now. Over the last hour, that's what they've
14 been working on. They promised me it would be done but
15 clearly it is not. But just to let you know, that's
16 what that is.

17 MR. THORNTON: Thank you, Judge. I'm sorry. We,
18 I think, avoided the sidebar --

19 THE COURT: You're fine.

20 MR. THORNTON: -- by doing that.

21 Q. [Mr. Thornton] I'm going to hand you what's been
22 marked first as Exhibit -- this is only for identification
23 -- 54. Can you identify that for me?

24 A. State's Exhibit Number 54 is a brown evidence
25 paper bag that we use, and inside that was a smaller

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1 manilla envelope with what was a bullet that was recovered
2 during autopsy.

3 Q. And was it recovered from any particular autopsy?

4 A. It was recovered from the autopsy of Mr. Green.

5 Q. And the Leonard Green being the victim in this
6 case, is that correct?

7 A. That's correct.

8 Q. And were you present at the autopsy?

9 A. I was.

10 Q. And is that one of the functions the detective at
11 the autopsy has is to recover any evidence, including a
12 bullet?

13 A. Yes, it is.

14 Q. All right. And did you then take that and submit
15 it anywhere in particular?

16 A. This was submitted into Beaufort County evidence
17 division, with Corporal Roberts, at the time.

18 Q. And do you -- how do you know that that -- that
19 you were the one that collected that --

20 A. My signature --

21 Q. -- particular item?

22 A. My signature is the first one on there where it
23 says from and to.

24 Q. All right, sir. And is it in a sealed condition
25 when you turn it into evidence?

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1 A. It was.

2 Q. I'm going to hand you now what's been marked for
3 identification as State's 55. And that was opened, was it
4 not, at a previous hearing in my presence --

5 A. Yes, it was.

6 Q. -- by you?

7 A. Yes, it was.

8 Q. All right. Would you please let me know what
9 State's Exhibit 55 is?

10 A. State's Exhibit Number 55 was a set of black
11 Panasonic headphones found at the boat landing.

12 Q. All right. And that was found at the boat
13 landing. Meaning at the murder scene?

14 A. Yes, sir.

15 Q. And who was it collected by?

16 A. I collected it.

17 Q. And how do you know that, sir?

18 A. I completed the -- all the information on the bag
19 and it's my signature from the from-to mark.

20 Q. And what did you do with the headphones from the
21 crime scene once you collected it?

22 A. Again, they were turned into the evidence
23 division.

24 Q. And would they have been in some type of
25 container or bag when you turned them in?

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1 A. When I turned them in, they were in this brown
2 paper bag.

3 Q. The bag that is still with State's 55 as of right
4 now today; is that correct?

5 A. Yes, sir.

6 Q. Lastly, I will hand you for identification what
7 has been marked as State's 56. Can you identify that for
8 me?

9 A. This State's Exhibit Number 56 is a compact disk
10 that I collected in Savannah from the asset protection
11 manager at Wal Mart.

12 Q. All right.. So that's a video you got from Wal
13 Mart?

14 A. Yes, sir.

15 Q. And where did you say -- I'm sorry. I think you
16 said where it was. But where is this located?

17 A. 6000 Ogeechee Road, Savannah, Georgia.

18 Q. Savannah, Georgia?

19 A. Uh-huh.

20 Q. And when you got this disk from Wal Mart in
21 Savannah, what did you do with that, sir?

22 A. Again, it was turned into the Beaufort County
23 evidence division.

24 MR. THORNTON: Your Honor, Court's indulgence,
25 please, for one moment.

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1 [Whereupon, Mr. Thornton reviews documents]

2 Q. [Mr. Thornton] Did you -- what did you do when
3 you got to the scene? Obviously, we've gone over the fact
4 that you -- in this investigation you collected the
5 headphones that were located at the crime scene. You've
6 testified about going to the autopsy. You've also
7 testified about recovering a surveillance video from Wal
8 Mart in Savannah, Georgia. What did you do -- if you could
9 just take us through, once you got to the Pinckney Island
10 boat landing, what you did.

11 A. When I got there, I met with Sargent Adams. I
12 was briefed by him and Corporal Klein of what they had
13 found already. Corporal Adams had already taken like an
14 overview of pictures of the whole area and some of the
15 vehicles that were parked in the area. Again, I, you know,
16 searched the area for anything that could possibly be
17 evidence in this crime. We photographed some of them,
18 marked some of them with evidence markers, and collected
19 several items.

20 Q. And when you say evidence markers, are those the
21 yellow placards that are seen in some of these photographs?

22 A. Yes, they are.

23 We also took several measurements from most all
24 of those locations.

25 Q. And when you say we, who is we?

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1. A. Sargent Adams and myself.

2. MR. THORNTON: The Court's indulgence, Your
3. Honor.

4. Q. [Mr. Thornton] Detective, once you took some
5. measurements, did you -- what did you do after that?

6. A. After taking the measurements, we collected a
7. gunshot residue evidence collection kit from Mr. Green.

8. Q. Okay. And at what point -- was Mr. Green still,
9. obviously, on scene when you're collecting these things?

10. A. Yes, he was.

11. Q. And did you -- did you go to the autopsy? Do you
12. -- how does that work? Do you ride with him, do you ride
13. separate?

14. A. Separate. He was transported up there by the
15. coroner's office on that day, and the following day I went
16. up there and they started about 9:30 as I recall.

17. Q. And is that something that's done in our county
18. by the Medical University of South Carolina or MUSC?

19. A. Most of the time, yes.

20. Q. Okay. And was it done by MUSC in this case?

21. A. Yes, it was.

22. Q. And, again, your testimony was you were present
23. at the time the bullet was removed --

24. A. I was.

25. Q. -- from the victim?

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1 A. Yes, I was.

2 Q. And that is the bullet that was identified as
3 State's Exhibit fifty -- excuse me -- four; is that
4 correct?

5 A. That's correct.

6 Q. I'm going to hand you what has been marked as
7 State's Exhibit, first, 31, then 32, and ask you if you can
8 identify what is depicted in those. Those are already in
9 evidence.

10 A. State's Exhibit Number 31 is a yellow evidence
11 marker with a number 6 next to what we later found was the
12 Panasonic headphones.

13 State's Exhibit Number 32 is close-up picture of
14 the same headphones, with a photography scale next to it.

15 Q. So are those the headphones that were collected
16 by you and are now State's Exhibit 55?

17 A. Yes, they are.

18 [Whereupon, Mr. Thornton reviews documents]

19 Q. [Mr. Thornton] You testified that Sargent Adams
20 was with you; is that right?

21 A. He was there first. And he had called me and
22 told me what he found, and I responded and met with him
23 them.

24 Q. And he was with you when you took all of the
25 measurements; is that correct?

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1 A. Yes. I was with him when we did that.

2 MR. THORNTON: I have nothing further. Please
3 answer any questions, Detective, that Mr. Walker has.

4 MR. WALKER: Good afternoon.

5 THE WITNESS: Good afternoon.

6 [Whereupon, Mr. Walker reviews documents]

7 MR. WALKER: Thank you for your patience.

8 CROSS-EXAMINATION

9 BY MR. WALKER:

10 Q. I guess I just want to -- what's, overall, your
11 role in this investigation? Have you been involved
12 throughout, or were you just involved on this day and
13 immediately following with the autopsy?

14 A. Pretty much this day, the following day, and then
15 meeting with the people at Wal Mart and the person who
16 actually found the phone in Wal Mart a couple weeks later.

17 Q. So you haven't had any recent involvement with
18 the case or -- you know, it would have been really turned
19 over to -- Investigator Adams pretty much handled after the
20 initial crime scene?

21 A. Yes, sir.

22 Q. So when was it that you arrived on the scene?

23 A. It was about 9:45 on the 23rd of May, 2010.

24 Q. Were there a lot of people already there?

25 A. I wouldn't say a lot, no. There was Corporal

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1 Klein, Investigator Adams. There were a couple of people
2 farther away in the parking lot that weren't with the
3 sheriff's office at that time.

4 Q. I believe you said that you assisted Investigator
5 Adams in collecting evidence and items like that. But we
6 only saw, really, of the items that Mr. Thornton handed
7 you, one item you collected from that scene was those
8 headphones. Was that the only items that you physically
9 bagged or collected or --

10 A. No, it wasn't.

11 Q. Okay. And had Adams already begun that process
12 when you got there, or were you kind of doing that
13 simultaneously?

14 A. We were kind of doing it simultaneously, looking
15 for anything that might possibly be evidence.

16 Q. Okay. I mean, so there are any number of items,
17 in addition to the headphones that we saw, that were
18 collected by the sheriff's department?

19 A. That's right.

20 Q. And so you got out there pretty early. There
21 weren't many people there yet. It was a nice day.

22 A. Yes, sir.

23 Q. You could see everything clearly and, you know,
24 locate items?

25 A. Yes.

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1 Q. Okay. I'll hand you a document and ask you if
2 you recognize it.

3 A. It looks like a document that Sargent Adams
4 prepared, of the crime scene, with some software in our
5 office.

6 Q. Okay. And what type of a document is it?

7 A. It's a crime-scene sketch.

8 Q. So it plots out kind of a sketch of the area with
9 what items was found where; correct?

10 A. Correct.

11 Q. Okay. And it, you know, lists the item and the
12 number and where it was in the crime scene; correct?

13 A. That's correct.

14 Q. Okay. And, really, this is just for my -- I just
15 have a question. What's item 6 on that list?

16 A. Item number 6 on this list is the black
17 headphones that I collected.

18 Q. Okay. I'm going to ask you to look at what's
19 already been entered as State's Exhibit Number 8. And is
20 that picture just upside down or --

21 A. No. State's --

22 Q. -- does that -- what does State's Exhibit
23 Number 8 show?

24 A. State's Exhibit Number 8 shows a bullet on the
25 ground with the number 6 next to it.

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1 Q. Okay. So would there have been more than one 6
2 placard out there?

3 A. I later learned that Master Sargent Riley and
4 Captain Bromage were out there I think the next day or the
5 following day, found this bullet, and the only marker he
6 had available was number 6.

7 Q. Okay. So that would have been from a separate
8 incident?

9 A. Yes, sir.

10 Q. Okay. So State's Exhibit Number 32, is that your
11 number 6?

12 A. That is mine, yes.

13 Q. And what does that show?

14 A. Those are the Panasonic headsets with a
15 photography scale next to them.

16 Q. Okay. Is State's Exhibit Number 9 yours or
17 Captain Bromage's?

18 A. You mean 6?

19 Q. Your 6 or his?

20 A. That was Captain Bromage's.

21 Q. So that would have been a different day?

22 A. That would have been a different day.

23 Q. All right. And State's Exhibit Number 10?

24 A. That would have been the 6 that I put out there.

25 Q. Okay. Thank you. I was just confused about that

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1 so I -- thank you for pointing that out.

2 So the 6 that you put down was the headphones
3 that we saw in evidence; correct?

4 A. Correct.

5 Q. All right. And those were tested for DNA;
6 correct?

7 A. As far as I know, yes, they were.

8 MR. THORNTON: I can't see them from there.

9 And, Judge, I would have an objection if he's
10 going to have an officer read from reports. If he
11 wants to introduce them into evidence, I don't have any
12 objection, but I don't think it's proper to have him
13 reading from reports.

14 THE COURT: He can use it to refresh his
15 recollection and then testify to it or you can enter
16 it, either way. He doesn't need to read from his
17 report, though.

18 MR. WALKER: Thank you, Your Honor.

19 Q. [Mr. Walker] Well, I just want to ask this,
20 Officer, if you recognize what this -- if you can describe
21 it, that might settle the objection and the Court.

22 A. This is a list of the measurements that Sargent
23 Adams completed after taking -- doing the crime scene and
24 putting them on paper.

25 Q. So your testimony was that you were assisting him

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1 with those measurements; correct?

2 A. When we took them, yes.

3 Q. Okay. So my question is you have a number of
4 reference points from which you took measurements; correct?

5 A. That's correct.

6 Q. And one of the reference points was the extreme
7 upper right corner of the crime scene; correct?

8 A. Correct.

9 Q. All right. And so my question is your number 6
10 items, the headphones that you found, how far were those
11 from that upper right-hand corner?

12 A. You'll have to give me a minute --

13 Q. Take your time.

14 [Whereupon, the witness reviews documents]

15 A. Approximately forty-nine feet.

16 Q. [Mr. Walker] Okay.

17 MR. WALKER: Let me get those back from you.

18 Thank you.

19 [Whereupon, the witness proffers documents to
20 Mr. Walker]

21 Q. [Mr. Walker] And that was -- those headphones
22 were somewhat isolated from any other items you found;
23 correct?

24 A. They were a little farther away from most of the
25 items.

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1 Q. There was nothing else grouped around them?

2 A. No.

3 Q. And after testing, Jerry Scantling's DNA was on
4 those headphones; right?

5 A. That's my understanding.

6 Q. Now, I'm going to show you --

7 MR. WALKER: I only have one copy of this, so I
8 apologize for kind of taking it back and forth.

9 Q. [Mr. Walker] Do you have a copy you can refer
10 to?

11 A. Not with me, no.

12 Q. I'm going to ask you to look at State's Exhibit
13 Number 34 to refresh your memory.

14 A. State's Exhibit Number 34 is a yellow evidence
15 marker, with a number 12, next to an empty beer can.

16 Q. And also depicted in that photograph are a number
17 of tire-tread tracks; correct?

18 A. There were a number of tire tracks, correct.

19 Q. My question is did you, in the course of your
20 investigation, attempt to compare those tire-tread tracks
21 to any other vehicle?

22 A. I did not personally, no.

23 Q. Do you know of anyone that did --

24 A. I'm not aware of anybody that did.

25 Q. -- attempt to do that?

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1 Okay. I'm now handing you State's -- what's been
2 previously marked as State's Exhibit Number 33 and ask you
3 to describe it.

4 A. State's Exhibit Number 33 is a yellow evidence
5 marker number 10, with a photography scale next to it,
6 which appears to be next to what we thought was a boot
7 impression similar to ones worn by some of our deputies.

8 Q. Okay. Beaufort County Sheriff's Department
9 doesn't custom order shoes for its employees, does it?

10 A. They have different options for footwear, yes.

11 Q. Did you attempt to match that foot impression to
12 any other -- any suspects in this case or to any another
13 officers that are on the scene?

14 A. No, I did not.

15 Q. Do you know if anyone else did?

16 A. I do not.

17 Q. I'll hand you what's been marked as State's
18 Exhibit Number 24, ask you to describe what you see there.

19 A. State's Exhibit Number 24 was a yellow evidence
20 marker number 3. That also has a photography scale next to
21 it. I believe when I took that picture I was taking a
22 picture of the blood drops that are there.

23 Q. It also depicts another set of tire impressions;
24 correct?

25 A. There are tire impressions and footwear

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1 impressions in this picture.

2 Q. Did you attempt to conduct any sort of match to
3 those items?

4 A. I did not.

5 Q. Not the blood, obviously. But the foot
6 impressions or the tire tracks?

7 A. No, sir.

8 Q. Do you know if anyone else in the sheriff's
9 office did?

10 A. I'm not aware of it.

11 Q. And, lastly, I'll hand you State's Exhibit Number
12 23 and ask you to describe it.

13 A. State's Exhibit Number 23 is yellow evidence
14 marker number 2 between two sets of tire tracks. Actually,
15 maybe four.

16 Q. And, in fact, the evidence marker there is of the
17 tire tracks; correct?

18 A. It is.

19 Q. So it -- those tire tracks were deemed to be
20 important evidence. There's a marker there and they were
21 photographed?

22 A. It's possible they could have been. We try to
23 get as much as we can.

24 Q. Did you attempt to then take those photographs or
25 impressions and match them to any vehicles that were

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1 involved in this case?

2 A. I did not.

3 Q. Do you know if anyone else in the office did?

4 A. No, I don't.

5 Q. Did you assist Officer Adams in measuring the
6 circumference or boundaries of the crime scene?

7 A. The circumference? It was more from fixed points
8 to items that we were doing.

9 Q. And that is reflected in the list you referred --
10 you reviewed earlier, the measurements that you and he
11 took?

12 A. I believe it was. I just saw that the other day,
13 first time.

14 Q. Okay. Were you involved in looking at the other
15 vehicles that were actually on the scene?

16 A. No, I did not look at any -- I just saw the
17 pictures afterwards.

18 MR. WALKER: If I could have the Court's
19 indulgence a moment.

20 [Whereupon, Mr. Walker and Ms. Carroway confer]

21 Q. [Mr. Walker] You would agree with me, wouldn't
22 you, generally that -- is it possible to over-investigate a
23 case?

24 A. I don't know if I would agree with you. It's
25 possible that we may have taken pictures or collectings

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1 that later turn out not to be associated with a case.

2 That's possible.

3 Q. Well, in the interest of achieving a correct
4 result, would it be -- if you have a potential lead, would
5 there ever be a downside to following it up?

6 A. Not if you have a potential lead, no.

7 Q. Okay. And as you're investigating crimes, the
8 more information you have the better; correct?

9 A. That's correct.

10 Q. But the purpose of gathering evidence is to
11 window [phonetic] the pool of suspects down until you can
12 determine a specific one. Is that fair to say?

13 A. That's fair to say.

14 MR. WALKER: That's all I have. Thank you.

15 THE COURT: Anything further?

16 MR. THORNTON: Nothing further, Your Honor.

17 Ask that he be excused subject to re-call, as all
18 my officers are.

19 THE COURT: Detective Moran, you're excused, sir.
20 Thank you.

21 [Whereupon, Mr. Moran is excused and exits the
22 witness stand]

23 THE COURT: Call your next witness, Mr. Thornton.

24 MR. THORNTON: William Barnes.

25 Your Honor, these witnesses are in the hallway.

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1 It makes it just a moment to pull them in. The next
2 four, I believe.

3 THE COURT: Thank you.

4 [Whereupon, Mr. Barnes enters the courtroom]

5 THE COURT: Come on forward, Mr. Barnes.

6 [Whereupon, Mr. Barnes comes forward]

7 THE BAILIFF: Right up there by the table, to be
8 sworn, please, sir.

9 THE CLERK OF COURT: Would you place your left
10 hand on the Bible right here, sir, and raise your right
11 hand. Just right there.

12 [Whereupon, Mr. Barnes is duly sworn by the clerk
13 of court as follows: do you solemnly swear to
14 truthfully answer all questions asked of you by this
15 Court, so help you God]

16 THE WITNESS: Yes, ma'am.

17 THE CLERK OF COURT: Please be seated.

18 [Whereupon, Mr. Barnes takes the witness stand]

19 THE CLERK OF COURT: State your name and spell it
20 for the Court, please.

21 THE WITNESS: William Barnes. B-A-R-N-E-S.

22 THE COURT: Thank you, sir.

23 MR. THORNTON: Thank you, Mr. Barnes.

24 - - -

25 - - -

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1 WILLIAM BARNES,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. THORNTON:

6 Q. Mr. Barnes, where do you currently live, sir?

7 A. Blackville, South Carolina.

8 Q. Okay. And where is that exactly? Is that here
9 or Barnwell County? Where is it?

10 A. Barnwell County.

11 Q. And did you live in Barnwell County back in May
12 of 2010 or did you live somewhere else?

13 A. No, sir. I stayed in Hilton Head Garden
14 apartments.

15 Q. Hilton Head Garden apartments. And can you tell
16 me, is that -- what county is that in?

17 A. Beaufort County.

18 Q. Okay. So you lived here for some time back in
19 May of 2010; is that right?

20 A. Yes, sir.

21 Q. How long did you live at Hilton Head Gardens?

22 A. Roughly four years.

23 Q. On or about -- this would have been on late
24 Saturday night, actually early in the morning of Sunday
25 morning on May 23rd of 2010, did you see anything or have

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1 any connection with anybody that was unusual?

2 A. Yes, sir.

3 Q. All right. Can you tell me about it?

4 A. I was at my house, apartment 97 in the Gardens,
5 and a strange guy just came to the door asking did I want
6 to buy a car --

7 Q. A guy --

8 A. -- a truck.

9 Q. I'm sorry. You said a truck?

10 A. Yes, sir.

11 Q. All right. So a guy comes to your door and wants
12 to sell you a truck; is that right?

13 A. Yes, sir.

14 Q. All right. And did you -- had you seen the guy
15 before?

16 A. Never seen him before.

17 Q. All right. Did you talk to him for a few minutes
18 that night?

19 A. Yeah, I talked to him. And I called a few
20 people. I got a few home boys in Florida and I called one
21 of my home boys in Florida to see if he wanted to buy the
22 truck.

23 Q. Did you ever discuss a price with the person that
24 came to your door trying to sell you a truck?

25 A. He said he wanted like 5,000 for it.

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1 Q. All right. Did you -- did he ask you to do
2 anything? Other than talking about buying the truck, did
3 he ask you to do anything?

4 A. I mean, I called my home boy from Florida and my
5 home boy said 1200. He didn't want 1200, he wanted 5,000.

6 Q. All right. Mr. Barnes, did you write a statement
7 for law enforcement the day after this happened?

8 A. Yes, sir.

9 Q. Or a -- I'm sorry. On 5/26. So I guess that
10 would have been about three days after this happened. Is
11 that right?

12 A. Yes, sir.

13 Q. All right. I'm just going to hand you this to
14 see if this refreshes your recollection. Would you look at
15 that for me and see if --

16 [Whereupon, the witness reviews documents]

17 Q. [Mr. Thornton] Did you look it over, Mr. Barnes?

18 A. Yes, sir.

19 Q. All right. After discussing -- or while you were
20 discussing price with this person that came to your door
21 trying to sell you a truck sometime in the wee hours of the
22 morning, did he ask you to do anything else?

23 A. He asked me to throw some clothes in a briefcase
24 in the trash.

25 Q. All right. And did you do that?

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1 A. No, sir.

2 Q. And I know you testified a minute ago 5,000.
3 After reading that, was it -- did you have a number written
4 down different than 5,000 that he originally asked for?

5 A. He wanted 8,000.

6 Q. Okay. I realize it's been a couple of years,
7 Mr. Barnes.

8 All right. Mr. Barnes, did you go and -- did you
9 ask him any questions about where he had gotten the truck?

10 A. No, because I don't really know him. I just knew
11 it was strange when I seen a bike [phonetic], you know, on
12 the back seat.

13 Q. Okay. Mr. Barnes, I'm just going to let you hold
14 this. Okay? I realize it's been two years. I want you to
15 read that for me and tell me when you filled out your
16 written statement if you talked to law enforcement -- or
17 when you talked to law enforcement, what you told them
18 about whether or not you asked him anything about the
19 truck.

20 A. You want me to read this?

21 Q. No. Just -- you see if it refreshes your
22 recollection. And I'll point you out about halfway down
23 about where he got the truck from. Again, don't read it,
24 but just tell me if, after reading it, now do you remember
25 asking him that question.

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1 A. Yes, sir.

2 Q. What did he tell you?

3 A. He told me he got the truck from Savannah.

4 Q. All right. Now, did you at some point go and
5 look in the dumpster?

6 A. Yeah. That was after he had done left and all
7 and everything.

8 Q. All right. And did you find anything in the
9 dumpster?

10 A. I found a briefcase.

11 Q. All right. Is that the briefcase he asked you to
12 throw into the dumpster?

13 A. Yes, sir.

14 Q. And did you find anything in there?

15 A. I found like doctor material, hazardous material,
16 and some Canadian money.

17 Q. And did you actually take the Canadian money?

18 A. Oh, yeah.

19 Q. Okay. Now, when law enforcement approached you
20 the next day, what did you do? Did you tell them about the
21 money?

22 A. Yes, sir. I gave --

23 Q. And did you --

24 A. -- it to them.

25 Q. You gave it to them?

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1 A. Uh-huh.

2 Q. All right. Mr. Barnes, let me ask you a
3 question. Did law enforcement show you what they call a
4 photo line-up or a six-pack photo line-up?

5 A. Yes, sir.

6 Q. And were you able to identify the person that you
7 had seen that night, and circle him and all that stuff, on
8 the photo line-up?

9 A. Yes, sir.

10 Q. And did you pick somebody out?

11 A. Yes, sir.

12 Q. All right. Now, Mr. Barnes, I'm going to ask
13 you: the person that you saw that night, did you -- you
14 were talking to him about selling the truck; is that right?

15 A. Yes, sir.

16 Q. How long did you talk to him?

17 A. About twenty minutes, thirty minutes.

18 Q. All right. Were they this far away from you, or
19 were they closer?

20 A. A little closer.

21 Q. All right. So did you get a good look at him?

22 A. Oh, yeah.

23 Q. Do you see him in this courtroom?

24 A. Yes, sir.

25 Q. Where is he?

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1 A. Right there [indicates].

2 Q. Right there.

3 You mean the defendant, Jerry Scantling?

4 A. Yes, sir.

5 Q. This man right here?

6 A. Yes, sir.

7 Q. That's the man that tried to sell you a truck?

8 A. Yes, sir.

9 Q. Do you remember about -- if you need to look at
10 your statement, you feel free to.

11 About what time on the morning of the 23rd of
12 May, 2010 -- about what time was that?

13 A. About 5:30, 6:30.

14 Q. Look at your statement, Mr. Barnes, and tell me
15 what you told the law enforcement.

16 A. 5:30, 6:30.

17 Q. Mr. Barnes, I want you to look at your statement
18 on the first line and say about Sunday morning --

19 A. Oh. Okay.

20 Q. -- about what does it say?

21 A. One o'clock. One o'clock.

22 Q. All right. So about one o'clock in the morning
23 on Sunday morning?

24 A. Yeah. Yes. Yes, sir.

25 Q. Any question in your mind, Mr. Barnes, that Jerry

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1 Scantling is the one that you saw trying to sell you a
2 truck?

3 A. There's no doubt in my mind, no, sir.

4 Q. Did you see the truck?

5 A. Yes, sir.

6 Q. What kind? Do you remember what kind it was?

7 A. It was a Ford, a burgundy Ford, 5-150 [phonetic],
8 something like that.

9 Q. All right. A burgundy Ford F-150?

10 A. [Indicates affirmatively]

11 Q. All right. Did you ever see Mr. Scantling again
12 after that?

13 A. Yeah. I seen him at a store in Hilton Head.
14 Sunoco.

15 Q. All right. And what -- was he driving that same
16 truck or was he driving something different?

17 A. No. He was driving a black Monte Carlo.

18 Q. All right. And in that Monte Carlo did he -- did
19 you have any discussion with him about the Monte Carlo?

20 A. He asked me to borrow a pair of pliers because he
21 was locked out of the car.

22 Q. I see.

23 So he was driving a Monte Carlo at the Sunoco and
24 he asked you to borrow some pliers because his key was
25 locked in it?

1 A. Yes, sir.

2 Q. All right. Did you have any other connection to
3 him after that?

4 A. No, sir.

5 MR. THORNTON: Your Honor, I have nothing further
6 at this time.

7 Mr. Barnes, please answer any questions that
8 Mr. Walker has for you.

9 CROSS-EXAMINATION

10 BY MR. WALKER:

11 Q. Mr. Barnes, was anyone else around when this
12 conversation was taking place about selling the truck?

13 A. It was just me and him.

14 Q. Okay. How long did y'all talk about it?

15 A. About twenty or thirty minutes.

16 Q. Do you recall giving some testimony in this case
17 before?

18 A. Yes, sir.

19 Q. Do you recall me asking you the same question:
20 how long you had a chance to talk to him?

21 A. Yes, sir.

22 Q. Excuse me. Do you recall the solicitor asking
23 you that. And you were answering thirty to forty minutes?

24 A. Yes, sir.

25 Q. So in your statement you say, Sunday morning

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1 about one o'clock this dude called Nino came up to me. All
2 right. You just testified you didn't really know him. So
3 how did you know his name was Nino?

4 A. My boyfriend knows him.

5 Q. Okay. When did you have a chance to talk to your
6 boyfriend about who Nino was?

7 A. He came into the house and then me and him
8 stepped outside and talked about the truck.

9 Q. Okay. So your boyfriend was there, too, while
10 this was going on?

11 A. Uh-huh.

12 Q. Okay. And what's your boyfriend's name?

13 A. Jamar McGraw.

14 Q. Now, you say you saw Nino again the next day or
15 later on after that night. And was he with anyone else?

16 A. No.

17 Q. Okay. Were you with anyone else?

18 A. Yeah.

19 Q. Who were you with?

20 A. It was me, Jamar, Kevin, and Michelle.

21 Q. Kevin who?

22 A. I don't know his last name.

23 Q. And Michelle who?

24 A. I don't know her last name.

25 Q. And your testimony is when you had this

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1 conversation with Jerry, the only people around were you,
2 Jamar and Jerry, about the truck?

3 A. We stepped outside.

4 Q. So it was just you and Jerry? Nobody else was
5 around?

6 A. Right. Yes, sir.

7 Q. Okay. Are you an honest person, Mr. Barnes?

8 A. Yes, sir.

9 Q. Were you being honest last summer when you were
10 convicted of filing a false police report?

11 A. No, sir, I wasn't.

12 Q. Did some time for that, didn't you?

13 A. Yeah. I did like nine months.

14 Q. Does an honest person commit strong arm robbery?

15 A. I didn't do that.

16 Q. Convicted of it.

17 A. Right.

18 Q. 2011.

19 Does an honest person commit fraud?

20 A. No, sir.

21 Q. Convicted of fraud, weren't you?

22 A. Yes, sir. Yes, sir. Yes, sir.

23 Q. Honest person use other people's vehicles without
24 getting permission?

25 A. Yes, sir.

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1 Q. Yeah? You were convicted of that back in 2000,
2 use of vehicle without permission; right?

3 A. Yes, sir.

4 Q. Honest people commit burglaries?

5 A. No, sir. But I was convicted of it, yes, sir.

6 Q. You're no stranger to the courthouse; is that
7 right?

8 A. Oh, no.

9 Q. Now, you most recently got in trouble last month
10 for assault; isn't that correct?

11 A. Uh-huh. Yes, sir.

12 Q. So we start out with burglaries in 1993, filing a
13 false police report last summer. When did you become an
14 honest person?

15 A. Recently. I just made a bad mistake.
16 Honestly --

17 Q. So before recently, you weren't honest?

18 A. I was. I just made a poor decision.

19 MR. WALKER: I don't have anything else. Thank
20 you.

21 MR. THORNTON: Nothing further.

22 THE COURT: All right. Any objection, to him
23 being excused, from anyone?

24 MR. THORNTON: Ask he be excused, Judge.

25 THE COURT: All right. You are excused, sir.

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1 Thank you.

2 [Whereupon, Mr. Barnes is excused and exits the
3 witness stand]

4 THE COURT: Call your next witness.

5 MR. THORNTON: Yes, ma'am. Ishmil Frazier.

6 [Whereupon, Mr. Frazier enters the courtroom]

7 THE COURT: Come on up, sir.

8 THE BAILIFF: Go right up by that little table to
9 be sworn, please.

10 [Whereupon, Mr. Frazier comes forward]

11 THE CLERK OF COURT: Would you place your left
12 hand on the Bible and raise your right hand for me,
13 please.

14 [Whereupon, Mr. Frazier is duly sworn by the
15 clerk of court as follows: do you solemnly swear to
16 truthfully answer all questions asked of you by this
17 Court, so help you God]

18 THE WITNESS: Yes, ma'am.

19 THE CLERK OF COURT: Please be seated.

20 [Whereupon, Mr. Frazier takes the witness stand]

21 THE CLERK OF COURT: State your name and spell it
22 for the Court, please.

23 THE WITNESS: Ishmil Frazier. I-S-H-M-I-L.
24 Frazier, F-R-A-Z-I-E-R.

25

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ISHMIL FRAZIER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q. Mr. Frazier, where do you live, sir?

A. In Bluffton, South Carolina.

Q. All right. And did you live in Bluffton, South Carolina, in May of 2010, specifically May 23rd of 2010?

A. No, sir. I was staying on the island.

Q. All right. Any place in particular?

A. Hilton Head Gardens.

Q. And on the early-morning hours of May the 23rd of 2010, did you see anything unusual?

A. I witnessed a guy pulling in in a truck that looked kind of familiar to me.

Q. Okay. I'm going to pass you up --

[Whereupon, Mr. Thornton proffers documents to the witness]

Q. [Mr. Thornton] Do you recognize this statement?

A. Yes, sir.

Q. Is that your statement that you gave law enforcement?

A. Yes, sir.

Q. All right. Just in case you need to refer back

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1 to it, I want you to be able to have it. Okay?

2 A. Okay.

3 Q. All right. Now, what did you see? You said you
4 saw a guy in the Gardens in a truck you thought you
5 recognized; is that right?

6 A. Yes, sir.

7 Q. All right. Do you remember -- and, again, if you
8 need to look at your statement, I know it's been a couple
9 of years, feel free to.

10 Do you remember what time in the morning it was
11 that you saw this man?

12 A. Right around 2:00-ish. 1:00-ish, 2:00-ish.

13 Q. All right. Did you -- you said you thought you
14 recognized the truck. Did you -- what did you -- I'm
15 sorry. Let me not put words in your mouth.

16 Did you recognize the guy, or the truck, or both?

17 A. Both.

18 Q. Had you ever seen the guy before?

19 A. Yeah. I seen him around like in the Gardens.

20 Q. Did you think it was his truck?

21 A. No.

22 Q. All right. Did you ask him about it?

23 A. Yes, I did.

24 Q. What did he tell you?

25 A. I asked him whose truck it was and he was like it

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1 was his girl truck.

2 Q. Okay. And did you talk to him about anything
3 else?

4 A. No. I think he -- he had asked me for a lighter
5 or a cigarette, and I gave it to him; and asked me if I
6 needed a ride anywhere, and I told him no.

7 Q. Did he seem to have any -- did he seem to have
8 any problems driving it?

9 A. Yeah. Like the truck had too much power for him.

10 Q. How?

11 A. Like it was jerking like when he was trying to
12 pull off.

13 Q. Like it would lurch forward?

14 A. Yeah.

15 Q. Now, did you recognize that truck as belonging to
16 somebody else?

17 A. Yes, sir.

18 Q. Do you know who that was?

19 A. I don't really know the guy. I just knew the guy
20 he used to be mentoring.

21 Q. Okay. And the guy that you saw in that red truck
22 -- or, I'm sorry. I didn't probably didn't ask you that.
23 What color was it?

24 A. It was red.

25 Q. Okay. And do you remember what kind it was or

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1 what model it was?

2 A. It was a Ford, one of them new models, king cab.

3 Q. Okay. I'm sorry?

4 A. I said it was a Ford, one of the new models, king
5 cab.

6 Q. A king cab? Like did it have -- it was one of
7 the bigger ones?

8 A. Yes, sir.

9 [Whereupon, State's Exhibit Number 57 is marked
10 by the court reporter]

11 Q. [Mr. Thornton] I'm going to show you what's been
12 marked for identification as State's 57. I'm going to ask
13 you if you recognize that. Is that the kind of truck that
14 you're talking about?

15 A. Yes, sir.

16 Q. Is that what the truck appeared like in the
17 Hilton Head Gardens?

18 A. The only thing missing was a little suit in the
19 back window.

20 Q. Okay. Other than the suit hanging in the back
21 window, does that appear to be the truck?

22 A. Yes, sir.

23 MR. THORNTON: Your Honor, I would ask that
24 State's Exhibit 57 be moved into evidence.

25 MR. WALKER: No objection.

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1 THE COURT: Without objection. It's in evidence.
2 [Whereupon, State's Exhibit Number 57 is admitted
3 into evidence by the Court]

4 Q. [Mr. Thornton] Now, did you -- did the police
5 offer to give you what they call a photo line-up or a six-
6 pack photo line-up?

7 A. Yes, sir.

8 Q. And did they ask you if the person that you saw
9 that night, that you had seen before, was there?

10 A. Yes, sir.

11 Q. And was the person in the six-pack photo line-up?

12 A. Yes, sir.

13 Q. Did you pick them out?

14 A. Yes, sir.

15 Q. All right. Let me ask you a question. How long
16 did you have to talk to this person trying to -- that was
17 in this red Ford truck that couldn't drive it?

18 A. I mean, we stood outside for a little minute
19 gossiping and smoking cigarettes.

20 Q. Okay. Do you see him in the courtroom?

21 A. Yes, sir.

22 Q. Where is he?

23 A. The defendant.

24 Q. The defendant? You mean Jerry Scantling?

25 A. Yes, sir.

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1 Q. Sitting right over here?

2 A. Yes, sir.

3 Q. So he was in Hilton Head Gardens apartments you
4 said 1:00, two o'clock in the morning --

5 A. Yes, sir.

6 Q. -- on the 23rd --

7 A. Yes, sir.

8 Q. -- of May, 2010?

9 A. Yes, sir.

10 Q. And he was in a truck that you recognized
11 belonging to somebody else; is that right?

12 A. Yes, sir.

13 Q. And he was having trouble driving it because it
14 was lurching forward; is that correct?

15 A. Yes, sir.

16 MR. THORNTON: Your Honor, the Court's
17 indulgence, please.

18 [Whereupon, Mr. Thornton reviews documents]

19 MR. THORNTON: Your Honor, I have nothing further
20 for this witness.

21 Please answer any questions Mr. Walker has.

22 THE COURT: Mr. Walker?

23 MR. WALKER: Thank you, Your Honor.

24 - - -

25 - - -

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CROSS-EXAMINATION

BY MR. WALKER:

Q. Mr. Frazier, you said you spoke with Mr. Scantling for a little minute. Was it about forty-five minutes?

A. Maybe a little longer than that. I don't really remember the time frame.

Q. Okay. So -- and a little minute just literally could be a short amount of time. But it was forty-five minutes or more that you had a conversation with him?

A. Yes, sir.

Q. Was anyone else around?

A. It was -- I mean, it was -- it was a couple of guys out there.

Q. You're in the breezeway of the Hilton Gardens?

A. Yes, sir.

Q. And so two other people are there besides you and Mr. Scantling?

A. No. Maybe like -- including him, maybe it was like -- it was probably like six of us.

Q. Okay. Can you tell me who some of those people were?

A. Mr. King, myself --

Q. Let me slow you down. Mr. King. Do you know Mr. King's first name?

1 A. Derik.

2 Q. Derik?

3 A. Yes, sir.

4 Q. Okay. And you?

5 A. Myself. And I want to say Sam, Samuel.

6 Q. Samuel who?

7 A. Jackson.

8 Q. Okay. Hanging out with movie stars.

9 A. Not the movie star.

10 Q. Who else?

11 A. And I can't really remember who else, but I know
12 it was us.

13 Q. Okay. Now, were you staying at the Hilton
14 Gardens?

15 A. Yes, sir.

16 Q. Okay. Had you seen Jerry around before?

17 A. Yes, sir.

18 Q. Where had you seen him before?

19 A. Sleeping in the breeze way and stuff.

20 Q. So he didn't have a place there?

21 A. No.

22 Q. He was like literally just sleeping under the
23 stairs?

24 A. Yeah.

25 Q. Okay. Had you had interactions with him before?

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1 A. No.

2 Q. Okay. Did he ever seem threatening to you or
3 anything?

4 A. No, sir.

5 Q. Okay. And were all these people -- I'm sorry.
6 Go back to the people that were around. Were all those
7 people around the whole time y'all were talking?

8 A. Just about. I left everybody outside.

9 Q. So you left. You were there forty-five minutes
10 to an hour and then you -- or more, and you left?

11 A. Yes, sir.

12 Q. And he was still there talking to other people?

13 A. Yes, sir.

14 Q. Were all these people that you've mentioned
15 talking to him?

16 A. Yeah. Everybody was just having a little
17 friendly conversation..

18 Q. Okay. Now, and what time of day was this?

19 A. At like 1:00, 2:00 in the morning.

20 Q. Okay. So you would have -- like you would have
21 started at 1:00 and you would have gone to bed at 2:00 and
22 left them out there talking? Or it could have started at
23 2:00 and you left at 3:00 or --

24 A. Yeah, maybe like that. Because I used to work at
25 Wendy's and so I didn't get off of work until probably like

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1 1:30 in the morning. At 1:30 I might just be pulling in
2 the Gardens. I might drink my little beer, chat with
3 whoever outside, and then I go in the house.

4 Q. So you're saying your interaction with him
5 probably lasted until at least 3:00 in the morning?

6 A. Maybe.

7 Q. Okay. Now, you've been in a little bit of
8 trouble before; correct?

9 A. Yes, sir.

10 Q. All right. I just want to ask you a couple of
11 questions about it. I have a copy of your criminal history
12 here and it says in '08 you were convicted of possession of
13 crack; is that correct?

14 A. Yes, sir.

15 Q. All right. And then -- and this is just for my
16 information. It says you had another charge of another
17 controlled substance charge the next year in '09.

18 A. Yes, sir.

19 Q. All right. And I don't see a disposition. Was
20 that still pending when you were giving these statements to
21 the police?

22 A. No. All of that was taken care of.

23 Q. Okay. So you didn't have any pending charges
24 when you were giving these statements to the police?

25 A. No, sir.

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1 Q. All right. Well, let me ask you about this. In
2 November of 2010 it says you were convicted of unlawful
3 neglect of a child or a helpless person; is that correct?

4 A. Yes, sir.

5 Q. All right. And you got put on probation?

6 A. Yes, sir.

7 Q. Are you still on probation for that?

8 A. Right now.

9 Q. So you're currently on probation?

10 A. Yes, sir.

11 Q. Probation agent know you're up here testifying?

12 A. Yes, sir.

13 Q. Okay. Who is your probation agent?

14 A. Ms. Cabiness.

15 Q. And it looks like at just the beginning of the
16 month you got in trouble with a little public disorderly
17 conduct; is that correct?

18 A. Yes, sir.

19 Q. Is that still pending?

20 A. No, sir.

21 Q. Okay. That's resolved?

22 A. Yes, sir.

23 MR. WALKER: Okay. Court's indulgence.

24 [Whereupon, Mr. Walker and Ms. Carroway confer]

25 MR. WALKER: I don't have anything further.

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1 Thank you.

2 MR. THORNTON: Nothing further, Your Honor.

3 THE COURT: Any objection --

4 MR. THORNTON: Ask that he be excused.

5 MR. WALKER: No objection.

6 THE COURT: Mr. Frazier, you're excused.

7 [Whereupon, Mr. Frazier is excused and exits the
8 witness stand]

9 THE COURT: All right. Call your next witness.

10 MR. THORNTON: Yes, ma'am. Derik King.

11 [Off the record momentarily]

12 MR. THORNTON: Sorry for the delay, Judge.

13 Normally we would have them across the hall, but with
14 the construction they're having to be down the hall.

15 THE COURT: I understand.

16 [Whereupon, Mr. King enters the courtroom]

17 THE COURT: Come on forward, sir.

18 THE BAILIFF: Go up by the little table to be
19 sworn, please.

20 [Whereupon, Mr. King comes forward]

21 THE CLERK OF COURT: Would you place your left
22 hand on the Bible and raise your right hand for me,
23 sir.

24 [Whereupon, Mr. King is duly sworn by the clerk
25 of court as follows: do you solemnly swear to

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1 truthfully answer all questions asked of you by this
2 Court, so help you God]

3 THE WITNESS: Yes, ma'am.

4 THE CLERK OF COURT: Please be seated.

5 [Whereupon, Mr. King takes the witness stand]

6 THE CLERK OF COURT: State your name and spell it
7 for the Court, please.

8 THE WITNESS: My name is Derik, D-E-R-I-K. My
9 last name is King, K-I-N-G.

10 MR. THORNTON: Mr. King, I'm sorry. I was
11 thinking you pronounced that differently.

12 - - - - -

13 DERIK KING,

14 Having Been First Duly Sworn,

15 was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MR. THORNTON:

18 Q. Mr. King, where do you live, sir?

19 A. Court [phonetic], Bluffton, South Carolina.

20 Q. Okay. And did you live there on or about May
21 23rd of 2010?

22 A. Yes.

23 Q. Okay. And does that address have another name?
24 Is it a particular apartment or apartment complex?

25 A. I stay in Bluffton, but my aunt and my mother

1 stay at Hilton Head Gardens.

2 Q. Hilton Head Gardens?

3 A. Yeah.

4 Q. Okay. I'm sorry. I should have asked that a
5 little bit better.

6 On May the 23rd of 2010, which would have been
7 early on Sunday morning, were you -- where were you at?

8 A. At my aunt's house.

9 Q. And that's in Hilton Head Gardens?

10 A. Yes, sir.

11 Q. And other than probably what you know I'm going
12 to ask you about here today, you remember that weekend
13 because why?

14 A. It was my birthday weekend.

15 Q. All right. So I'm going to hand you, just so you
16 have it handy in case you need it, did you -- do you
17 recognize that document, sir?

18 A. Yes, sir.

19 Q. Is that a statement you wrote to law enforcement?

20 A. Yes, it is.

21 Q. Mr. King, on May the 23rd of 2010, did anything
22 unusual happen or anything that, you know, you thought was
23 out of the ordinary, that early-morning hours that Sunday
24 morning?

25 A. Yes, sir.

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1 Q. All right. Can you tell me about it?

2 A. Okay. We was -- we were sitting outside talking
3 in the breeze way and a red truck pulled in, driving
4 recklessly, into the Gardens.

5 Q. All right. And let me ask you a question. You
6 said we. Ishmil Frazier: obviously, you were not in here
7 when he testified. Is that one of the people that was --
8 that you were around that evening?

9 A. Yes, sir.

10 Q. All right. So Ishmil is there with you and you
11 see a red truck pull in. Go ahead, sir. I'm sorry to
12 interrupt.

13 A. A red truck pulled in and when they was -- they
14 was -- they almost hit the trash can coming in. And when
15 it was time to come in -- when it was time to park, they
16 ran up the sidewalk, like he didn't know how to drive.

17 Q. All right. Was it -- was the truck acting in any
18 weird way? I mean, was anything going on with it?

19 A. Like they was driving like they was drunk.

20 Q. Okay.

21 A. They was driving like they were -- like reckless
22 driving, and then the person drove up on top of the
23 sidewalk. And then as the person got out of the car, they
24 was -- they was trying to back the car up off the sidewalk
25 and the person got -- the person got out of the car and

1 walked towards us in the breeze way. And when he walked up
2 he was like, do y'all want to buy a truck, do y'all want to
3 catch a ride anywhere. And we was like, no, there's no
4 use, because I have my own car. So as we sitting there
5 talking, one of my other friends walked up and he was like
6 -- he was asking a conversation how you get the car, who
7 car is it. And he was like, it's my girlfriend car,
8 somebody I know.

9 Q. Well, let me ask you a question. Did you -- at
10 some point when you gave this statement, did the police
11 show you what's called a line-up or a six-pack photo line-
12 up with six different pictures on it --

13 A. Yes, sir.

14 Q. -- of different people?

15 A. Yes.

16 Q. And were you able to pick out anybody as the
17 person who was there trying to sell that red truck?

18 A. Yes, sir.

19 Q. And do you see the person, that did that --

20 A. Yes.

21 Q. -- in this courtroom?

22 A. Yes, sir.

23 Q. And where is he?

24 A. He's right over there.

25 Q. You're pointing to the defendant over here, Jerry

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1 Scantling?

2 A. Yes, sir.

3 Q. So that's who was trying to sell you the red
4 truck?

5 A. Yes.

6 Q. And what -- was this early in the morning hours
7 or --

8 A. This was like sometime like around 3:00-something
9 in the morning.

10 Q. So 2:00, three o'clock in the morning --

11 A. Yeah.

12 Q. -- he's trying to sell y'all a truck?

13 A. Yeah.

14 Q. Did you find that unusual?

15 A. Yes.

16 Q. Okay. And you had stated he didn't look like he
17 could drive it; is that right?

18 A. Yes.

19 Q. Did you see him again driving anything?

20 A. Driving a black Monte Carlo.

21 Q. All right. And let me ask you a question,
22 Mr. King. Where do you work, sir?

23 A. Me --

24 Q. Then. I'm sorry. Then where did you work?

25 A. I was working for the Pantry Kangaroo Express.

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1 Q. Okay. Is that like a gas station?

2 A. Yes, sir.

3 Q. All right. And did you see him at that gas
4 station?

5 A. Yes, sir.

6 Q. When I say him I mean the defendant, Jerry
7 Scantling.

8 A. Yes, sir.

9 Q. And what was he doing?

10 A. He was -- first, he pulled up to the gas pump.
11 And as the other person got out of the car, he pulled up to
12 the front of the door and the other guy came in and bought
13 a cigar and some cigarettes and they walked out the store
14 and they just drove off.

15 Q. All right. Do you know whether or -- do you know
16 the other person that was riding with him?

17 A. Yes, sir.

18 Q. And do you know his name or his street name?

19 A. Dirty Red.

20 Q. Dirty Red?

21 A. Yeah.

22 Q. And he was riding with Jerry Scantling in a black
23 Monte Carlo; is that right?

24 A. Yes, sir.

25 MR. THORNTON: Your Honor, the Court's

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1 indulgence, please, for just a moment.

2 [Whereupon, Mr. Thornton reviews documents]

3 Q. [Mr. Thornton] Let me ask you a question. Did
4 he ask you anything or did -- and let's just say Jerry,
5 since you've already identified him. Did the defendant,
6 Mr. Scantling, ask you anything about drugs?

7 A. No, sir.

8 Q. Are you sure? Look at your statement for me.
9 Did he ask you where he could get some drugs?

10 A. [No response]

11 Q. I'm sorry. I know it's been a couple of years.
12 It's about five or six lines down. And don't let me put
13 words in your mouth, now. I may be mistaken. But did he
14 ask you who was selling green?

15 A. Oh. Yes.

16 Q. All right. And, now, I said drugs. Now, if I'm
17 wrong, you tell me I'm wrong. What did you take that to
18 mean when he asked you who was selling green?

19 A. Just like marijuana.

20 Q. Okay. And what did you tell him?

21 A. That I don't know.

22 Q. All right. Other than that, and seeing him the
23 next day at where you work at -- or, actually, not the next
24 day. I'm sorry -- you wrote this statement sometime after
25 that; is that correct?

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1 A. Yes, sir.

2 Q. A few days later?

3 A. Yeah.

4 Q. All right.. And you saw him again where you
5 worked at; is that right?

6 A. Yes.

7 Q. Other than what you've testified to, is there
8 anything else that -- from that night, or does that pretty
9 much cover it?

10 A. That's it.

11 Q. And have you seen him since then? since you saw
12 him in the black Monte Carlo?

13 A. No.

14 MR. THORNTON: The Court's indulgence, please,
15 Judge, one more time.

16 [Whereupon, Mr. Thornton reviews documents]

17 MR. THORNTON: I don't have anything further.

18 Thank you very much, Mr. King. Please answer any
19 questions that Mr. Walker has for you.

20 MR. WALKER: Good afternoon.

21 THE WITNESS: How are you doing?

22 MR. WALKER: Good. Thanks.

23 - - -

24 - - -

25 - - -

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CROSS-EXAMINATION

BY MR. WALKER:

Q. I just kind of want to go through some of your testimony again.

You said that the car pulled -- you were already -- you were already hanging out outside of the Hilton Gardens; correct?

A. Yes.

Q. Okay. And where were you physically?

A. Standing in the breeze way across from my aunt house.

Q. Okay. And then your testimony is that Jerry pulled in with the truck. About what time was that?

A. Around between 2:00 and 3:00 in the morning.

Q. And you said you were around with some people. We've already mentioned Ishmil Frazier. Who else was around?

A. Ishmil Frazier. Another guy, James, but he walked in the house.

Q. Do you know James' last name?

A. Jones.

Q. And who else?

A. Dirty Red. But he came up late at towards the end.

Q. So Dirty Red came up after Mr. Scantling got

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1 there?

2 A. Yeah.

3 Q. Who did he come to see?

4 A. Who?

5 Q. Dirty Red.

6 A. He just came in the breeze way. We was all
7 standing there!

8 Q. Does Dirty Red live there?

9 A. No.

10 Q. No? So I guess, then, why did he come to the
11 breeze way?

12 A. Because we just normally stand in the breeze way
13 and talk.

14 Q. So he didn't call you and say, hey, where are you
15 at, I'm going to come meet you or anything?

16 A. No. I don't give out my telephone number like
17 that.

18 Q. All right. You keep saying Dirty Red. Do you
19 know Dirty Red's real name?

20 A. No.

21 Q. Okay. Did you spend a lot of time at the
22 Gardens?

23 A. Yes.

24 Q. Do you still spend time there?

25 A. Yeah.

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1 Q. So I'm going back to the time in question. You
2 say you spent some time there. Had you seen Mr. Scantling
3 before this night?

4 A. No.

5 Q. Okay. So this was really the first time you saw
6 him?

7 A. Yes.

8 Q. All right. In your statement you kind of make
9 statements like, he asked us, and that kind of thing. Was
10 he addressing you specifically or was he addressing
11 everybody that was there when he was talking or --

12 A. We were standing there talking and the discussion
13 was we was -- how we were going to go to the store. Like I
14 wanted to go to the store and Ishmil wanted to go to the
15 store. And basically, as he was pulling in he was driving
16 like he didn't know how to drive. So he got out of the
17 car, came towards the breeze way. We started talking and
18 everybody -- when he came up he was like, do anybody got
19 any green. I was like, no. Because I don't smoke.

20 Q. Right.

21 A. So the discussion was --

22 Q. So that was -- that question was directed to
23 everyone and you're just saying --

24 A. Yes.

25 Q. -- you answered it. Okay.

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1 In the time that you're -- so after everybody
2 finished talking with Jerry --

3 A. Yes.

4 Q. -- what happened?

5 A. He walked away and he was -- he walked away. He
6 got in -- got in the truck. And then two other people came
7 outside. They got in the car and they left.

8 Q. Who are those two other people?

9 A. Was it Jamal, Jamar, or whatever his name is.

10 Q. I'm asking you.

11 A. Jamar or Jamal --

12 Q. Do you have a copy of your statement?

13 A. Yes, I do.

14 Q. Can you look there at maybe the first large
15 paragraph, maybe the last three lines or four lines, and
16 see if that refreshes your memory?

17 A. Yeah.

18 [Whereupon, the witness reviews documents]

19 Q. [Mr. Walker] So can you tell me who left with
20 Jerry after the conversation was over?

21 A. Will and Jamal, Jeno, whatever his name is.

22 Q. Is that William Barnes?

23 A. Yes.

24 Q. Okay. Drove away with Jerry?

25 A. Yes.

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1 Q. And was it Jamar McGraw that went with him?

2 A. Yes.

3 Q. Okay. Did you see them again that night?

4 A. No.

5 Q. So about how long -- you say it was 2:00 to

6 3:00 a.m. when he got there and the conversation started.

7 About how long were y'all standing around talking before he
8 and William and Jamar left?

9 A. We were basically outside all day.

10 Q. I mean, I'm talking about how much time passed
11 between the time that Jerry got there and the time Jerry
12 left.

13 A. It was like a short conversation.

14 Q. Five minutes?

15 A. Five minutes.

16 Q. Was Jerry still there when Dirty Red got there?

17 A. Like a short -- like two minutes, then he walked
18 away.

19 Q. Jerry walked away or Dirty Red walked away?

20 A. Jerry walked away.

21 Q. Was there a conversation about selling the truck?

22 A. Yes.

23 Q. Who participated in that conversation?

24 A. Me, Ishmil Frazier, Dirty Red, and Jerry.

25 Q. Because he was offering to sell you the truck?

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1 A. He was offering to sell all of us the truck. He
2 asked if anyone wanted to buy the truck.

3 Q. Were any figures tossed around --

4 A. No.

5 Q. -- like how much the truck would sell for, or how
6 much they would offer, or anything like that?

7 A. Basically, the conversation was cut short because
8 we all had a car so there was no need to buy a truck. I
9 had a truck myself.

10 MR. WALKER: Beg the Court's indulgence.

11 [Whereupon, Mr. Walker and Ms. Carroway confer]

12 MR. WALKER: Thank you very much.

13 THE COURT: Anything further?

14 MR. THORNTON: Nothing further. Thank you,
15 Mr. King.

16 Ask that he be excused.

17 MR. WALKER: No objection.

18 THE COURT: All right. Any objection?

19 You are excused, Mr. King.

20 THE WITNESS: Yes, ma'am.

21 [Whereupon, Mr. King is excused and exits the
22 witness stand]

23 THE COURT: If the State will call their next
24 witness.

25 MR. THORNTON: Altovise Green.

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1 [Whereupon, Ms. Green enters the courtroom]

2 THE COURT: Come on forward, please.

3 THE BAILIFF: Go right up by the table to be
4 sworn, please, ma'am.

5 [Whereupon, Ms. Green comes forward]

6 THE COURT: Place your left hand on the Bible and
7 raise your right hand.

8 [Whereupon, Ms. Green is duly sworn by the clerk
9 of court as follows: do you solemnly swear to
10 truthfully answer all questions asked of you by this
11 Court, so help you God]

12 THE WITNESS: Yes.

13 THE CLERK OF COURT: Please be seated.

14 [Whereupon, Ms. Green takes the witness stand]

15 THE CLERK OF COURT: State your name and spell it
16 for the Court, please.

17 THE WITNESS: Altovise Green. A-L-T-O-V-I-S-E
18 Green.

19 MR. THORNTON: Is that G-R-E-E-N?

20 THE WITNESS: Yes.

21 MR. THORNTON: Thank you, Ms. Green.

22

23

24

25

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1 ALTOVISE GREEN,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. THORNTON:

6 Q. Ms. Green, I'm going to hand you a document and
7 ask you to use that to refresh your recollection, if you
8 need to.

9 Ms. Green, where do you live?

10 A. In Hilton Head.

11 Q. Okay. Where, specifically, in Hilton Head?

12 A. Off Clyde [phonetic] Road.

13 Q. Okay. And on May 23rd of 2010, where did you
14 live?

15 A. In Hilton Head Gardens, apartment 53.

16 Q. All right. And on that night, on the 23rd --
17 actually, that would have been a Sunday morning, early-
18 morning hours, did you see anything unusual?

19 A. Yeah.

20 Q. What did you see?

21 A. I saw the defendant cleaning out --

22 Q. All right. Before you say the defendant, let's
23 just -- do you see the person, that you're about to talk
24 about, in this courtroom?

25 A. Yes.

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1 Q. All right. Where is he?

2 A. Right there.

3 Q. So you're talking about the defendant in this
4 case, Jerry Scantling; is that right?

5 A. Yes.

6 Q. Is that the person who you saw the early-morning
7 hours of May the 23rd, 2010, in Hilton Head Gardens?

8 A. Yes, sir.

9 Q. All right. I'm sorry to interrupt you, ma'am.
10 What did you see him do?

11 A. I walked off -- well, I walked from my balcony
12 and walked downstairs to the left, like by this big tree, I
13 was smoking a cigarette, and I saw somebody cleaning out a
14 truck --

15 Q. And you say somebody --

16 A. -- like a pickup --

17 Q. I'm sorry to interrupt you.

18 And you say you saw somebody cleaning out a
19 truck. Who did you see cleaning the truck out?

20 A. This man right here.

21 Q. All right. The defendant, Jerry Scantling?

22 A. Yeah.

23 Q. All right. I'm sorry. Go right ahead. He was
24 cleaning out the truck. What kind of truck was it; do you
25 remember?

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1 A. I can't actually remember the color or the type
2 but, I don't know, I would say like an F-150 or something
3 like that. It was a big pickup truck.

4 Q. All right. Go ahead.

5 A. I don't know. It looked kind of weird. Nobody
6 cleans out a car at 2:30 in the morning, especially not in
7 the Gardens. Like he was just throwing away stuff, papers,
8 clothing, whatever. Just a bunch of stuff.

9 Q. All right. And let me ask you a question. Did
10 you see him after that? after that -- the Sunday morning,
11 in another vehicle?

12 A. Yeah.

13 Q. And what vehicle would you have seen him in after
14 that?

15 A. A little black Monte Carlo.

16 Q. Okay. And did you see anything else unusual?

17 A. It had problems. It kept breaking down.

18 Q. The Monte Carlo?

19 A. Yeah.

20 Q. Okay. Did you at some point -- did the police
21 come and have you fill out a written statement?

22 A. Uh-huh.

23 Q. And is that the document that I've handed to you?

24 A. Uh-huh.

25 MR. THORNTON: Okay. And just so we're clear on

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1 the record, make sure you answer yes or no so the court
2 reporter can do that.

3 Q. [Mr. Thornton] Let me ask you, Ms. Green. Did
4 they also show you what's called a six-pack or a photo
5 line-up where they have six pictures on a piece of paper?

6 A. Yes, sir.

7 Q. Did they ask you whether or not the person you
8 saw, that you've now identified as Jerry Scantling, did
9 they ask you if he was in that -- one of those six
10 pictures?

11 A. Yes, sir.

12 Q. And were you able to pick him out?

13 A. Yes.

14 Q. Did you see him do anything else unusual while he
15 was driving the black Monte Carlo? And if you need to
16 refer back to your statement, please do.

17 A. Not while he was driving the Monte Carlo.

18 Q. Okay. At any other time did you see him do
19 anything and could you tell us about that?

20 A. I can't remember the exact date, but I know it
21 was after this. I want to say in the front of the Garden,
22 I seen him with like a group of people. I'm not sure about
23 all the other people, but he had a pistol or whatever kind
24 of gun on his hip, kept flashing it or whatever.

25 Q. So he was flashing a gun?

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1 A. Yeah.

2 MR. THORNTON: Ma'am, I don't have any further
3 questions. Please answer any questions that Mr. Walker
4 might have for you.

5 MR. WALKER: The Court's indulgence for one
6 moment.

7 [Whereupon, Mr. Walker reviews documents]

8 CROSS-EXAMINATION

9 BY MR. WALKER:

10 Q. You just testified that you found it a little odd
11 that he was cleaning out the car because nobody cleans out
12 a car at 2:30 a.m.. If you'll refer back to your statement
13 there, you've got a different set of times on the second
14 line of your statement; isn't that correct?

15 A. Well, yeah. Well, it says about 4:30, 5:00 a.m.
16 But, okay, like a two-hour difference. So who cleans their
17 car out, still, at 4:30, five o'clock in the morning?

18 Q. I'm more interested in the time than the cleaning
19 the car.

20 But you're saying you saw him at 4:30 to 5:00
21 a.m.?

22 A. Well, maybe it was 2:00, 2:30 a.m.

23 Q. So you don't know when you saw him?

24 A. I saw him, when I woke up out of my sleep,
25 cleaning out a truck that wasn't his.

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1 Q. It wasn't light out?

2 A. No.

3 MR. WALKER: And I'm sorry. Beg the Court's
4 indulgence one moment.

5 [Whereupon, Mr. Walker reviews documents]

6 Q. [Mr. Walker] So he was parked. Where was he
7 parked?

8 A. In front of the dumpster.

9 Q. Okay. Whose house was that near?

10 A. It's not near a house, it's just in the middle of
11 three different buildings. It's a building here, it's a
12 building here, and it's a building here.

13 Q. Didn't you say you had seen him over near Dirty
14 Red's place?

15 A. I didn't say anything like that. I never said
16 nothing about Dirty Red.

17 Q. All right. You know Dirty Red?

18 A. Yes.

19 Q. Okay. Do you know Dirty Red's real name?

20 A. No.

21 Q. Okay. So how far is the dumpster from where you
22 were smoking a cigarette?

23 A. I don't know. Like I want to say the dumpster
24 would be this cup -- well, no. Where I was standing would
25 be this cup and the dumpster would be, I don't know,

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1 probably -- I don't know -- where that window is, and you
2 see that person through that window, probably about there,
3 maybe a little farther.

4 Q. So maybe twenty-five or thirty yards away?

5 A. Maybe not that close. Maybe a little farther. I
6 was in front of my building.

7 Q. Okay. Did you see anyone else around with him?

8 A. No.

9 Q. Okay. Where is the dumpster in relation to the
10 breeze way?

11 A. I don't know. My breeze way would be here, and
12 the dumpster is like over here. I walked out of my breeze
13 way to smoke a cigarette down to the left by the tree. So
14 I wasn't in my breeze way, I was by the tree looking at
15 him.

16 Q. Okay. Are there multiple breeze ways in those
17 apartment complexes?

18 A. Every building has its own --

19 Q. Has its own.

20 A. -- breeze way.

21 Q. Okay. Had you seen Mr. Scantling before that
22 night?

23 A. Yeah.

24 Q. Okay. Where had you seen him before?

25 A. In the Garden, sleeping in people's breeze way.

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1 Q. All right. So he was basically homeless?

2 A. I don't know. Ask him. I guess if he was
3 sleeping in people's breeze way, he better be.

4 Q. All right. Had you had any interaction with him
5 before?

6 A. No.

7 Q. All right. You never talked to him?

8 A. No.

9 Q. Was he sleeping in your breeze way?

10 A. Yeah.

11 Q. He never threatened you or anything like that?

12 A. No.

13 MR. WALKER: The Court's indulgence.

14 [Whereupon, Mr. Walker and Ms. Carroway confer]

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

16 THE COURT: Anything further?

17 MR. THORNTON: Nothing further. I ask that
18 Ms. Green be excused.

19 THE COURT: All right. Ms. Green, you are
20 excused.

21 [Whereupon, Ms. Green is excused and exits the
22 witness stand]

23 THE COURT: Ladies and gentlemen of the jury, we
24 are going to take a brief break. Again, do not discuss
25 this case. It wouldn't be appropriate to do so. We'll

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1 be right back with you shortly. Thank you.

2 THE BAILIFF: Thank you, Your Honor.

3 [Whereupon, the jury exits the courtroom at
4 3:08 p.m.]

5 THE COURT: Okay. We'll be at ease for about ten
6 minutes.

7 Mr. Thornton, I know you originally said you
8 whittled down your list today to about fifteen
9 witnesses. We just did number eleven. How many more
10 do you have this afternoon?

11 MR. THORNTON: I'm looking, Judge. I can
12 probably give you that answer --

13 THE COURT: When we come back?

14 MR. THORNTON: -- if you'll give me a couple of
15 minutes.

16 I know I've got -- Detective Adams will probably
17 be next, and then I have -- it depends on how I try to
18 break it up. If you'll give me about five minutes,
19 Judge, I can tell you. I've still got a couple more.

20 THE COURT: Perfect. Okay. We'll be back.
21 Thank you.

22 MR. THORNTON: Yes, ma'am.

23 [Whereupon, a recess is taken from 3:09 a.m. to
24 3:21 p.m.]

25 MR. THORNTON: Judge, I've got one, two, three,

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1 absolutely that we should be able to do today. And
2 possibly one more, just depending on how long it goes.
3 I believe I can do -- I can do either three or four
4 more.

5 THE COURT: Okay.

6 MR. THORNTON: And, frankly, the only thing I'm
7 trying to figure out, and am probably not going to be
8 able to do that until we're done today, is I'm trying
9 to figure out if I can get the rest of my witnesses
10 done tomorrow.

11 THE COURT: Okay.

12 MR. THORNTON: My concern is Dr. Batalis. He's
13 going to be very likely my last witness and I am trying
14 to figure out if I can squeeze him in. I try not to
15 bring them all the way from Charleston down here and
16 not use them. I'm trying to figure out if I can
17 squeeze him in tomorrow afternoon last thing, or first
18 thing Thursday morning. And I don't want him in the
19 courtroom, you know, early, and --

20 THE COURT: Right.

21 MR. THORNTON: -- not have him here.

22 But it's tough. With thirteen witnesses a day,
23 it's kind of hard to schedule or gauge it. So I'll try
24 to do better telling you that when we're done today,
25 what my best guestimate is on that.

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1 But worse-case scenario, Judge, unless something
2 unusual happens in cross, I would image being done with
3 my part of the evidence, with Dr. Batalis, you know,
4 within probably thirty minutes or so of opening up on
5 Thursday.

6 THE COURT: All right. Let's go ahead and bring
7 the jury back.

8 THE BAILIFF: Yes, Your Honor.

9 [Off the record momentarily]

10 THE BAILIFF: The jurors are entering, Your
11 Honor.

12 THE COURT: Thank you.

13 [Whereupon, the jury enters the courtroom at
14 3:24 p.m.]

15 THE COURT: Thank you.

16 Welcome back, ladies and gentlemen. At this time
17 we're going to go ahead and continue with the trial of
18 this case.

19 If you'll call your next witness, Mr. Thornton.

20 MR. THORNTON: Yes, Judge. John Adams.

21 [Whereupon, Mr. Adams comes forward]

22 [Whereupon, Mr. Adams is duly sworn by the clerk
23 of court as follows: do you solemnly swear or affirm
24 that the testimony you give to the Court in this trial
25 shall be the truth, so help you God]

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1 THE WITNESS: I do.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, Mr. Adams takes the witness stand]

4 MT. THORNTON: Mr. Adams, would you please state
5 your name and spell your last name for the record?

6 THE WITNESS: My name is John Adams. A-D-A-M-S.

7 - - - - -

8 JOHN ADAMS,

9 Having Been First Duly Sworn,

10 was Examined and Testified as Follows:

11 DIRECT EXAMINATION

12 BY MR. THORNTON:

13 Q. Mr. Adams, who do you work for, sir?

14 A. I work for the Beaufort County Sheriff's Office.

15 Q. And what do you do for the Beaufort County
16 Sheriff's Office?

17 A. I'm an investigator.

18 Q. And did you work for the Beaufort County
19 Sheriff's Office on or about May the 23rd of 2010?

20 A. Yes, sir, I did.

21 Q. And did you report out to any particular scene on
22 May the 23rd of 2010?

23 A. Yes, sir, I did.

24 Q. And where did you go?

25 A. I went to the Pinckney Island boat landing. I

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1 arrived there about 9:10 in the morning.

2 Q. Let me ask you a question. What time -- I'm
3 sorry. You just told me what time.

4 Where is that? What county is that located in?

5 A. Beaufort County.

6 Q. All right. So you go out there. What time do
7 you get there?

8 A. 9:10 in the morning.

9 Q. All right. Go ahead.

10 A. I responded in response to a call from Sargent
11 Eric Callendine, one of the patrol supervisors. He stated
12 that they had found a dead body at the boat landing. He
13 told me that the body had appeared to have been shot. And
14 then I immediately called my supervisor, Master Sargent
15 Riley. And I called Investigator Moran to assist me.

16 Q. And is Investigator Moran the same Jeff Moran
17 that was testifying earlier?

18 A. Yes, sir, he is.

19 Q. What did you do when you got on scene?

20 A. I got to the boat landing. I noted that the
21 patrol deputies had secured an area with crime-scene tape.
22 I also observed that Staff Sargent Blackman, Sargent
23 Callendine, and Corporal Klein were present at the boat
24 landing. Corporal Klein indicated that he had found a
25 black Highpoint .45 caliber pistol and he told me that

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1 there was a round in the chamber and there had been three
2 rounds in the magazine. He also collected a red shirt and
3 a money-for-rent receipt book, a brown-colored credit card
4 holder, and several shopper cards, one for Piggly-Wiggly,
5 Bi-Lo, Harris Teeter, Kroger's, Havey's Home Town Food
6 Lion, and I believe Blockbuster. The Blockbuster had the
7 victim's name. That was misspelled. It was spelled as
8 L-E-O-N-A-R-N Green. And the receipt book had two receipts
9 in it for rent payments that had been received during the
10 month of May. One of the receipts was dated May the 15th
11 and it indicated a cash receipt of \$600 from a D. Smith.
12 The other receipt was for a check in the amount of \$225.
13 And this seemed to indicate that maybe the victim had been
14 in possession of a large sum of cash at the time he was
15 killed.

16 Q. Detective, let me ask you a question.

17 [Whereupon, State's Exhibit Number 58 is marked
18 by the court reporter]

19 Q. [Mr. Thornton] I'm going to hand you what's been
20 marked for identification as State's Exhibit 58. Can you
21 identify the contents of that bag for me?

22 A. It is a receipt book, a pencil, a brown leather-
23 type cardholder and inside is the Blockbuster card with the
24 misspelled name of Leonard Green. There is a card for Food
25 Lion, Piggly-Wiggly, Bi-Lo, Kroger, Harvey's, and a VIC

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1 card. There is also the receipt book.

2 Q. And are those the items that you were just
3 referencing?

4 A. Yes, sir, they are.

5 Q. Do they appear to be substantially in the same
6 condition as they were when they were collected?

7 A. Yes, sir, they do.

8 Q. And did you take possession of those items on
9 that day?

10 A. Yes, sir, I did. And then I turned them over to
11 Investigator Romain.

12 Q. And are they in the same condition as they were
13 when you turned them over?

14 A. Yes, sir, they are.

15 Q. Do they appear to have been altered or changed in
16 any way?

17 A. No, sir, they don't.

18 MR. THORNTON: Your Honor, I would ask that
19 State's Exhibit 58 be moved into evidence.

20 THE COURT: Any objection?

21 MR. WALKER: No objection.

22 THE COURT: Without objection.

23 [Whereupon, State's Exhibit Number 58 is admitted
24 into evidence by the Court]

25 Q. [Mr. Thornton] And what did you say -- without

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1 having to pull through and walk it over to the jury, what
2 did you say the one receipt for cash was for? How much?

3 A. \$600.

4 Q. Okay, sir. Go ahead. What else did you do?

5 A. Corporal Klein gave me a briefing of the crime
6 scene. He had located -- pointed out the location of the
7 body of Leonard Green. It had been on the pier side of the
8 boat landing and it had been partially covered with brush.

9 Investigator Moran and I marked items that were
10 at the crime scene, with numerical markers, and we also
11 measured the locations of those items so that I could do a
12 crime-scene diagram at a later date.

13 Q. And did you do a crime-scene diagram?

14 A. Yes, sir, I did.

15 MR. THORNTON: Your Honor, the Court's indulgence
16 one moment, please.

17 THE COURT: Yes, sir.

18 MR. THORNTON: I'm sorry.

19 [Whereupon, State's Exhibit Number 59 is marked
20 by the court reporter]

21 Q. [Mr. Thornton] I'm going to show you what's been
22 marked for identification as State's Exhibit 59. Can you
23 identify what's on this board?

24 A. There's a crime-scene diagram and then a what
25 appears to be an overview aerial shot of the Pinckney

1 Island boat landing.

2 Q. Is that a crime-scene diagram that was done under
3 your supervision?

4 A. Yes, sir, it was.

5 Q. All right. And is that an accurate photo of the
6 -- an accurate aerial photo of the area in question?

7 A. Yes, sir, it is.

8 Q. Has the diagram itself been altered or changed in
9 any way?

10 A. The only difference is there is a typographical
11 error at number 8.

12 Q. Yes, sir. What is that area?

13 A. On the diagram that you're holding, it's listed
14 as -- number 8 is listed as drag marks in the parking area,
15 and I believe they're actually tire tracks.

16 Q. All right. The drag marks would be indicated by
17 which numbers?

18 A. The drag marks that are in blood are not actually
19 indicated -- indicated by number 4, and it's also drawn as
20 a red line that's coming down by the number 4 and number 7.

21 Q. Yes, sir.

22 So as to number 8, that is just a typographical
23 error; is that correct?

24 A. That is correct.

25 Q. All right. Other than that typographical error,

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1 is this accurate in its representation of the scene?

2 A. Yes, sir, it is.

3 Q. All right. Now, this is not to scale, is it?

4 A. It is not to scale.

5 Q. Other than that, is it accurate?

6 A. It is accurate.

7 Q. Has it been altered or changed in any way?

8 A. No, sir.

9 MR. THORNTON: Your Honor, I would ask that
10 State's Exhibit Number 58 -- sorry -- 59 be moved into
11 evidence.

12 MR. WALKER: The only objection I would have is
13 just can we go ahead -- so there's not any confusion
14 when we look at it later, let's go ahead and change the
15 typographical error, cross it out, and put what it
16 actually should be.

17 MR. THORNTON: The State wouldn't object to that,
18 Judge. I'll just have Mr. Adams do it, if that's all
19 right.

20 THE COURT: Thank you.

21 MR. WALKER: And then without objection.

22 THE COURT: Without objection, in evidence.

23 [Whereupon, Court's Exhibit Number 59 is admitted
24 into the record by the Court]

25 MR. THORNTON: The Court's indulgence, Your

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1 Honor.

2 [Whereupon, Mr. Thornton and the witness review
3 documents]

4 MR. THORNTON: Detective Adams was able to see it
5 from where he was. I need to get my glasses checked,
6 Judge.

7 With that correction, Your Honor, I would ask it
8 be moved into evidence.

9 MR. WALKER: No objection.

10 A. Mr. Thornton, one of the things that I also want
11 to say is that because it is not to scale, the positioning
12 of the items are proportioned as best that I could do with
13 the crime-scene diagram.

14 Q. [Mr. Thornton] Understood.

15 MR. THORNTON: Permission to publish to the jury,
16 Your Honor?

17 THE COURT: You may.

18 MR. THORNTON: Your Honor, I would ask that
19 Detective Adams be allowed to come down from the stand.

20 THE COURT: You may step down.

21 [Whereupon, the witness complies]

22 Q. [Mr. Thornton] Detective Adams, if you would,
23 would you go through the item numbers and kind of go
24 through with the jury approximately -- again, we know it's
25 an approximation -- approximately where you found the items

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1 that are marked on the chart, please?

2 A. This is the dock area of the boat landing. U.S.
3 278 runs -- would run across the top of the page, and the
4 water would be out towards this direction. The photograph
5 itself does not cover the entire area encompassed by the
6 diagram, but in the photograph it is oriented in the same
7 manner. You have the river out this way and U.S. 278
8 running across the top.

9 Item 1 was a collection of cigarette butts. Item
10 number 2 was a tire track. Number 3 was a series of blood
11 drops. Number 4 is the bloody drag mark itself, indicated
12 by the red line. Number 5 was a right side -- a right
13 shoe, flip-flop. Number 6 was a pair of Panasonic
14 headphones. Number 7 was a .45 caliber shell casing.
15 Number 8, again, was a set of tire tracks. Number 9 over
16 here were some plastic tabs that were located on the
17 ground. 10 was a shoe impression. Number 11 is here. It
18 was a left flip flop which was located near the body of the
19 deceased. Number 12 was a Lite beer can here. 13 was a
20 pen here. And an ID or a proximity card, with the name and
21 photograph of the victim was located here. There was also
22 a brown paper bag containing a thirty-two ounce Old English
23 Malt Liquor beer bottle at 15.

24 Q. And does that have all of the placards now that
25 you discussed?

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1 A. Yes, sir. Except for the body of Leonard Green.

2 Q. Okay. Which is where?

3 A. Number 16.

4 Q. All right. So that's where Mr. Green was found.

5 Let me ask you a question. There's been -- there
6 was some mention several times of tire tracks and other
7 things. As evidenced in this photograph, what is the
8 consistency of this? Is this paved? Is it unpaved? What
9 is it?

10 A. This area is unpaved, and there is some grass
11 that grows there, but it is a heavily traffic area for both
12 vehicle and foot travel. And the underlying material is
13 like a hard-gravel, sand-type material. Very hard.

14 Q. All right. And there's -- I see cars that are
15 obviously in this photograph taken some time later here.
16 What are all these lines running pretty much everywhere all
17 through here?

18 A. I believe those are vehicle tracks.

19 Q. Okay. So would you say there was -- I know we
20 had some photographs of some tire tracks that were in and
21 around the scene. Was there just one or two sets of tracks
22 or were there multiple sets of tracks --

23 A. -- many sets of tire --

24 Q. -- or were there --

25 A. -- tracks.

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1 Q. -- hundreds of sets of tracks?

2 A. There were many. I don't know if I could put a
3 number on it.

4 Q. And I'm sorry. Would you point out one more time
5 where the -- where Leonard Green's body was located?

6 A. Here [indicates].

7 Q. All right. And you talked about flip-flops and
8 other things that were recovered. Do you recall -- and if
9 you need to look at a photograph, you can. Do you recall
10 whether or not Leonard Green had shoes on or off?

11 A. He did not have any shoes on.

12 Q. And those flip-flops were found near where his
13 body was discovered?

14 A. One of them was, yes, sir.

15 Q. Okay. And where was the other one discovered?

16 A. The other one, number 5, right here.

17 Q. All right. So about halfway between the drag
18 mark and where his body was located?

19 A. Yes, sir.

20 Q. And the other shoe was found next to the body?

21 A. It appeared that Mr. Green's body had been drug
22 to this location.

23 Q. What do you base that off of?

24 A. Well, I base that off of the drag marks
25 themselves. There was this long, bloody drag line and

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1 there were some very faint drag impressions that went
2 through the sand and gravel over leading towards where
3 Mr. Green's body was found.

4 Q. All right.

5 A. He was also positioned in a way that his legs
6 were facing towards the water and his pants were pulled
7 down, as if someone had grabbed his legs and then walked
8 back to that location.

9 MR. THORNTON: Thank you very much, Detective.
10 If you would go ahead and take the stand.

11 [Whereupon, the witness complies]

12 Q. [Mr. Thornton] All right. You've talked about
13 some of the measurements you did. You've shown us the
14 diagram and we've gone through that, which is State's
15 Exhibit 59 now in evidence. What else did you do, if
16 anything, at the scene?

17 A. I photographed the scene and the body of Leonard
18 Green. And I also performed a gunshot residue test kit on
19 Leonard Green's body, with the assistance of Investigator
20 Moran.

21 After we performed the gunshot residue test kit,
22 I bagged his hands with paper bags and sealed those bags
23 with plastic seal ties.

24 Q. Were you present -- well, actually, you were in
25 the room earlier, were you not, when Mr. French testified?

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1 A. Yes, sir.

2 Q. And were you present when he took the swabs that
3 he discussed?

4 A. I was.

5 MR. THORNTON: And, Your Honor, the Court's
6 indulgence. I'm sorry. I'm trying to find that
7 particular exhibit.

8 [Whereupon, Mr. Thornton reviews documents]

9 Q. [Mr. Thornton] I'm going to hand you what's been
10 marked for identification as State's Exhibit 53. If you
11 could identify those swabs and what, if any, connection you
12 had with them, sir, please.

13 A. There is a swab here from the stain near marker
14 number 7. There is a swab of Highpoint gun. There is a
15 swab of the stain near marker number 3, labeled as 3-B.
16 There's a swab of the stain near marker number 3, labeled
17 number 3-A. And there's a swab of the ID and proxy card,
18 that had Leonard Green's name and photograph on it, that
19 was located near marker number 14.

20 Q. And were those swabs turned over to you?

21 A. Yes, sir. There was an additional swab of the
22 pistol magazine itself.

23 Q. All right, sir. What about the swab of the
24 Verizon cell phone I think was listed that Mr. French said
25 he did not do? Was that done in your presence?

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1 A. No, sir, it was not.

2 Q. As to the other items, would you go through them
3 one more time, please? Because I realize they're all
4 State's Exhibit 53. Bbut the ones that you specifically
5 had something to do with.

6 A. Again, the swab of the pistol magazine from
7 the -- what we -- from the Highpoint pistol; a swab of the
8 ID proxy card that had Leonard Green's name and photograph
9 on it; a swab of the stain near marker 3 labeled A; a swab
10 of the stain near marker number 3 labeled B; and the swab
11 of the gun itself; and then a swab of the stain near marker
12 number 7.

13 Q. All right. And were all those swabs turned over
14 to you?

15 A. Yes, sir, they were.

16 Q. And were they collected at the scene in your
17 presence?

18 A. Yes, sir, they were.

19 Q. And what did you do with the swabs when you got
20 them?

21 A. I turned them into Beaufort County Sheriff's
22 Office evidence tech.

23 Q. Okay. And how did you -- did you manipulate them
24 or do anything to them before you submitted them?

25 A. No, sir. But I did seal them in paper bags.

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1 Q. So you took the swabs that were given to you by
2 Mr. French, you sealed them, turned them into evidence?

3 A. Yes, sir, I did.

4 Q. Did you have any other connection with them?

5 A. Just a moment, sir.

6 Q. Yes, sir.

7 [Whereupon, the witness reviews documents]

8 A. The swab of the pistol magazine, it's labeled
9 with our container number 10-5679-P. Mr. French collected
10 it. He turned it over to me. I submitted it into evidence
11 on May the 26th. On May the 27th, Staff Sargent Calhoun
12 transported it to SLED. Again, on June the 3rd of 2010,
13 one of our other DNA technicians, a John Donahue,
14 transported this swab from SLED to Richland County. And on
15 July the 2nd of 2010, I picked this swab up from Richland
16 County and transported it back to SLED.

17 Q. [Mr. Thornton] All right, sir. Now, let me ask
18 you a question before you go on with the others.

19 Why was it taken -- first of all, is SLED the
20 South Carolina Law Enforcement Division?

21 A. Yes, sir, it is.

22 Q. Is that who typically does DNA for the -- up
23 until --

24 A. It was at that time.

25 Q. -- Beaufort's lab --

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1 I'm sorry. Up until Beaufort's lab is running,
2 is that who you normally would send it to?

3 A. Yes, sir.

4 Q. And in this case you just mentioned that at some
5 point you took it from SLED to Richland County --

6 A. Yes, sir.

7 Q. -- or, I'm sorry. Mr. Donahue took it from SLED
8 to Richland County; is that correct?

9 A. Correct.

10 Q. Why was that done?

11 A. I believe for additional DNA testing.

12 Q. All right. And then you retrieved those samples
13 from Richland County and --

14 A. And transported it back to SLED.

15 Q. All right. Anytime you touched them, had
16 anything to do with them, once you got them from French and
17 sealed them were they always in a sealed condition other
18 than when I handed them to you today?

19 A. Yes, sir.

20 Q. At any time had you noticed that they had been
21 altered or changed in any way?

22 A. No, sir.

23 Q. All right. And are they actually the individual
24 packets still sealed currently? The bags themselves, do
25 they have a seal on them?

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1 A. The bag for the swab that I just went over is now
2 sealed with Scotch tape instead of evidence tape.

3 Q. Yes, sir. And is it in a sealed condition?

4 A. It is.

5 Q. All right. Other than when we have opened it at
6 a prior hearing, and that I handed it to you today, has it
7 always been in a sealed condition with evidence tape?

8 A. Yes, sir.

9 Q. All right, sir. Go ahead to the next packet,
10 sir.

11 A. This is container number 105682-P. Mr. French
12 collected this swab from the gun at the crime scene and he
13 turned the swab over to me at the scene. I submitted this
14 swab to Beaufort County evidence on May the 26th, and on
15 May the 27th Staff Sargent Calhoun transported it to SLED.
16 On June the 3rd, John Donahue transported the swab from
17 SLED to Richland County. And on July the 2nd, I picked the
18 swab up from Richland County and transported it back to
19 SLED.

20 Q. Now, let me ask you a question, Detective Adams.
21 As to every -- all the swabs except for the Verizon cell
22 phone swab, which you indicated you had nothing to do with,
23 would the transport and chain of custody be the same for
24 each of those? Were they all in the same container and
25 would they all have been transported in a similar fashion?

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1 If you need to look for a second, please do. I figured
2 that would just save you from having to repeat the same
3 thing for all the packets.

4 A. I apologize, sir. The log that I did for those
5 two items I documented. I would have to dig through the
6 records to do the others.

7 Q. All right. What were the other two?

8 A. The swab of the proxy card, the swab of the stain
9 near marker number 3, the swab of the stain near marker
10 number 7, and the swab of the stain for marker 3-D.

11 Q. Do they all have the same container number?

12 A. They have different container numbers.

13 Q. All right, sir.

14 A. Each bag has its own container number.

15 Q. Understood.

16 All right. Well, then, we're going to need to go
17 through them, then, individually, please.

18 A. Yes, sir.

19 [Whereupon, the witness reviews documents]

20 A. 105678-P collected at the scene. It was
21 transferred to SLED by Sargent Calhoun on May the 27th of
22 2010.

23 Q. [Mr. Thornton] Yes, sir.

24 A. And I believe it was also transferred to Richland
25 County, after it went to SLED, by DNA Analyst Donahue.

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1 Q. All right, sir.

2 And to your knowledge, were you the only one to
3 go to Richland County to retrieve evidence?

4 A. I don't know the answer to that question.

5 Q. All right. Well, go ahead and check the records,
6 then. Let's make sure.

7 [Whereupon, the witness reviews documents]

8 A. Mr. Thornton, I apologize. It will take me some
9 time to research that.

10 Q. [Mr. Thornton] All right. Well, I'll tell you
11 what. Let's move on to something that we can do a little
12 bit quicker. Just get yourself organized up there, and
13 I'll move on to a different item. I realize there was a
14 lot of things collected in this case.

15 A. Yes, sir.

16 Q. I'm going to hand you what's been marked for
17 identification as State's Exhibit 55. Can you tell me what
18 those are and what, if any, connection you had in the
19 transport of those items? Or that item, I guess I should
20 say. It's one item, is it not?

21 A. Yes, sir. These are the black Panasonic
22 headphones.

23 Q. All right. Are those the ones that Jeff Moran
24 earlier testified he collected from the scene?

25 A. Yes, sir.

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1 Q. And what -- and that he -- did he submit them
2 into evidence, or did he give them to you?

3 A. He submitted them into evidence on May the -- he
4 submitted them into evidence and on May the 26th of 2011 I
5 picked these items up from BCSO evidence and transported
6 them to SLED.

7 Q. All right, sir. And did -- who got them back
8 from SLED? Or is that -- I'm sorry. Did you just testify
9 you picked them up from SLED? Or did you take them to
10 SLED?

11 A. I picked them up from evidence and transported
12 them to SLED for analysis.

13 Q. All right, sir. And who picked them up?

14 [Whereupon, the witness reviews documents]

15 A. I believe they were returned by Ramona Koon, with
16 the evidence division.

17 Q. [Mr. Thornton] All right, sir. And would that
18 have been on July the 6th, 2011, at 10:41 in the morning?
19 According to the SLED chain of custody.

20 A. Sir, the transfer receipt that I have here states
21 March the 23rd of 2012.

22 Q. Okay. So March 23rd, 2012. And that is who?

23 A. Ramona Koon.

24 Q. Ramona Koon. Okay. So that's how they got back
25 to BCSO; is that correct?

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1 A. Correct, sir.

2 Q. All right. But Jeff Moran takes them, he turns
3 them into evidence, you transport them to SLED. And when I
4 say them, we're talking about the Panasonic headphones.
5 And that was for DNA testing; is that correct?

6 A. Yes, sir.

7 Q. And that's State's Exhibit 55 for identification;
8 is that right?

9 A. Yes, sir.

10 Q. All right. Now, what else did you do while you
11 were out there? We'll get back to some of this evidence in
12 a minute. What did you do while you were out at the scene?
13 Did you do any examination of the victim in this case,
14 Leonard Green?

15 A. Yes, sir.

16 Mr. Green was, again, lying on his back with
17 his feet facing towards the water. He appeared to have
18 been dragged to that location from the area where markers
19 number 3 and number 4 were. Again, there was a long, blood
20 drag mark near marker number 7. Faint drag marks in the
21 sand and gravel led to the body. His feet were bare, with
22 a single tan-colored left flip-flop next to the body. He
23 was wearing long blue jeans with a brown belt, I believe.
24 And, again, his pants had slid down below his waist,
25 exposing his underwear. His right foot was partially

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1 covered by the blue jeans as if someone had been dragging
2 him by his feet. He had on a white long-sleeved shirt and
3 a white-colored undershirt. He had blood by -- he had
4 blood by the feet and legs. He had wounds to his nose, his
5 left eye and scalp that looked like he had been struck.
6 And there was a single wound to his back, near the spine,
7 that looked like a gunshot wound and there were two wounds
8 to the left side of his abdomen that also looked like
9 gunshot wounds.

10 Q. All right. After your examination -- and I
11 realize you weren't doing it for medical purposes -- but
12 your examination of the victim and the scene, did you at
13 any time go out to Hilton Head Garden apartments?

14 A. Yes, sir, I did.

15 Q. And did you do anything in particular while you
16 were there?

17 A. Yes, sir. On May the 25th at about 11:21 p.m.,
18 I received a call from Louis Gadson, who is a nephew of the
19 victim. He told me that an unknown black male had been
20 seen emptying the contents of Leonard Green's red Ford
21 pickup truck into a dumpster at the Hilton Head Gardens
22 apartments. And the apartments are located at Southwood
23 Park Drive in Hilton Head. And I later learned that
24 Altovise Green was the person that had contacted
25 Mr. Gadsden in regards to that info.

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1 I met with Mr. Gadsden. I also met with a Deputy
2 Joe Leer of the sheriff's office and we started digging out
3 one of the dumpsters. We did not locate anything in that
4 particular dumpster. And Altovise Green actually came out
5 to our location and told us that we were digging in the
6 wrong dumpster. So Corporal Leer and I switched to a
7 different dumpster that was located between the buildings
8 of units 97, 104 and 81 through 88, and we located numerous
9 items belonging to the victim, shoes, clothing, medication,
10 a checkbook, traffic tickets, paper, a backpack, and safe-
11 deposit-box keys belonging to the victim. I photographed
12 these items and then turned them into evidence.

13 Mr. Thornton, one of the things I forgot to say
14 back on the date that we responded to the boat landing is I
15 entered Mr. Green's stolen pickup truck through Beaufort
16 County dispatch and NCIC as being a stolen vehicle.

17 Q. All right. And when did you do that?

18 A. That was on the date we responded to the boat
19 landing.

20 Q. All right. Detective, let me ask you a quick
21 question. I'm going to hand you for identification what's
22 been marked as Exhibits 42 through 52. These are several
23 photographs. If you would take a moment, please, sir, and
24 look through those and let me know if you can identify
25 them.

1 A. This appears to be the dumpster that we went
2 through. There's a backpack --

3 Q. Instead of going through them one at a time, just
4 look through them real quick and tell me if you can
5 identify those pictures as a group. Exhibits 42 through 52
6 for identification.

7 [Whereupon, the witness reviews documents]

8 A. Yes, sir. These were items that were recovered
9 from the dumpster.

10 Q. [Mr. Thornton] All right. Are those the
11 photographs you took that you just testified to a moment
12 ago?

13 A. Yes, sir.

14 Q. And are those photographs that either you took or
15 were taken in your presence at the dumpster in Hilton Head
16 Gardens identified by Altovise Green?

17 A. Yes, sir.

18 Q. And what were some of the types of things that
19 you found in those dumpsters?

20 A. There was a traffic ticket with Leonard Green's
21 name on it. I believe there's a checkbook in here with
22 Mr. Green's name on it.

23 Q. All right. And let me stop you for a second.

24 Are those photographs an accurate and truthful
25 depiction of the dumpster and its contents as you saw it on

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1 that day?

2 A. Yes, sir, they are.

3 Q. Have they been altered or changed in any way?

4 A. No, sir, they aren't.

5 MR. THORNTON: Judge, I would ask State's
6 Exhibits 42 through 52 be moved into evidence.

7 MR. WALKER: No objection.

8 THE COURT: Without objection.

9 [Whereupon, State's Exhibit Numbers 42 through 52
10 are admitted into evidence by the Court]

11 Q. [Mr. Thornton] Now, if you will, sir, go through
12 these photographs one at a time -- and please reference the
13 numbers, starting with 42 -- and describe what it's of.

14 A. Starting with 42: 42 is an overview shot of the
15 dumpster itself.

16 Q. And I'm sorry to interrupt you.

17 Just go ahead and describe what they are, what
18 significance that they had. The jury is not going to be
19 able to see them from there, anyway, so just go through
20 them one at a time.

21 A. 43 is a backpack that I was told belonged to the
22 victim.

23 45 is a picture of a uniform traffic ticket that
24 had the victim's name on it.

25 44 is just a picture, an overview shot, of the

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1 dumpster itself, with some rubbish in the bottom of the
2 dumpster.

3 46 is a document, it appears to be a court
4 document, with the name of Florence Green on it and it's
5 drawn in the Court of Common Pleas of the Fourteenth
6 Judicial Circuit.

7 There is what's left of a savings deposit book
8 with the name Leonard Green and Florence Greene on it.

9 48, again, is just an overview shot of items in
10 the dumpster.

11 49 is a picture of a uniform traffic ticket out
12 of the dumpster with Leonard Green's name on it.

13 50 is the items basically laid out on a piece of
14 kraft paper so that they could be photographed in their
15 entirety.

16 And 51 is a name badge that says Lee on it, which
17 is the nickname that people called the victim, and it's for
18 Pizza Hut.

19 And then 52 is a daylight shot of the dumpster at
20 the Hilton Head Gardens.

21 Q. So all these items, including several that
22 belonged to the victim, Leonard Green, were found inside
23 that dumpster?

24 A. Yes, sir.

25 MR. THORNTON: The Court's indulgence, Your

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1 Honor, please.

2 [Whereupon, Mr. Thornton reviews documents]

3 THE COURT: Ladies and gentlemen, if you need to
4 stand up and take a stretch, you are more than welcome
5 to. They're just identifying some exhibits.

6 [Off the record momentarily]

7 [Whereupon, Court's Exhibit Numbers 60 through 64
8 are marked by the court reporter]

9 Q. [Mr. Thornton] Detective, I'm going to hand you
10 what's been marked as State's Exhibit 60, for
11 identification, and ask if you can identify that.

12 A. It's a DNA known-standard swab for Deputy Klein.

13 Q. All right. And was that taken by you?

14 A. It was, sir.

15 Q. And in what way are these DNA samples taken?

16 A. It's basically an oral swab.

17 Q. Okay. And did Deputy Klein do that in your
18 presence?

19 A. He did.

20 Q. And did he hand it over to you?

21 A. He actually gave me two of them.

22 Q. All right, sir. And what did you do with them?

23 A. I turned them into evidence. One eventually went
24 to SLED and one went to Richland County.

25 Q. And did you have them in a sealed condition?

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1 A. Yes, sir.

2 Q. And did you alter them or change them in any way?

3 A. No, sir.

4 Q. All right. I'm going to hand you now what's been
5 marked for identification as State's Exhibit 61, ask if you
6 can identify it.

7 A. This is a known-standard swab for Steve Burgess.

8 Q. Is that the same procedure that was followed, or
9 is that a different one?

10 A. This was a swab originally taken by Investigator
11 Moran and turned over to me.

12 Q. All right, sir. And what did you do with it when
13 you got it?

14 A. I submitted it to evidence.

15 Q. And who is Steve Burgess?

16 A. Steve Burgess I believe is the gentleman that
17 located Leonard Green's stolen cell phone at the Wal Mart.

18 Q. And is that the Wal Mart in Savannah?

19 A. Yes, sir, it is.

20 Q. I'm going to hand you what's been marked as
21 State's Exhibit 62, for identification, ask if you can
22 identify that.

23 A. It's a known-standard swab for DNA analyst Tim
24 French.

25 Q. And is that one taken in your presence?

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1 A. Yes, sir.

2 Q. And what did you do with it?

3 A. Turned it into evidence.

4 Q. And did it go to SLED?

5 A. Yes, sir, it did.

6 Q. And when --

7 A. One went to SLED and one went to Richland County.

8 I actually took two.

9 Q. All right. And when you took that, or that swab
10 was taken in your presence, did you put it in a sealed
11 container?

12 A. Yes, sir.

13 Q. And did you alter it or change it in any way?

14 A. No, sir.

15 Q. State's Exhibit 63 for identification. Same
16 question.

17 A. This is a known-standard swab from me.

18 Q. Okay. And I'm assuming that was taken in your
19 presence?

20 A. Yes, sir, it was.

21 Q. Okay. And what did you do with that swab once it
22 was taken?

23 A. Again, there were two. One went to SLED and one
24 went to Richland County.

25 Q. All right. And I'm going to now hand you what's

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1 been marked for identification as State's Exhibit 64. Can
2 you tell me what those are? Those appear to be multiple
3 swab boxes in there.

4 A. These, I believe, are the known-standard swabs
5 that went to Richland County.

6 Q. All right. So when you said earlier you took
7 two, would State's 60, 61, 62 and 63 be the set that went
8 to SLED and 64, as a group, be the known standards that
9 went to Richland County?

10 A. Yes, sir.

11 Q. Now, without having to do another round of fairly
12 substantial research in the notes that you have -- I
13 realize you have several notebooks with you -- can you tell
14 us the transport of those items to and from SLED?

15 A. I cannot without doing the research.

16 Q. All right. It will take you some time to
17 research. All right.

18 MR. THORNTON: Your Honor, may we approach?

19 THE COURT: You may.

20 [Whereupon, an off-the-record bench conference is
21 held]

22 MR. THORNTON: Thank you, Your Honor.

23 THE COURT: Sure.

24 Q. [Mr. Thornton] Detective, if we did this subject
25 to being recalled back by me, after obviously Mr. Walker

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1 has a chance to cross-examine you, could you go through
2 your notes tonight and make a little bit of a cheat sheet,
3 for lack of a better word, so that you could be more on top
4 of as far as transporting and chain of custody for some of
5 these other items?

6 A. Yes, sir, I would.

7 MR. THORNTON: All right. Let's get back, then,
8 to -- if you would go ahead -- while we -- while it's
9 all right in front of you, if you would bag up into the
10 correct bags what we have in front of you so we don't
11 get anything mixed up, and then I'll just ask you a
12 couple more questions and that should be it, other than
13 the chain of custody.

14 [Whereupon, the witness complies]

15 THE COURT: He is ready to go, Mr. Thornton.

16 MR. THORNTON: I'm sorry, Judge. I apologize. I
17 was looking down.

18 Q. [Mr. Thornton] Detective, let me ask you a quick
19 question. When you -- as part of your investigation, did
20 you also take statements from -- and, again, don't tell me
21 what they told you. They're going to be here to testify.
22 But did you take statements from a Cynthia Padgett and a
23 Brittany Raines?

24 A. Yes, sir.

25 Q. And did you take that in regard to statements

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1 made to them by the defendant in this case, Jerry
2 Scantling?

3 A. Yes, sir.

4 Q. To your knowledge, did Mr. Scantling also make
5 some statements to Captain Bob Bromage, who is the Captain
6 of Beaufort County Sheriff's Office --

7 A. Yes, sir.

8 Q. Who is a captain. I guess there's more than one.
9 -- who is a captain in the Beaufort County
10 Sheriff's Office?

11 A. Yes, sir.

12 Q. Where was the victim's truck found?

13 A. In Savannah, Georgia.

14 Q. And did we send -- is that where Mr. French went
15 to process it?

16 A. Mr. French went, and with Investigator Cooler.

17 Q. Is that Brandon Cooler, with your office?

18 A. Yes, sir, it is.

19 Q. What else did you do with regard to -- once you
20 got done at the dumpster that evening, was that when the
21 statements were taken from Ms. Green and the other
22 witnesses we've seen here today?

23 A. Sir, I did not take those statements.

24 Q. Right.

25 As case officer, are you aware? Is that sometime

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1 around that time frame is when these statements started to
2 be taken from the other witnesses?

3 A. After this occurred. Yes, sir.

4 MR. THORNTON: All right. At this time I don't
5 have anything further, subject, Judge, to being re-
6 called for the chain issues which we'll resolve
7 tomorrow.

8 CROSS-EXAMINATION

9 BY MR. WALKER:

10 Q. You are the lead case officer on this case;
11 correct?

12 A. Yes, sir.

13 Q. The chief investigator?

14 A. I was the investigator on duty that night, and
15 paged out for this incident, yes, sir.

16 Q. So we've heard from a number of officers. But
17 you're the director of the activities investigating this
18 case?

19 A. I would not say that I'm the director, but I am
20 the central case officer.

21 Q. Well, who is the director of what happens with
22 this case?

23 A. Well, I receive orders from my --

24 Q. Somebody gathers --

25 A. -- chain of command.

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1 Q. Somebody gathers all the information from all the
2 different tentacles --

3 A. I am that --

4 Q. -- and puts it together.

5 A. I am that clearing house.

6 Q. You're that guy.

7 A. Yes, sir, I am.

8 Q. Has the sheriff's office or the solicitor's
9 office, or anyone in a position of law enforcement in the
10 state of South Carolina, denied you any resources you asked
11 for in the investigation of this case?

12 A. No, sir, they have not.

13 Q. All right. Can you see that from where you are?

14 A. No, sir, I can't.

15 MR. WALKER: Okay. I will move it a little
16 closer to you and maybe you can reference it. I'll try
17 to do that. All right? How is that? Is that any
18 better?

19 THE WITNESS: It's a little better, yes, sir.

20 Q. [Mr. Walker] Okay. Now, you said earlier that
21 that photograph, the area in the drawing is larger than the
22 photograph; correct?

23 A. Well, there is a section that is cut off here.
24 It does not go all the way to the water.

25 Q. I'm guessing -- what boundary of the photograph

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1 is different from the boundary of the drawing?

2 A. Over in this area.

3 Q. Okay. So where the body was located wouldn't be
4 depicted in that photograph?

5 A. The body was in the trees. And I would have to
6 triangulate the distances, based on the diagram, to tell
7 you exactly where it was in the trees.

8 Q. But everything to the right of that is depicted
9 in the photo; correct?

10 A. Yes, sir.

11 Q. Okay. So you and Moran are both the two people
12 going around identifying evidence in this case on the day
13 that you get called out to the incident; correct?

14 A. Yes, sir.

15 Q. And Mr. Thornton kind of made a deal about it
16 being a crushed gravel surface and hard, but there were, in
17 fact, clear impressions of tire prints and footprints
18 throughout there; correct?

19 A. Yes, sir, there were.

20 Q. We have a lot of photos in this case.

21 And, in fact, in number 2, indicated on the
22 diagram there, tire tracks are actually photographed as
23 evidence --

24 A. Yes, sir, they are.

25 Q. -- not as a byproduct of another piece of

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1 evidence being photographed. But the tire tracks
2 themselves were deemed to be of some potential evidentiary
3 value; correct?

4 A. I did take photographs of the tire tracks.

5 Q. All right. Now, I mean, it's muddy and -- well,
6 not muddy. But it's dark. And, you know, if it rains or
7 if there were a wind storm, those tire tracks could go
8 away. I guess that's one reason you photographed them;
9 correct?

10 A. Yes, sir.

11 Q. There is another way to keep a record of the tire
12 tracks, is there not? Can you not take an impression of
13 the tire tracks?

14 A. You could, yes, sir.

15 Q. Okay. Now, can you describe for me that process?

16 A. You would basically put a frame around the tire
17 track and pour a plaster of Paris solution on the tire
18 tracks.

19 Q. So then you would have a hard, non destructible
20 version of the print to compare things to?

21 A. That's correct.

22 Q. In addition to any photograph that you may have?

23 A. Yes, sir.

24 Q. And the reason the hard copy would be good is say
25 you wanted to take a particular measurement like the tread

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1 depth of a known tire, you could then do that with a
2 plaster mold versus a photograph?

3 A. I have taken impressions of tire -- of footprints
4 mostly in the past. I'm not sure if I can remember taking
5 tire impressions. But, yes, they --

6 Q. But it gives you a way to make a physical
7 measurement --

8 A. Yes, sir.

9 Q. -- to compare to another physical object?

10 A. Yes, sir, it does.

11 Q. Okay. And I had specifically asked -- you've
12 been in the courtroom the whole time?

13 A. Yes, sir, I have.

14 Q. And so you've heard me ask Officer Moran about
15 State's Exhibit Number 23, which is your March number 2 --

16 A. Yes, sir.

17 Q. -- photographs, tire tracks. Also, State's
18 Exhibit 34, which is -- I mean, it's a photograph of a
19 can --

20 A. Yes, sir.

21 Q. -- with tire tracks, as well.

22 State's Exhibit Number 33, which is a --

23 A. Shoe impression.

24 Q. -- shoe impression. Were any molds taken of any
25 of these prints?

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1 A. No, sir, they were not.

2 Q. Okay. Even the ones that were specifically ID'd
3 as being of potential evidentiary value?

4 A. That's correct.

5 Q. And as Solicitor Thornton said, you know, it's a
6 parking lot. There are many other tires there?

7 A. Yes, sir.

8 Q. But can you indicate for me on there, on the
9 photograph part, where the crime scene tape kind of would
10 have been?

11 A. Well, there was tape that went across here. And
12 I would have to look at the photographs themselves to tell
13 you exactly where it ran down this way. And then there was
14 a second perimeter of crime scene tape that was put over in
15 the parking-lot area.

16 Q. All right. Were you in a hurry that day?

17 A. No, sir.

18 Q. There weren't lots of dead bodies elsewhere you
19 had to get to?

20 A. No, sir, there weren't.

21 Q. Okay. Officer Moran said that he had never taken
22 the time to compare any of these footprints or tire
23 impressions or anything to any other vehicles. Have you
24 ever done that as the lead case investigator?

25 A. No, sir, I have not.

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1 Q. As the lead officer, have you caused other people
2 under your direction to do that?

3 A. No, sir, I have not.

4 Q. So you're not aware that any of that's been done?

5 A. I am aware that that has not --

6 Q. It has, in fact, not been done.

7 A. It has not been done.

8 Q. Okay. And, again, there's no reason that it
9 couldn't have been done?

10 A. That's correct, sir.

11 Q. And we heard earlier from a number of gentlemen
12 that said they didn't need a truck because they all owned
13 vehicles. And these photographs were never compared to
14 those people's vehicles?

15 A. No, sir, they were not.

16 Q. No one's -- in fact, there were vehicles there at
17 the boat landing when you got there; right?

18 A. Yes, sir, there were.

19 Q. And they weren't even compared to those vehicles,
20 were they?

21 A. No, sir, they were not.

22 Q. Did you ever look into the vehicles that were
23 actually there?

24 A. I did. I looked into three of them.

25 Q. When did you do that?

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1 A. It was within the last two months, sir.

2 Q. This occurred when? The shooting happened when?

3 A. May the 23rd of 2010.

4 Q. So May of 2010 a shooting occurs, there's
5 vehicles there with no people in them. So how did the
6 vehicles get there and where did the people in them go
7 and you --

8 A. Well -- yes, sir.

9 Q. -- and you don't look into who owns the vehicles,
10 what caused them to be there, do they have any relationship
11 at all in this case, until within the last month or so?

12 A. That's correct.

13 Q. And what did your looking into the any potential
14 relationship to the ones that you did log and track? You
15 said you logged three and looked into three. Were there
16 more than three cars there?

17 A. Three. There were some trucks that were there;
18 there was another vehicle that was outside the perimeter,
19 which I'm not sure whether or not it arrived after we had
20 been at the scene all day; and there were also I believe
21 two gentlemen that were unloading a tractor-trailer truck
22 there, as well.

23 Q. But if I wasn't sure the car was there when I got
24 there, it doesn't hurt you at all to write down the license
25 plate number?

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1 A. No, sir, it does not.

2 Q. It doesn't cause any extra problems?

3 A. No, sir, it did not.

4 Q. So of the multiple vehicles there, you've looked
5 at three of them within the last month and a half?

6 A. Yes, sir.

7 Q. And what did your looking into those three
8 consist of?

9 A. It consisted of running the vehicle registrations
10 and doing a criminal history on the vehicle owners. And
11 the -- there was a gentleman that was actually fishing on
12 the pier when we were there, and we identified him by his
13 driver's license photo and ran a criminal history on him,
14 as well.

15 Q. Was he the owner of one of the cars?

16 A. He was.

17 Q. Okay. And did you have interaction with him?

18 A. I had never met him face-to-face.

19 Q. So you don't know if he knew Mr. Green?

20 A. I do not know the answer to that question.

21 Q. Or any of the other people that have come to
22 testify in this case?

23 A. I don't know.

24 Q. Have you interviewed any of the other owners of
25 the vehicles?

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1 A. No, sir.

2 Q. Okay. So you don't know if they have any
3 relationship to Mr. Green or anyone else that's been talked
4 about in this case?

5 A. That's correct.

6 Q. Now, you say in number 12 you didn't look at any
7 of the tire marks that are kind of in the background of the
8 -- it looks like a Miller Lite can or a Coors Lite can,
9 which was identified as number 12, which is in the bottom
10 right-hand, kind of, of the crime scene. And I see there's
11 a cigarette there. Did you test either of those for DNA?

12 A. I don't believe so, sir, but I would have to
13 research it to be one-hundred percent sure.

14 Q. As far as you can tell, as the lead case officer,
15 you've never developed any DNA profiles off of these items?

16 A. That's correct, sir.

17 Q. I guess the can's a smooth surface.

18 You can get DNA off a cigarette because it's on
19 people's lips and mouth. They have -- as we heard earlier
20 from Officer French, you have both touch DNA and --

21 MR. THORNTON: Objection, Your Honor. Unless he
22 can establish that this detective is a DNA analyst or a
23 DNA expert, he's calling for an opinion.

24 THE COURT: You can ask the question. Go ahead.

25 MR. WALKER: Thank you, Your Honor.

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1 Q. [Mr. Walker]. It's something you -- a cigarette
2 is something you would take to gather DNA evidence, because
3 it's both saliva and fluids, as well as touch?

4 A. I know that in cases in the past, I have done DNA
5 results from cigarette butts.

6 Q. Okay. And then the can itself is smooth. So I
7 guess potentially, as an investigator, you take
8 fingerprints off smooth surfaces; isn't that correct?

9 A. Yes, sir.

10 Q. And was any fingerprints taken off this can?

11 A. No, sir.

12 Q. All right. So we identified some evidence and
13 then didn't do anything with it?

14 A. That's correct, sir.

15 Q. All right. The same in number 2, which is, you
16 know, interesting, because the tire tracks for number 2 on
17 the diagram are right there by the bloody drag marks and
18 the .45 shell casing. So even though there are many, many,
19 many car tracks in the whole parking lot, perhaps these by
20 the blood might have more -- you know, obviously have --
21 might have some evidentiary -- because you photographed
22 them. Correct?

23 A. Yes.

24 Q. But nothing was done with these?

25 A. That's correct, sir.

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1 Q. And then number 10: could you just again
2 indicate where number 10 is on the --

3 A. Right here, sir.

4 Q. And that's, again, from State's Exhibit Number
5 33. It's a boot or a shoe impression, which is -- you
6 know, seems to be in some proximity of the line you would
7 indicate that the body had been dragged, according to the
8 State's theory. But you made no attempt to match that
9 impression; is that correct?

10 A. That is correct.

11 Q. Either with Mr. Scantling or with any of the
12 officers that were on the scene or anything like that?

13 A. That's correct.

14 Q. So you got DNA from some items and not from
15 others; correct?

16 A. Yes, sir.

17 Q. The only item off that scene you can definitively
18 say Jerry Scantling's DNA is on is on the Panasonic
19 headphones, which is the top items in that diagram;
20 correct?

21 A. Yes, sir.

22 Q. The gun is not indicated on that diagram, but
23 that was tested for DNA, as well; correct?

24 A. It was, sir.

25 Q. You were in the courtroom and you heard that the

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1 gun's owners and family were excluded as being on the gun?

2 A. Yes, sir.

3 Q. It's true that the victim's DNA was on the gun;
4 correct?

5 A. Yes, sir, it was.

6 Q. And it's true that there is DNA on the gun and
7 it's definitely not Jerry Scantling's; correct?

8 A. Yes, sir.

9 Q. So then we don't know whose DNA it is?

10 A. We don't know who.

11 Q. Can you -- I have your measurements from like
12 point D, which is the upper right corner --

13 A. Yes, sir.

14 Q. -- two different items, point F. Can you give a
15 general idea just how long like one side of that parking
16 lot is? I mean, you can kind of proportionate -- the cars
17 are kind of small, so it's a big difference.

18 A. This palm tree is this tree right here.

19 Q. Okay. And so, you know, down to what you have
20 labeled as --

21 A. This is a wooden dock -- a -- it's a board that
22 comes off of the dock itself, if that gives you any sense
23 of the scale.

24 Q. Okay. And do you have any idea of how far that
25 is in feet?

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1 A. The distance from the palm tree to the dock?

2 Q. Right.

3 A. I don't. The distances are derived from
4 triangulation --

5 Q. But --

6 A. -- on the trees that are in the --

7 Q. Okay. So -- okay. But knowing --

8 A. -- parking lot itself.

9 Q. -- that I guess with number 9 being the top --
10 and this is an -- you prepared these measurements; correct?

11 A. Yes, sir, I did.

12 Q. Can you tell me the distance from D to number 6,
13 which is a little left --

14 A. Item 6 is about forty-nine feet.

15 Q. Okay. So guessing off there, what would you say
16 it is from D to the -- the tree to the dock?

17 A. I don't know, sir.

18 Q. Okay. I'm going to move to when you're looking
19 at the dumpster. Actually, let me back up.

20 So you find Mr. Green, and he's deceased,
21 unfortunately, and you're investigating who might have done
22 this and you develop -- trying to find out information
23 about him and you developed the impression that he liked to
24 pick up young men and try to have sex with them; correct?

25 A. I don't have any direct knowledge of that, other

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1 than Captain Bromage's conversation with --

2 Q. Well, did you have a --

3 A. -- Mr. Scantling.

4 Q. -- a conversation with Mr. Zulu Cunningham?

5 A. I did.

6 Q. All right. And wasn't that a young man that he
7 had had some sort of relationship with?

8 A. He did say that -- Mr. Cunningham did state that
9 Mr. Scantling had tried to pick him up --

10 Q. I'm not talking about Mr. Scantling. I'm talking
11 about --

12 A. I mean -- I apologize.

13 Q. -- Mr. Zulu Cunningham.

14 A. Mr. Green had tried to pick him up, but there was
15 no indication -- I don't believe there was an indication as
16 to what it was for. I would have to read through my notes
17 and double-check it, sir.

18 Q. Go for it.

19 [Whereupon, the witness reviews documents]

20 A. Sir, I don't see anything in my report that
21 indicates that the pick-up was for some sort of sexual
22 relationship. If there's something that you need to point
23 out to me, I'll be glad to look at it.

24 Q. [Mr. Walker] You know, you're an investigator.
25 I'm just trying to -- you know, as part of your

1 investigation, what was the nature of Mr. Green's habit as
2 far as -- you know, what leads you to Mr. Cunningham? Why
3 are you talking to him? How does --

4 A. We were talking with Mr. Cunningham because one
5 of the family members had told us originally that Zulu had
6 been by the house.

7 Q. So he had been to Mr. Green's house?

8 A. Mr. Green's mother's house.

9 Q. Okay. Looking for Mr. Green?

10 A. No. He was there with Mr. Green.

11 Q. Okay. So he actually shows up with Mr. Green.
12 So that's how you identify him?

13 A. Yes, sir.

14 Q. All right. But talking to Mr. Cunningham, you
15 didn't get into the full nature of their relationship or
16 what that may or may not be?

17 A. That's correct. Yes, sir.

18 Q. Now, Mr. Green you said in the -- and I'll move
19 on to the dumpster. You said you got a call from Mr.
20 Green's -- a relative of Mr. Green saying, you know, that
21 someone had been seen putting stuff in the dumpster.

22 A. Out of the truck.

23 Q. Out of the truck.

24 A. Yes, sir.

25 Q. But the person who called you hadn't actually

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1 seen that themselves; right?

2 A. That's correct.

3 Q. They had gotten that information from Altovise
4 Green, who we heard from earlier?

5 A. Yes, sir.

6 And she was able to direct me to the correct
7 dumpster.

8 Q. Right.

9 A. We started out in the wrong dumpster, and
10 directed me to the correct one.

11 Q. So she was very instrumental in reaching out to
12 you and directing the investigation?

13 A. Through Mr. Gadsden.

14 Q. Okay. Any idea why she didn't call you herself?

15 A. I don't know the answer to that.

16 Q. Any idea why she would call Mr. Gadsden?

17 A. I'm guessing. I don't know the answer for sure,
18 but I believe because of the last name being Green, she may
19 have been related to the victim.

20 Q. Now, among the items you found in the dumpster
21 was a Pizza Hut ID; is that correct?

22 A. I would have to look at the photographs, but I
23 believe there's an ID that says Lee on it.

24 MR. WALKER: I'll let you --

25 [Whereupon, Mr. Walker proffers documents to the

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1 witness]

2 THE WITNESS: Thank you, sir.

3 [Whereupon, the witness reviews documents]

4 THE COURT: Mr. Walker --

5 MR. WALKER: Yes.

6 Q. [Mr. Walker] What exhibit is it?

7 A. It is Exhibit 51.

8 Q. And it's a -- what is it?

9 A. It is a photograph of a Pizza Hut Wing Street
10 teen-member badge and it says Lee on it.

11 Q. All right. And that belonged to Mr. Green?

12 A. I believe it belonged to Mr. Green, because the
13 family would call him Lee.

14 Q. So the ID at the site is for like a hospital job;
15 correct?

16 A. Yes, sir.

17 Q. So he would have had two different jobs?

18 A. Yes, sir.

19 Q. Now, in your report there's -- you're talking to
20 the family, you're trying to sort out what's happened, who
21 do I need to talk to, you know, Mr. Cunningham, is he a
22 suspect or anything like that, and you establish in your
23 report the last time that anybody saw Mr. Green. And what
24 was the last time somebody saw Mr. Green?

25 A. I met with his brother and he stated that he had

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1 last seen Mr. Green on the 22nd, sometime between 10:00 and
2 10:30.

3 Q. A.m. or p.m.?

4 A. I believe p.m., sir.

5 Q. So you'd say 10:00 and 10:30?

6 A. Let me just double-check.

7 Q. Yeah. That's fine.

8 [Whereupon, the witness reviews documents]

9 A. Yes, sir. That is what Mr. Bryan told me.

10 Q. [Mr. Walker] And what's Mr. Bryan's relationship
11 to Mr. Green?

12 A. Mr. Bryan is one of Mr. Green's brothers. I
13 don't know if it's a half brother or --

14 Q. And so last seen at 10:30 p.m. where?

15 A. At his residence on Mitchelville Road.

16 Q. Mr. Bryan's or Mr. Green's?

17 A. Mr. Bryan's residence on Mitchelville Road.
18 225 Mitchelville Road on Hilton Head.

19 Q. And he is killed sometime after that; correct?

20 A. Yes, sir.

21 Q. What time do we believe he was killed?

22 A. Sometime between the time he disappeared and the
23 time we found him at the boat landing.

24 Q. So between 10:30 p.m. -- and you're there at
25 8:20. Well, Officer Klein is there at 8:28 a.m. is when --

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1 that's as close as you want to be with it?

2 A. That's as close as I can be with it.

3 Q. Okay. Did Mr. Bryan give you an indication of
4 what Mr. Green's next destination was purported to be?

5 A. He did not, sir. But he did state he was alone
6 and driving his red truck.

7 Q. One other thing about the dumpster. A
8 fingerprint was developed off a document in the dumpster;
9 correct?

10 A. Yes, sir.

11 Q. All right. And that fingerprint did not belong
12 to Mr. Green; correct?

13 A. It did not.

14 Q. It also did not belong to Mr. Scantling; correct?

15 A. It did not belong to Mr. Scantling.

16 Q. When did that result come back to you?

17 [Whereupon, the witness reviews documents]

18 A. It was on the 26th of May.

19 Q. [Mr. Walker] Of?

20 A. 2010.

21 Q. Okay. I have that as attached to a supplement
22 incident report dated February of this year. Is it
23 attached to any other incident report?

24 A. As far as I know, that's the only --

25 Q. So you've got a fingerprint, that was developed

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1 from evidence in this case that hardly was exculpatory of
2 Mr. Scantling, a result you obtained May 26th of 2010 and
3 it's provided to us February, 2013?

4 A. That's correct, sir.

5 Q. You say that you took some statements from
6 Cynthia Padgett and Brittany Raines; correct?

7 A. Yes, sir.

8 Q. Where were they when you took those statements?

9 A. They were at the Beaufort County Detention
10 Center.

11 Q. What were they doing there?

12 MR. THORNTON: Objection, Your Honor. It's an
13 improper question. He can ask them that or I'll be
14 happy -- they'll be on the stand tomorrow.

15 MR. WALKER: I don't understand what's improper
16 about it.

17 THE COURT: Come here.

18 [Whereupon, an off-the-record bench conference is
19 held]

20 THE COURT: Okay. Go ahead.

21 MR. THORNTON: Thank you, Judge.

22 THE COURT: Thank you.

23 Q. [Mr. Walker] I previously asked you about taking
24 a statement from Cynthia Padgett and Brittany Raines.

25 A. Yes, sir.

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1 Q. And that was being taken at the detention center
2 and they obviously -- because they had some pending
3 charges; correct?

4 A. Yes, sir.

5 Q. Did they ask you to help them out with their
6 charges or to do anything for them about their charges?

7 A. Sir, I would have to listen to those interviews
8 again. I just cannot remember.

9 Q. You'll be back on the stand tomorrow.

10 A. Yes, sir, I will.

11 Q. You could listen to them tonight.

12 A. [No response]

13 MR. WALKER: The Court's indulgence.

14 THE COURT: Yes.

15 [Whereupon, Mr. Walker and Ms. Carroway confer]

16 Q. [Mr. Walker] We talked a lot about oral swabs
17 that you gave and that other officers gave. Why are you --
18 why are you giving those samples and then admitting those
19 into evidence?

20 A. To make sure that DNA profiles on the evidence
21 items were not contaminated by the officers that touched
22 those items.

23 Q. To prevent any cross-contamination we heard
24 Officer French talk about earlier?

25 A. Yes, sir.

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1 MR. WALKER: Thank you. I don't have anything
2 else with -- reserving the right to address that one
3 issue.

4 THE COURT: You may. Okay.

5 MR. THORNTON: Thank you, Your Honor.

6 I've got a few questions for you, Detective.

7 REDIRECT EXAMINATION

8 BY MR. THORNTON:

9 Q. Mr. Walker asked you earlier about the -- and,
10 actually, I think he's asked it of a couple different
11 witnesses. There was -- Jerry Scantling's DNA is on the
12 Panasonic headphones found at the murder scene; correct?

13 A. Yes, sir.

14 Q. All right. It is not -- there's no -- and let's
15 be clear about what we're talking about, since Mr. Walker
16 has asked you about the DNA results. What the gun was run
17 for was two different types of DNA; is that right? Blood
18 and then touch DNA?

19 A. Yes, sir.

20 Q. Leonard Green's -- the victim in this case, his
21 blood came back as on the slide and the grip and other
22 places on the pistol; is that not true?

23 A. Yes, sir.

24 Q. And, again, I just want to ask that again. The
25 victim's blood -- not touch DNA -- the victim's blood is on

1 the murder weapon?

2 A. Yes, sir, it is.

3 Q. All right. What about the bloody drag marks or
4 the spots in the bloody drag marks? Did those come back as
5 belonging to the victim in this case, Leonard Green?

6 A. To be a hundred percent sure, I would have to
7 look at the --

8 Q. By all means, look at it. Since Mr. Walker was
9 kind enough to ask you about the DNA results, let's just go
10 ahead and get into them.

11 [Whereupon, the witness reviews documents]

12 Q. [Mr. Thornton] If it helps to refresh your
13 recollection, you would be looking at page 7 of 15 of the
14 DNA analysis report.

15 A. Page 7?

16 Q. Yes, sir.

17 A. I am on page 7.

18 Q. All right, sir. And what we are looking for
19 is -- we've already talked about the fact that the victim's
20 blood is all over the murder weapon, all over the gun.
21 What about number --

22 [Off the record momentarily]

23 Q. [Mr. Thornton] What about the swab of the stain
24 near marker 3-A, which would be item number 5?

25 A. I believe that came back to the victim, Leonard

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1 Green.

2 Q. What about the swab, which is item number 6,
3 which is also marker 3-B, which is a swab of a stain near
4 item number 3-B?

5 A. That came back to the victim, Leonard Green.

6 Q. All right. It also says 9.2, trigger area of the
7 gun. And, again, is that touch DNA or is that blood?

8 A. Blood indicated, according to the report, sir.

9 Q. All right, sir. And what about 22.1? I'm sorry.
10 Yeah. Those were from the jeans of Leonard Green. So,
11 basically, it was his blood on himself; correct?

12 A. Yes, sir.

13 Q. Now, let me ask you a question. Let's take a
14 break from this DNA stuff.

15 Mr. Walker has asked you about these tire
16 impressions and he said, you know, did you match these
17 against the cars that were there. Do you remember that
18 question?

19 A. Yes, sir, I do remember that question.

20 Q. And this is probably going to sound like a dumb
21 question, Detective. But, generally speaking, how do cars
22 get from one location to another?

23 A. They drive, sir.

24 Q. So if you had cars in the parking lot would you,
25 in your experience as a detective, assume that they drove

1 there?

2 A. Yes, sir, I would.

3 Q. So the fact that there might be tire tracks from
4 cars that are present at the scene, do you think that would
5 be of any evidentiary value to you?

6 A. No, sir.

7 Q. All right. He also asked about the four people
8 that all identified, strangely enough, the defendant, Jerry
9 Scantling, as trying to sell Leonard Green's truck a couple
10 of hours after his death. He asked about did you check
11 those vehicles. You didn't check those vehicles, did you?

12 A. No, sir, I did not.

13 Q. There were about seventy-nine, to my
14 recollection, or eighty people, including law enforcement,
15 who were called as potential witnesses in this case. Did
16 you check their vehicles?

17 A. No, sir.

18 Q. Did you check Mr. Walker's vehicle?

19 A. No, sir, I did not.

20 Q. Did you check mine?

21 A. No, sir.

22 Q. Judge Mullen's?

23 A. No, sir.

24 Q. Any of the jurors?

25 A. No, sir.

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1 Q. How many cars do you think there are in Beaufort
2 County, Detective Adams?

3 A. Quite a few, sir.

4 Q. Did you check all of those?

5 A. No, sir.

6 Q. How much value is a tire impression sitting on
7 the ground without something to compare it to?

8 A. Not much.

9 Q. There was testimony earlier about the boot
10 impression matching, in general terms, or looking like,
11 appearing like, some of the boots that the officers wear;
12 is that correct?

13 A. Yes, sir.

14 Q. Is that why it wasn't tested?

15 A. That and the fact that Mr. Green's body was --
16 appeared to have been drug and as he was being drug his
17 body would have obscured any shoe impressions -- or could
18 have obscured any shoe impressions.

19 Q. So this isn't something that you guys just went
20 out there and threw together. You actually did put thought
21 into this; correct?

22 A. Yes, sir, we did.

23 Q. Now, also in some of the DNA -- and I'm not going
24 to ask you about it. We'll actually wait for the DNA
25 analyst who will testify tomorrow. But there are some

1 items where people can be excluded and others can't be;
2 isn't that right?

3 A. I believe that's correct, sir.

4 MR. WALKER: Your Honor, I believe he might be
5 getting into some areas that would be improper for this
6 witness and which we've discussed earlier.

7 MR. THORNTON: That's the only question I have
8 for him, Judge. Again, I'll wait for the DNA analyst
9 to get there. I just wanted to go over some of them,
10 since Mr. Walker had asked about it earlier.

11 THE COURT: Okay.

12 Q. [Mr. Thornton] Detective, when you were out
13 talking to -- I'm sorry. You're a case officer. You
14 didn't talk to these people.

15 When the other officers were gathering the
16 information that's been provided, that's been testified to
17 on the stand, you were provided with that information, were
18 you not?

19 A. Yes, sir.

20 Q. And you've been here the entire time to watch
21 people testify, have you not?

22 A. I have.

23 Q. Was Jerry Scantling's DNA found at the murder
24 scene?

25 A. On the Panasonic headphones.

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1 Q. All right. So would that be a yes?

2 A. Yes.

3 Q. Who did Altovise Green say was throwing trash
4 away in the dumpster out of the -- out of the victim's
5 truck?

6 A. The defendant, Jerry Scantling.

7 Q. How about William Barnes?

8 A. The defendant, Jerry Scantling.

9 Q. How about Derik King?

10 A. The defendant, Jerry Scantling.

11 Q. How about Ishmil Frazier?

12 A. The defendant, Jerry Scantling.

13 Q. And Mr. Walker talked about it earlier in his
14 opening, and we've heard testimony about Mr. Scantling
15 being in a Monte Carlo; is that correct?

16 A. Yes, sir.

17 Q. When Mr. Scantling was arrested, what was he
18 arrested in?

19 A. A Chevrolet Monte Carlo.

20 Q. Was it his Monte Carlo?

21 A. No, sir, it was not.

22 Q. Whose Monte Carlo was it? Was it someone else's?

23 A. It was a victim from Savannah, Georgia.

24 Q. When you say victim, why were they a victim?

25 A. The car -- they reported their car as being

1 stolen.

2 MR. WALKER: Your Honor, I believe we're getting
3 outside the scope of my cross.

4 THE COURT: Y'all need to approach.

5 [Whereupon, an off-the-record bench conference is
6 held]

7 MR. THORNTON: Your Honor, with that, I don't
8 have any further questions for Detective Adams, subject
9 to re-call, obviously, about the chain issues.

10 THE COURT: Of course.

11 Anything further, Mr. Walker?

12 MR. WALKER: Not at this time, Your Honor.

13 THE COURT: All right. You may step down, sir.

14 [Whereupon, Mr. Adams is excused and exits the
15 witness stand]

16 THE COURT: Ladies and gentlemen of the jury, I
17 think now is a very good time to break for the evening.
18 You-all have been working hard and we have been going
19 for quite a while since lunch.

20 I have to caution you yet again, as I'm always
21 going to do every time we part, that you are not to
22 discuss this case. It wouldn't be appropriate to do
23 so. You are not to do any independent research. You
24 are not to go to any drive-bys to go look at the scene,
25 ladies and gentlemen. You are only to go home, get a

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1 good night's sleep, have a good meal. I look forward
2 to seeing you-all back at 9:30 tomorrow morning when
3 we're going to go ahead and continue the trial of this
4 case.

5 And is it Ms. Dorothy Rouel or Roehl?

6 MS. ROUEL: Roehl.

7 THE COURT: Ms. Roehl, I'm going to go ahead and
8 appoint you the foreperson of this jury. The
9 foreperson doesn't have anymore say than anyone else.
10 They are simply the person that discusses scheduling
11 with me, and, as well, when the case is sent back to
12 you for your deliberations they are the person that's
13 going to make sure that everyone gets talking and gets
14 everyone involved in the debate. So with that said,
15 Ms. Roehl, if you don't mind, when you come back
16 tomorrow morning I'm going to ask that you take this
17 front seat, if you would.

18 And y'all have a wonderful evening, and I look
19 forward to seeing y'all at 9:30. Thank you.

20 THE BAILIFF: Thank you, Your Honor.

21 [Whereupon, the jury exits the courtroom at
22 4:57 p.m.]

23 THE BAILIFF: The jury is clear, Your Honor.

24 THE COURT: Thank you.

25 It's late. I know y'all have been working hard.

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1 However, Mr. Thornton, don't ever inject me into your
2 case. That's not appropriate, asking whether or not he
3 checked the tires of my car.

4 Mr. Adams, you need to review your file. You
5 need to be able to find what you need to find quickly.
6 The jury gets impatient. And they are getting
7 impatient, and they're tired, and we're expecting a lot
8 of them to sit here for five days and to listen to us
9 go through pieces of paper and fumble around.

10 DETECTIVE ADAMS: Yes, Your Honor.

11 THE COURT: Mr. Walker, lastly, I told you not to
12 be late this morning. I understand there was a
13 tornado. Short of a tornado coming down 17 between
14 Charleston and here tomorrow, you're going to be here
15 on time, and that's nine o'clock --

16 MR. WALKER: Yes, Your Honor.

17 THE COURT: -- for everyone involved in the case.
18 All right?

19 MR. THORNTON: Thank you, Your Honor.

20 THE COURT: Look forward to seeing everyone
21 tomorrow. Thank you.

22 [JURY TRIAL ADJOURNS AT 5:05 P.M.]

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Carmen T. Mullen, on Tuesday, February 26, 2013.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 2nd day of August, 2013.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-337-

STATE OF SOUTH CAROLINA)
)
VS.)
)
JERRY SCANTLING,)
)
DEFENDANT.)

VOLUME 3 OF 4

held before the Honorable Carmen T. Mullen
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Beaufort County Courthouse
Beaufort, South Carolina
on Wednesday, February 27, 2013, Commencing at 9:37 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
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THE COURT: Do we need to wait on Ms. Carroway?

MR. WALKER: No, Your Honor.

THE COURT: All right. Are y'all ready to go this morning?

MR. THORNTON: We are, Your Honor. I have two matters --

THE COURT: Yes.

MR. THORNTON: -- I would like to put on the record.

THE COURT: Yes.

MR. THORNTON: The first matter is -- Mr. Walker and I have conferred. I've provided him with a list of chain of custody information prepared by Mr. Adams. Mr. Walker and I have agreed, and he'll stipulate on all the swabs and things of chain of custody as to things tested at SLED and tested at Richland. In exchange for that, obviously -- it's a compromise.

I have agreed, and I will just need a few minutes with my SLED people, which shouldn't be a problem. They will probably end up being after lunch. But I am going to need a few minutes with them. I am not going to go into, and tell them not to mention, anything except items that were positively identified as a person or not, or completely excluded or not, and

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1 that we will not go into the fact that some people on
2 some things are excluded and his client cannot be
3 included or cannot be identified or excluded, which
4 was a concern he had on several pieces of evidence.
5 And I've agreed not to do -- to go into that, and I
6 will instruct them very carefully not to go into that.

7 THE COURT: Very good.

8 MR. THORNTON: Additionally, Your Honor --
9 I believe I stated that correct, Mr. Walker.

10 MR. WALKER: [Indicates affirmatively]

11 MR. THORNTON: And what I would like to do,
12 Judge, as to that matter, is put Mr. Adams back on the
13 stand and simply state in front of the jury that --
14 and to Your Honor, Your Honor, we've entered into this
15 agreement.

16 THE COURT: Right.

17 MR. THORNTON: I will leave out the part about
18 excluded or included, obviously, and just say that
19 we've conferred, I've provided him with a list of
20 chain of custody, and he will stipulate to it.

21 THE COURT: Mr. Thornton, I also want you to go
22 ahead and tell them, as well, that we have done this
23 because, as y'all know, yesterday we were having a
24 hard time. And you might just want to say, you know,
25 our burden is to establish a chain of custody --

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1 MR. THORNTON: Right.

2 THE COURT: -- which is why we were going
3 through all that, but, again, we have agreed and
4 stipulated that there is no question --

5 MR. THORNTON: Yes, ma'am.

6 THE COURT: -- the chain of custody is
7 established, we don't want to waste your time, and
8 stat that both you and Mr. Walker have agreed to that.
9 I think the jury will appreciate that and --

10 MR. THORNTON: Yes, ma'am.

11 THE COURT: -- it will make you-all look good in
12 their eyes.

13 MR. THORNTON: I'll take all that I can get,
14 Judge --

15 THE COURT: I know you can.

16 MR. THORNTON: -- as I'm sure Mr. Walker will.

17 THE COURT: And make sure you give it to Mr.
18 Walker, as well. Okay?

19 MR. THORNTON: Yes, ma'am. I will feed us both
20 out of the same spoon.

21 THE COURT: I appreciate it.

22 MR. THORNTON: The other issue, Judge, that I
23 would like to bring to the Court's attention: as we
24 mentioned yesterday, there is one other statement that
25 is alleged to have been made by the defendant. It is

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1 a very brief statement. Officer Rausch is here. He's
2 a former officer here in Beaufort County. And if you
3 wanted to take -- he's going to be this morning. If
4 you wanted to take that up now, we can do it probably
5 pretty quickly --

6 THE COURT: Sure.

7 MR. THORNTON: -- and then just roll.

8 THE COURT: Come on --

9 Just get a proffer real quick?

10 MR. THORNTON: Yes, ma'am.

11 THE COURT: Okay. Come on up.

12 [Whereupon, Mr. Rausch comes forward]

13 THE COURT: Swear him, LaSandra and --

14 THE CLERK OF COURT: Yes, ma'am.

15 Would you place your left hand on the Bible and
16 raise your right hand for me, please.

17 [Whereupon, Mr. Rausch is duly sworn by the
18 clerk of court as follows: do you solemnly swear to
19 truthfully answer all questions asked of you by this
20 Court, so help you God]

21 THE WITNESS: I do.

22 THE CLERK OF COURT: Please be seated.

23 [Whereupon, Mr. Rausch takes the witness stand]

24 THE CLERK OF COURT: State your name and spell
25 it for the court, please.

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1 THE COURT: Is this written anywhere? The
2 statement.

3 MR. THORNTON: It's written in his report, yes,
4 ma'am. And I'm looking actually for a copy, Your
5 Honor. I believe he's got a copy with him.

6 Do you have your copy?

7 THE COURT: Do you have a copy? Go grab it.

8 THE WITNESS: Okay.

9 THE COURT: You're going to want it.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: And, Sean, if you have an extra
12 copy, I would love one.

13 MR. THORNTON: Yes, ma'am. Working on it right
14 now, Judge.

15 THE COURT: Thank you.

16 Feel free to refresh your recollection.

17 THE WITNESS: Thank you, ma'am.

18 MR. THORNTON: May I approach, Judge?

19 THE COURT: Please.

20 MR. THORNTON: I'll just give Your Honor my
21 copy.

22 THE COURT: Thank you. I'll give it back.

23 [Whereupon, Mr. Thornton proffers documents to
24 the Court]

25

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MATTHEW RAUSCH,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

PROFFER

BY MR. THORNTON:

Q. Officer Rausch, who do you currently work for,
sir?

A. The federal law enforcement training center,
it's the Department -- under the Department of Homeland
Security in Charleston.

Q. It's better known as FLETC?

A. FLETC, yes, sir.

Q. All right. Who did you work for in May of 2010?

A. The City of Beaufort.

Q. And on the -- what is the date referenced on
your report you prepared today? I'm sorry. I didn't look
at it before I put you up there.

A. 5/26/2010.

Q. On May 26th of 2010, sir, were you patrolling as
a deputy -- or, excuse me -- as an officer with Beaufort
Police Department?

A. Yes, I was.

Q. Did you have any occasion to pull over the
defendant in this case, Jerry Scantling?

A. Yes, I did.

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1 Q. And can you tell us why -- first, why did you
2 pull him over?

3 A. The county dispatch center had given a broadcast
4 to be on the lookout for a black Monte Carlo, with Georgia
5 registration and front-end damage, due to the fact that it
6 was stolen.

7 Q. All right. And where was it stolen out of?

8 A. Savannah, Georgia.

9 Q. And did you see that vehicle? that Monte Carlo?

10 A. I did.

11 Q. And who was driving it?

12 A. The defendant, Mr. Scantling.

13 Q. And did you pull him over?

14 A. I did.

15 Q. And did you arrest him at that time for being in
16 possession of a stolen vehicle?

17 A. Yes, I did.

18 Q. And did you ask him any questions at that time
19 or attempt to interview him?

20 A. Not initially I did not, no.

21 Q. All right. Did he make any statements to you
22 prior to you asking him any questions?

23 A. He did.

24 Q. And what statement did he make?

25 A. He continually asked why he was being stopped

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1 and he stated, I can see about the car but I did not do
2 the other thing.

3 Q. Okay. And was that prior to you asking him any
4 questions?

5 A. That was prior, yes, sir.

6 Q. Did you threaten him in any way?

7 A. I did not.

8 Q. Did you promise him any leniency?

9 A. I did not.

10 MR. THORNTON: And, Your Honor, we will
11 stipulate that he was in custody at the time.

12 THE COURT: Thank you.

13 Q. [Mr. Thornton] But you didn't promise him
14 anything, did not threaten him; is that correct?

15 A. That's correct.

16 Q. All right. Did he appear to be coherent and
17 cognizant of what he was doing?

18 A. He appeared so, yes, sir.

19 Q. And did you have any trouble understanding him
20 when he talked to you?

21 A. I did not.

22 THE COURT: And you didn't elicit that comment
23 from him, did you?

24 THE WITNESS: No, ma'am, I did not.

25 THE COURT: He got out of the car and said, why

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1 are you stopping me?

2 THE WITNESS: That's correct.

3 THE COURT: Okay.

4 Q. [Mr. Thornton] So would it be -- I realize it's
5 an evidentiary term, but would it be what you would
6 consider an excited utterance?

7 A. Yes, sir, I would.

8 MR. THORNTON: I don't have anything further,
9 Judge.

10 THE COURT: Mr. Walker?

11 MR. WALKER: Thank you, Your Honor.

12 Good morning, Officer Rausch.

13 THE WITNESS: Good morning, sir.

14 PROFFER

15 BY MR. WALKER:

16 Q. Where was Mr. Scantling when this statement was
17 made?

18 A. In the parking lot of the Riverview -- I believe
19 it was Riverview Apartments. I believe the name may have
20 changed. Parkview. I'm sorry. Parkview.

21 Q. He was actually standing in the parking lot of
22 the Parkview apartments? Or he was in your car?

23 A. Yes. He attempted to flee from the vehicle and
24 he was taken into custody and this is when he made the
25 statement.

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1 Q. My question is like actually, precisely, was he
2 standing in the parking lot or was he sitting in your car?

3 A. He was standing in the parking lot.

4 Q. He was handcuffed?

5 A. Yes, sir.

6 Q. All right. Were there other officers around?

7 A. Not at the time I don't believe so, no, sir.

8 Q. Where was your vehicle?

9 A. I can't recall exactly where it was positioned.
10 Mr. Scantling had left his vehicle unattended in
11 gear when he fled and it struck a curb and stopped.

12 I couldn't tell you the exact position of my
13 patrol vehicle.

14 Q. But your patrol vehicle was in close proximity
15 to the parking lot, as well?

16 A. Yes, sir.

17 Q. And it was a marked vehicle?

18 A. Yes, sir, it was.

19 Q. And was it equipped with a traffic camera?

20 A. I believe so.

21 Q. Is there a video recording of this statement?

22 A. Not that I'm aware of.

23 Q. Did you submit the video from that stop into
24 evidence?

25 A. I did not.

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1 Q. And you wear -- also wear a lapel mike as part
2 of your regular uniform at the time; correct?

3 A. I had one issued. The department would issue
4 them. Intermittently they would go down, and I couldn't
5 tell you if that day it was working or not. Just --

6 Q. You never reviewed to see what you had captured
7 on camera?

8 A. I did not, no, sir.

9 Q. But those cameras do come on automatically when
10 your blue lights come on; correct?

11 A. Yes, sir.

12 Q. So did you stop Mr. Scantling some distance from
13 the parking lot and then lead him back to the parking lot,
14 or did you get him right there in the parking lot where he
15 made his -- like in the spot he made his statement?

16 A. I believe it was in close proximity to his
17 vehicle.

18 Q. Okay. And you're saying he said, I can see
19 about the car but I did not do any other thing, is the
20 conversation, or anything else or?

21 A. What I stated here: I did not do anything; I
22 can see about the car, but I didn't do anything else.

23 Q. Anything else.

24 A. Yes, sir.

25 Q. Had you made any statements to him about what he

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1 was under arrest for?

2 A. Not at that time, no, sir.

3 Q. And the question was, why am I being stopped?

4 A. Well, he continually asked, why am I being
5 stopped, yes, sir.

6 Q. So you hadn't informed him at that point that
7 you knew the car was stolen?

8 A. No, sir, I did not.

9 Q. And you were the only officer on the scene when
10 that statement was made?

11 A. At that time. When he was initially taken into
12 custody, I was the only one there, yes, sir.

13 Q. And did he make any other statements to you,
14 either immediately thereafter or --

15 A. Not that I can recall.

16 Q. -- I guess on the long ride over to the
17 detention center? Right?

18 A. No, sir, not that I can recall.

19 MR. WALKER: Thank you. I don't have anything
20 further.

21 THE COURT: Anything further, Mr. Thornton?

22 MR. THORNTON: The only thing I would say, just
23 for the record, Your Honor, is I discussed with Agent
24 Rausch -- or I think it's Agent Rausch now -- that he
25 is not to mention the burglary warrant. It was

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1 outstanding at the time.

2 THE COURT: Right.

3 MR. THORNTON: And I told him about the Court's
4 ruling and asked him to please not go into that. He
5 said that he understands and will not mention it on
6 the stand.

7 THE COURT: I appreciate that.

8 MR. THORNTON: Thank you, Your Honor. The State
9 has nothing else.

10 THE COURT: All right. You can go ahead and
11 step down, sir. Thank you.

12 THE WITNESS: Thank you, Your Honor.

13 [Whereupon, Mr. Rausch is excused and exits the
14 witness stand].

15 THE COURT: Obviously, on the -- if you
16 stipulated he was in custody, it certainly wasn't as a
17 result of anything that Agent Rausch elicited. It was
18 just something that he spontaneously said. It's fair
19 game.

20 MR. THORNTON: Yes, ma'am.

21 THE COURT: You can certainly go into it.

22 MR. THORNTON: Thank you, Your Honor.

23 THE COURT: Thank you.

24 MR. WALKER: Thank you, Your Honor.

25 THE COURT: Okay. Anything else before we bring

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1 the jury in this morning?

2 MR. THORNTON: I don't believe so, Judge. We
3 should be ready to go with the next several witnesses.

4 THE COURT: Okay.

5 MR. WALKER: The only thing I have is I believe
6 they're going to call Officer Bromage today about the
7 statements, and I had that -- I just wanted to
8 preserve the record on the second and third
9 statements.

10 THE COURT: Absolutely. Go ahead. You just
11 want to renew that motion. Obviously, I've already
12 ruled on that.

13 MR. WALKER: Yes, Your Honor. And, again, I
14 just want to put an argument on the record for the
15 lawyers, that are more able than I, in the future.

16 THE COURT: Okay.

17 MR. WALKER: But to start our argument, our
18 position would be that Boyle was wrongly decided or,
19 in the alternative, applies only to DUIs. The
20 language of the -- part of the opinion cites the rules
21 of statutory construction. The legislature must be
22 strictly construed. There's language in there about
23 how they specifically put the title Miranda;
24 therefore, you should really -- it's appropriate to
25 just look at the text of the Miranda opinion as for

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1 what the proper motion should be. And that would
2 apply to the implied consent statement requirement of
3 the legislature.

4 We would argue that the Miranda requirements,
5 you know, should be fully -- by all case law in the
6 normal kind of Miranda context.

7 We would argue that Kennedy actually would still
8 be controlling law. The language in the opinion goes
9 on to say that, you know, they can't overrule another
10 Court of Appeals opinion. The last Supreme Court
11 opinion, which they would say is good precedent,
12 predates Kennedy by quite some time. Kennedy actually
13 was affirmed -- modified and affirmed at the higher --
14 at the higher court, at the Supreme Court. So our
15 position would be that the Supreme Court did; in fact,
16 review Kennedy. The modifications to Kennedy did not
17 have to do with the language about the wording in
18 Miranda that we really kind of address. So we would
19 take the position that the Supreme Court affirmation
20 of Kennedy, they had a chance to review that wording,
21 they had a chance to say the reasoning of the lower
22 court was wrong on those issues and did not do so, so
23 that Kennedy -- that language in Kennedy would still
24 be controlling, as it is more recent.

25 And I think that probably preserves the record.

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1 And a lot of the cases cited in the opinion really
2 predate Kennedy. And then I think I cited some
3 language in Kennedy. But really what was important in
4 Kennedy was the language of Michigan v. Mosely that
5 was being -- a U.S. Supreme Court case that was being
6 cited for the really what we would call the fifth
7 Miranda warning. And the -- well, it doesn't really
8 address the Michigan v. Mosely issues. It cites a
9 couple of newer cases, but also a lot of really older
10 cases that predate Michigan v. Mosely.

11 And I think that kind of preserves the record.
12 It gives appellate attorneys the gist of my argument,
13 Your Honor.

14 THE COURT: All right. Well, respectfully,
15 again, I do think Voyle is controlling in this and
16 there is plenty of subsequent case law interpreting
17 Miranda, and also the Cannon case, from other
18 jurisdictions, as well, showing really where the U.S.
19 Supreme Court is. And, again, clearly Miranda does
20 not extent to what would be the fifth requirement of
21 Miranda for it to be stated requiring that they also
22 inform them that they can terminate an interview or an
23 interrogation at any time. Therefore, I do think
24 Boyle is controlling. I don't think it certainly
25 applies strictly to the statutory construct of a DUI.

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1 And as a result, respectfully, you've made the record
2 and I appreciate that.

3 Okay. Are you ready to go, y'all?

4 MR. WALKER: Do I need to object when he's
5 called to the stand?

6 THE COURT: I think you just say subject to my
7 prior objection. I think just out of an abundance of
8 caution. I want to make sure it preserved.

9 [Off the record momentarily]

10 THE COURT: Let's go ahead and --

11 MR. THORNTON: The State is ready. Thank you.

12 THE COURT: -- go for it. Thank you.

13 Let's bring them in, Norman.

14 THE BAILIFF: Yes, Your Honor.

15 [Off the record momentarily]

16 THE BAILIFF: The jury is entering, Your Honor.

17 THE COURT: Thank you, Bob.

18 [Whereupon, the jury enters the courtroom at
19 9:58 a.m.]

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: Thank you.

22 Good morning, ladies and gentlemen. It's good
23 to see you-all. We're going to go ahead and continue
24 with the trial of this case.

25 Mr. Thornton?

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1 MR. THORNTON: Thank you, Your Honor.

2 Your Honor, if I may, I need to put something on
3 the record in front of the jury.

4 THE COURT: Certainly.

5 MR. THORNTON: Your Honor, yesterday -- as you
6 know, any time that there's the amount of evidence we
7 have in this case, the State has a burden of proof in
8 establishing chain of custody. In an effort to try to
9 expedite that with the jury and for Your Honor this
10 morning, Mr. Adams spent the greater part of last
11 night combing through all of the sets of documents
12 dealing with chain of custody. He prepared a report
13 that he provided to myself and Mr. Walker. Mr. Walker
14 and I got here this morning early. We have gone
15 through all of that documentation and Mr. Walker and I
16 have agreed that the chain of custody is proper and
17 complete as to the swabs and the other items we were
18 discussing yesterday, so there will be no need to go
19 through a chain of custody as to these items and put
20 the jury to more waiting. So Mr. Walker and I and,
21 Mr. Adams, have taken care of that this morning.

22 THE COURT: Thank you. We appreciate that very
23 much.

24 MR. THORNTON: Yes, ma'am.

25 THE COURT: Thank you.

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1 MR. THORNTON: With that, Your Honor, I would
2 call Mr. Adams back to the stand for the purpose of
3 cross-examination by Mr. Walker, since I will no
4 longer need to do chain of custody.

5 THE COURT: Okay. Very good. Come on up, sir.
6 [Whereupon, Mr. Adams comes forward]

7 THE COURT: LaSandra, if you don't mind, let's
8 just re-swear him, because it's a new day.

9 THE CLERK OF COURT: Yes, ma'am.

10 [Whereupon, Mr. Adams is duly sworn by the clerk
11 of court as follows: do you solemnly swear to
12 truthfully answer all questions asked of you by this
13 court, so help you God]

14 THE WITNESS: I do.

15 THE CLERK OF COURT: Please be seated.

16 [Whereupon, Mr. Adams takes the witness stand]

17 THE CLERK OF COURT: State your name and spell
18 it for the Court, please.

19 THE COURT: Thank you.

20 THE WITNESS: My name is John Adams. I'm an
21 investigator with the sheriff's office. My last name
22 is spelled A-D-A-M-S.

23 MR. WALKER: Thank you, Your Honor.

24

25

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JOHN ADAMS,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

CONTINUED CROSS-EXAMINATION

BY MR. WALKER:

Q. You recall yesterday we spoke about statements you took from a Cynthia Padgett and a Brittany Raines; correct?

A. Yes, sir.

Q. And these were informants in this case; correct?

A. Yes, sir.

Q. And you met with them both at the detention center; correct?

A. Yes, sir.

Q. Where they were obviously incarcerated on pending criminal charges?

A. Yes, sir.

Q. All right. And you talked about this case with -- about Jerry Scantling and they gave you information about him?

A. Yes, sir.

Q. After you finished talking about Jerry Scantling -- I'll start with Brittany Raines -- did Brittany Raines ask you anything?

A. Did Brittany Raines ask me anything?

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1 Q. Uh-huh.

2 A. She asked me about pending federal charges, a
3 federal case that she has.

4 Q. Did she ask you if you could help her out with
5 that case?

6 A. She asked me if I knew any information about
7 that case.

8 Q. Okay. And it's true that she was an informant
9 in that case, as well; correct?

10 A. Yes, sir.

11 Q. Do you recall telling her that while you could
12 not promise anything, that your opinion might -- was that
13 after the -- that it was the nature of the federal
14 government that once they caught the big fish, they might
15 let the little fish go?

16 A. I believe I did say that.

17 Q. And I'll move on from Brittany Raines to --
18 well, did you promise Brittany Raines anything?

19 A. No, sir.

20 Q. All right. And did you say that you would be
21 able to help her with anything?

22 A. No, sir.

23 Q. In fact, you told her that you couldn't and you
24 did not know the current status?

25 A. Yes, sir, that's correct.

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1 Q. All right. And then we'll move on to Cynthia
2 Padgett, who you met with right after Brittany Raines;
3 correct?

4 A. Yes, sir.

5 Q. Are they related?

6 A. Mother and daughter.

7 Q. Which is which?

8 A. Brittany is the daughter; Cynthia is the mother.

9 Q. All right. So you met with the daughter,
10 Brittany, first, and then right after that you met with
11 Cynthia Padgett?

12 A. Yes, sir.

13 Q. And then you had a discussion about Jerry
14 Scantling in this case?

15 A. Yes, sir.

16 Q. After that discussion, did Cynthia Padgett ask
17 you anything?

18 A. I believe she asked me the same thing, if I had
19 any information about a pending federal case.

20 Q. Do you recall her asking you if there's anything
21 that you could do for her, since she had been in there for
22 five terms of general sessions?

23 A. I remember her asking me that question.

24 Q. And what was your response?

25 A. I don't think I promised her anything, because I

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1 could not.

2 Q. Do you recall having the same discussion with
3 her about the federal government being interested in the
4 big fish and then once they caught the big fish they might
5 let the little fish go?

6 A. Yes, sir. I did use the same analogy.

7 MR. WALKER: Thank you. I don't have anything
8 else.

9 THE COURT: Anything further?

10 MR. THORNTON: No, ma'am. Ask that he be
11 allowed to step down.

12 THE COURT: All right. You may step down, sir.

13 [Whereupon, Mr. Adams is excused and exits the
14 witness stand]

15 THE COURT: Call your next witness.

16 MR. THORNTON: Yes, ma'am. Selena Brown.

17 THE COURT: Come on forward, Ms. Brown.

18 [Whereupon, Ms. Brown comes forward]

19 THE CLERK OF COURT: Would you place your left
20 hand on the Bible and raise your right hand for me,
21 please, ma'am.

22 [Whereupon, Ms. Brown is duly sworn by the clerk
23 of court as follows: do you solemnly swear to
24 truthfully answer all questions asked of you by this
25 court, so help you God]

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1 THE WITNESS: I do.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, Ms. Brown takes the witness stand]

4 THE CLERK OF COURT: State your name and spell
5 it for the Court, please.

6 THE WITNESS: Selena Brown. S-E-L-E-N-A
7 B-R-O-W-N.

8

9

SELENA BROWN,

10 Having Been First Duly Sworn,

11 was Examined and Testified as Follows:

12 DIRECT EXAMINATION

13 BY MR. THORNTON:

14 Q. Ms. Brown, where do you live?

15 A. Hilton Head.

16 Q. And how long have you lived in Hilton Head?

17 A. Forty-three years.

18 Q. Forty-three years?

19 A. Yes.

20 Q. Do you know Leonard Green?

21 A. Yes, I do.

22 Q. And how did you know Mr. Green?

23 A. He's my first cousin.

24 Q. And did you know him fairly well?

25 A. Yes.

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1 Q. And is that the same Leonard Green that we're
2 here about today who was murdered?

3 A. Yes.

4 Q. Ma'am, I'm going to get right to this. I'm
5 going to hand you what's been marked for identification
6 as State's Exhibit 65. If you would open that bag,
7 ma'am, and tell me: can you identify what's in State's
8 Exhibit 65?

9 A. Yes.

10 Q. And what is that?

11 A. It's Lee's cell phone.

12 Q. Okay. And when you say Lee, who do you mean?

13 A. My cousin, Leonard Green.

14 Q. All right. Thank you, ma'am.

15 There has been some testimony about Lee having a
16 truck or a Ford truck; is that correct?

17 A. Yes. A red truck.

18 Q. And have you seen that truck being operated
19 before?

20 A. Yes, I have.

21 Q. And forgive me. Sometimes we'll slip -- lawyers
22 have a tendency to say things like operated. Have you
23 seen Lee drive the truck?

24 A. Yes.

25 Q. Have you ever been in it?

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1 A. I have not been in it but I've seen him at his
2 mother's house, driving the truck at his mother's house.

3 Q. All right. Is there anything unusual about the
4 way that truck drives?

5 A. Yes. It's a very powerful truck, so it kind of
6 jerks when you take off.

7 Q. All right. And there was some testimony --
8 obviously, you've been in here as a member of the family.

9 A. Uh-huh.

10 Q. You heard some testimony about witnesses saying
11 that the truck -- they saw a truck that lurched or drove
12 fast or -- is that what would happen when the truck was
13 driven improperly?

14 A. Yes.

15 MR. THORNTON: Your Honor, I don't have anything
16 further.

17 Thank you very much, Ms. Brown. If you'll
18 please answer any questions Mr. Walker has.

19 THE WITNESS: Yes, sir.

20 MR. WALKER: I don't have anything with this
21 witness. Thank you.

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

23 THE WITNESS: Thank you.

24 [Whereupon, Ms. Brown is excused and exits the
25 witness stand]

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1 THE COURT: If you'll call your next witness.

2 MR. THORNTON: Neal Riley. Sorry. Michael
3 Riley. I have too many officers today, Judge.

4 THE COURT: Okay.

5 MR. THORNTON: I have to call them all Sargent,
6 anyway.

7 [Whereupon, Mr. Riley comes forward]

8 [Whereupon, Mr. Riley is duly sworn by the clerk
9 of court as follows: do you solemnly swear to
10 truthfully answer all questions asked of you by this
11 court, so help you God]

12 THE WITNESS: I do.

13 THE CLERK OF COURT: Please be seated.

14 [Whereupon, Mr. Riley takes the witness stand]

15 THE CLERK OF COURT: State your name and spell
16 it for the Court, please.

17 THE WITNESS: Michael Riley. R-I-L-E-Y.

18 - - - - -

19 MICHAEL RILEY,

20 Having Been First Duly Sworn,
21 was Examined and Testified as Follows:

22 DIRECT EXAMINATION

23 BY MR. THORNTON:

24 Q. Officer Riley, who do you work for, sir?

25 A. The Beaufort County Sheriff's Office.

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1 Q. And what is your current rank?

2 A. Master Sargent.

3 Q. And Master Sargent Riley, I'm going to hand you
4 what's been marked as State's Exhibit 65 and ask you if
5 you can identify that item for me.

6 A. Yes. This is --

7 Q. What -- go ahead, sir.

8 A. This is a phone that belonged to Leonard Green.

9 Q. All right. And were you able to actually track
10 that to how Leonard Green got the phone?

11 A. Yes.

12 I contacted SteriCycle, which was the employer
13 of Leonard Green at the time. They provided the phone
14 number, and that was how we got the phone number. We
15 enlisted the help of South Carolina Law Enforcement
16 Division to find the phone for us.

17 Q. And let me stop you. Is that what is commonly
18 referred to as pinging a phone or --

19 A. Yes, sir.

20 Q. All right. And were they able to successfully
21 find the phone?

22 A. Yes.

23 Q. And where was the phone located?

24 A. At a Wal Mart located at 6000 Ogeechee Road in
25 Savannah, Georgia.

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1 Q. And did you go and retrieve Leonard Green's
2 phone from that Wal Mart?

3 A. I did.

4 Q. And does it appear now in substantially the same
5 condition as it did on that day?

6 A. It does.

7 Q. Does it appear -- other than testing I
8 understand may have been done on it, does it appear to
9 have been altered or changed in any way?

10 A. No, sir.

11 MR. THORNTON: Your Honor, I would ask that
12 State's Exhibit I believe it's 65 be moved into
13 evidence.

14 THE COURT: Any objection?

15 MR. WALKER: No objection.

16 THE COURT: Without objection, it's in evidence.

17 [Whereupon, State's Exhibit Number 65 is
18 admitted into evidence by the Court]

19 MR. THORNTON: The Court's indulgence please,
20 Your Honor.

21 [Whereupon, Mr. Thornton reviews documents]

22 MR. THORNTON: I don't have any further
23 questions at this time. Master Sargent Riley, thank
24 you, sir. If you'll answer any questions Mr. Walker
25 has.

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1 THE COURT: Mr. Walker?

2 MR. WALKER: Beg the Court's indulgence.

3 [Whereupon, Mr. Walker and Ms. Carroway confer]

4 CROSS-EXAMINATION

5 BY MR. WALKER:

6 Q. Investigator Riley, did you participate in the
7 interview of Mr. Scantling?

8 A. Yes, sir.

9 Q. On May the 27th of 2010?

10 A. I would have to refer back to my written report
11 as to the exact date, because there were several dates of
12 interviews.

13 Q. Did you -- were you a participant in all of
14 them?

15 A. No.

16 Q. How many were you a participant of?

17 A. Two.

18 Q. How long did those interviews last?

19 A. Again, I would have to review [phonetic] back to
20 my written report to know exactly. But I could guess.

21 Q. Well, do you have your written report?

22 A. No. Not right here in front of me, no, sir.

23 Q. Do you have a copy in the courtroom you would be
24 furnished with?

25 A. Yes.

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1 Q. I'll be happy to --

2 [Whereupon, Mr. Thornton proffers documents to
3 the witness]

4 MR. WALKER: Thank you, Mr. Solicitor.

5 And, Your Honor, you know, we had some
6 discussion on the law earlier and I had some motions
7 as to at least for his -- the second interview, and I
8 would renew my motions at this time.

9 THE COURT: Thank you. Noted for the record.
10 Are you ready to go, Master Sargent?

11 THE WITNESS: Yes. I'm sorry.

12 THE COURT: Mr. Walker.

13 Q. [Mr. Walker] So the interview: what day?

14 A. May 27th, 2010.

15 Q. And what other days did you interview
16 Mr. Scantling?

17 A. I apologize. Just one second.

18 Q. Take your time.

19 [Whereupon, the witness reviews documents]

20 A. I apologize. I only participated in one
21 interview.

22 Q. [Mr. Walker] Okay. I'd have been worried,
23 because I only heard your voice in one --

24 A. Yes.

25 Q. -- of those tapes.

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1 A. I'm sorry..

2 Q. Thought I didn't have something there for a
3 minute.

4 So on the 27th you interviewed Mr. Scantling for
5 how long?

6 A. That interview took place for about maybe an
7 hour and a half, the best I remember.

8 Q. Would you have a violent disagreement with me if
9 I told you it was actually about two and a half hours?

10 A. No, I wouldn't disagree with you.

11 Q. All right. And where did that interview take
12 place?

13 A. At the law enforcement center.

14 Q. And what is that?

15 A. Located at 2001 Duke Street, right across the
16 way.

17 Q. Would lay-people call that the sheriff's office?

18 A. Yes.

19 Q. Okay. And you asked Mr. Scantling, you know, a
20 lot of questions about this incident, correct --

21 A. Correct.

22 Q. -- and if he knew Mr. Green, and tons of
23 questions about this incident. For two and a half
24 hours you're trying to find out what he knew about this
25 incident --

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1 A. Uh-huh.

2 Q. -- right?

3 A. Yes, sir.

4 Q. Okay. And he admitted to you having spoken with
5 the victim at Wal Mart earlier in the day; correct?

6 A. Yes.

7 Q. And then he admitted to you seeing the victim
8 again as he was going along I believe he said Mathews
9 Drive and the victim pulled up to him in his truck and
10 they engaged in conversation; correct?

11 A. Correct.

12 Q. And he was adamant that that was the only
13 contact he had with the victim?

14 A. Correct.

15 Q. Those two instances?

16 A. Correct.

17 Q. Okay. Now, in that interview -- who else was in
18 that -- participant in that interview?

19 A. Myself and Captain Bob Bromage.

20 Q. So in the room there's you and Captain Bromage
21 and Jerry Scantling?

22 A. Yes, sir.

23 Q. Okay. And y'all told Jerry that he was looking
24 at a really bad situation; correct?

25 A. It was described -- the nature of the

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1 investigation was described as such, yes.

2 Q. All right. Do you remember telling Jerry that
3 he was fucked and the only way he could help himself was
4 to tell you two why he did it?

5 A. I don't recall that quote, no, sir.

6 Q. All right. And I should say, you know, he
7 admitted -- we were talking about kind of the incidents
8 here. But he is charged with another crime of possession
9 of a stolen motor vehicle. He admitted he was speaking
10 with the victim twice on the day in question, but he also
11 did admit to stealing -- to you -- the black Monte Carlo
12 that is also subject to these proceedings; correct?

13 A. Yes, sir.

14 Q. In fact, he said, I stole the car but I didn't
15 have anything to do with the other stuff?

16 A. Yes.

17 Q. Okay. In fact, he said, I stole the car. The
18 only reason he stole it, though, because the keys were in
19 it; correct?

20 A. Yes. He did say that the keys were in it.

21 Q. Talking about the Monte Carlo?

22 A. Yes, sir.

23 Q. So you and Officer Bromage actually were in
24 there telling Jerry that you have all kinds of evidence,
25 that you didn't have, proving he was guilty; correct?

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1 A. I don't recall explaining that we had evidence
2 that we didn't have, no, sir.

3 Q. Didn't you say that you had him on video, at the
4 Hilton Head Gardens, throwing stuff in a dumpster?

5 A. No.

6 Q. You don't recall saying that?

7 A. There possibly was an explanation that there is
8 video at the Hilton Head Gardens.

9 Q. But to your knowledge you don't remember, we
10 have you on video, quit lying, we know you did it? You
11 don't remember any of that?

12 A. Explaining that there was a video at Hilton Head
13 Gardens at the time of the interview, yes.

14 Q. Okay. So the discussion that you had with
15 Mr. Scantling came out that the defendant -- not the
16 defendant, not Mr. Scantling -- but Mr. Green was
17 attempting to proposition Mr. Scantling; correct? Or that
18 was at least Mr. Scantling's impression of the
19 conversation he had with Mr. Green?

20 A. I don't know what the impression he had of our
21 conversation --

22 Q. Well --

23 A. -- Mr. Scantling.

24 Q. There are -- he -- Mr. Scantling told you the
25 comments Mr. Green said about have you been engaged in

1 sexual activity, you're tired out from all the sex you
2 have, you have a small penis, show me your penis. Do you
3 remember those comments?

4 A. Correct.

5 That was a quote that I documented as to a
6 statement by Mr. Scantling in reference to that, yes.

7 Q. That Mr. Green said to him at the Wal Mart that
8 morning?

9 A. Correct.

10 Q. Okay. Do you remember telling Jerry, you know,
11 talk to us and we'll see what we can do for you?

12 A. That exact quote, no, sir, I don't recall that.

13 Q. Would you have said something similar to that?

14 A. As to -- I'm sorry. Can you repeat the
15 question?

16 Q. Talk to me; we'll see what we can do for you.

17 A. I can see an inference to being made to that
18 nature, yes.

19 Q. So, Jerry, tell us your side and we'll help you
20 out; right? Basically? That's what you're there telling
21 him?

22 A. We can't offer any assistance to a defendant,
23 no, sir.

24 Q. Well, if you can't help them, why would you say
25 we'll see what we can do for you?

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1 A. [No response]

2 Q. What else could you do for them if you can't
3 help them with their -- the reasons they're talking to
4 you?

5 A. I can't offer any assistance to a defendant.

6 Q. Okay. And this conversation took place how long
7 after the murder?

8 A. The interview was conducted on the 27th --

9 Q. Right.

10 A. -- so that's --

11 Q. 23rd, 24th, 25th, 26th. Five days.

12 A. Yes.

13 Q. All right. Do you normally get DNA results in
14 five days?

15 A. No.

16 Q. Okay. So if you told Jerry Scantling you had
17 his DNA all over everything, and you're screwed where
18 you're going to go down, you would have been lying to
19 Jerry at that point? You didn't know what DNA you had.

20 A. I did not refer to that we have DNA, no.

21 Q. Okay. So you don't remember telling Jerry that
22 there's fact and there's fiction and that we have you on
23 video?

24 A. I certainly can, again, remember explaining that
25 there is video surveillance in the Hilton Head Gardens as

1 to where witnesses placed him.

2 Q. Do you recall offering to Jerry multiple
3 scenarios about what could have taken place at the boat
4 landing had he been the person that committed the crime?

5 A. Yes.

6 Q. What were some of those scenarios?

7 A. As to how he could have come in contact with
8 Mr. Green, it was basically trying to get him to explain
9 his encounter with Mr. Green.

10 Q. Well, you recall that -- telling him, well, we
11 have the story of the facts at the crime scene and now we
12 need to hear your story? Remember telling him that?

13 A. Yes.

14 Q. And then, you know, saying, well, we don't know
15 what happened at the crime scene. Do you remember telling
16 him that? You're the only one that could tell us? Do you
17 remember telling him all that?

18 A. Yes. His side of the --

19 Q. Then you offer --

20 A. -- story, yes, sir.

21 Q. -- any number of possibilities for him to
22 perhaps take advantage of and tell you that that's, in
23 fact, what happened; correct?

24 A. Yes.

25 Q. That Mr. Green offered him a ride and turned

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1 into the boat landing without any prior agreement, and,
2 you know, essentially tried to kidnap and sexually assault
3 him? Do you remember offering that as a possible course
4 of events?

5 A. Specifically those words, no, sir, but an
6 inference into that nature, yes.

7 Q. Or that, again, he had made an unwanted sexual
8 advance and that things went south from there?

9 A. Yes. Inference to that nature, yes.

10 Q. Do you remember saying that, he tried to hustle
11 you, he tried to make a move on you, he pulled into the
12 Pinckney Island boat landing and you say what are we doing
13 here? Do you remember -- that's one of the scenarios that
14 was offered up; right?

15 A. Yes.

16 Q. And this is multiple times over a two and a half
17 hour period. You're trying to get him to say. You know,
18 you're telling him it's a terrible murder, he's a -- you
19 know, the facts are sociopathic, you can make it seem less
20 bad by telling us what really happened, you know, if this
21 happened it would be not as bad for you. Right?

22 A. Our interview was basically trying to get
23 Mr. Scantling to tell his side of the story.

24 Q. Because you told him that, well, that would --
25 that would be better for him, possibly.

1 A. His side of the story would certainly assist in
2 the investigation.

3 Q. Well, you said, well, you know, we need to know
4 what kind of charges to write because depending on what
5 happened, the charges could be different. You told him
6 that; right?

7 A. Again, an admission or his side of the story
8 would certainly dictate the direction of the
9 investigation, yes.

10 Q. Okay. Well, you have to look at the facts and
11 make a determination as to what charges are appropriate;
12 correct?

13 A. Correct.

14 Q. And different criminal charges have different
15 elements that must be met; correct?

16 A. Yes.

17 Q. Of the assault crimes, murder is the highest;
18 correct?

19 A. Yes.

20 Q. So any modification to a murder charge would, in
21 fact, be a lesser assault crime; correct?

22 A. I'm sorry?

23 Q. If you're going to deviate from a murder charge,
24 it could only be down?

25 A. Yes.

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1 Q. Okay. So when you're telling him that he's
2 looking at a murder charge, that he can help himself by
3 telling his side of the story, it would, in fact, be to
4 lessen the charge?.

5 A. Again, our purpose in interrogating,
6 interviewing someone, is to establish facts and gather
7 the facts to determine the direction of our investigation
8 and as to its outcome.

9 Q. I understand why you're doing it. But I'm just
10 asking you what you told Jerry why he should participate
11 in that process.

12 A. I'm sorry. Why? What's the question again?

13 Q. The question was you said, Jerry, tell us what
14 happened because it can only help you; right?

15 A. That's the purpose of an interview and an
16 interrogation, to get --

17 Q. Again, I understand --

18 A. -- the defendant's --

19 Q. -- your purpose. I want you to tell me what you
20 told Jerry his purpose should be.

21 A. To give us the information as to his side of the
22 story.

23 Q. Okay. Why would he want to do that?

24 A. I can't answer as to why he --

25 Q. Well, you're --

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1 A. -- would want to --

2 Q. -- telling him why he would want to do that, for
3 two hours, so tell us.

4 A. Because it would assist in the investigation to
5 determine the direction of the investigation, where it
6 needed to go at the time.

7 Q. But throughout that two hours he was adamant
8 that after speaking with Mr. Green on Mathews Road he left
9 because the guy was weirding him out, and he never saw the
10 guy again, he was not at the boat landing, he did not
11 shoot that guy. Right?

12 A. Correct.

13 Q. Jerry told you, that dude tried to make a move
14 on me both times and I wasn't having it and I didn't mess
15 with it. Right?

16 A. Correct.

17 Q. He told you he never saw Mr. Green again after
18 he left Mathews Drive, Mr. Green -- I guess both of them
19 left Matthews Drive -- and that that was, according to
20 Jerry, the last time he ever saw him; correct?

21 A. Correct.

22 Q. Earlier you were trying -- again, the discussion
23 of tell us what's happening, it can help you out, it could
24 be a lesser charge. Do you remember having a discussion
25 with Jerry about the premeditation element of murder?

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1 A. Well, there was myself or Captain Bromage
2 explaining that to him. I can't recall.

3 Q. I believe it was you.

4 But the reason that would be important is that
5 if there was no premeditation, then it would be a lesser
6 charge; correct? That's why you would bring it up?

7 A. That's why it would be brought up, yes.

8 Q. Okay. And you could tell it wasn't premeditated
9 because Jerry made a mistake because he left the gun
10 behind. Do you remember telling him that?

11 A. I remember it being explained to Mr. Scantling
12 that the gun was left behind at the crime scene, the --

13 Q. You don't remember saying that indicated to you
14 that it wasn't premeditated because he made that mistake
15 and if he had been premeditating, that mistake wouldn't
16 have been made?

17 A. Specifically, I don't recall making exactly that
18 statement, no, sir.

19 Q. But then after you said that in an attempt to
20 get him to take that bait and say, oh, okay, that's a
21 lesser charge, I can go for that, he said, I didn't have
22 any gun, I didn't leave any gun there.

23 A. Correct. That Mr. Scantling didn't make any
24 admission.

25 Q. Do you remember the last thing that Officer

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1 Bromage said to you at the conclusion of that interview?

2 A. No, I don't.

3 Q. You don't remember him saying, we'll get him, at
4 the end of that interview?

5 A. I don't recall.

6 Q. If you had said it at the end of that interview,
7 it would mean you didn't have him at that point; correct?

8 A. It would indicate that an admission wasn't made;
9 yes, sir.

10 Q. That in order to get him, you would need more?

11 MR. THORNTON: Objection, Your Honor. That's
12 not a proper question. It calls for speculation.

13 THE COURT: Okay. You need to ask him the
14 question.

15 And you need to answer the question.

16 MR. WALKER: I'll move on, Judge.

17 Q. [Mr. Walker] Do you remember Jerry telling you
18 that he stole stuff to survive but he never shot that guy?

19 A. I didn't document it in my police report so I
20 don't recall exactly that statement, no, sir.

21 Q. All right. Do you recall -- excuse me.

22 Did you tell Jerry that you had his DNA, putting
23 him at the crime scene?

24 A. There was discussion as to the science behind
25 DNA and that DNA is potential evidence in this case, yes.

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1 Q. All right. Do you remember Jerry telling you
2 that, if you've got my DNA, it's going to show you I
3 didn't do it?

4 A. Yes, I do recall that.

5 MR. WALKER: Court's indulgence.

6 [Whereupon, Mr. Walker and Ms. Carroway confer]

7 MR. WALKER: Approach, Your Honor?

8 THE COURT: You may.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Ladies and gentlemen of the jury, we
12 are going to take a very brief recess. Again, I need
13 to tell you do not discuss this case. It wouldn't be
14 appropriate to do so. We'll be right back with you.
15 Thank you.

16 [Whereupon, the jury exits the courtroom at
17 10:10 a.m.]

18 THE BAILIFF: The jury is clear, Your Honor.

19 THE COURT: All right. It appears Ms. Carroway
20 is coming to cue us up. Work with Mia.

21 Mia, can we just test to make sure it's loud
22 enough.

23 And I apologize. I needed to remind you, Mr.
24 Thornton, this morning, the jury was having a little
25 bit of trouble hearing you yesterday when you turn

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1 your back when you were speaking. You're pretty loud,
2 I think, but it was when you would turn around. And I
3 think it was at the end of the day with Mr. Adams when
4 you were kind of going through your recitation.

5 So I just wanted to remind you if you would
6 speak up, and Mr. Walker, as well, just to make sure
7 they can hear you.

8 Bob has told the jury that if for some reason
9 they can't hear, to do this [indicates] so I can know.
10 But just to let you know --

11 MR. THORNTON: Thank you, Judge. That'll be --

12 THE COURT: -- not to turn your back.

13 MR. THORNTON: That's the first time ever in
14 fifteen year I've ever been told I wasn't loud enough.
15 But I apologize.

16 THE COURT: Well, let me tell you, when they
17 said it was you, I was shocked. That's the first
18 thing. I've had people ask me if Mr. Walker would
19 talk louder, but I've never had anyone say it about
20 you.

21 MR. THORNTON: Yes, ma'am. Thank you, Judge.

22 THE COURT: So I think it was when you turned
23 around. So anyway --

24 They're going to cue up -- I don't know if
25 they've told you. They're going to cue up the

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1 interview and play it --

2 THE WITNESS: Okay.

3 THE COURT: -- to see if that refreshes your
4 recollections.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Okay?

7 THE WITNESS: Okay.

8 THE COURT: We'll be at ease. If you want to,
9 you can step down for just a few minutes. Again,
10 don't discuss your testimony with anyone.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: You're going to come back after --

13 THE WITNESS: Yes, ma'am.

14 [Off the record momentarily]

15 THE COURT: Okay. We'll take about five
16 minutes, y'all, or so.

17 MR. THORNTON: Thank you, Your Honor.

18 THE COURT: Absolutely.

19 [Whereupon, a recess is held from 10:11 a.m. to
20 11:46 a.m.]

21 THE COURT: Are y'all ready to go?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: All right. Is it loud enough?

24 MR. WALKER: I think so, Your Honor.

25 Before the jury comes in, just for the court

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1 reporter, I'm going to be calling out the times. The
2 way I have this interview set up -- like I said, it's
3 about two and a half hours. The disk that was given
4 to me has it on three separate audio files, which are
5 all on the same disk. It won't be a problem -- but
6 just when I'm referring to a minute, I'll refer to the
7 first, second, or third file, and then the minute.

8 The first file is 26 minutes and 30 seconds
9 long, the second file is 9 minutes and 15 seconds
10 long, and the third file is an hour and 48 minutes and
11 40 seconds.

12 So, for instance, you know, as I'm referencing,
13 just for the court reporter I would say I'm on file
14 number 3 at minute 12 minutes and 45. Because if you
15 were actually just listening to the whole interview
16 continuously, obviously those times would be messed
17 up. So I was just going to --

18 THE COURT: Okay. Are we going to listen to the
19 whole thing?

20 MR. WALKER: No. I wasn't planning to, and
21 there's things in it that wouldn't be appropriate.
22 That's --

23 MR. THORNTON: And, Judge, I may have
24 misunderstood. And if I did, I apologize.

25 That's my concern. Are we going to bring the

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1 jury in and play this in front of the jury and just
2 play clips of it, or are we just going to play it for
3 him to have his recollection refreshed?

4 THE COURT: I don't know what Mr. Walker is
5 doing.

6 I assumed you were playing this for the jury.

7 MR. WALKER: This is for impeachment purposes.
8 He's saying he doesn't remember. I need to play it
9 and -- or that we didn't tell him, or that we only
10 told him that we -- there was a video at the Gardens
11 and we didn't tell him that he was on video there.

12 THE COURT: Okay. Well, one of the things,
13 again, you need to know and do, you need to make sure
14 that anything that wouldn't be admissible is not going
15 to be played, to start with. And then if you want to
16 go back and there are certain portions that you want
17 played, as well, you know, you certainly can do that.
18 But you're going to have to go through and do that.

19 MR. THORNTON: Yes, ma'am.

20 Obviously, I won't be able to do it on the fly
21 like this, because I wasn't planning on playing any of
22 them, but I can --

23 THE COURT: Right.

24 MR. THORNTON: -- I can handle that between now
25 and tomorrow.

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1 MR. WALKER: And, again, I wasn't planning to
2 play them, either, unless --

3 THE COURT: Right.

4 MR. WALKER: -- we had some issues.

5 THE COURT: Okay. Well, you've got them cued up
6 so you know --

7 MR. WALKER: Yeah. I have to go from one to the
8 next, but I have it set up where I can do that fairly
9 quickly. I have a set of earphones so that when I go
10 from one to the other, as I'm trying to find the
11 appropriate place I can exclude anything that wouldn't
12 be appropriate.

13 THE COURT: Thank you.

14 MR. WALKER: I'm just going to the parts I
15 asked him about and that we had some either unsure
16 memories or what I would say were not tracked what was
17 on the -- on the tape.

18 THE COURT: And I need you -- Mr. Thornton, for
19 you, if you hear something that gets played,
20 obviously, that's inappropriate, you need to object,
21 obviously.

22 If he objects, you stop immediately and then
23 we'll go from there.

24 MR. THORNTON: Judge, just so you understand
25 what my issue is and what the record -- I mean,

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1 anything that would be objectionable would frankly
2 be objectionable on his end.

3 THE COURT: Okay.

4 MR. THORNTON: You've got discussions of --

5 MR. WALKER: We're talking about the burglary
6 that was --

7 THE COURT: Got it. Okay.

8 MR. WALKER: -- things like that. I just want
9 to stay away from all that.

10 MR. THORNTON: Yeah. I mean, that's my concern
11 is that -- but if he opens that door, then I think I
12 can play the whole tape. If he starts playing things
13 that -- if he plays something that would have been
14 objectionable, then I think the entire thing comes in
15 at that time.

16 THE COURT: Well, he'll have opened the door, so
17 clearly -- okay.

18 All right. Let's bring the jury in.

19 THE BAILIFF: Yes, Your Honor.

20 THE COURT: Correct me if I'm wrong, Mr. Walker.
21 This is the May 28th, 2010 interview?

22 MR. WALKER: 27th, Your Honor.

23 THE COURT: I'm sorry. May --

24 MR. WALKER: The first interview.

25 THE COURT: The very first. I apologize. The

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1 first one --

2 MR. WALKER: Yeah, the second one --

3 THE COURT: -- the 28th and then June 9th.

4 MR. WALKER: -- is May the 28th. And it's the
5 only one of the three that he participated in.

6 THE COURT: Right.

7 [Off the record momentarily]

8 THE BAILIFF: The jury is entering, Your Honor.

9 [Whereupon, the jury enters the courtroom at
10 10:50 a.m.]

11 THE COURT: Thank you, Bob.

12 Welcome back, ladies and gentlemen. At this
13 time Mr. Walker is going to play some portions of the
14 May 27th of 2010 interview that Master Sargent Riley
15 had with Mr. Scantling. There were portions of it
16 that he didn't necessarily remember whether or not he
17 asked and so Mr. Walker is now going to go ahead and
18 play those portions. All right?

19 MR. WALKER: Thank you, Your Honor.

20 CONTINUED CROSS-EXAMINATION

21 BY MR. WALKER:

22 Q. And we had -- we had had some issues with, you
23 know, you weren't sure or you didn't have it in your notes
24 and things, and so I just want to go back through and let
25 you listen to that and then respond.

MIA PERRON, CVR-CM-M

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1 The first thing that I had asked, that you
2 didn't necessarily remember about, was that you weren't
3 sure of the language or what was said as to Jerry about
4 y'all telling him that he was fucked and the only way that
5 he could help himself was to tell you-all why he had done
6 that, and I'm going to play a portion of this video and
7 then let you respond to that.

8 MR. WALKER: For the court reporter, this is the
9 first audio file at a minute 22 --

10 THE COURT: And it's just an audio; correct?

11 MR. WALKER: Yes, Your Honor.

12 THE COURT: It's just an audio. Okay.

13 MR. WALKER: A minute -- 22 minutes and 38
14 seconds.

15 [Whereupon, CD is played for the jury]

16 [The recording is not transcribed by the court
17 reporter]

18 Q. [Mr. Walker] Are you now able to recall that
19 being said?

20 A. Yes, sir.

21 MR. WALKER: And I will, as quickly as I can,
22 move on to the next question that we had.

23 I am, for the court reporter, moving to the
24 third audio file -- I apologize for that.

25 Q. [Mr. Walker] Now, the question I had asked --

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1 MR. WALKER: And for the court reporter, this is
2 the third recording, or the third audio file, one hour
3 13 minutes and 30 -- and 18 second in.

4 Q. [Mr. Walker] Officer I had asked you about
5 y'all telling Jerry to talk to him -- to talk to y'all and
6 you guys would see what you could do for him, and you
7 weren't sure that you recall that; correct?

8 A. Yes, sir.

9 MR. WALKER: All right. Please give your
10 attention.

11 [Whereupon, CD is played for the jury]

12 [The recording is not transcribed by the court
13 reporter]

14 Q. [Mr. Walker] So are you able to recall that
15 now?

16 A. Yes, sir, Mr. Walker.

17 And just for clarity, you understand that's not
18 my voice?

19 Q. I do.

20 A. Okay.

21 Q. And I should have -- maybe for clarity we should
22 have put that out there.

23 Whose voice is that?

24 A. That's Captain Bob Bromage, who was in the
25 interview with me, as well.

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1 Q. You were interviewing him as a team?

2 A. Yes, sir.

3 I just didn't want a --

4 Q. No, I --

5 A. -- mistake being made --

6 Q. Yeah. That's a perfectly valid point, and it is
7 one that needs to be made, and I appreciate your pointing
8 that out.

9 But y'all were working together as a team to
10 conduct this interview and try and collect information;
11 correct?

12 A. Yes, sir.

13 Q. And I ask you again about, you know, I was
14 telling Jerry that you had him on video at the Hilton
15 Gardens with the decedent's truck; correct? And your
16 recollection was that you only told him that there was
17 video capability there but you hadn't told him that he was
18 on it; correct?

19 A. Yes, that's what I recall.

20 [Whereupon, CD is played for the jury]

21 [The recording is not transcribed by the court
22 reporter]

23 Q. [Mr. Walker] And that wasn't the only time the
24 video was discussed in this interview; correct?

25 A. I would assume not, that it -- it probably was

1 discussed more.

2 Again, for clarity, those three excerpts from
3 the audio was not my voice.

4 Q. Right.

5 A. It was -- but it was my partner in the
6 interview.

7 Q. Well, the jury can hear you talking now --

8 A. Yes.

9 Q. -- and heard Officer Bromage.

10 A. Yes.

11 Q. And you were both in there together?

12 A. Yes.

13 Q. Conducting this interview as a team?

14 A. Correct.

15 Q. One of you would go for a while, then the other
16 would go for a while, and it's all part of a grand
17 strategy to elicit evidence in this case?

18 A. Correct.

19 Q. Okay. And just to make you happy, the next one
20 is going to be your voice.

21 A. Okay.

22 MR. WALKER: Thank you for your patience. This
23 is a large file, so the increments are very small and
24 hard to nail down exactly.

25 And I'll play this next count, which is the

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1 third audio file at one minute and 34 -- one hour, 34
2 minutes and 35 seconds.

3 [Whereupon, CD is played for the jury]

4 [The recording is not transcribed by the court
5 reporter]

6 Q. [Mr. Walker] And so you recall that
7 conversation about the premeditation and that would be a
8 lesser charge than murder?

9 A. Yes, I do, Mr. Walker. Thank you.

10 Q. And of course when you said that you heard at
11 the end Jerry saying, I didn't leave no gun behind.

12 A. Yes, sir.

13 MR. WALKER: I have one more. All right. And
14 this is the last one.

15 Q. [Mr. Walker] I had asked you if you remember
16 Officer Bromage telling you at the end of the interview,
17 we'll get him, and I think you were unsure if you recalled
18 that or not; correct?

19 A. Yes, sir, I was unsure.

20 MR. WALKER: All right. To set this particular
21 video -- not video -- audio file up --

22 And for the court reporter it's, again, the
23 third audio file right at one hour, 47 minutes.

24 Q. [Mr. Walker] How was this being recorded?

25 A. You're asking me, Mr. Walker? I'm sorry.

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1 Q. I am.

2 A. It was a digital recorder.

3 Q. All right. And was that a concealed recorder?

4 A. Yes. It was in a pocket.

5 Q. In a pocket. Okay.

6 So that would -- rubbing of cloth and stuff
7 might cause some background noise?

8 A. Yes, sir.

9 Q. Okay. And I would just -- at the end do you
10 recall having a whispered conversation with Officer
11 Bromage?

12 A. Again, sir, I would -- I would have to listen to
13 the audio --

14 Q. Well, I'm going to play it right now, and
15 it's --

16 A. Yes, sir.

17 Q. -- whispering. And so I just wanted to set that
18 up as to what we could hear or if you could hear it. And
19 so, again, it's fairly faint, so please give your
20 attention.

21 [Whereupon, CD is played for the jury]

22 [The recording is not transcribed by the court
23 reporter]

24 Q. [Mr. Walker] Were you able to hear that?

25 A. If you could play it again. I'm sorry.

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1 Q. All right. I will even try and maybe put that a
2 little closer.

3 [Whereupon, CD is played for the jury]

4 [The recording is not transcribed by the court
5 reporter]

6 Q. [Mr. Walker] Were you able to hear that this
7 time? Officer Bromage saying --

8 A. Audibly I could understand we'll get him, yes,
9 sir.

10 MR. WALKER: Okay. Thank you. And I appreciate
11 your patience. It's a very long interview and I
12 appreciate you bearing with me as we tried to hunt the
13 specific questions we had.

14 Beg the Court's indulgence for one moment.

15 [Whereupon, Mr. Walker reviews documents]

16 MR. WALKER: I have nothing further of this
17 witness. I don't know -- okay.

18 I guess I will kind of get this out of the way
19 so he can proceed with --

20 THE COURT: Please.

21 MR. WALKER: -- who's next.

22 [Off the record momentarily]

23 MR. THORNTON: I have nothing further, Judge.
24 Ask that he be allowed to step down.

25 THE COURT: All right. You may step down, sir.

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1 [Whereupon, Mr. Riley is excused and exits the
2 witness stand]

3 THE COURT: Call your next witness.

4 MR. THORNTON: Yes, ma'am. Jack Bergin.

5 [Whereupon, Mr. Bergin comes forward]

6 THE CLERK OF COURT: Would you place your left
7 hand on the Bible and raise your right hand for me,
8 sir.

9 [Whereupon, Mr. Bergin is duly sworn by the
10 clerk of court as follows: do you solemnly swear to
11 truthfully answer all questions asked of you by this
12 court, so help you God]

13 THE WITNESS: I do.

14 THE CLERK OF COURT: Please be seated.

15 [Whereupon, Mr. Bergin takes the witness stand]

16 THE CLERK OF COURT: State your name and spell
17 it for the Court, please.

18 THE WITNESS: Jack Burgin. B-U-R-G-I-N.

19 MR. THORNTON: Mr. Burgin, how are you today?

20 THE WITNESS: Doing okay, sir. How are you?

21 MR. THORNTON: All right.

22

23

24

25

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JACK BURGIN,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q. Mr. Burgin, in May of 2010, where did you work?

A. I worked at Wal Mart in Savannah, Georgia.

Q. All right. Is that on Ogeechee Road?

A. Yes, sir.

Q. And what did you do for them?

A. I was the asset protection manager.

Q. All right. And as part of your duties, do you
secure and review the surveillance video?

A. Yes, sir.

Q. I'm going to hand you what's been marked for
identification as State's Exhibit 56 and ask -- and if you
need to take it out of the bag, feel free to -- ask you if
you can identify that for me.

A. Yes, sir, I can.

Q. All right. And what is that, sir? Is that a
compact disk or a DVD-type object?

A. Yes, sir. It a disk we use at Wal Mart for
recording video.

Q. And is that a video of any particular time
frame?

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1 A. Yes. According to the date here, let's see,
2 from May 23rd, 2010.

3 Q. All right. And did you review the actual
4 information on that disk?

5 A. Yes, sir.

6 Q. And did you initial that disk so you would know
7 later, when I asked you these questions, have you looked
8 at the disk?

9 A. Yes, sir. My initials are on the left-hand side
10 toward the upper side.

11 Q. And is that a true and accurate depiction of the
12 information that was on the surveillance tapes on the
13 Ogeechee Road Wal Mart in Savannah, Georgia, for May the
14 23rd?

15 A. Yes, sir.

16 Q. All right. Has it been altered or changed in
17 any way when you reviewed it and initialed it?

18 A. No, sir.

19 MR. THORNTON: Your Honor, I would ask that
20 State's 56 be moved into evidence.

21 MR. WALKER: No objection.

22 THE COURT: Without objection.

23 [Whereupon, State's Exhibit Number 56 is
24 admitted into evidence by the Court]

25 Q. [Mr. Thornton] Mr. Burgin, did you turn this

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1 over to somebody with the Beaufort County Sheriff's
2 Office?

3 A. Yes, sir.

4 Q. Other than that, sir, do you have any connection
5 to this case?

6 A. No, sir.

7 MR. THORNTON: Thank you very much. I have no
8 further questions. Please answer any questions that
9 Mr. Walker has.

10 MR. WALKER: No questions.

11 THE COURT: You may step down, sir.

12 Any objection to him being excused?

13 MR. THORNTON: Ask he be excused, Your Honor.

14 MR. WALKER: No objection.

15 THE COURT: All right. Mr. Burgin, you are
16 excused, sir. Thank you.

17 THE WITNESS: Thank you.

18 [Whereupon, Mr. Burgin is excused and exits the
19 witness stand]

20 THE COURT: Call your next witness.

21 MR. THORNTON: Yes, ma'am. Officer Shauna
22 Brown. I'm sorry, Judge. Officer Shana Brown.

23 THE COURT: Thank you.

24 MR. THORNTON: I knew I had gotten that wrong.

25 [Whereupon, Ms. Brown comes forward]

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1 THE CLERK OF COURT: Place your left hand on the
2 Bible and raise your right hand for me, please.

3 [Whereupon, Ms. Brown is duly sworn by the clerk
4 of court as follows: do you solemnly swear to
5 truthfully answer all questions asked of you by this
6 court, so help you God]

7 THE WITNESS: Yes, I do.

8 THE CLERK OF COURT: Please be seated.

9 [Whereupon, Ms. Brown takes the witness stand]

10 THE CLERK OF COURT: State your name and spell
11 it for the Court, please.

12 THE WITNESS: Shana, S-H-A-N-A, Brown,
13 B-R-O-W-N.

14 MR. THORNTON: Thank you, Officer Brown.

15 - - - - -

16 SHANA BROWN,

17 Having Been First Duly Sworn,

18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. THORNTON:

21 Q. I realize this is a dumb question, but I have to
22 ask it. Where do you work?

23 A. Savannah Chatham Metropolitan Police Department.

24 Q. And is that a Savannah Chatham Metro Police
25 Department shirt you are currently wearing?

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1 A. Yes, it is.

2 Q. And did you work for Savannah Chatham Metro on
3 or about May of 2010?

4 A. Yes, I did.

5 Q. And did you ever have an occasion as a patrol
6 officer to come in contact with the defendant in this
7 case, Jerry Scantling?

8 A. Yes, I did.

9 Q. And could you tell us what date that was and
10 what the circumstances were?

11 A. It was May 24th, 2010. I was dispatched to
12 Augusta Avenue and Chester in reference to a possible auto
13 theft, a robbery of auto theft [phonetic].

14 Q. All right. And is that in the Savannah,
15 Georgia, area?

16 A. Yes, it is.

17 Q. And who was the alleged victim in that case?

18 A. Mr. Scantling.

19 Q. And did you go and talk to Mr. Scantling?

20 A. Yes, I did.

21 Q. And did you find any of the information he
22 provided you credible?

23 A. No, I did not.

24 Q. And did -- was there any investigation of him
25 being a victim of some auto theft or armed robbery?

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1 A. No, sir.

2 Q. And was that because his story was not credible?

3 A. Correct. And he did not want to pursue it with
4 a report or any other type of investigation.

5 Q. What did he want?

6 A. He wanted a ride back to South Carolina.

7 Q. All right. And this is the 24th?

8 A. Yes, sir.

9 Q. Of May, 2010?

10 A. Yes, sir.

11 Q. And did you give him a ride?

12 A. No, sir, because we're not allowed by department
13 and, also, city policy. But another officer transported
14 him to the Greyhound bus station.

15 Q. All right. And other than that, ma'am, did you
16 have any contact with him?

17 A. No, sir.

18 Q. Is there a -- the Greyhound bus station in this
19 area, what is it called? Is there a name for it?

20 A. No. Just Greyhound bus station.

21 Q. Okay. Is it near Yamacraw or --

22 A. Yamacraw. Yes, it is.

23 Q. Okay. And Faum [phonetic] Street?

24 A. Yes.

25 Q. Other than that, ma'am, did you have any other

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1 connection with Jerry Scantling?

2 A. No, sir.

3 MR. THORNTON: All right. Thank you very much.

4 I have no further questions.

5 Please answer any questions Mr. Walker has.

6 CROSS-EXAMINATION

7 BY MR. WALKER:

8 Q. Where was the encounter that you -- what was the
9 environment you had the encounter with Mr. Scantling in?

10 A. It was a residential neighborhood.

11 Q. But was it outside or inside?

12 A. It was outside.

13 Q. Okay. Did you have any cause to interact with
14 him in suspicion of him committing any crime?

15 A. No, sir.

16 Q. Do you recall if he was wearing gloves?

17 A. No, sir.

18 Q. Did you see any gloves?

19 A. No, sir.

20 MR. WALKER: That's all I have. Thank you.

21 THE WITNESS: You're welcome.

22 THE COURT: Anything further?

23 MR. THORNTON: Nothing from this witness, Judge.

24 Ask she be excused and allowed to go back to Savannah.

25 THE COURT: Without objection?

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1 MR. WALKER: [Indicates affirmatively]

2 THE COURT: All right. Officer Brown, you may
3 go back to Savannah. Thank you.

4 THE WITNESS: Thank you.

5 [Whereupon, Ms. Brown is excused and exits the
6 witness stand]

7 THE COURT: Call your next witness.

8 MR. THORNTON: Agent Rausch.

9 [Whereupon, Mr. Rausch comes forward]

10 THE CLERK OF COURT: Place your left hand on the
11 Bible and raise your right hand for me, sir.

12 [Whereupon, Mr. Rausch is duly sworn by the
13 clerk of court as follows: do you solemnly swear to
14 truthfully answer all questions asked of you by this
15 court, so help you God]

16 THE WITNESS: I do.

17 THE CLERK OF COURT: Please be seated.

18 [Whereupon, Mr. Rausch takes the witness stand]

19 THE CLERK OF COURT: State your name and spell
20 it for the Court, please.

21 THE WITNESS: My name is Matthew Rausch.

22 R-A-U-S-C-H.

23

24

25

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MATTHEW RAUSCH,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q. Agent Rausch, who do you work for?

A. Department of Homeland Security, currently
assigned to FLETC, Federal Law Enforcement Training
Center, in Charleston, South Carolina.

Q. Did you work for the Department of Homeland
Security in May of 2010?

A. I did not.

Q. Who did you work for then, sir?

A. The City of Beaufort.

Q. And what were your general duties for the City
of Beaufort at that time?

A. I was a patrol officer.

Q. All right. And did you ever have occasion to
come into the -- to come into contact with the defendant
in this case, Jerry Scantling?

A. Yes, I did.

Q. And can you tell me what day that was, sir?

A. May 26th, 2010.

Q. All right. And were you on patrol at that time?

A. Yes, sir, I was.

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1 Q. And had you been given any information about any
2 be-on-the-lookout-fors that day, or commonly known as
3 BOLOs?

4 A. That's correct. It was a 1986 black-in-color
5 Monte Carlo with front-end damage and Georgia registration
6 and it was listed as being stolen.

7 Q. And where was it stolen out of?

8 A. Savannah, Georgia.

9 Q. And did you see the car in question?

10 A. Yes, sir, I did.

11 Q. And the black Monte Carlo, who was driving it?

12 A. Mr. Scantling.

13 Q. And did you pull him over?

14 A. Yes, sir, I did.

15 Q. And did you arrest him for being in possession
16 of a stolen vehicle?

17 A. Yes, sir, I did.

18 Q. Did you -- did he make any statements to you as
19 you were arresting him?

20 A. He did.

21 Q. All right. Well, first of all, once you pulled
22 him over, what happened?

23 A. He attempted to flee the scene. Prior to the
24 vehicle coming to a stop he bailed out of the vehicle,
25 left it unattended, in gear, and attempted to flee. He

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1 was taken into custody and at that point walked back up to
2 my patrol vehicle.

3 Q. And did he make any statements to you?

4 A. He did.

5 Q. What did he say?

6 A. He continually asked why he was -- why he was
7 being stopped, and he stated, I didn't do anything; I can
8 see about the car, but I didn't do anything else.

9 Q. I didn't do anything; I can see about the car
10 but I didn't do anything else. Is that right?

11 A. That's correct.

12 Q. At that time, had you discussed with him the
13 fact that he was in a stolen car?

14 A. I did not.

15 Q. Had you discussed with him anything about the
16 murder of -- the murder of Leonard Green?

17 A. I did not.

18 Q. So at that time did you have any idea what he
19 was talking about?

20 A. I did not.

21 Q. And is that when you placed him under arrest?

22 A. Yes, sir.

23 Q. Did you -- was there anybody else in the car
24 with him?

25 A. There was one occupant later identified as a

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1 Mr. Washington.

2 Q. All right. And did you run his information?

3 A. He was -- I didn't personally do it, but it was
4 done on the scene.

5 Q. All right. And was it done in your presence?

6 A. I can't -- yeah, I was there. I was present,
7 yes, sir.

8 Q. That's what I'm asking.

9 Did it come back that this passenger had any
10 warrants or anything outstanding?

11 A. I believe not.

12 MR. THORNTON: Thank you. I don't have any
13 further questions.

14 Agent Rausch, please answer any questions
15 Mr. Walker may have.

16 THE WITNESS: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. WALKER:

19 Q. So at the time this statement was made, you
20 hadn't told Jerry why he was being stopped; correct?

21 A. Well, a blue light is implied as being stopped.
22 I didn't advise him he was under arrest.

23 Q. Well, I mean, there's the fact of being stopped.
24 But your testimony is that he was saying continually why
25 am I being stopped.

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1 A. Correct.

2 Q. Okay. So you hadn't yet informed him of the
3 reason for the stop?

4 A. No, sir, I did not.

5 Q. Why am I being stopped; I can see about the car
6 but I did not do anything else?

7 A. Yes, sir.

8 Q. Now, the vehicle that you were driving you said
9 had blue lights?

10 A. Yes, sir.

11 Q. So it was a marked patrol vehicle?

12 A. Yes, sir.

13 Q. Okay. Was your -- true that your vehicle was
14 equipped with a video-camera system that would record
15 anything that happened when the blue lights came on?

16 A. Yes, sir, it would have been equipped.

17 Q. And you are also issued a microphone to take
18 audio of the events that transpire while it's recording?

19 A. Yes, sir.

20 Q. But you did not preserve this recording, view
21 it, or enter it into any kind of evidence?

22 A. No, sir, I did not.

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

24 THE COURT: Anything further?

25 MR. THORNTON: Yes, ma'am.

REDIRECT EXAMINATION

BY MR. THORNTON:

Q. Did you write a report?

A. Yes, sir, I did.

Q. And is his statement listed in your report that you wrote on the date?

A. Yes, sir, it is.

Q. Did you provide that to my office?

A. Yes, sir, I did.

MR. THORNTON: Thank you. I have nothing further, Judge.

THE COURT: Anything further, Mr. Walker?

MR. WALKER: No. No, Your Honor.

THE COURT: Okay. Any objection to Agent Rausch being excused?

MR. THORNTON: Ask he be excused, Your Honor.

MR. WALKER: No objection.

THE COURT: You are excused.

THE WITNESS: Thank you, ma'am.

[Whereupon, Mr. Rausch is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. THORNTON: Angela Viens.

[Whereupon, Ms. Viens comes forward]

THE CLERK OF COURT: Would you place your left

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1 hand on the Bible and raise your right hand for me,
2 please, ma'am.

3 [Whereupon, Ms. Viens is duly sworn by the clerk
4 of court as follows: do you solemnly swear to
5 truthfully answer all questions asked of you by this
6 court, so help you God]

7 THE WITNESS: Yes, I do.

8 THE CLERK OF COURT: Please be seated.

9 [Whereupon, Ms. Viens takes the witness stand]

10 THE CLERK OF COURT: State your name and spell
11 it for the Court, please, ma'am.

12 THE WITNESS: First name is Angela. Last name
13 is spelled V, like Victor, I-E-N, like November, S,
14 like Sam.

15 - - - - -
16 ANGELA VIENS,

17 Having Been First Duly Sworn,
18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. THORNTON:

21 Q. Master Sargent Viens, who do you work for?

22 A. The Beaufort County Sheriff's Office.

23 Q. And what do you do for them?

24 A. I am assigned to the criminal investigation
25 section in the southern enforcement range.

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1 Q. And did you work for Beaufort County Sheriff's
2 Office on or about May 23rd, and days after that, in 2010?

3 A. Yes, sir.

4 Q. Were you in the detective division then, as
5 well?

6 A. Yes, sir.

7 MR. THORNTON: Your Honor, may I approach?

8 THE COURT: You may.

9 [Whereupon, State's Exhibit Number 66 is marked
10 by the court reporter]

11 [Whereupon, State's Exhibit Number 67 is marked
12 by the court reporter]

13 [Whereupon, State's Exhibit Number 68 is marked
14 by the court reporter]

15 [Whereupon, State's Exhibit Number 69 is marked
16 by the court reporter]

17 Q. [Mr. Thornton] Master Sargent, I'm going to
18 hand you first what's been entered into evidence as
19 State's Exhibit Number 65 and ask if you can identify that
20 for me.

21 A. This is a phone that I received from Master
22 Sargent Riley on the 25th of May.

23 Q. That phone -- I know you've been in here -- has
24 been testified to and identified as belonging to the
25 victim in this case, Leonard Green; is that correct?

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1 A. Yes, sir.

2 Q. Did you do anything to that phone or have any
3 connection with that phone?

4 A. Shortly after I received it on the 25th, I
5 processed the phone for any forensic evidence. I dusted
6 it for latent prints. I lifted two latent impressions
7 that were found to be of no value for identification.

8 I then swabbed it for DNA evidence and submitted
9 those swabs, as well.

10 After I processed it, I went through the phone
11 and photo-documented the records that were contained
12 within the phone.

13 MR. THORNTON: Your Honor, the Court's
14 indulgence one moment.

15 Q. [Mr. Thornton] I'm going to hand you what's
16 been marked for identification, at this point, as State's
17 Exhibit 53. All the envelopes but one have been testified
18 to. Is the swabs from the Verizon cell phone contained in
19 that? in State's Exhibit 53?

20 A. Yes.

21 Q. And are those the swabs that you took and would
22 have turned into evidence?

23 A. Yes.

24 MR. THORNTON: If you would please put those
25 back in.

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1 Your Honor, at this time, based on the agreement
2 of the parties as to chain of custody, I want to ask
3 that State's Exhibit 53 be moved into evidence.

4 MR. WALKER: No objection.

5 THE COURT: Without objection.

6 [Whereupon, State's Exhibit Number 53 is
7 admitted into evidence by the Court]

8 MR. THORNTON: I'm also going to ask Your Honor
9 -- I think this is as good a point as any to go ahead
10 -- State's Exhibit 55, which are the Panasonic
11 headphones, be moved into evidence.

12 THE COURT: Okay.

13 [Whereupon, State's Exhibit Number 55 is
14 admitted into evidence by the Court]

15 MR. THORNTON: States 60, 61, 62, 63, and 64,
16 which are the two sets of swabs that were sent -- one
17 set to SLED and one set to Richland County -- ask that
18 they be moved into evidence.

19 MR. WALKER: No objection.

20 THE COURT: All right.

21 [Whereupon, State's Exhibit Number 60 is
22 admitted into evidence by the Court]

23 [Whereupon, State's Exhibit Number 61 is
24 admitted into evidence by the Court]

25 [Whereupon, State's Exhibit Number 62 is

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1 admitted into evidence by the Court]

2 [Whereupon, State's Exhibit Number 63 is
3 admitted into evidence by the Court]

4 [Whereupon, State's Exhibit Number 64 is
5 admitted into evidence by the Court]

6 MR. THORNTON: And I'll have to have these
7 marked first, Your Honor. I apologize.

8 THE COURT: Okay.

9 MR. THORNTON: These are the only two. I
10 believe they're not marked.

11 THE COURT: Thank you, Mia.

12 [Whereupon, State's Exhibit Number 70 is marked
13 by the court reporter]

14 [Whereupon, State's Exhibit Number 71 is marked
15 by the court reporter]

16 MR. THORNTON: This would be State's 70 and 71,
17 Your Honor, which were the swabs actually taken at
18 SLED; 71 by Betty Butler, who is here, present, the
19 other one, 70, taken by Agent Cromer with SLED, who is
20 also here and present.

21 Ask they be moved into evidence.

22 THE COURT: Okay. Without objection?

23 MR. WALKER: No objection.

24 THE COURT: Without objection, they're in
25 evidence.

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1 [Whereupon, State's Exhibit Number 70 is
2 admitted into evidence by the Court]

3 [Whereupon, State's Exhibit Number 71 is
4 admitted into evidence by the Court]

5 Q. [Mr. Thornton] All right. You talked about the
6 swabs you took off the Verizon cell phone, which is
7 State's Exhibit 65. I'm going to hand you what's been
8 marked for identification as State's Exhibit 66 and ask if
9 you can identify that photograph.

10 A. Yes. This is a photograph that I took of the
11 outgoing calls that were found in the phone.

12 Q. And in the outgoing phone calls, are there
13 several to the same number?

14 A. Yes. An 843- -0361. According to the call
15 details in the phone, the calls were dialed at 11:57 on
16 May 23rd; 2:33 a.m. on May 23rd; again, 2:33 a.m. on May
17 23rd; and 2:27 a.m. on May 23rd.

18 Q. All right. So that would be in the early-
19 morning hours of May 23rd, 2010?

20 A. Yes.

21 Q. Which would have been the night of the murder
22 and early-morning hours on that Sunday; is that correct?

23 A. That's correct.

24 Q. Is that an accurate -- a fair and accurate
25 depiction of the phone as it was when you turned it on to

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1 review the calls?

2 A. Yes.

3 Q. Has it been altered or changed in any way?

4 A. No.

5 MR. THORNTON: Your Honor, I would ask that
6 State's Exhibit Number 66 be moved into evidence.

7 THE COURT: Without objection?

8 MR. WALKER: No objection.

9 THE COURT: Without objection.

10 [Whereupon, State's Exhibit Number 66 is
11 admitted into evidence by the Court]

12 Q. [Mr. Thornton] Did you have any connection to
13 the Monte Carlo that's been talked about?

14 A. I did.

15 Q. And what did you do with it?

16 A. The vehicle was impounded by our county wrecker
17 and taken to the Beaufort County impound lot the night
18 that Officer Rausch stopped it. The following morning or
19 following day I went over and conducted a search of that
20 vehicle.

21 Q. I'm going to hand you what's been marked for,
22 identification as State's 67, 68 and 69 and ask if you can
23 identify those pictures.

24 A. Yes. This is the black Monte Carlo. The
25 photograph was taken at our impound lot on Shankland Road.

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1 This is a photograph of the rear end of the car. The
2 trunk has been sealed with crime scene tape -- or not
3 crime scene tape, but evidence tape, and a picture of the
4 front seat of the vehicle.

5 Q. Are those a fair and accurate depiction, those
6 photographs, which are State's 67, 68 and 69?

7 A. Yes.

8 Q. Are they fair and accurate as the scene was when
9 you went to process it?

10 A. Yes.

11 Q. And have they been altered or changed in any
12 way?

13 A. No.

14 MR. THORNTON: Judge, I would ask State's 67,
15 68, 69 be moved into evidence.

16 MR. WALKER: No objection.

17 THE COURT: Without objection.

18 [Whereupon, State's Exhibit Number 67 is
19 admitted into evidence by the Court]

20 [Whereupon, State's Exhibit Number 68 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 69 is
23 admitted into evidence by the Court]

24 Q. [Mr. Thornton] What is that located, if you can
25 tell me, on the front seat of the Monte Carlo that Jerry

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1 Scantling stole out of Savannah?

2 A. There are two packs of Kool brand cigarettes, it
3 looks like two CDs, some aluminum foil, and a pair of
4 black cloth gloves.

5 Q. I'm sorry. What was that last one again?

6 A. A pair of black cloth gloves.

7 [Whereupon, State's Exhibit Number 72 is marked
8 by the court reporter].

9 Q. [Mr. Thornton] Master Sargent, I'm going to
10 hand you what's been marked for identification as State's
11 Exhibit 72, ask you if you can identify those. And please
12 open it. I realize it's in a sealed condition currently.

13 A. The bag indicates that it's two black cloth
14 gloves that were retrieved from the front seat between the
15 driver and passenger of the Monte Carlo. And those are
16 the same gloves.

17 Q. Are those the gloves that you retrieved from the
18 front seat of the black Monte Carlo?

19 A. Yes, sir.

20 Q. Have they been altered or changed in any way?

21 A. No, sir.

22 MR. THORNTON: Judge, I would ask that State's
23 72 be moved into evidence.

24 THE COURT: Without objection?

25 MR. WALKER: No objection.

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1 THE COURT: Without objection.

2 [Whereupon, State's Exhibit Number 72 is
3 admitted into evidence by the Court]

4 MR. THORNTON: Thank you.

5 Q. [Mr. Thornton] Master Sargent Viens, let me ask
6 you another question. Did you assist in conducting any of
7 the interviews done in this case?

8 A. I did.

9 Q. And could you tell us who the -- anybody that's
10 testified so far in this trial, who did you interview?

11 A. I initially interviewed Ishmil Frazier at his
12 residence. He was one of the people that testified
13 yesterday in regards to having contact with Mr. Scantling
14 at the Gardens. I also interviewed Derik King at Hilton
15 Head Gardens and I think I spoke to him again at the
16 Kangaroo gas station. I'm not real sure if he was there
17 or if I just dealt specifically with the manager on
18 another issue. And I also spoke with Altovise Green and
19 then a Jake Washington.

20 Q. All right. The three that we mentioned that
21 testified, Altovise Green, Ishmil Frazier, and Derik King,
22 did you hear me asking questions of them about a photo
23 line-up?

24 A. Yes, I did.

25 Q. And are you the officer that presented them with

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1 a photo line-up?

2 A. Yes.

3 Q. And did all -- well, let's start with -- let's
4 go one at a time. Ishmil Frazier was the first one you
5 mentioned.

6 A. Yes.

7 Q. Did you provide Mr. Frazier with a photo
8 line-up?

9 A. Yes.

10 Q. And was Jerry Scantling in one of those photos?

11 A. Yes.

12 Q. And for the purposes of the jury, what is a
13 photo line-up and what does it look like?

14 A. A photo line-up or the photo pack that we use is
15 a folder that contains six individual photographs of
16 different people with similar characteristics -- it would
17 -- you know, matching the same physical description,
18 hairstyle, you know, if there was any facial hair,
19 glasses, or things like that. Those are -- they're cut
20 out in the folder so that when you -- the folder is closed
21 you see the six images. On the back there's a statement
22 that each individual has to read, before they look at the
23 line-up, that says there may or may not be a person in
24 this, you know, line-up that's familiar to you and
25 whatnot. And if he can identify someone, our procedure is

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1 to have them circle and initial the side of the photo that
2 they recognize.

3 Q. Did you in any way indicate to them that the
4 person that -- asking about the person who was trying to
5 sell the victim's truck was there or not there, or did you
6 tell them it could be either way?

7 A. It could be either way.

8 Q. And did Mr. Frazier, was he able to pick out any
9 particular photo?

10 A. Yes. He identified Jerry Scantling.

11 Q. And as to Altovise Green, did you present a
12 similar or the same line-up to her?

13 A. It would have been the same line-up in a
14 different folder.

15 Q. All right. And did you -- were these folks all
16 together watching each other pick the person, or was this
17 done separately?

18 A. Separately.

19 Q. All right. As to Altovise Green, did you
20 present her a photo line-up?

21 A. Yes.

22 Q. And did it contain a photo of Jerry Scantling?

23 A. Yes, it did.

24 Q. And was she able to make any identification of
25 the photo line-up?

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1 A. Yes. She identified Mr. Scantling, as well.

2 Q. All right. As to Derik King, the same question.

3 Did you provide him with a photo line-up?

4 A. Yes.

5 Q. And was he able to make an identification?

6 A. Yes.

7 Q. Who did he pick?

8 A. Jerry Scantling.

9 MR. THORNTON: Your Honor, the Court's
10 indulgence, please, one moment.

11 THE COURT: Okay.

12 [Whereupon, Mr. Thornton reviews documents]

13 Q. [Mr. Thornton] There was a -- you mentioned a
14 Jacob Washington. I believe Mr. Rausch also -- Agent
15 Rausch also mentioned him. Was he the passenger?

16 A. He was the passenger of the Monte Carlo.

17 Q. And did you interview him?

18 A. I did.

19 Q. And without obviously representing anything he
20 said specifically, did he have any information or anything
21 about him?

22 A. No.

23 Q. There was another person who testified
24 yesterday, William Barnes. Were you the officer who
25 provided his photo line-up?

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1 A. I don't believe so, no.

2 Q. Do you know whether or not that was Officer Todd
3 -- or, excuse me -- Officer Calhoun with your department?

4 A. It would have been either him or Sargent
5 Alberton. I'm not sure.

6 MR. THORNTON: Thank you very much, Master
7 Sargent Viens.

8 Your Honor, I don't have any other questions.

9 I would ask that -- just answer any questions
10 Mr. Walker has. Thank you.

11 MR. WALKER: Good morning.

12 THE WITNESS: Good morning.

13 CROSS-EXAMINATION

14 BY MR. WALKER:

15 Q. Looking at State's Exhibits 68 and 69, 68 being
16 the trunk of the Monte Carlo, Georgia plate BLE 9413,
17 sealed with evidence tape, and State's Exhibit 69 being
18 the front-passenger seat of that Monte Carlo, you say you
19 came out there and searched it?

20 A. Yes, sir.

21 Q. Okay. Was this evidence tape put on before or
22 after your search?

23 A. That evidence tape was put on the night of the
24 traffic stop, but it was not put on there by me.

25 Q. Okay. So you took these photographs?

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1 A. Yes, sir.

2 Q. Okay. And then I guess you opened the trunk --

3 A. Yes.

4 Q. -- and looked in it? Okay.

5 And this -- these items here on the seat, is
6 this photo taken prior to your search?

7 A. Yes. And I don't know what type of image work
8 was done the night that the vehicle was stopped.

9 Q. Now, that was my next question, because it kind
10 of looks all clumped together and I don't know who -- and
11 is it generally true that a road officer, when they stop a
12 car, have one towed, that they will do another search
13 there on the scene?

14 A. They'll do an inventory of the vehicle. I don't
15 know what the City's procedure is because that's a
16 different agency.

17 Q. But that's a general police practice is to
18 inventory the vehicle, look for any evidence of any
19 crimes, any crime material, or any valuable material that
20 they could then be blamed for if it was missing?

21 A. Correct.

22 Q. Okay. And so your testimony is you don't know
23 if these items were in this location when the car was
24 stopped, or if they were there because of a search done by
25 another police officer? You're unaware?

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1 A. That's correct.

2 Q. And if they were moved, you would have no idea
3 as to where their original locations were?

4 A. No, sir.

5 Q. And I -- again, I apologize if you've gone
6 through this. Just refresh my memory. Did you have any
7 role in taking any DNA from any items that were seized
8 from that Monte Carlo?

9 A. Not from the Monte Carlo, no.

10 Q. Okay. Just the phone?

11 A. Just the phone.

12 Q. Okay. To your knowledge, was any of the items
13 in the Monte Carlo tested for DNA?

14 A. Not to my knowledge, I'm not sure.

15 Q. And you didn't ever have any conversation with
16 Officer Rausch, who had done the actual stop?

17 A. No. I mean, there was, you know, how did you
18 get him stopped or whatever, because we had come over from
19 Bluffton. I'm not familiar with him so I'm sure there was
20 an introduction or something. And then my focus obviously
21 was to speak to Mr. Washington that evening.

22 Q. Now, you had interviewed and done some
23 identifications of the -- your testimony was you did
24 the ideas -- identifications -- or provided photos to
25 Mr. Frazier, Mr. King, and Ms. Green; correct?

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1 A. Yes, sir.

2 Q. And Mr. King, whoever, said that he had only
3 seen Mr. Scantling at just that one night; correct?

4 A. Correct.

5 Q. But Mr. Frazier told you he had seen him that
6 night, as well as around the Gardens previously; correct?

7 A. I can't recall. If I can read through my --

8 Q. Yeah. If you have it, please do.

9 [Whereupon, the witness reviews documents]

10 A. He -- yeah. Mr. Frazier said that he had seen
11 him in the breeze ways of the apartment buildings.

12 Q. And had had contact with him before?

13 A. I don't know what contact they had, but he had
14 observed him at the Gardens before.

15 Q. I'm looking at your report, page 2 of 6 --

16 A. Uh-huh.

17 Q. -- top paragraph: he has previously tried to
18 sell Frazier a GPS unit and a radar detector.

19 A. Oh. Yes.

20 Q. So they had had some actual contact?

21 A. Yes, sir.

22 Q. Okay. So Mr. Frazier knew who Mr. Scantling was
23 before the night of Mr. Green's murder?

24 A. Yes.

25 Q. Now, were -- you were in the courtroom when

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1 these three individuals testified?

2 A. Yes, sir.

3 Q. Okay. Do you recall me asking Ms. Green if she
4 ever said anything about seeing Mr. Scantling around Dirty
5 Red's house and she said, I never said anything like that?

6 A. I really wasn't paying attention to what she
7 said.

8 Q. Well, that's not your job. That's my job.

9 But you did interview Ms. Green as well as
10 provide the photo line-ups; correct?

11 A. Yes.

12 Q. All right. Can you look down -- you have a
13 paragraph, page 3, interview of Altovise Green, the ninth
14 line down. The end of that line starts with, she stated
15 he was driving a black Monte Carlo. Do you see that?

16 A. Yes.

17 Q. Can you go ahead and read the next -- that
18 sentence and the next two?

19 A. She stated he was driving a black Monte --
20 black-colored Monte Carlo with Georgia tags. She stated
21 the vehicle was apparently having mechanical problems. He
22 was parked in front of the building that Dirty Red stays
23 in.

24 Q. Okay. So she did, in fact, tell you about
25 seeing Jerry around Dirty Red's building?

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1 A. Yes.

2 Q. Okay. Because you wouldn't have put it in there
3 if she hadn't told you about it; correct?

4 A. Correct.

5 Q. All right. And Dirty Red: you looked into
6 Dirty Red; correct?

7 A. I sure did.

8 Q. Talked to Dirty Red?

9 A. [Indicates affirmatively]

10 Q. All right. Were you able to find out Dirty
11 Red's real name?

12 A. I think it's Donald Cooper.

13 Q. Okay. So Donald Cooper, you talked to him?

14 A. It's either Donald or Ronald. There is Ronnie,
15 Ronald, and Donald.

16 Q. Okay. Go with Donald.

17 A. Okay.

18 Q. And were you able to ascertain through your
19 investigation that he was an employee of Pizza Hut?

20 A. I sure did.

21 Q. All right. Were you also able to ascertain
22 through your investigation that's the same Pizza Hut that
23 Leonard Green worked at?

24 A. That is correct.

25 Q. And that they were, in fact, coworkers?

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1 A. Yes.

2 MR. WALKER: Beg the Court's indulgence.

3 [Whereupon, Mr. Walker and Ms. Carroway confer]

4 MR. WALKER: That's all I have. Thank you.

5 MR. THORNTON: I have nothing further, Your
6 Honor. Ask she be excused.

7 THE COURT: Any objection?

8 MR. WALKER: No objection.

9 THE COURT: Master Sargent Viens, you're
10 excused. Thank you.

11 [Whereupon, Ms. Viens is excused and exits the
12 witness stand]

13 MR. THORNTON: Jeff Purdy.

14 [Whereupon, Mr. Purdy comes forward]

15 THE CLERK OF COURT: Would you place your left
16 hand on the Bible and raise your right hand for me,
17 please, sir.

18 [Whereupon, Mr. Purdy is duly sworn by the clerk
19 of court as follows: do you solemnly swear to
20 truthfully answer all questions asked of you by this
21 court, so help you God]

22 THE WITNESS: I do.

23 THE CLERK OF COURT: Please be seated.

24 [Whereupon, Mr. Purdy takes the witness stand]

25 THE CLERK OF COURT: State your name and spell

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1 it for the Court, please.

2 THE WITNESS: My name is Jeff Purdy. That's
3 J-E-F-F P-U-R-D-Y.

4 - - - - -

5 JEFF PURDY,

6 Having Been First Duly Sworn,
7 was Examined and Testified as Follows:

8 DIRECT EXAMINATION

9 BY MR. THORNTON:

10 Q. Sargent Purdy, who do you work for?

11 A. The Beaufort County Sheriff's Office.

12 Q. And what do you do for them?

13 A. I run criminal investigations north of the Broad
14 River.

15 Q. And did you work for the Beaufort County
16 Sheriff's Office in May of 2010?

17 A. I did.

18 Q. I'm going to hand you what's been entered into
19 evidence as State's Exhibit 66. There has been testimony
20 that is the photograph of the outgoing calls from the
21 victim's phone, which would have been sometime after his
22 death. Are you familiar with that phone number?

23 A. Yes, sir, I am.

24 Q. And were you involved in tracking down who that
25 phone number is associated with?

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1 A. Yes, I was.

2 Q. And who is it?

3 A. The phone number is associated with Ramona
4 Coleman, or Ramona Houghton Coleman, and it's also
5 associated with Donald Cooper.

6 Q. At the time, was Donald Cooper the boyfriend or
7 paramour of Ramona?

8 A. Yes, sir.

9 Q. And Mr. Walker asked this earlier. Donald
10 Cooper, what is his, for lack of a better word, street
11 name?

12 A. Dirty Red.

13 Q. All right. And that is the phone number that
14 was called from the victim's phone sometime after his
15 death?

16 A. I believe so.

17 MR. THORNTON: Your Honor, I have nothing
18 further.

19 Please answer any questions that Mr. Walker has.

20 MR. WALKER: Beg the Court's indulgence.

21 [Whereupon, Mr. Walker and Ms. Carroway confer]

22

23

24

25

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CROSS-EXAMINATION

BY MR. WALKER:

Q. You looked into the phone calls that were made from the decedent's phone; correct?

A. I was asked to follow up on that phone number by Master Sargent Viens.

Q. Okay. That's the -0361?

A. Yes, sir.

Q. And you spoke with Ms. Coleman and Mr. Cooper --

A. That's correct.

Q. -- about the phone?

Did they say they knew the decedent?

A. I don't believe I asked Ms. Coleman that, and I couldn't tell you if I asked Mr. Cooper that. Ms. Coleman is the owner of the phone and Mr. Cooper is the user of the phone. I talked to Mr. Cooper about it, but I don't know if I asked him if he knew Mr. Green.

Q. Who told you that Mr. Cooper was the one that used it?

A. Mr. Cooper.

Q. Okay. So who did you make contact with first?

A. Ms. Coleman.

Q. And then she said you need to talk to Dirty Red?

A. Not exactly. I went to the house with Sargent Foskey -- he works out of the northern investigations

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1 office, as well -- and we were there to meet with
2 Ms. Coleman. Asked her about the phone, and Dirty Red or
3 Donald Cooper spoke up and said, that's her phone but I
4 use the phone, I have possession of the phone.

5 Q. So he was there and it was kind of a
6 simultaneous thing?

7 A. That's correct.

8 MR. WALKER: Okay. That's all. That's all I
9 have. Thank you.

10 THE COURT: Anything further?

11 MR. THORNTON: Nothing further at this time,
12 Judge. Thank you.

13 I would ask he be subject to being re-called.

14 THE COURT: All right. You may step down, but
15 subject to being re-called.

16 [Whereupon, Mr. Purdy is excused and exits the
17 witness stand]

18 THE COURT: Call your next witness.

19 MR. THORNTON: Your Honor, could I have the
20 Court's indulgence? We've moved pretty quick and I
21 want to make sure I've got him here.

22 THE COURT: Okay.

23 MR. THORNTON: Captain Bob Bromage.

24 [Whereupon, Mr. Bromage comes forward]

25 THE CLERK OF COURT: Would you place your left

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1 hand on the Bible and raise your right hand for me,
2 sir.

3 [Whereupon, Mr. Bromage is duly sworn by the
4 clerk of court as follows: do you solemnly swear to
5 truthfully answer all questions asked of you by this
6 court, so help you God]

7 THE WITNESS: I do.

8 THE CLERK OF COURT: Please be seated.

9 [Whereupon, Mr. Bromage takes the witness stand]

10 THE CLERK OF COURT: State your name and spell
11 it for the Court, please.

12 THE WITNESS: Robert E. Bromage. B-R-O-M-A-G-E.

13 - - - - -

14 ROBERT E. BROMAGE,

15 Having Been First Duly Sworn,
16 was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MR. THORNTON:

19 Q. Captain Bromage, who do you work for, sir?

20 A. Beaufort County Sheriff's Office.

21 Q. And did you work for the Beaufort County
22 Sheriff's Office in May of 2010?

23 A. I did.

24 Q. Have you worked for them continuously since
25 then?

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1 A. Yes, sir.

2 Q. Did you have occasion to have any connection to
3 the case of the State versus Jerry Scantling involving the
4 murder of Mr. Green?

5 A. I did.

6 Q. And did you have any interviews with
7 Mr. Scantling, the defendant in this case?

8 A. On three different occasions.

9 Q. And do you remember the dates of those
10 interviews?

11 A. I do. May 27th, 2010, May 28th, 2010, and June
12 9, 2011.

13 Q. Captain Bromage, there was -- were you in the
14 courtroom earlier when some audio was played?

15 A. I was.

16 Q. All right. And was that your voice? I think
17 all but one of those clips, was that your voice on the
18 tape?

19 A. Yes, sir.

20 Q. Let me ask you a question. I want to just go
21 ahead and end the suspense right now. Do you sometimes
22 tell defendants that you have evidence that you don't
23 actually have?

24 A. Yes, sir, we do.

25 Q. All right. How many interviews have you

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1 conducted over the course of your career?

2 A. In twenty-three years, probably about between
3 500 and 1,000. Probably over a hundred involving homicide
4 cases. So quite a few.

5 Q. Let me ask you a question. Is it unusual for a
6 defendant to come in and not tell you the whole truth the
7 first time you talk to them?

8 A. I'd be shocked if they told me the truth the
9 first time.

10 Q. So you mean to tell me that if you do an
11 interview with a defendant, they don't just walk in and
12 just admit to everything they've done?

13 A. No, sir. In a perfect world they would, but
14 unfortunately we have to -- we have to mislead them
15 sometimes, we have to trick them sometimes. And that's --
16 that's part of interview interrogation.

17 Q. Do you remember telling Mr. Scantling that you
18 had -- that you had his DNA or could have his DNA?

19 A. Absolutely. Many times.

20 Q. And there's no way, even with your own lab, you
21 could get DNA back in five days, could you, or three days?

22 A. It would be difficult, yeah. I would say --

23 Q. You didn't have it in this case, did you?

24 A. We didn't have it yet, no.

25 Q. What about the video of Hilton Head Gardens?

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1 A. There was no video there.

2 Q. Now, when you're telling defendants these
3 things, are you telling them that so they'll lie to you?
4 What's the purpose of doing that?

5 A. We're trying to provide an environment where
6 they're most likely to tell the truth, and give them the
7 impression that we have more than we actually do, up
8 front.

9 Q. So is the purpose of that to get them to confess
10 to crimes they didn't do?

11 A. No. To get them to confess to crimes they did
12 do.

13 Q. Now, you said you talked to Jerry Scantling on
14 three different days; is that right?

15 A. That's correct.

16 Q. Now, I know I asked you this kind of in a broad
17 sense. In this case with Jerry Scantling, did he walk in
18 and tell you the exact same story the whole time?

19 A. He changed his story many times in the first
20 interview, he changed it in the second interview, and in
21 the third one he didn't know anything.

22 Q. You mean to tell me he didn't give you the
23 entire full story from the get-go?

24 A. No. It started out --

25 Q. Go ahead. Tell me what he told you the first

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1 time you talked to him.

2 A. It started out he had no idea who Leonard Green
3 was, had no idea about the red pickup truck. And when
4 presented with evidence or proposed evidence from myself
5 and Master Sargent Riley, he came around and said he ran
6 into Leonard Green twice on Saturday, the day he
7 disappeared.

8 Q. Let me ask you a question with regard to that.
9 Now, you're talking about the Wal Mart. Did he reference
10 -- do we know which Wal Mart?

11 A. The Wal Mart on Hilton Head.

12 Q. All right. So he's not talking about the Wal
13 Mart in Savannah?

14 A. No. That's totally separate.

15 Q. All right. Well, let me ask you this. What did
16 he -- at what time did he say he was with the victim in
17 this case, Leonard Green?

18 A. Sometime late morning on Saturday, Saturday the
19 22nd of May, 2010. And then 11:00 or 12:00 at night he
20 ran into him again --

21 Q. I'm sorry. I'm sorry. I didn't mean to
22 interrupt you. 11:00 or twelve o'clock at night?

23 A. In the morning and at night.

24 Q. Night?

25 A. He ran into him twice that day.

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1 Q. And that would have been the night of the
2 murder?

3 A. Within a couple of hours of Leonard Green being
4 murdered. That's correct.

5 Q. So he admitted to you that he was with the
6 victim around the time frame of when the victim was
7 murdered?

8 A. He admitted that. Yes, sir, he did.

9 Q. All right. What else did he -- what other
10 things did he tell you that you found interesting?

11 A. Well, he suggested that Leonard Green had made a
12 move on him, he suggested he was gay, he suggested that he
13 was a sexual predator, he suggested that he kidnaped him,
14 he -- if you want specifics, I'll certainly provide them.

15 Q. Yeah, give me some specifics, if you have them
16 noted down somewhere.

17 A. Initially he said he had never rode with Leonard
18 Green, never got in his truck. He said he saw him at Wal
19 Mart that morning but didn't get a ride with him. He said
20 he asked him for a ride and Leonard Green gave reference
21 to his penis, so he said he walked away.

22 Q. All right. Let me stop you right there,
23 Captain.

24 So he says first he never rode with him --

25 A. That's correct.

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1 Q. -- then he says he saw him at Wal Mart but
2 didn't ride with him?

3 A. Right.

4 Q. Then he says, well, I asked him for a ride but
5 he talked about my penis so I walked away?

6 A. Exactly.

7 Q. All right. Go ahead.

8 A. He said at one point, what if I said this man
9 tried to kidnap me. He said, what am I looking at or --
10 I'm going to ask you what I'm looking at if I tell you how
11 this went down.

12 Q. All right. Would you go back over that one
13 again, please.

14 A. He said specifically, I'm going to ask you what
15 I'm looking at if I tell you how this went down. At which
16 point we responded, we can't offer you anything at all; we
17 can't offer you a deal, we can't -- that's not our job; we
18 can provide you with a -- like under the statute, and
19 that's it.

20 Q. All right. What else?

21 A. It says he admits seeing the victim later that
22 night, which would have been Saturday on the 22nd of May,
23 and it says the victim was trying to get him to ride with
24 him to Ridgeland.

25 Q. And what -- do you know anything about why --

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1 what -- does the victim in the case, Mr. Green, have any
2 connection to Ridgeland?

3 A. He had a house in Ridgeland. That's correct.

4 Q. Okay. Go ahead, sir.

5 A. He says that it was actually 11:00 or 12:00 the
6 night of the murder, which is when he ran into Leonard
7 Green on Matthews Drive. He admitted to stealing the
8 Monte Carlo from Savannah. He admitted, over an hour into
9 the interview, that he was in the truck with the victim
10 during the daytime -- which is Leonard Green -- during the
11 daytime at Wal Marts. It says he caught a ride to Hilton
12 Head Gardens.

13 Q. All right. And I'm sorry. Go ahead.

14 A. Okay. Jerry Scantling lives on the street.
15 Lives in the breeze ways there, so that's -- that's --

16 Q. All right. So let me ask you a question. And,
17 again, I just want to go back over this so it's clear to
18 this jury.

19 So he starts out with he doesn't know him, he's
20 never seen him before, then it's I never rode with him,
21 then it's I asked him for a ride, and then later on, over
22 an hour into the interview, he finally comes off of, well,
23 yeah, I got a ride with him but it was during the day?

24 A. Right. And that was after we brought up the DNA
25 and the truck, fingerprints in the truck. He thought

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1 about it and said, I caught a ride with him --

2 Q. And when you say DNA in the truck and
3 fingerprints in the truck, did you have DNA or
4 fingerprints in the truck --

5 A. I don't even --

6 Q. -- at that time?

7 A. I don't even think we had the truck. We didn't
8 have the truck back from Savannah at that point.

9 Q. All right. So he finally comes off with the
10 fact -- he, being Jerry Scantling, that he had a ride,
11 caught a ride, or was in the truck with the victim?

12 A. Yes, sir.

13 Q. All right. Go ahead, sir.

14 A. Tried -- he said, he tried to get me to his
15 house that night. Referring to the victim's house in
16 Ridgeland. The dude tried to make a move on me, and I
17 wasn't having it. And admits to using the victim's phone.

18 Q. Uh-huh.

19 A. Asked him to use the phone. Of course, when I
20 asked who he called, he couldn't provide any name at all
21 and we figured out later it was Donald Cooper who actually
22 received that telephone call.

23 Q. If I could stop you for just a second, Captain.

24 A. Yes, sir.

25 Q. I'm going to show you what's been introduced as

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1 Exhibit 66. I realize this was not your part of the
2 investigation. But is that the phone you're referring to
3 and the phone number that was called?

4 A. It appears to be, sir, yes.

5 Q. So Jerry Scantling admits to you now that he did
6 use the victim's phone?

7 A. Right. Again, after being told that we'd be
8 able to get DNA off the phone and fingerprints and
9 everything else.

10 Q. Right.

11 And so he admits it, but he denies calling Dirty
12 Red?

13 A. He denied calling Dirty Red. And, you know,
14 says he couldn't remember. He had a number written down
15 and he called a friend and couldn't recall who the friend
16 was he called or anything like that. That was his words.

17 Q. All right. Was that the -- for lack of a better
18 word, the gist of the first interview?

19 A. That was the significant parts of the first
20 interview.

21 Q. All right. And this obviously takes place over
22 probably more than two hours. Is that fair to say?

23 A. A couple of hours, with numerous cigarette
24 breaks and I think a lunch break.

25 Q. Let me ask you this. Did you -- you talked to

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1 him again you said three times total. What's the date of
2 the second interview?

3 A. The second interview is May 28th, 2010.

4 Q. And what did he tell you of any significance
5 that you found in the second interview?

6 A. He said it -- identified it as a red Ford pickup
7 truck that he -- that Leonard Green was driving.
8 Identified a photograph I provided him as Leonard Green.

9 Q. All right. Let me stop you right there.

10 [Whereupon, State's Exhibit Number 73 is marked
11 by the court reporter]

12 Q. [Mr. Thornton] I'm going to hand you what's
13 been marked as State's Exhibit 73 for identification. I'm
14 going to ask you if you can identify that photograph.

15 A. Yes, sir. This is a photograph of Leonard Green
16 that I presented to Jerry Scantling in the second
17 interview on May 28th. He actually signed it and
18 indicated he saw this individual, Leonard Green, on the
19 22nd, which is the Saturday, at 11:30 p.m.

20 Q. Is that an accurate depiction of Leonard Green
21 in the photo that you showed Jerry Scantling of him during
22 your second interview?

23 A. It is.

24 Q. Has it been altered or changed in any way?

25 A. No, sir. It's the original.

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1 MR. THORNTON: Your Honor, I would ask that
2 State's Exhibit 73 be moved into evidence.

3 MR. WALKER: No objection.

4 THE COURT: Without objection.

5 [Whereupon, State's Exhibit Number 73 is
6 admitted into evidence by the Court]

7 Q. [Mr. Thornton] Go ahead, sir. After you --
8 after he identified that photograph, does he talk about
9 anything else?

10 A. He does. What I tried to do in the second
11 interview was minimize the gravity of the whole thing to
12 Jerry to give him a way to explain what happened, and by
13 suggesting that Leonard had made a move on him, we went
14 down that road a little bit. And what he said, something
15 ain't right about him, something about his mouth ain't
16 right, somebody would bust his ass. He again admitted to
17 being a thief and he stole a car from Savannah. He
18 changed his story now to say he never used -- never used
19 the phone and he never was in the red pickup truck. And
20 that was after he admitted it the first day.

21 Q. All right. So now he's changed his story back
22 to he was never in the truck and he never used the phone?

23 A. Right. He didn't change that the entire second
24 interview. I believe he stayed with that story.

25 Q. All right. But he changed that from the first

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1 interview; is that correct?

2 A. That is correct.

3 Q. All right, sir. Go ahead.

4 A. Said between 11:00 or 12:00 that Leonard Green,
5 he was in a red pickup truck, that he -- that would be
6 between 11:00 and 12:00 on Saturday night, the 22nd, did a
7 U-turn on Mathews Drive in front of Jerry -- pulled in
8 front of him and talked between three and five minutes and
9 had a conversation where Leonard tried to get him back to
10 his house. And he said he was okay with Leonard during
11 the daytime but felt that Leonard was a threat to him so
12 he did not get in the truck that night.

13 Q. All right. And what about the third interview?

14 A. Well, he said in the second interview also --

15 Q. I'm sorry. Go ahead.

16 A. -- also that, I don't see something -- I don't
17 see how something with my DNA could be anywhere around
18 that dude. Talking about Leonard Green.

19 Q. All right. What did he say in his third
20 interview?

21 A. The third interview --

22 Q. Was that as long as the others or was it
23 relatively short?

24 A. It was relatively short. That was the day we
25 actually charged him with the murder.

1 Q. All right. And I'm going to --

2 MR. THORNTON: Need to get this pre-marked,
3 Judge. I'm sorry.

4 [Whereupon, State's Exhibit Number 74 is marked
5 by the court reporter]

6 Q. [Mr. Thornton] I'm going to hand you what's
7 been marked for identification at this point as State's
8 Exhibit 74. Can you identify that? What is that, sir?

9 A. This is a print from the video outside of the
10 Wal Mart in Savannah taken on May 23rd, 2010, where the
11 victim Leonard Green's phone was located in the trash in
12 the men's room.

13 Q. All right. And is that -- is that a video that
14 you've reviewed and can verify that that still is from the
15 video?

16 A. Yes, sir, this is a still from that video.

17 Q. All right. And who did that -- who did you
18 believe was that walking into the Wal Mart in Savannah?

19 A. Jerry Scantling.

20 Q. All right. Is it a very clear picture or is it
21 somewhat blurred?

22 A. Somewhat blurred. But if you know Jerry, it
23 looks like Jerry --

24 Q. How long have you known Jerry Scantling?

25 A. Since he was twelve, thirteen years old.

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1 Q. All right. Let me ask you this. Did you ask
2 Jerry Scantling any questions, or did you show him that
3 photograph, in the third interview?

4 A. I think I said exactly, Jerry, who's this.

5 Q. And what was his response?

6 A. I ain't going to take -- I ain't going to say
7 it's me, I ain't going to say it ain't, I don't want to
8 incriminate myself. That's exactly what he said.

9 Q. Now --

10 MR. WALKER: I have to object at this point,
11 Your Honor.

12 THE COURT: Subject to your prior, yes,
13 objection. Noted for the record. Thank you, sir.

14 MR. WALKER: But I also want to avoid any
15 comments on his exercising any of his rights --

16 THE COURT: All right. Just keep going. Let's
17 get past that.

18 MR. THORNTON: Yes, ma'am.

19 THE COURT: Thank you.

20 Q. [Mr. Thornton] Captain Bromage, let me ask you
21 this, just to refresh. I know you were involved in some
22 of the bits of investigation. Where was the Monte Carlo
23 stolen out of that Jerry Scantling told you he stole?

24 A. Jerry told me it was stolen out of
25 Yamacrawville, which is in Savannah. And that's where it

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1 was stolen from.

2 Q. And do you know where the officers with your
3 department were dispatched to the victim's truck?

4 A. Right over here behind the courthouse.
5 Parkview or Parkside apartments. It's in the city
6 jurisdiction.

7 Q. All right. Let me rephrase my question.

8 Do you know where your officers were dispatched
9 to to go process the victim's truck where it was found
10 abandoned?

11 A. It was found abandoned in Savannah.

12 Q. Okay. Did you review the videotape? And it's
13 actually been entered into evidence. State's Exhibit 56,
14 did you review that videotape as part of pulling the still
15 shots from it from Wal Mart?

16 A. I did. I did. I went through that a few times,
17 yes, sir.

18 Q. Is there a vehicle that would match the victim's
19 truck, what appeared to be a Ford pickup truck, extended
20 cab?

21 A. Yes.

22 Q. And by the way, what is the time stamp on --

23 THE WITNESS: I handed it back to you.

24 MR. THORNTON: Your Honor, Court's indulgence
25 for a moment. I'm sorry.

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1 THE COURT: That's okay.

2 [Whereupon, Mr. Thornton reviews documents]

3 MR. THORNTON: Sorry, Judge. I have too many
4 photographs up here.

5 Q. [Mr. Thornton] What is the time stamp on
6 State's Exhibit 74 showing, I ain't saying it's me and I
7 ain't saying it's not, Jerry Scantling going into the Wal
8 Mart on Ogeechee Road?

9 A. May 23rd, 2010, 11:39:39 a.m.

10 Q. All right. So 11:30 in the morning?

11 A. Yes, sir.

12 Q. On Sunday, the 23rd?

13 A. Sunday the 23rd.

14 Q. All right. Thank you.

15 MR. THORNTON: Your Honor, the Court's
16 indulgence, please, for one moment.

17 [Whereupon, Mr. Thornton reviews documents]

18 MR. THORNTON: May we approach, Your Honor?

19 THE COURT: [Indicates affirmatively]

20 [Whereupon, an off-the-record bench conference
21 is held]

22 MR. THORNTON: Thank you, Your Honor.

23 THE COURT: Okay.

24 MR. THORNTON: Your Honor, the Court's
25 indulgence, please, one moment.

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1 THE COURT: Sure.

2 [Whereupon, Mr. Thornton reviews documents]

3 Q. [Mr. Thornton] Captain Bromage, were you at
4 all -- were you involved in some way of the seizure of
5 Mr. Scantling's clothing that he was wearing when
6 arrested?

7 A. I believe I was, sir.

8 Q. All right, sir. And did that clothing more or
9 less match the clothing that was on that videotape?

10 A. Yes, sir.

11 Q. And other than that, sir -- and I realize
12 that -- was your main connection the interview of Jerry
13 Scantling and then one or two other interviews? Was that
14 your main connection with this case?

15 A. My main direct involvement. I oversaw the --

16 Q. Yes, sir.

17 A. -- the entire investigation.

18 MR. THORNTON: All right. Thank you very much.

19 Your Honor, again, subject to recall, I've got
20 noting further for Captain Bromage.

21 Thank you, Captain. Please answer any questions
22 Mr. Walker has.

23 THE COURT: Mr. Walker.

24 MR. WALKER: Good morning.

25 THE WITNESS: Good morning, Mr. Walker.

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CROSS-EXAMINATION

BY MR. WALKER:

Q. You interviewed Mr. Scantling three separate times; correct?

A. I did, sir.

Q. You've done a lot of interviews in your career; correct?

A. I have.

Q. You've had training on how to do it; correct?

A. Yes, sir.

Q. All right. Have you had training that dealt with avoiding false confessions?

A. Absolutely. Yes, sir.

Q. Why don't we want a false confession?

A. Why don't we want -- we want to make --

Q. Why don't we want --

A. -- we want to make sure -- we want to make sure that we are actually putting the right person behind bars at the end of the day.

Q. So you would want to avoid things that might encourage false confessions; correct?

A. Yes, sir.

Q. All right. Your testimony is that it's common for you to use lies and deceit when interrogating suspects?

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1 A. It is absolutely the accepted practice when you
2 feel like you're being lied to, yes, sir.

3 Q. Well, I mean, you went into this interview with
4 your mind made up that Jerry Scantling had done this;
5 right?

6 A. The facts -- the facts that we had gathered that
7 far would indicate that Jerry was heavily involved in the
8 murder of Leonard Green.

9 Q. Okay. And anything that he told you differently
10 than that is a lie so you need to lie to him to get him to
11 change his story to the truth?

12 A. We were at the scene. We understand what the
13 scene told us. We understand the vehicle was still
14 missing at the time. We understand he was at the Hilton
15 Head Gardens with the victim's pickup truck on the night
16 of his murder. And when I got out there at nine o'clock
17 that morning, Leonard Green had been dead for several
18 hours.

19 Q. Okay.

20 A. It was very time -- very short window of when
21 Leonard Green was murdered, between probably twelve
22 o'clock and 2:30 in the morning, 2:15.

23 Q. So you told Jerry that? Heavily involved?

24 A. Heavily involved, yes, sir.

25 Q. And he said, no. You're heavily involved; we

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1 have information you're around and all. Then you said,
2 we've got your DNA, we've got your --

3 A. Right.

4 Q. -- fingerprints, we've got your video?

5 A. Yes, sir.

6 Q. All right. And the only way you can help
7 yourself out is to tell us what happened and give us your
8 version?

9 A. And also telling him that we couldn't do
10 anything for him, we couldn't offer him any deal. That's
11 correct.

12 Q. You couldn't help him, but the only way he could
13 help himself --

14 A. If -- if --

15 Q. -- was to give some information?

16 A. -- if there was a second side to the story.

17 What the scene told us was one thing and what Jerry
18 Scantling was telling us was absolutely another thing.

19 Q. We've heard from all the other witnesses --

20 A. Right.

21 Q. -- about the scene. I'm just telling --

22 A. Right.

23 Q. -- you about what you talked to Jerry --

24 A. Okay. Fair enough.

25 Q. The only way he could help himself was to help

1 you?

2 A. Right.

3 Q. Okay. And he's in bad shape.

4 A. Yes, sir.

5 Q. When you walked in, you're telling him he's in
6 very bad shape and he needs to help himself?

7 A. And looking for him, sir. That's correct.

8 Q. Okay. You said that Jerry's story changed in
9 the interviews that you had conducted; correct?

10 A. It changed several times in the first interview.
11 In the --

12 Q. They changed; right?

13 A. They changed considerably, yes, sir.

14 Q. They changed from, I was in the car to I never
15 was in the car. Correct?

16 A. That's correct.

17 Q. In the morning he's about -- said -- first
18 interview: I got a ride from Wal Mart back to the
19 Gardens. He told you that. It doesn't say he said, no, I
20 never got in the car because the guy was a little off.

21 A. Right.

22 Q. Okay. And so that was a change about what
23 happened that morning?

24 A. Yes, sir.

25 Q. Okay. Then he also changed about whether or not

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1 he had asked to borrow the victim's phone; correct?

2 A. That's correct.

3 Q. He said one time, yeah, I tried -- I thought I
4 was going to make a call and then he said, no, I never did
5 that?

6 A. Correct. Yes, sir.

7 Q. And that was a change.

8 What never changed was that I'm the -- well, and
9 then you had asked both times that he was driving down the
10 road -- not driving, because he was on a bicycle -- was on
11 the road and the defendant's truck came up to him and they
12 had an interaction?

13 A. A three- to five-minute interaction, yes, sir.

14 Q. Yeah. I'm just -- on Mathews Drive?

15 A. Mathews Drive. Correct.

16 Q. And where, you know, he said, the guy wanted me
17 to come with him to Ridgeland, and he was off, and all
18 that stuff?

19 A. Yes, sir.

20 Q. And that was consistent between both?

21 A. Yes, sir.

22 Q. All right. And never changed that he never got
23 in the car with Mr. Green that night?

24 A. He never said he got in the car with Mr. Green
25 that night. That's correct.

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1 Q. That's the same in both interviews --

2 A. Both -- three interviews --

3 Q. -- and the last --

4 And that -- he told you he was going to go sleep
5 in the laundromat that night; right?

6 A. That's correct.

7 Q. Okay. And so he said, that guy left and I went
8 to the laundromat?

9 A. Right. That's what he said.

10 Q. And that never changed?

11 A. Correct. He slept.

12 Q. All right. And he said, I never saw the guy
13 again?

14 A. Right.

15 Q. All right. And that never changed?

16 A. That never changed.

17 Q. It also never changed that he had never seen the
18 guy before that day?

19 A. I'm sorry, sir?

20 Q. He had never seen him, didn't know him from
21 around or anything, he hadn't seen him around --

22 A. That's what he indicated.

23 Q. -- he said, my only interaction with that guy --

24 A. Right.

25 Q. -- Wal Mart that morning and I was going along

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1 and that guy pulled up to me and flipped around and came
2 up to me and initiated another contact?

3 A. That's correct.

4 Q. If someone were sitting in a sheriff's
5 department conference room being interviewed, being told
6 by a police officer -- who we all have great respect for
7 and assume they're looking out for us and would be honest
8 and tell us the truth, and doing their jobs as protecting
9 the community -- said, we're accusing you of a heinous
10 crime, it's going to be very bad for you, you're fucked,
11 unless you help us, this -- we have you -- evidence of you
12 basically committing the crime, can you tell us something
13 that can help you out, do you see how that might elicit
14 someone trying to help themselves out even if they weren't
15 involved?

16 A. I don't see where it did in this --

17 Q. Because Jerry did it; right?

18 A. Yes, sir. We --

19 Q. Right --

20 A. -- yes -- yes, sir --

21 Q. -- so anything he tells you that says he didn't
22 do it is obviously not true?

23 A. Again, we had the facts. Like I explained, we
24 had the facts from the scene, we had the facts from --

25 Q. You didn't --

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1 A. -- Hilton Head Gardens --

2 Q. You didn't. You're telling him --

3 A. -- from the scene. We had the facts from the
4 scene.

5 MR. THORNTON: Your Honor, I object. He's
6 arguing with him. He's not letting him answer the
7 question.

8 THE COURT: Okay. Again, don't argue with the
9 witness.

10 MR. WALKER: I apologize.

11 THE COURT: Let him finish. Ask him a question.
12 Captain Bromage is going to answer.

13 Q. [Mr. Walker] Let me ask you this question. At
14 the time you interviewed, the first time, Jerry Scantling
15 at the scene -- on the scene of the murder, you had no
16 information connecting Jerry Scantling to that boat
17 landing derived from the scene of the murder?

18 A. If Jerry was with Leonard Green before he
19 disappeared --

20 Q. Yeah. We're getting there.

21 A. -- we had Jerry at the Hilton Head Gardens with
22 a red pickup truck --

23 Q. Again, I'm just --

24 A. Belonging to --

25 Q. -- trying to clarify --

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1 A. -- Leonard Green within two hours of --

2 THE COURT: Mr. Walker, don't interrupt him.

3 Let him finish.

4 A. There was substantial evidence that Jerry
5 Scantling committed this murder. And there still is --

6 Q. [Mr. Walker] I agree with --

7 A. -- and that has not changed, sir.

8 Q. I agree with you.

9 A. Thank you.

10 Q. At the scene nothing connected Jerry, that you
11 knew so far, to being -- I mean, excuse me -- to the
12 murder? At the time of the first interview, nothing at
13 the scene of the crime connected him to that murder?

14 A. No.

15 Q. Okay. So then what you had connecting him to
16 the murder was the statements of the people at Hilton Head
17 Garden saying, we saw him in the truck?

18 A. Yes, sir.

19 Q. And that was -- that was the connection you had
20 to the murder at the time of the interview?

21 A. During the interview, it certainly evolved. It
22 certainly evolved into a whole lot more than that. So --

23 Q. Right. I'm just trying to get an accurate --

24 A. Yes, sir.

25 Q. -- picture of what --

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1 A. We try not to have --

2 Q. -- what information you had --

3 A. We try not to have tunnel vision when we go into
4 it.

5 Q. -- and what information you were making up --

6 A. -- go into it.

7 Q. -- at the time.

8 A. We try not to have tunnel vision when we go into
9 it. Jerry's statements were highly indicative that he was
10 directly involved in the murder of Leonard Green.

11 Q. I think he said over and over and over and over,
12 I wasn't involved in the murder of Leonard Green.

13 A. I'm going to ask you, what I'm looking at if I
14 tell you how it went down? In over a thousand interviews,
15 I can tell you if somebody tells me that --

16 Q. Right.

17 A. -- they're directly involved with the murder.

18 I don't know where Pinckney Island is. Pinckney
19 Island was two miles from where he grew up. So we already
20 know he's lying to us throughout the investigation,
21 throughout the interview.

22 Q. I mean, it's obvious he's not telling the truth,
23 because his story changes from the first second.

24 A. That is correct.

25 Q. Okay. Well, he can tell the truth about some

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1 things and not other things; correct?

2 A. That is correct.

3 Q. Obviously, you're doing it to him in the
4 interview.

5 A. Our job is to elicit a truthful confession,
6 which we did not get a truthful confession from him. We
7 got bits and pieces. We got --

8 Q. How do -- I mean --

9 A. -- classic minimization of what he did.

10 Q. Right. And --

11 A. And then offer a for instances: well, if he
12 kidnaped me, what's that going to do for me. Suggesting
13 that if Leonard was the aggressor, what am --

14 Q. Please stop.

15 A. -- I looking at.

16 Q. Please stop. Please stop.

17 A. Okay, sir. I'm sorry.

18 MR. WALKER: Your Honor, I would ask that the
19 witness not be instructed -- to be instructed not to
20 comment on the truthfulness and not truthfulness of
21 the interview or what that means. That's for the jury
22 to decide.

23 THE COURT: Okay. You need to ask him a
24 question. You're going to answer it. And then
25 if it's not responsive to the answer, then you can

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1 go ahead and object and we'll go from there. But
2 you need to ask him the question and he's going to
3 answer it.

4 MR. WALKER: Thank you.

5 Q. [Mr. Walker] The first interview was the
6 longest one; correct?

7 A. A few hours. Yes, sir.

8 Q. And the tone often was like ours, spirited?

9 A. We do become spirited in these interviews.

10 Q. Would you say that that was a more spirited
11 interview than probably the other two?

12 A. We're dealing with a very serious murder here.
13 Yes.

14 Q. Right.

15 A. Very serious.

16 Q. So there are raised voices in this interview?

17 A. To a degree. There's no screaming. There's
18 raised voices, there's direct questions, there's --

19 Q. More so than --

20 A. -- and talk.

21 Q. -- the other two interviews?

22 This was the first interview. It was the most
23 intense. It was the longest.

24 A. Right.

25 Q. Okay. You're saying things to him like, you

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1 know, first interview at 22:50, you're fucked, the only
2 way you can help yourself is to tell us who did it or why
3 you did it, things like that, multiple times; correct?

4 A. Correct. With an explanation.

5 Q. Right. Talking about how this is as bad as it
6 gets and it looks horrible; correct?

7 A. Very serious murder. That's a correct
8 statement, yes.

9 Q. So if somebody says, well, if I tell you
10 something, how does that affect what you're telling me --

11 A. If he --

12 Q. I mean -- let me formulate the question. The
13 thing about --

14 A. Okay. Well, I'll answer the question --

15 Q. I know.

16 Is that responsive to the questions you're
17 asking him?

18 A. It's a response to the question I asked him.

19 Q. Okay. And then you take it to mean one thing
20 and it could mean other things?

21 A. Based on my experience, I take it one way, quite
22 frankly.

23 Q. Well, and again --

24 A. Yeah.

25 Q. -- you take it one way.

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1 And in that first interview he says, I met him
2 at the Wal Mart, he came up to me at the Wal Mart parking
3 lot, I met him that night I was driving, he turned around
4 and we talked. The difference in the first interview and
5 the second interview is whether he got into the car in the
6 morning; correct?

7 A. That's --

8 Q. One difference?

9 A. One difference, yes, sir.

10 Q. Another difference is whether he asked to use
11 the phone or not; correct?

12 A. That's correct.

13 Q. He did admit to stealing the Monte Carlo;
14 correct?

15 A. Yes, he did.

16 Q. Didn't try and fight you on that or anything
17 like that? Said, I stole it. Correct?

18 A. Yeah. It wasn't -- it wasn't in the first
19 couple of minutes of the first interview, but he admitted
20 it after a while.

21 Q. It was when you asked him about it; right?

22 A. I think he had already been confronted with the
23 murder.

24 Q. But when you got around to the Monte Carlo, he
25 said, yeah, I --

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1 A. Sure. Just trying to, you know, get a baseline
2 of some kind of truth.

3 Q. And he --

4 A. Some kind of --

5 Q. -- and he said he stole it because the keys were
6 in it; right?

7 A. Right.

8 Q. Now, you testified a moment ago to Mr. Thornton
9 that you had known Jerry a long time; right?

10 A. I've known him since he was a young man, about
11 twelve or thirteen years old. Knew his family. Knew his
12 father, knew his stepfather, yes, sir.

13 Q. Okay. So you remember telling Jerry at
14 seventeen and a half minutes into the interview that this
15 looks fucking horrible; this is not the same kid I know?

16 A. Yeah. Yes, sir.

17 Q. Okay. And to be fair, again, you had an initial
18 period of interview and then y'all took a lunch break;
19 right?

20 A. That's correct.

21 Q. The first interview that we're talking about.

22 A. First interview.

23 Q. Then you came back and had another period --

24 A. Right.

25 Q. -- and there were cigarette breaks in the middle

1 of all that?

2 A. There were.

3 Q. Okay. You let him go to the bathroom?

4 A. Did all the right things to make sure he was
5 comfortable, yes, sir.

6 Q. Gave him some water?

7 A. Yes, sir.

8 Q. Now, you make a lot of this statement where
9 Jerry says, what -- if I -- well, I mean, let me put it to
10 you this way. Do you remember going along with the
11 comments you made earlier, twenty minutes into that second
12 interview -- first interview but after the lunch break,
13 Jerry saying, if I said this man kidnaped me, how does
14 that help?

15 A. That's minimization. That's a big deal.

16 Q. Do you remember him saying it?

17 A. Oh. Yes, sir. Very clearly.

18 Q. Because you're putting out there that, well,
19 maybe this guy made a move on you, maybe --

20 A. Absolutely. Baby steps --

21 Q. -- this guy made --

22 A. -- to getting to the truth. That's exactly how
23 we conduct an interrogation. Correct

24 Q. Because that's how he can help himself out?

25 A. It'd give him one way to give us an explanation

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1 of what happened. To help himself out, I don't know about
2 all that.

3 Q. Okay. You had said something in your -- kind
4 of going through some things in your direct testimony
5 about -- and this may have just been a misspeak
6 [phonetic]. But you said that he had kidnaped -- told you
7 that he had kidnaped him. But I think at no point did
8 Jerry actually say he had kidnaped him to you. He said he
9 was worried about being kidnaped; correct?

10 A. Yeah. I believe he probably said something like
11 that. I can't be one hundred percent on that.

12 Q. Well, you remember him saying, about thirty
13 minutes into that interview after the lunch break, the
14 dude was real weird like a kidnapper; I wouldn't get into
15 the truck?

16 A. I called him a sexual predator, called him a lot
17 of different things to -- right.

18 Q. That's because you had called him a pedofile
19 first; right?

20 A. I called him a pedofile?

21 Q. Mister -- you said, he's like a pedofile but
22 said, oh, no, that's the wrong word, that's with kids, but
23 he's like a sexual predator. Do you remember saying that
24 to Jerry?

25 A. I know what a pedofile is and --

1 Q. I know you do.

2 A. -- I can't see --

3 Q. You corrected yourself on the tape.

4 A. Well, maybe I did. Yeah, that's definitely a
5 wrong statement right there. That's --

6 Q. Right.

7 A. Right.

8 Q. Well, do you remember -- you don't remember that
9 part of the conversation?

10 A. There was a lot of conversation. I called him a
11 predator. I may have called him a lot of things to get
12 Jerry to a point to where he would tell us what happened,
13 the truth.

14 Q. But if Jerry calls him a predator, it would be
15 after you had said it?

16 A. Yeah. I mean, said he -- the guy was weird and
17 he thought he was gay and didn't feel comfortable around
18 him.

19 Q. If he called him a kidnapper, it would be after
20 you suggested he was a kidnapper?

21 A. I don't know about that, sir.

22 Q. Okay.

23 A. Again, he mentioned kidnaping a couple of
24 times: what if I said -- what if I said he kidnaped me,
25 what would that do, that kind of things.

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1 Q. Yeah. And, again, multiple times throughout
2 this process you're putting out scenarios that Jerry could
3 latch onto, you're trying to help him latch onto, and tell
4 the truth; correct?

5 A. We're giving him scenarios so he can minimize it
6 and take the lifeline, so to speak, and --

7 Q. Okay.

8 A. -- wanted to get him to that point. And,
9 actually, the objective would be to get him farther on
10 what he actually did. That's how we do an interrogation.

11 Q. Right. So one of those lifelines is thirty-six
12 minutes and you're saying the victim's stalking you and --
13 remember telling him that, he insults you, trying to get
14 him to take?

15 A. Jerry told us what he said to him, and that's a
16 clear path we're going to take.

17 Q. Okay.

18 A. Said he had a little dick, or something like
19 that, according to Jerry. So that's one way of going. He
20 had ran into him twice that day. So we're giving him --
21 we're giving him an opportunity to take that.

22 Q. Right.

23 We've heard testimony before. You were in the
24 courtroom about -- earlier testimony about this interview;
25 correct?

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1 A. Portions of it.

2 Q. Yeah.

3 The tape recorder that was -- that it was being
4 taped on, do you have that or --

5 A. I believe the first interview, Master Sargent
6 Riley had it.

7 Q. Riley had it.

8 A. And then the second one, I had it. And the
9 third one we had a -- I think a video inside the room.

10 Q. Remember telling Jerry an hour and thirty-six
11 minutes and forty seconds into this interview that, they
12 don't pay us enough to make us liars?

13 A. What was the context of that? I mean, you're
14 reading --

15 Q. You said, I'm not lying to you, Jerry; we've got
16 all this stuff on you; they don't pay us enough to make us
17 liars.

18 You remember saying that, don't you?

19 A. I probably did, sure.

20 Q. All right. Apparently, they do pay you enough
21 to make you a liar.

22 A. Not to be dishonest, at the end of the day.

23 Q. All right. And you talked to Jerry about
24 information you had gotten from Dirty Red; correct?

25 A. Yeah, we gave him that information.

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1 Q. Okay. And you gave Jerry information about the
2 crime throughout the interview; correct? Like you said
3 you showed him a picture of the victim and --

4 A. Showed him a picture of the victim the following
5 day --

6 Q. Right.

7 A. -- and it was just a --

8 Q. I shouldn't have said that. I shouldn't have
9 said that.

10 A. Right. Not the crime scene --

11 Q. A few interviews --

12 A. -- we didn't show him pictures of the crime
13 scene --

14 Q. I understand.

15 A. -- we didn't give him details that, you know, he
16 wouldn't -- how we would tell he's telling the truth is
17 what he comes up with to corroborate the scene and
18 corroborate what happened that night.

19 Q. I understand.

20 A. Which that's what we do. Yes, sir.

21 Q. But details were mentioned to him; correct?

22 A. I would suggest that -- yeah -- you've seen over
23 there, that's a detail. That was given to him.

24 Q. Right. Well, he was told that the victim was
25 shot twice? Officer Riley. Correct?

1 A. Yes. That sounds right.

2 Q. At one point he was told what kind of gun was
3 used; correct?

4 A. I think we said a .45.

5 Q. Right.

6 A. Right.

7 Q. So those kind of -- not every detail. But as
8 you're talking about it --

9 A. A lot --

10 Q. -- we know this --

11 A. A lot going on --

12 Q. -- we know this --

13 A. -- at the scene and that wouldn't ruin our
14 interrogation at all.

15 Q. I understand. I'm just -- you're giving him
16 details, you're giving him lifelines --

17 A. A little mixture. That's --

18 Q. All right.

19 A. -- that's how you do it. That's how you do an
20 interview.

21 Q. You told Jerry that, Dirty Red doesn't like us.
22 Referring to the police; correct?

23 A. I'd say that's a fair statement.

24 Q. Yeah.

25 Doesn't want anything to do with us and he's

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1 getting a monkey off of his back. And this is an hour and
2 forty minutes into the interview. Do you remember that?

3 A. Dirty Red wanted nothing to do with this. I
4 don't remember if I said that exactly during my interview
5 but I probably said something in that direction, yes, sir.

6 Q. Do you remember telling Jerry that Dirty Red was
7 on probation and that he had to cooperate with the police?

8 A. I don't remember -- recall saying that, no, sir.
9 I'm not sure if he was on probation or not, to be honest
10 with you, back in 2010, no.

11 Q. All right. Let's move on to the next thing.
12 You've got another interview. You said -- I believe in
13 your direct you said that Jerry said somebody would bust
14 his ass, just a moment ago to Sean Thornton. Remember
15 that? Talking about the victim --

16 A. Talking about the victim's mouth, the way he
17 talked to Jerry: somebody will bust his ass, the way he
18 was talking.

19 Q. And so that's what you're saying. But do you
20 remember the exact quote being, about thirteen and a half
21 minutes in, the way he talked, somebody's going to bust
22 his head, certain people don't take that?

23 A. That sounds almost exact, yes, sir.

24 Q. That provided some context for that quote.

25 A. I'm sorry?

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1 Q. That's a fair contextual placement of that
2 quote?

3 A. Right.

4 Q. Okay. And then on the second interview -- we
5 talked about it a little before -- was much more relaxed.
6 Would you agree?

7 A. Right. It was a one-on-one, me and Jerry.
8 That's correct.

9 Q. Okay. And, you know, I don't know if you --
10 just a little night's sleep or you decided to take a
11 different tact or whatever, but everybody seemed to be a
12 little calmer. Would you say that's fair?

13 A. It was fine-tuning some details, was our
14 purpose --

15 Q. It was a more conversational --

16 A. Right.

17 Q. -- versus confrontational --

18 A. Yes, sir.

19 Q. -- interview?

20 A. Absolutely.

21 Q. Okay. And there weren't these threats of, you
22 know, some horrible fate befalling Jerry --

23 A. I have never suggested a fate of Jerry
24 Scantling, Mr. Walker.

25 Q. Not to say that you personally threatened him,

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1 but that his situation was dire? That would be the
2 interview --

3 A. I would say he was in bad shape. Things weren't
4 looking --

5 Q. But that was more stress in the first interview
6 than the second one?

7 A. I think so, yes, sir.

8 Q. Okay. And there was less, if any, of this talk
9 about evidence you didn't have. You played straight up
10 with him --

11 A. Right.

12 Q. -- in that interview?

13 A. I think it was a -- it was a shorter interview,
14 too, I believe. Yes, sir.

15 Q. And Jerry went into more details about his
16 interaction with Mr. Green?

17 A. He did.

18 Q. So he said, it was at the Wal Mart in the
19 morning that Mr. Green first asked to see Jerry's
20 genitalia?

21 A. Yes, sir.

22 Q. All right. And Jerry told you he said, get in
23 the truck, come on. And he said, no, I'm straight. I'm
24 sorry. I'm not being clear.

25 And then later that night, when the second

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1 interview, there was more talk of a sexual nature;
2 correct?

3 A. Yes, sir, I believe so. Yes, sir.

4 Q. And that Mr. Green wanted Jerry to go to
5 Ridgeland with him?

6 A. Yes, sir.

7 Q. And, in fact, offered him some money if he would
8 go; correct?

9 A. That's part of the conversation.

10 Q. Okay. And Jerry told you he said, no, I'm
11 straight, and then he left.

12 A. Yes, sir.

13 Q. Well, they both left.

14 A. Went on their --

15 Q. They went their --

16 A. -- separate way.

17 Q. -- separate ways?

18 A. Right, sir.

19 Q. Do you recall telling Jerry in that second
20 interview, about twenty-five and a half minutes in, that
21 Mr. Green was a sex offender type person, all you've got
22 to do is talk to the people that knew him?

23 A. I don't recall saying that, Mr. Walker.

24 Q. Do you recall Jerry giving you information that
25 Mr. Green had some dealings with Jamar McGraw and William

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1 Barnes at the Gardens? Twenty-eight minutes in.

2 A. You would have to play that for me, sir, because
3 I don't remember those names coming up. Jerry said he had
4 never met them before that day.

5 Q. Right.

6 Well, this would have been information he
7 garnered from someone else.

8 A. I don't remember, no, sir.

9 Q. You don't remember?

10 A. No, sir.

11 Q. You didn't investigate anything like that?

12 A. [No response]

13 Q. You didn't have any part of investigating any
14 other relationships Mr. Green might have had with other
15 people in this case?

16 A. No. Not directly, no, sir.

17 Q. Do you recall being given information by Jerry
18 that Will Barnes was looking through the trash cans at the
19 Gardens?

20 A. I really don't know who Will Barnes is.

21 Q. Okay.

22 A. And I don't remember saying that. No, I don't.

23 Q. Him saying Javon [phonetic] and Will were
24 looking through the trash cans?

25 A. I said that, Mr. Walker?

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1 Q. No. If you recall Jerry telling you that.

2 A. No. No, I don't. Matter of fact, I don't
3 recall that at all.

4 Q. Okay. Then we have quite a long period of time
5 before the next interview; correct?

6 A. Yes, sir.

7 Q. And that interview was really consistent pretty
8 much with the second interview that you had, although I
9 guess he was more --

10 A. No. There was --

11 Q. -- vague on details?

12 A. There was some different things in that
13 interview.

14 Q. Okay. There were differences, but it was
15 consistent that he still maintained he'd always -- he had
16 never been in the truck with the guy --

17 A. Right.

18 Q. -- and never been at the boat landing?

19 A. Right. He was very vague. His --

20 Q. Right. A lot more vague.

21 A. His recollection was very vague.

22 Q. In this third interview, do you recall telling
23 Jerry -- do you recall telling Jerry, about thirty-seven,
24 almost thirty-eight minutes in, that you and the police
25 knew that Leonard went around doing the wrong thing; he

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1 went around paying for sex from young guys just out of
2 prison?

3 A. I'm not sure what context that was stated in.
4 Probably another attempt to get him to minimize what he
5 did, to get him -- to get him at that baby step, you know.
6 So --

7 Q. Is that something --

8 A. I don't think there's any evidence of Leonard
9 Green doing that --

10 Q. That's what I'm saying --

11 A. -- when I said that it was, again, trying to get
12 to the point where Jerry was.

13 Q. Do you recall telling Jerry forty-five minutes
14 into that third interview: that's hard for me to believe;
15 I didn't peg you as someone that would do this?

16 A. If you want to play that part? because I
17 don't -- I don't remember. I could have said that, sure,
18 but I hate to tell you something I'm not sure of.

19 Q. You don't remember saying that?

20 A. I don't remember saying that.

21 Q. But you could say that credibly to Jerry,
22 because you had known him for so long?

23 A. I've known Jerry since he was twelve or
24 thirteen. That's a long time. Yeah.

25 Q. Like Jerry would feel that you guys maybe had a

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1 friendly relationship?

2 A. Part of the interview process is building a
3 rapport with the person you're talking to, absolutely.
4 Getting on their level, talking on their level.

5 Q. He doesn't call you Captain Bromage; is that --

6 A. Absolutely not. He calls me Flash.

7 Q. Right.

8 A. That's my nickname as a young detective back in
9 the mid '90s.

10 Q. And that's -- you know, things are calming down.
11 Y'all are having a conversation. Those are the -- it's
12 like it's a friendly situation. He's calling you Flash,
13 you're calling him Jerry. It's all --

14 A. Right. There's -- you know, there's a purpose
15 to it. It wasn't --

16 Q. There's a purpose. I -- again, I --

17 A. -- just to hang -- hang out with Jerry and, you
18 know, have cigarettes with him.

19 MR. WALKER: All right. Beg the Court's
20 indulgence.

21 [Whereupon, Mr. Walker reviews documents]

22 [Whereupon, Mr. Walker and Ms. Carroway confer]

23 MR. WALKER: Thank you, Your Honor. I don't
24 have anything else.

25 THE COURT: Anything further?

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1 MR. THORNTON: Nothing, Your Honor.

2 THE COURT: All right. You may step down,
3 Captain.

4 [Whereupon, Mr. Bromage is excused and exits the
5 witness stand]

6 THE COURT: I think right now is a very good
7 time for a lunch break.

8 MR. THORNTON: Yes, ma'am.

9 THE COURT: Ladies and gentlemen of the jury, by
10 the clock back there it looks like it's about 12:40 or
11 so. I'm going to ask that you be back in your jury
12 room by 1:45. That gives you about an hour and five
13 minutes.

14 Is that enough time, Madam Foreperson, for y'all
15 to grab something, come back?

16 The lawyers are trying very hard today to put
17 everything in front of you as quickly and efficiently
18 as possible, and we want to keep moving. So, again,
19 if anyone is running a few minutes behind, don't be
20 concerned. Although by about two o'clock, we are
21 going to be concerned and we're going to be looking
22 for you.

23 So, again, we look forward to seeing y'all back
24 right around 1:45. Thank you. And, again, do not
25 discuss this case. You are excused.

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1 THE BAILIFF: Thank you, Your Honor.

2 [Whereupon, the jury exits the courtroom at
3 12:44 p.m.]

4 THE BAILIFF: The jury is clear, Your Honor.

5 THE COURT: All right. Anything else we need to
6 do?

7 MR. WALKER: Your Honor?

8 THE COURT: Yes?

9 MR. WALKER: I just want to put on the record
10 the sidebar we had about the statement Officer Bromage
11 said that Jerry made to him regarding the photograph
12 purported to be of him entering the Wal Mart.

13 THE COURT: When he commented he said, I'm not
14 going to say it's me but I'm not going to say that it
15 wasn't me?

16 MR. WALKER: And then the last part of that
17 statement was, I don't want to incriminate myself.
18 And we would --

19 THE COURT: I don't want to incriminate myself.

20 MR. WALKER: -- we would just argue that any
21 focus on that statement would be a comment on my
22 client's -- to exercise his right against self-
23 incrimination.

24 THE COURT: Other than he's the one that
25 mentioned it.

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1 Go ahead, Mr. Thornton.

2 MR. THORNTON: Your Honor, I understand where
3 Mr. Walker is going, but I do disagree with him
4 because the case law is very clear that any assertion
5 as to his rights to counsel or anything else have to
6 be clear and unequivocal. And I ain't going to say
7 it's me and I ain't going to say it ain't, I don't
8 want to incriminate myself, is not a clear indication
9 of his right to remain silent or his indication of
10 right to counsel or anything else. It's, at best,
11 ambiguous and I don't think it's even a reference to
12 his rights. So I would disagree and I think both of
13 those comments are a fair statement.

14 THE COURT: I do, too. And I overruled you from
15 the bench. And I appreciate you remembering -- your
16 reminding me to put it on the record, Mr. Walker.

17 MR. WALKER: Yes. And again -- and because of
18 that -- and because if I were him, I would want to
19 harp on it, probably. I wanted to stand up now, not
20 having to put reasoning on the record at the time it
21 occurred, if it did occur. We would just again submit
22 it's a -- violation and it's -- the comment on it is
23 improper. And we're not saying that the assertion --
24 the right was violated or that he didn't assert that
25 any comment on the attempted assertion, is our issue.

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1 So that -- if it does become an issue, I can just
2 renew my earlier objection.

3 THE COURT: That's fine.

4 MR. WALKER: Thank you.

5 THE COURT: All right, y'all. Lunch. We'll be
6 back in about fifty minutes or so and if there's
7 anything we need to put on the record, we're fine. Is
8 that correct?

9 MR. THORNTON: Yes, ma'am.

10 THE COURT: Also, Mr. Walker, if there is
11 anymore tapes or statements that you need to play, can
12 y'all cue it up over the lunchtime if there is
13 something you anticipate? I don't know if there is
14 any, but just in case, based on the witnesses that are
15 coming up. I would appreciate that.

16 Although I will tell you, Mr. Walker, I think
17 that went very well, how you did that. I mean, I
18 think it was very smooth.

19 MR. WALKER: Thank you.

20 THE COURT: So thank you... Anything?

21 MR. THORNTON: No, ma'am.

22 THE COURT: All right. We'll see y'all back in
23 about fifty minutes or so.

24 [Whereupon, a recess is taken from 12:47 p.m. to
25 2:08 p.m.]

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1 THE COURT: Mr. Thornton, are we ready to go?

2 MR. THORNTON: The State is ready, Your Honor.

3 THE COURT: You're ready, Mr. Walker?

4 MR. WALKER: The defense is ready. Just one
5 matter.

6 The solicitor and I have discussed the witnesses
7 coming later in the afternoon, that we might have to
8 have an in-camera hearing with that witness.

9 THE COURT: What witness is that?

10 MR. THORNTON: The State agrees that it probably
11 be -- would be smart.

12 Her name is Brittany Raines.

13 THE COURT: Okay.

14 MR. THORNTON: And the reason -- we'll just go
15 ahead and put it on the record now, Your Honor. The
16 reason is Ms. Raines gave a statement to law
17 enforcement, ostensibly [phonetic] statements made
18 to her by Jerry Scantling. Part of those statements
19 involve the burglary.

20 Now, I've already cautioned her once. But I
21 find it, in the past, has been helpful when they get
22 to come in and I can tell them that as we're going
23 through the process, as well.

24 And then Mr. Mathews [phonetic] had an
25 additional concern, I believe. So --

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1 THE COURT: Okay.

2 MR. WALKER: There is some indication in her
3 comments to law enforcement that -- her statement is,
4 well, I don't know all the story but my mom filled in
5 some of the gaps for me. And I'm trying to determine
6 which parts of her statement are her direct knowledge
7 and what she heard from somebody else.

8 THE COURT: Okay. So we need to -- we need to
9 do them. Okay.

10 MR. THORNTON: Yes, ma'am.

11 THE COURT: A proffer first.

12 MR. THORNTON: But that will be after probably
13 the first four witnesses, so it's probably going to be
14 a good place to break at that time anyway.

15 THE COURT: You just tell me that that's who.
16 Okay?

17 MR. THORNTON: Yes, ma'am.

18 THE COURT: Sounds good.

19 All right. Let's bring them in, Norman. Thank
20 you.

21 THE BAILIFF: Thank you, Your Honor.

22 [Whereupon, State's Exhibit Number 75 is marked
23 by the court reporter]

24 [Whereupon, the jury enters the courtroom at
25 2:12 p.m.]

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1 THE BAILIFF: All right. Your Honor, the jury
2 is seated.

3 THE COURT: Thank you.

4 Welcome back, ladies and gentlemen. I trust
5 everyone had a nice lunch.

6 At this time we're going to go ahead and
7 continue the trial of this case. Mr. Thornton, if
8 you'll call your next witness.

9 MR. THORNTON: Yes, Judge. Dr. Grayson Amick,
10 please.

11 And, Your Honor, while Dr. Amick is taking the
12 stand, I did want to go ahead and -- actually, I'll
13 wait until he gets sworn in. There's a couple of
14 housekeeping evidentiary matters.

15 [Whereupon, Dr. Amick comes forward]

16 [Whereupon, Dr. Amick is duly sworn by the clerk
17 of court as follows: do you solemnly swear to
18 truthfully answer all questions asked of you by this
19 court, so help you God]

20 THE WITNESS: I do.

21 THE CLERK OF COURT: Please be seated.

22 [Whereupon, Dr. Amick takes the witness stand]

23 THE CLERK OF COURT: State your name and spell
24 it for the Court, please.

25 THE WITNESS: My name is Gray Amick. A-M-I-C-K.

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1 MR. THORNTON: Your Honor, at this time, just
2 because we're going to have our DNA analyst testify, I
3 want to make sure all the swabs are in evidence.
4 State's Exhibit 75, which are the swabs taken by Tim
5 French, of the victim's vehicle. I would like to move
6 them into evidence at this time.

7 MR. WALKER: No objection.

8 THE COURT: Without objection, they're admitted.

9 [Whereupon, State's Exhibit Number 75 is
10 admitted into evidence by the Court]

11 MR. THORNTON: Also, Your Honor, the court
12 reporter and I discussed this one. We weren't sure
13 whether I introduced it or not. So State's Exhibit
14 74, which is the photograph referenced by Captain
15 Bromage, of what he indicated was Jerry Scantling at
16 the Wal Mart on Ogeechee Road in Savannah. Ask that
17 be moved into evidence.

18 MR. WALKER: No objection.

19 THE COURT: Without objection, it's in evidence,
20 as well.

21 MR. THORNTON: Thank you.

22 [Whereupon, State's Exhibit Number 74 is
23 admitted into evidence by the Court]

24 MR. THORNTON: Thank you, Judge.

25

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GRAYSON AMICK,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q. Dr. Amick, what are you a doctor of, sir?

A. I have a Ph.D. in biochemistry.

Q. And where do you currently work?

A. I currently work at Richland County Sheriff's
Department.

Q. And what do you do for them?

A. Currently I'm the technical leader or the
supervisor of the DNA laboratory.

Q. And how long have you been doing that?

A. Since the laboratory was created in 2004, so
about nine years.

Q. And where did you work before that?

A. I worked at South Carolina Law Enforcement
Division, commonly known as SLED, for eleven years.

Q. All right. What did you do for SLED?

A. In my later tenure, probably six years -- for
the first five years I was a toxicologist, forensic
toxicologist, and then for six years I was a DNA analyst
in the DNA department.

Q. All right. So roughly how many years do you

1 have of DNA and supervisory DNA analysis experience?

2 A. About fifteen years DNA analysis experience.

3 About six of those -- I'm sorry. About nine of those as a
4 supervisor.

5 Q. Dr. Amick, you said you had a Ph.D. in
6 biochemistry. How many -- have you ever been qualified as
7 an expert in DNA analysis in court in South Carolina?

8 A. I have.

9 Q. How many times?

10 A. Approximately eighty times.

11 MR. THORNTON: Your Honor, at this time I would
12 ask that Dr. Amick be qualified as an expert in the
13 field of DNA analysis.

14 MR. WALKER: No objection.

15 THE COURT: All right. Ladies and gentlemen, in
16 this case Dr. Amick is being qualified as an expert in
17 DNA analysis. Ladies and gentlemen, that allows him
18 to give his opinion and the reasons for his opinion.
19 However, ladies and gentlemen, of course anything he
20 testifies to you can compare and use it as you see
21 appropriate and as compared to other evidence in this
22 case.

23 Q. [Mr. Thornton] Dr. Amick, did you do some
24 testing in a case submitted to you by Beaufort County
25 Sheriff's Office?

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1 A. I did.

2 Q. And you've heard some of the testimony,
3 obviously. Was it in this case, the State versus Jerry
4 Scantling?

5 A. Yes, it was.

6 Q. And did you test some swabs that were submitted
7 to you? I believe the reference on your report is off of
8 a Highpoint firearm, the murder weapon in this case?

9 A. I don't think I tested that.

10 [Whereupon, the witness reviews documents]

11 A. I'm sorry. Yes, I did. It was -- they weren't
12 swabs, as I received them. They were extracts.

13 Q. [Mr. Thornton] I'm sorry. I apologize for
14 that.

15 So did you test extracts from swabs from the --
16 referenced as handgun slide and stock and then a victim's
17 standard which would be the standard of Leonard Green?

18 A. I did.

19 Q. All right, sir. And were you able to find any
20 DNA on the slide and stock?

21 A. Yes. There was DNA on the slide and stock.

22 Q. And before we go further, let me ask you this.
23 There has been testimony that things were sent to SLED and
24 then things were subsequently sent to you. Why would that
25 be done?

1 A. In this case the reason that was done was at the
2 time, which was late 2010, we had validated a new
3 procedure that was more sensitive, at the time so Captain
4 Bromage, through some thorough investigation, felt to try
5 to attempt to get DNA profiles from these items that I did
6 our testing with this Morrison [phonetic] kit. So they
7 sent those extracts to me to attempt analysis profiles.

8 Q. All right, sir. Thank you.

9 Dr. Amick, were you able to pull a profile off
10 of the handgun slide and stock?

11 A. Yes.

12 Q. And what is it, sir?

13 A. The DNA result that I developed from item 20 was
14 a mixture and reading from my report the DNA profile, the
15 major contributor matched the victim in this case, which
16 was item 21 in my report. And then there is a statistical
17 statement to back that up.

18 Q. All right, sir. And so it positively identified
19 the victim as the major contributor?

20 A. That's correct.

21 Q. And there is a minor contributor; is that true?

22 A. That's correct. And the minor DNA profile
23 developed from item 20 was entered into CODIS, or the data
24 base, the DNA database.

25 Q. And that was an unknown person, and it was not

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1 Jerry Scantling; correct?

2 A. That's correct.

3 Q. Now, if you could, Dr. Amick, obviously as an
4 expert in DNA analysis can you explain to the jury the
5 difference between say DNA that you might find if your
6 blood was on a gun as opposed to DNA -- what they call
7 touch DNA?

8 A. Well, there's no difference in the DNA. I mean,
9 the DNA is the DNA. The difference is in the quantity
10 that -- probably you're talking about the quantity that's
11 left on any particular piece of evidence. So if there's
12 blood at a scene, the quantity of DNA in that sample or on
13 that piece of evidence is quite high because there's lots
14 of DNA in blood. Any body fluid, for that matter. So
15 saliva, semen, blood, those have lots of DNA in them. So
16 when you have that type of evidence, you have a pretty
17 high likelihood to obtain a DNA profile.

18 Touch DNA is still DNA. It's still human DNA.
19 You're still going to get the same profile from the same
20 source, but the quantity -- usually, when you're
21 describing touch DNA the quantity of DNA there is a lot
22 less and you may get a profile from something swabbed that
23 may have been touched and you may not get a profile of
24 something that's swabbed and that's touched.

25 Q. Dr. Amick, there's been -- obviously, you have

1 not been here during this trial. But there is a
2 stipulation between the prosecution and defense that the
3 gun in question, the handgun, was stolen from a man named
4 Sam Crews and that both he and his son are excluded as
5 having any touch DNA on this weapon that you tested. But
6 let me ask you a question. Is that why that may be? In
7 other words, the owner of a gun you would assume touches
8 it. So does the fact that you've touched something
9 automatically mean you're going to leave touch DNA?

10 A. No. No. The -- like I said, I mean, when you
11 touch something, you may or may not leave DNA. It's kind
12 of like a fingerprint scenario where, depending on what
13 you touch, who's touching it, you know, whether you're
14 sweating, whether you shed cells or not, there's lots of
15 factors involved. So the answer is you can own something
16 and touch it and you may not leave enough DNA there to get
17 a DNA profile. And the converse is true, as well. You
18 may leave a DNA profile if you touch.

19 Q. Would the wearing of gloves affect touch DNA?
20 In other words, if I put on gloves and then touched a gun,
21 say, is it more or less likely I would leave touch DNA on
22 the gun if I handled it while wearing gloves?

23 A. Oh. It's quite less likely that you would leave
24 a DNA profile if you have gloves on. I mean, we wear
25 gloves, when we do the analysis in the laboratory, to keep

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1 from contaminating evidence so --

2 Q. Dr. Amick, I'm glad you mentioned that. We
3 heard earlier that -- the jury heard a term called cross-
4 contamination. Is that what you're talking about?

5 A. It -- yes. I mean, there's many different types
6 of contamination. So some would define cross
7 contamination as contaminating one piece of evidence from
8 a -- by another, so contaminating two pieces of evidence.
9 So there's other types of contamination, as well. But
10 usually that's what's referred to as cross-contamination.

11 Q. And what -- again, just so the jury is clear.
12 What is the process that you as an analyst take on your
13 hands to prevent your DNA from being left on something?

14 A. Well, there's many contamination -- or anti-
15 contamination measures that we take in a laboratory
16 involving controls, blanks, negatives, physical barriers
17 like gloves -- not latex -- nitrile gloves. There's
18 procedural parameters we follow when we -- the procedure
19 -- gloves in a certain way to prevent contamination. So
20 there's many contamination type procedures to keep from
21 contaminating evidence. But physically we wear gloves and
22 change them between items, between samples. We wash our
23 instruments between samples, between items, so there are
24 many anti-contamination procedures that we take.

25 MR. THORNTON: Thank you very much, Dr. Amick.

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1 I don't have any further questions. Please answer any
2 questions Mr. Walker has for you.

3 THE COURT: Mr. Walker.

4 MR. WALKER: Good afternoon.

5 THE WITNESS: Good afternoon.

6 CROSS-EXAMINATION

7 BY MR. WALKER:

8 Q. Kind of going through the explanation of the
9 science that you just gave, it's fair to say -- I believe
10 the solicitor used the term blood DNA and touch DNA. And
11 you said pretty much all body fluids are the same, as far
12 as having a higher percentage of DNA in them versus what
13 you would term touch DNA; correct?

14 A. Yeah. Relatively speaking, there's a lot more
15 DNA in a body fluid than there would be from a touch DNA
16 sample.

17 Q. But there's no actual difference in the DNA
18 itself?

19 A. That's correct. The DNA profile that you would
20 obtain, say from my blood and from something that I touch,
21 would be the same profile.

22 Q. And you keep saying DNA profile. You had
23 earlier said DNA is kind of like a fingerprint. Is that
24 what -- you're kind of equating the profile as equal to
25 the fingerprint?

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1 A. Yeah. But when I said that, that was a --
2 that's a different -- that was a different context. I
3 meant it as if you've ever heard some -- the fingerprint
4 experts testify, they'll say, you know, it depends on the
5 person and the surface and all that if you -- whether you
6 leave a fingerprint or not. That's the context I used --

7 Q. Well, let me stop you there and ask you about
8 the actual fingerprint on your hand. Not an impression of
9 a fingerprint, but I'm talking about the actual
10 fingerprint. Would you say that's a fair analogy between
11 a DNA profile and the actual fingerprint someone has?

12 A. Yeah. It's a -- it's kind of a molecular
13 fingerprint of an individual, so it's unique to every
14 individual except for identical twins. However, identical
15 twins have different fingerprints. But, yeah, it's a
16 unique identifier for an individual in a molecular sense.

17 Q. Okay. So when you develop that profile, you get
18 enough points of measurement that you can say this is a
19 uniquely identifying DNA profile?

20 A. If you get enough information, yes, you can say
21 that.

22 Q. Okay. And you said the item you tested, item
23 20, was items from the gun that was submitted into
24 evidence in this case and you termed it as a mixture. And
25 that's literally what it is, right, just two sets of DNA

1 mixed together?

2 A. I don't -- I can look at it and tell you whether
3 -- I can't say it's two when I --

4 Q. Or some amount --

5 A. -- it's more than one --

6 Q. -- of -- yeah.

7 A. -- it's more than one individual, yes.

8 Q. And so if two people bled onto the same spot, it
9 would be reasonable to think you would be able to find two
10 pieces of DNA and they wouldn't influence each other?

11 A. Influence each other?

12 Q. Well, it's not -- one person's DNA being present
13 doesn't change someone else's DNA that's present?

14 A. That's correct. If you had two dots of blood
15 from two different people, you will get a profile that's a
16 mixture, like we talked about here and you would, as an
17 analyst, be able to interpret there's at least two people
18 here. And you may or may not, depending on the amounts
19 there, be able to pick out if this is -- these all belong
20 to one person, these all belong to another person.

21 Q. Okay. And in this case you developed two
22 profiles off of number 20, which is from the gun?

23 A. I don't think I said two. I said a mixture.
24 Let me look at the profile --

25 Q. Yeah, please do --

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1 A. -- and I can qualify --

2 Q. -- refer to your notes that you were referring
3 to earlier.

4 A. Because it could be two, it could be three, it
5 could be more.

6 Q. I'm talking about item 20 off of your notes from
7 your conclusion.

8 A. Item 20 says a mixture, and then I have a major-
9 minor. So it's most likely to -- let me check.

10 [Whereupon, the witness reviews documents]

11 THE WITNESS: Give me a second.

12 MR. WALKER: Take your time.

13 [Whereupon, the witness reviews documents]

14 A. I would say it's pretty accurate to say that's
15 two individuals.

16 Q. [Mr. Walker] And please keep that open. I want
17 to ask you a couple more questions about --

18 You say that the major contributor matched it --
19 matched item 21, which is the victim's standard. What
20 is -- in that context, what do you mean by a standard?

21 A. Okay. In that context we use the word standard
22 to mean that sample came directly from that individual.
23 So there's unknowns, like evidence, so from a crime scene.
24 And then the people involved will be contacted by
25 investigators and we will get a swab or blood from those

1 individuals, and that's their standard. So I'll run that
2 individual and know what their DNA profile is so I can
3 compare it to the others to exclude or include them.

4 Q. Okay. And so there's already testimony that the
5 defendant in this case, Jerry Scantling, his DNA was not
6 part of that standard you found on the murder weapon?

7 A. That's correct.

8 Q. Not standard, but the mixture on the murder
9 weapon?

10 A. That's correct.

11 Q. And, in fact, you developed -- there is a full,
12 complete profile on the murder weapon that we don't know
13 who it is?

14 A. Not full and not complete.

15 There's a minor -- there's a minor contributor
16 that --

17 Q. Okay. Well, let me stop you there because that
18 -- as a non biochemist, I took major contributor and minor
19 contributor to mean there was more of the victim's DNA
20 than the other DNA.

21 A. That's correct.

22 Q. Okay. So that's -- but you were still able to
23 differentiate into two profiles?

24 A. That's correct.

25 Q. Okay. And that second profile, that we don't

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1 know who it is, we don't know who it is?

2 A. That's correct.

3 Q. Okay. And not only did you test that against
4 Mr. Scantling, but you were also submitted standards for
5 the other investigators and things in this case; correct?

6 A. There were several people, yes.

7 Q. So it was tested amongst a number of standards
8 you were supplied and no one matched it?

9 A. As well as put into the database and nothing
10 matched it.

11 Q. What database is that?

12 A. CODIS, which stands for Combined DNA Indexing
13 System. It's basically the U.S.'s national DNA database.

14 Q. Is there something like that for fingerprints?

15 A. Yeah. It's analogous to AFIS, which is the
16 fingerprint database.

17 Q. Which is you just kind of throw it out there and
18 see if maybe someone's been encountered before --

19 A. Not quite that --

20 Q. -- that you can match?

21 A. I mean, it's not quite that flippant. I mean,
22 there's specific qualities --

23 Q. Well, I'm sure there --

24 A. -- and issues --

25 Q. -- are. But for lay purposes --

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1 A. It's entered into the database, if it's eligible
2 -- and there's eligibility issues -- and then every week,
3 based on the FBI's protocol, all those profiles get
4 searched and any candidate hits would come back to the lab
5 that submitted them. So we haven't gotten a candidate hit
6 back from that minor profile, is what I'm saying.

7 Q. So we talked that you're more likely to get more
8 actual DNA from a body-fluid sample than from a touch DNA
9 sample and we've talked about wearing of gloves might
10 decrease the transference of DNA from touch DNA; correct?

11 A. I think the term was there's a lot less
12 likelihood that you will get a DNA profile from somebody
13 wearing gloves and them touching a piece of evidence.

14 Q. So that piece of evidence would be less likely
15 to have DNA on it?

16 A. It would be less likely to have that person's
17 DNA on it, yes.

18 Q. Could you test the gloves?

19 A. You could test the gloves.

20 Q. And would they be likely to have DNA on there?

21 A. It's possible to test the gloves. It depends on
22 the type of glove as to what your success rate is going to
23 be getting DNA. But they can be tested.

24 Q. Okay. And touch DNA probably more so --
25 well, you tell me if I'm saying this wrong. But it's

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1 probably -- touch DNA is probably more fragile than DNA.

2 I mean, would that be true?

3 A. No.

4 Q. Well, I shouldn't say more fragile, the DNA
5 itself, but the likelihood of developing a profile.

6 A. Yes. The likelihood of developing a profile is
7 less with touch DNA. Just it's based on quantity.

8 Q. And touch DNA is touch -- you know, you touch
9 something and it rubs off of you onto whatever it is being
10 tested; correct?

11 A. That's correct.

12 Q. Okay. So it's also possible that that DNA could
13 be then rubbed off; correct?

14 A. That's possible.

15 Q. So you wouldn't be able to develop a profile?

16 A. That's correct.

17 Q. So you're more likely to develop a profile from
18 someone that's more recently tested an item, or someone
19 more likely in the past that have touched an item, all
20 things being -- other things being equal?

21 A. It completely depends on the item and where. I
22 mean, we process a lot of touch DNA in our lab and, you
23 know, things that are like doorknobs and common things, we
24 get profiles from other mixtures. So it's not unlikely to
25 get a profile. But if something is a common item, then

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1 you're going to get less probative information from it
2 because it's touched by many different people. I don't
3 know if that answered your question or not but --

4 Q. It's information that's useful. I think we can
5 go farther with it.

6 A doorknob, like you just gave us, if I touch it
7 I'm likely to leave DNA on there; correct?

8 A. It's possible.

9 Q. Okay. It's possible for me to leave DNA on
10 there. But if other people touch it, is it possible for
11 them to rub my DNA off while transferring their own?

12 A. That's possible.

13 Q. And so would you say it's fair to -- is it fair
14 to say the more recently someone touched something, the
15 more likely it is to have their DNA on it?

16 A. Yeah, I think that's an accurate statement.

17 MR. WALKER: Okay. Beg the Court's indulgence.

18 [Whereupon, Mr. Walker and Ms. Carroway confer]

19 MR. WALKER: That's all I have, Judge.

20 MR. THORNTON: Briefly.

21

22

23

24

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REDIRECT EXAMINATION

BY MR. THORNTON:

Q. Dr. Amick, you've mentioned, and Mr. Walker asked you a couple of times, about CODIS. What -- who -- what are the standards that go in CODIS?

A. You mean the quality standards or the --

Q. I'm sorry. I should be more specific.

You said that when you have something that's of sufficient quality to send to CODIS, you send it and it's tested. What is it tested against? In other words, who are the standards from that go into CODIS?

A. Okay. There's two kind of parts to CODIS. One is evidence. So laboratories like my laboratory, the SLED laboratory, all state, local laboratories who subscribe to it, develop profiles from evidence and enter them into CODIS.

The other part of it is called convicted offenders. I think this is what you're asking.

Q. Yes, sir.

A. That is -- and it depends on the state and the laws of the state. But all the states now have what are called all-felony laws. So if are convicted of a felony in a state, for example, South Carolina, when you are processed at the jail or facility they'll take your standard, blood or a buccal swab, and they send it to the

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1 state custodian of the database. In this case it would be
2 SLED. They develop your profile and put that in CODIS.
3 So CODIS is a mixture of evidence profiles and people that
4 have been convicted of crimes, felonies. And every week
5 those are searched against themselves, against each other,
6 against every state in the country. Does that answer your
7 question?

8 Q. Thank you. It does. Thank you very much, sir.

9 MR. THORNTON: No further questions, Your Honor.

10 MR. WALKER: I don't have anything else. Thank
11 you.

12 MR. THORNTON: I would ask that --

13 THE COURT: Is there any objection to Dr. Amick
14 being excused?

15 MR. THORNTON: No, ma'am.

16 THE COURT: You are excused.

17 THE WITNESS: Thank you.

18 THE COURT: Thank you.

19 [Whereupon, Mr. Amick is excused and exits the
20 witness stand]

21 THE COURT: Call your next witness, Mr.
22 Thornton.

23 MR. THORNTON: Agent Cromer, with South Carolina
24 Law Enforcement Division.

25 [Whereupon, Ms. Cromer comes forward]

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1 THE CLERK OF COURT: Would you place your left
2 hand on the Bible and raise your right hand for me,
3 please.

4 [Whereupon, Ms. Cromer is duly sworn by the
5 clerk of court as follows: do you solemnly swear to
6 truthfully answer all questions asked of you by this
7 court, so help you God]

8 THE WITNESS: I do.

9 THE CLERK OF COURT: Please be seated.

10 [Whereupon, Ms. Cromer takes the witness stand]

11 THE CLERK OF COURT: State your name and spell
12 it for the Court, please.

13 THE WITNESS: My name is Suzanne Cromer.

14 C-R-O-M-E-R.

15 - - - - -

16 SUZANNE CROMER,

17 Having Been First Duly Sworn,

18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. THORNTON:

21 Q. Agent Cromer, who do you work for?

22 A. I'm employed by the South Carolina Law
23 Enforcement Division, commonly referred to as SLED.

24 Q. And what do you do for SLED?

25 A. I am a firearm and tool-mark examiner.

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1 Q. And, ma'am, did you -- how long have you been
2 doing that?

3 A. I've been with SLED for fourteen years. I've
4 been an examiner since 2000. So a little over thirteen
5 years.

6 Q. And have you ever been qualified in firearm and
7 tool-mark identification in court in South Carolina?

8 A. Yes, sir, I have. Approximately sixty times.

9 MR. THORNTON: Your Honor, I would ask that
10 Agent Cromer be made an expert for the purposes of
11 firearm and tool-mark identification and analysis.

12 MR. WALKER: No objection.

13 THE COURT: Ladies and gentlemen, just as I did
14 with Dr. Amick previous, only here Agent Cromer is
15 being qualified as an expert in the area of firearm
16 and tool analysis. Ladies and gentlemen, again, that
17 allows her to give her opinion to you, as well as her
18 reasons for the opinion. Again, as I reminded you
19 before, that is to use as you see appropriate compared
20 to the other evidence in the case.

21 MR. THORNTON: Thank you, Your Honor.

22 Q. [Mr. Thornton] Agent Cromer, let me ask you one
23 question to start with. I'm going to hand you what's been
24 entered into evidence. There's actually two things in
25 here. It's State's Exhibit 1-A and 1-B and could you --

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1 it's out of the bag, obviously, but could you identify
2 that for me, please?

3 A. State's Exhibit 1-A is the firearm that I
4 examined in this case. I know that because it's inscribed
5 with my lab number, my item number, and my initials. It
6 is a Highpoint firearm, model JHP .45 auto caliber, serial
7 number X4110189.

8 Q. Agent Cromer, did you test that firearm in this
9 case?

10 A. Yes, sir, I did.

11 Q. Okay. I'm going to hand you now what's been --
12 I'm sorry. Could you look in the box and tell me what 1-B
13 is?

14 A. Included -- I'm assuming the magazine is
15 included in 1-A?

16 Q. It is. Yes, ma'am.

17 A. And there's the magazine.

18 And 1-B is four unfired .45 auto rounds that are
19 in a sealed container with my initials and seal date.

20 Q. And, ma'am, I'm going to hand you what has not
21 been entered into evidence yet but has been marked for
22 identification as State's Exhibit 54. Can you identify
23 that for me, please? If you need to open it, ma'am, you
24 can.

25 A. State's Exhibit 54 is one fired bullet. It's my

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1 item 15. Again, it's in a sealed container with my
2 initials and seal date.

3 Q. Did you do any analysis with regard to State's
4 Exhibit 54?

5 A. Yes, sir, I did.

6 Q. All right. And let me ask you this. If you
7 could -- if you could go ahead and examine State's 54 and
8 see if it's been altered or changed in any way or if it's
9 still in the same sealed condition it was when you
10 examined it.

11 A. Again, the base of this bullet is scribed with
12 my lab number, my item number, and my initials, and it is
13 in -- the outer container is still sealed with my initials
14 and my seal date.

15 Q. And has that been altered or changed in any way?

16 A. No, sir, it does not appear not [phonetic].

17 MR. THORNTON: Your Honor, at this time I would
18 ask that State's Exhibit I believe it's 54 --

19 THE WITNESS: Yes, sir.

20 MR. THORNTON: -- be moved into evidence.

21 MR. WALKER: No objection.

22 THE COURT: Without objection.

23 [Whereupon, State's Exhibit Number 54 is
24 admitted into evidence by the Court]

25 Q. [Mr. Thornton] Agent Cromer, is that, in

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1 fact -- I know you tested this. Is that the bullet that
2 was retrieved from the victim in this case, Leonard Green?

3 A. It was labeled as from autopsy of Leonard Green.

4 Q. Yes, ma'am.

5 Did you -- what kind of analysis did you do with
6 regard to that bullet and that firearm?

7 A. When I receive evidence like this in a case, the
8 first thing I do is look at the type of ammunition or type
9 of bullet I have. I determined this to be a .45 auto
10 jacketed hollow-point bullet. I then move to the firearm.
11 I check it to make sure that it is safe to fire. If I
12 deem that it is safe to fire, I will go ahead and shoot
13 what I call test fires. I shoot similar ammunition to
14 what I received in this case. I shoot them into a --
15 there's a two-story bullet-recover tank full of water. I
16 pull my bullets out of the water. And then I will
17 microscopically compare them to each other, as well as any
18 fired cartridge cases that I have, to see how this firearm
19 marks as it is -- are bullets and cartridge cases. Then I
20 compare it to my unknown, my evidence. This is all done
21 on a comparison microscope. I do it on a comparison
22 microscope because it allows me to look at two images
23 side-by-side at the same time. So I put my test on the
24 left, my evidence on the right, and then I go from there.
25 And I did that in this case.

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1 Q. All right. With regard to State's Exhibit 54,
2 which I believe is your SLED item 15, which is the bullet
3 from the autopsy of the victim in this case, Leonard
4 Green, were you able to determine conclusively whether
5 that bullet was fired by State's Exhibit 1-A?

6 A. No, I wasn't.

7 I could not exclude this firearm as being the
8 one that fired this bullet, but I could not say that it
9 did.

10 What I'm looking at on the bullet is the rifling
11 characteristics. We call it a GRC exam, General Rifling
12 Characteristics. I'm looking at that rifling that is
13 imprinted on the bullet by being fired. The rifling is
14 what's in the gun barrel to put rotary motion on that
15 bullet.

16 The rotary motion is kind of similar to a
17 quarterback throwing a football. When he throws that
18 football, he wants it to go into a tight spiral so it will
19 travel more accurately towards its target. That's the
20 same premise with the bullet or the projectile. You want
21 it to spin so it will travel more accurately towards its
22 target.

23 Now, this rifling is made up of a series of
24 lands and grooves, raised and depressed areas, and
25 different manufacturers have different numbers of lands

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1 and grooves. For instance, this gun has seven lands and
2 grooves. That means seven raised areas, seven depressed
3 areas, inside that gun barrel, and they twist or spin --
4 the bullet will spin to the left.

5 So first off, it was unique in that there's only
6 one known manufacturer at this time that uses seven lands
7 and grooves left twist in a .45 auto firearm, and that is
8 the Highpoint firearm, which is this manufacturer. So I
9 could not exclude.

10 But what I'm also looking at is the individual
11 defects or individual identifying characteristics, which
12 microscopically look like scratches, and there just were
13 not enough to definitively conclude whether or not this
14 bullet was fired by this firearm.

15 Q. Would it be fair to say, Agent Cromer, that you
16 can, in your expert opinion, say that State's Exhibit 54,
17 the bullet from the body of Leonard Green, was fired by a
18 Highpoint .45?

19 A. At this time there's only -- the only known
20 manufacturer that uses seven left rifling in a .45 auto is
21 a Highpoint firearm.

22 Q. And that bullet is consistent with a .45 caliber
23 bullet?

24 A. Yes, sir.

25 Q. And that State's 1-B is, in fact -- or, excuse

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1 me -- 1-A is, in fact, a Highpoint .45 caliber pistol
2 capable of firing that bullet; is that correct?

3 A. That is correct.

4 Q. Did you also -- as a final question, Agent
5 Cromer, did you also prepare swabs of the 1-A, State's
6 1-A?

7 A. Yes, I did. I took three swabs of State's 1-A
8 as my agrinion. I took a swab of the grip area, of the
9 trigger area, and the slide and the slide stock. The
10 slide stock is what holds the slide back on the firearm.

11 Q. And who did you turn those over to?

12 A. I hand-delivered them to Lilly Gallman in the
13 DNA department.

14 Q. And is Lilly Gallman here today?

15 A. Yes, she is.

16 MR. THORNTON: Thank you. Your Honor, I have no
17 further questions for Agent Cromer.

18 Thank you, ma'am. Please answer any questions
19 Mr. Walker has.

20 THE COURT: Mr. Walker?

21 MR. WALKER: I don't have any questions. Thank
22 you.

23 THE COURT: All right. Any objection to Agent
24 Cromer being excused?

25 MR. THORNTON: I do not, Your Honor. But I

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1 believe they all rode together, so she'll probably
2 wait.

3 THE COURT: Okay. You're excused.

4 THE WITNESS: Thank you.

5 THE COURT: Thank you.

6 [Whereupon, Ms. Cromer is excused and exits the
7 witness stand.

8 THE COURT: Call your next witness.

9 MR. THORNTON: Yes, ma'am. Agent Gallman.

10 [Whereupon, Ms. Gallman comes forward]

11 THE CLERK OF COURT: Please raise your right
12 hand, put your --

13 [Whereupon, Ms. Gallman is duly sworn by the
14 clerk of court as follows: do you solemnly swear or
15 affirm that the testimony you give to the Court in
16 this trial shall be the truth, so help you God]

17 THE WITNESS: Yes, I do.

18 [Whereupon, Ms. Gallman takes the witness stand]

19 MR. THORNTON: Agent Gallman, would you please
20 state your name for the record and spell your last
21 name?

22 THE WITNESS: It's Lilly Smalls Gallman.

23 G-A-L-L-M-A-N.

24 - - -

25 - - -

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1 LILLY GALLMAN,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. THORNTON:

6 Q. Agent Gallman, who do you work for?

7 A. I work for the South Carolina Law Enforcement
8 Division as a forensic DNA analyst.

9 Q. And is that the organization commonly known as
10 SLED?

11 A. Yes, it is.

12 Q. And you said you did DNA analysis. What is
13 your -- do you have a particular educational component
14 that allows you to do that?

15 A. Yes, I do. I have a degree in biology from the
16 University of South Carolina. Once I received my degree
17 in biology, I continued working there in the area of
18 molecular genetics. I began working with the South
19 Carolina Law Enforcement Division, in January of 1990, as
20 a forensic DNA analyst. Since that time, I have been
21 trained in the area of serology, which is the study of
22 body fluids, and I also have attended the FBI DNA typing
23 schools.

24 Q. How long -- have you ever been qualified, Agent
25 Gallman, to testify as an expert in DNA analysis in South

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1 Carolina?

2 A. Yes, I have.

3 Q. How many times, ma'am?

4 A. Approximately seventy.

5 MR. THORNTON: Your Honor, I would ask that
6 Agent Gallman be qualified as an expert in the field
7 of DNA analysis.

8 MR. WALKER: No objection.

9 THE COURT: Again, ladies and gentlemen, this
10 expert is being allowed to testify in the area of DNA
11 analysis. It allows her to give her opinion and,
12 again, her reasons for the opinion. And, again, it's
13 for you to use as you see appropriate, compared to the
14 other evidence in the case.

15 MR. THORNTON: Thank you, Your Honor.

16 Q. [Mr. Thornton] Agent Gallman, I realize that --
17 would it be fair to say that you tested a lot of items in
18 this case?

19 A. Yes, I did.

20 Q. All right. To shorten this up, I will just ask
21 you about some specific items, if that's all right with
22 you.

23 First, I would like to ask you about item --
24 your item 1.2, which is labeled as the swab from the
25 Verizon cell phone. There was DNA found on that; is that

1 correct? And please feel free to -- I realize there's a
2 lot of items, and this was some time ago, so please feel
3 free to refer to your report.

4 A. Yes. I was able to develop -- obtain DNA from
5 item 1.2.

6 Q. All right. And it is a mixture of at least two
7 individuals; correct?

8 A. That's correct.

9 Q. And Leonard Green was excluded from that DNA
10 profile; is that correct?

11 A. Yes, she was.

12 Q. And Jerry Scantling was also excluded from that
13 DNA profile, wasn't he?

14 A. That's correct.

15 Q. All right. And it says here that the mixture is
16 not suitable for CODIS. What does that mean? We heard
17 from Dr. Amick, a few minutes ago, that there has to be
18 certain standards. What does that mean that it wasn't
19 suitable for CODIS?

20 A. With this particular item, item 1.2, it is a
21 mixture and we have low-level of DNA in that sample.
22 There are certain guidelines we follow, as to whether this
23 could be entered into CODIS or not, to alleviate the fact
24 you getting hits on -- back on quite a few individuals.

25 Q. Yes, ma'am.

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1 A. So with this particular DNA profile, it was not
2 suitable for CODIS, based on that. You had low level of
3 DNA and it was not -- we was not able to separate a major
4 or minor contributor.

5 Q. All right. Thank you, ma'am. Moving on.

6 DNA profile from item 2, which is labeled on
7 yours as swab of stain near marker 7.

8 A. Yes.

9 Q. And I'm just going to go ahead because I believe
10 you have several of these grouped together, because they
11 all came back the same way. So if it's all right, I'll
12 just go through them -- we'll just go all through the same
13 results, if that's all right with you.

14 A. Okay.

15 Q. Item 5, one swab of stain near marker 3-A; item
16 6, a swab of stain near marker 3-B; item 7, swab of gun,
17 Highpoint, which says -- and all of these, by the way, on
18 the initial report say blood indicated and then there's
19 DNA analysis; is that right?

20 A. That's correct.

21 Q. All right. 9.2, which is swab from item 9
22 trigger area of .45 caliber handgun. Ma'am, as to 2, 5,
23 6, 7 and 9.2; were you able to develop a blood-based DNA
24 profile?

25 A. Yes, I was.

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1 Q. And who is that DNA profile of?

2 A. The DNA profile of Leonard Green matches these
3 items.

4 Q. So Leonard Green's DNA is on -- is a swab of
5 stain near marker 7, the swab of stain near marker 3-A,
6 3-B, item 7, the swab of the Highpoint gun, and, more
7 specifically, 9.2, the swab of the trigger area of the .45
8 caliber gun, and all that was from blood. Is that what's
9 referenced on your report?

10 A. Blood was indicated on those items and then I
11 did a DNA analysis on those items.

12 Q. All right. So when Dr. Amick talked earlier
13 about it's the same DNA but you have touch DNA versus DNA
14 from a fluid, this was actually from blood; is that
15 correct?

16 A. Based on the information I have, it was from
17 blood.

18 Q. Yes, ma'am.

19 A. There was blood found there.

20 Q. Right. And then that was swabbed and taken and
21 the DNA profile developed was of?

22 A. It was from those items. I can't say directly
23 from the blood because once the DNA is extracted, you
24 don't know what body fluid it's coming from.

25 Q. I understand. Thank you, ma'am.

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1 All right. Item 4 is a swab of the pistol
2 magazine area. It says blood indicated, DNA analysis?

3 A. Yes.

4 Q. And it says that -- I know it's a mixture, but
5 who can you -- can you positively identify one person as
6 having been the contributor to this DNA?

7 A. Yes. I'm reading from my report. The DNA
8 profile of the major contributor coming from item number 4
9 to this mixture also matches the DNA profile of Leonard
10 Green.

11 Q. All right. And the minor contributor, there's
12 not enough to even analyze; is that correct?

13 A. It's not enough to say who it could possibly
14 belong to.

15 Q. 9.1, ma'am, swab from item 9, the grip of the
16 .45 caliber handgun, and 9 point -- yes, ma'am, 9.1. Did
17 you -- were you able to get a DNA profile?

18 A. Yes. The partial DNA profile available from
19 item 9.1 also matches the DNA profile of Leonard Green.

20 Q. All right. Now, ma'am, if you will go back to
21 page I believe it's 9 of your report. We have items 37.5,
22 which is swab from driver's door handle and window crank
23 from the victim's vehicle; 37.10, swab from driver's side
24 rear armrest from the victim's vehicle; 37.11, swab from
25 driver's headrest from the victim's vehicle; 37.12, swab

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1 from dashboard knobs of victim's vehicle. Were you able
2 to pull DNA from that?

3 A. Yes. All our items were mixtures of at least
4 two individuals and they were not suitable for CODIS
5 entry.

6 Q. All right. Now, were you able to positively
7 exclude the victim, Leonard Green?

8 A. Yes, I was able.

9 Q. Were you also able to exclude Jerry Scantling?

10 A. Yes.

11 Q. Now, DNA from item 37 point -- I'm sorry. Let
12 me go back here. I realize there's a lot of them. 37.1,
13 swabs from the steering wheel from the victim's vehicle.
14 Were you able to pull DNA from that?

15 A. The DNA from that was also a mixture.

16 Q. Yes, ma'am.

17 A. And the DNA profile, the major contributor to
18 this mixture is an unidentified individual.

19 Q. All right. And did you submit that to CODIS?

20 A. Yes, I have.

21 Q. And have you gotten a hit back, to this day?

22 A. No, not that I know of.

23 Q. Was Leonard Green excluded?

24 A. Yes, he was.

25 Q. And was Jerry Scantling excluded?

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1 A. Yes.

2 Q. Along -- and of course I've left these other
3 folks out. Along with several officers that submitted
4 their standards to you, as well; is that correct?

5 A. Yes. They were submitted as elimination
6 standards.

7 Q. All right., 37.6 and 37.8. 3.6, the swabs from
8 passenger headrest, 37.8 is from the gearshift knob. Did
9 you attempt to get DNA from those items?

10 A. Yes, I did. I --

11 Q. And were you able to get any?

12 A. I was not able to get a SDR DNA profile from
13 those items.

14 Q. Ma'am, if you will now go to -- it's all
15 contained in my same report, but it may actually be a
16 separate report from you, dealing with the Panasonic
17 headphones, item -- I believe your original item was 45.
18 Were slides prepared for you by someone on item 45?

19 A. Yes, swabs were taken from the Panasonic -- the
20 headphones.

21 Q. And who took those swabs?

22 A. Betty Butler.

23 Q. And is Ms. Butler also here?

24 A. Yes, she is.

25 Q. Once those swabs were taken, were you able on

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1 the item -- your item 45 -- and then, obviously, 45.1 and
2 45.2 were swabs taken from those headphones. Did those
3 headphones contain a DNA profile you were able to
4 positively identify?

5 A. Yes. From item 45.1, the partial DNA profile
6 developed from item 45.1 matches the DNA profile of Jerry
7 Scantling.

8 Q. All right. Who -- obviously, you wouldn't know
9 that. But it would be the defendant in this case.

10 Let me ask you: did you -- a lot of times when
11 you see on television you get -- if you get a positive
12 identification, they always talk about there's a number
13 associated with it. Were you able to do a probability
14 number in this case of that being somebody else's DNA?

15 A. Yes. Once -- we are required that once you
16 establish that you have a match between evidence and a
17 known standard --

18 Q. Yes, ma'am.

19 A. -- then a statistical value has to be applied to
20 that match, and in this particular case it was one in
21 sixty-seven million.

22 MR. THORNTON: All right. Your Honor, the
23 Court's indulgence, please.

24 [Whereupon, Mr. Thornton reviews documents]

25 MR. THORNTON: Sorry, Your Honor. One more