

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

J C Buddy Nicholson, Jr , Circuit Court Judge

THE STATE,

RESPONDENT,

V

RAYMONDEZE L RIVERA ,

APPELLANT

RECORD ON APPEAL

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1 Monday, February 11, 2008

2 (WHEREUPON, Court convened with all parties present,
3 when the following proceedings were had)

4 MS ADAMS 2007-GS-04-650, the State versus
5 Ramondeze Lamon Rivera, charged with murder

6 THE COURT Ladies and gentlemen of the jury panel,
7 the State has called the case of State versus Raymondeze
8 Lamon Rivera I'm going to have to take up some motions
9 It's going to take about 45 minutes, after talking with
10 the attorneys, about the case It is now 15 minutes to 11
11 or 10 45, depending upon how you denote time Be back in
12 the courtroom at 11 30 I need you out of the courtroom
13 so I can hear the motions Be back outside the courtroom
14 at 11 30

15 (The Following proceedings were had outside the
16 presence of the jury venire)

17 All right Mr Gamble, solicitor, I understand you
18 want to have a Blair hearing to inquire into the
19 defendant's mental difficulties Is that correct?

20 MR GAMBLE That's correct, Your Honor

21 (WHEREUPON, Court's Exhibit No 1 is marked for
22 identification)

23 THE COURT Tell me why you would like to do this,
24 Mr Gamble

25 MR GAMBLE Your Honor, in the report, it indicated

1 by the doctor he has impulse control disorder and
2 antisocial personality traits And I would like to go
3 into that if it affects his ability to understand what
4 he's doing here today The report has been made a Court's
5 Exhibit, your Honor

6 THE COURT Mr Gamble, has he been able to help you
7 communicate for trial?

8 MR GAMBLE In answering that, it's not a direct yes
9 or no It's been explosive at times with regard to me
10 representing Mr Rivera

11 THE COURT Okay That's a representation issue not
12 an understanding issue?

13 MR GAMBLE Part of it, I think, was representation,
14 part of it was an understanding issue

15 THE COURT Has he appeared to understand the
16 conversation you've had with him?

17 MR GAMBLE Recently, yes

18 THE COURT Okay You haven't had him evaluated
19 privately, have you?

20 MR GAMBLE No, sir

21 THE COURT The State has evaluated him on how many
22 occasions?

23 MR CAMPBELL One time on March 26, 2007, and also
24 this morning

25 THE COURT All right Call your witness

1 MR GAMBLE Your Honor, the State call Dr Mayank
2 Dalal

3 MAYANK DALAL, M D , being first duly
4 sworn, testified as follows

5 DIRECT EXAMINATION

6 MR CAMPBELL

7 Q State your full name Spell your last name for the
8 record

9 A Mayank Dalal Last name spelled is D-A-L-A-L

10 Q Where are you employed?

11 A Department of Mental Health in Columbia, South
12 Carolina

13 Q How long have you been employed there?

14 A Nine years

15 Q What capacity or position are you employed in?

16 A Forensic psychiatrist

17 Q How long you been a forensic psychiatrist?

18 A About nine years

19 Q During this nine years have you had an opportunity to
20 conduct a competency hearing on an individual the
21 State or defense asked you to evaluate?

22 A Yes, sir

23 Q And approximately in this nine years how many
24 competency evaluations have you given?

25 A Competency, estimate it's about a thousand

1 Q And I'm assuming you testified in Court before?

2 A Yes, sir

3 Q State and federal?

4 A Mostly state, one time in federal

5 Q And you been qualified previously as an expert in

6 forensic psychiatry?

7 A Yes, sir

8 Q Your Honor, at this time move him as an expert in

9 forensic psychiatry

10 THE COURT Would you like to cross examine?

11 MR GAMBLE No objection

12 THE COURT No objection Okay

13 All right The Court finds he's a qualified forensic

14 psychiatrist Go ahead

15 MR CAMPBELL Thank you, your Honor

16 Q Now, Doctor, did you have an opportunity to evaluate

17 Raymondeze Rivera?

18 A Yes, sir

19 Q And I believe that was on March 26, 2007?

20 A Yes, sir

21 Q Where did you evaluate him?

22 A Evaluated at the Department of Mental Health in

23 Columbia along with a second examiner

24 Q Pursuant to court order of this court February 2,

25 2007?

1 A Yes, sir

2 Q When you received this order, did you receive other
3 information regarding Mr Rivera and his case?

4 A Yes, sir

5 Q And did you have an opportunity to review this
6 information that you received?

7 A Yes, sir

8 Q And I believe you received a court order,
9 indictments, arrest warrant, incident reports,
10 investigative reports, his statement, statement of
11 witnesses, autopsy reports, is that correct?

12 A Yes, sir

13 Q Did you review this information prior to evaluating
14 Mr Rivera?

15 A Yes, sir

16 Q How long you evaluate him for?

17 A About 120 minutes, face-to-face interview

18 Q During this evaluation did you go through and find
19 out his history?

20 A Yes, sir

21 Q Regarding his personal history, work history,
22 psychiatric history, criminal history?

23 A Yes, sir

24 Q What, if anything, had you learned from him?

25 A You're talking about a diagnosis or information in

1 general?

2 Q First of all, let me break it down even further
3 Dealing with psychiatric history, did he relay to you
4 that he had any?

5 A No, sir

6 Q Was he at the time on March 26, 2007, under the
7 influence or taking any type of medication for any
8 type of psychiatric treatment?

9 A No, sir

10 Q Or mental condition?

11 A No, sir

12 Q And you talked to him this morning, is that correct?

13 A Yes, sir

14 Q Here on February 11, 2008?

15 A Yes, sir

16 Q And is he on any type of medication for any type of
17 mental illness or psychiatric treatment?

18 A He reported he's not on any medications

19 Q Now, when you conducted this exam, how did he appear
20 to you?

21 A He appeared very cooperative, normal, alert His
22 speech was normal, his thought process very logical
23 and coherent in general, in layman terms very
24 cooperative during the evaluation

25 Q And did he understand the reason why he was there?

1 A Yes, sir

2 Q Did I understand in your opinion the nature of the
3 charges pending against him?

4 A Yes, sir

5 Q Prior to you giving the hearing, was he read his
6 rights?

7 A Yes, sir

8 Q And did he understand what his rights were?

9 A Yes, sir

10 Q Did he proceed forward, cooperated with you?

11 A Yes, sir

12 Q And to your -- based upon your observation, talking
13 with him, did he have the ability to understand the
14 nature and extent of the charges and penalties that
15 are pending against him?

16 A Yes, sir

17 Q Did you have him define the charges against him?

18 A Yes, sir

19 Q What did he tell you?

20 A He reported that his charges are a murder charge He
21 was able to appreciate or define the charge of murder
22 as killing somebody and he was to appreciate the
23 seriousness of the charge

24 Q Furthermore, did he understand the roles of the
25 people in the courtroom, such as the judge, his

1 attorney, the solicitor?

2 A Yes, sir

3 Q And he understand what the jury does?

4 A Yes, sir

5 Q Did he acknowledge, based on your talking with him,
6 difference between a guilty plea, a not guilty, and a
7 plea bargain?

8 A Yes, sir

9 Q In your opinion did he understand or appreciate the
10 seriousness of the charges currently pending against
11 him here in Anderson County?

12 A Yes, sir

13 Q And based upon your talk, does he have the ability to
14 assist his counsel in his defense?

15 A Yes, sir If he chooses to do so

16 Q And did he acknowledge to you that he could trust his
17 attorney and tell his side of the story relating to
18 his charges?

19 A Yes, sir

20 Q And based upon your interview of him, did you
21 diagnose or find out any history in his past
22 regarding mental retardation?

23 A No, sir

24 Q So he has none Is that correct?

25 A No

1 Q How about mental illness, any mental illness?

2 A Impulse control disorder, axis one, diagnosis when I
3 interviewed him in the past March, 2007, based on my
4 two-day's evaluation I will put another diagnosis
5 as adjustment disorder with depressed mood secondary
6 to what kind of charges he's facing and what may be
7 the possible penalties

8 Q The depressed mood basically is he understands the
9 seriousness of what he is facing in these cases that
10 are pending?

11 A At least that's one of the stressors that can lead to
12 his depression

13 Q This impulse control disorder, antisocial personality
14 traits, does this affect his ability or his
15 competency to stand trial?

16 A No, sir

17 Q And when you evaluated him today, is your opinion the
18 same as it was on March 26, 2007?

19 A Regarding competency?

20 Q Yes, sir

21 A Yes, sir

22 Q Based on a reasonable degree of medical certainty
23 regarding competency, what is your opinion?

24 A That currently Mr Rivera has reasonable competency
25 to understand his charges He has the ability to

1 appreciate the seriousness of his charges and he has
2 a capacity to work with his attorney So currently
3 it's my opinion, reasonable medical certainty, that
4 he is competent to stand trial

5 Q And, Doctor, as part of this, did you generate a
6 report?

7 A Yes, sir

8 Q I'm going to show you what's been marked Court's
9 Exhibit 1 Could you please identify this, sir?

10 A Yes, sir This report was generated by me March 30,
11 2007

12 Q And that's your signature at the bottom, is that
13 correct?

14 A Yes, sir

15 MR CAMPBELL Your Honor, at this time I'll move
16 this into evidence as a Court's Exhibit

17 (WHEREUPON, Court's Exhibit No 1 is admitted into
18 evidence)

19 Doctor, thank you I have no further questions
20 Please answer any questions on cross examination

21 CROSS EXAMINATION

22 MR GAMBLE

23 Q Does the impulse control disorder affect his way of
24 thinking about these charges?

25 A Not at present

1 Q It did in the past?

2 A No, sir

3 Q All right You said he had antisocial personality
4 traits?

5 A Yes, sir

6 Q You didn't make a diagnosis of antisocial personality
7 disorder?

8 A No, sir

9 Q Would you consider whether that is a disorder or not?

10 A That's a possibility Basically the difference,
11 clinical difference between personality traits and
12 disorder, is that in terms of severity and based on
13 the information available So, based on the
14 information available at the time of evaluation, I
15 did put personality traits rather than disorder

16 Q So it could be a disorder, also?

17 A There is a possibility

18 Q Right Thank you And that doesn't bear on his
19 ability to make decisions in this case?

20 A About the competency?

21 Q Yes

22 A No, sir

23 Q Okay All right Thank you

24 THE COURT Any redirect?

25 MR GAMBLE No, Your Honor

1 THE COURT Any other witnesses?

2 MR CAMPBELL Not regarding the Blair hearing

3 THE COURT Mr Gamble, are there any witnesses you
4 would like to offer concerning that?

5 MR GAMBLE No, Your Honor

6 THE COURT Any statements the defendant, Mr Rivera,
7 would like to make regarding his competency?

8 MR GAMBLE No, your Honor

9 THE COURT Thank you very much

10 MR CAMPBELL Yes, sir

11 THE COURT All right Based upon the testimony and
12 the report marked as Court's Exhibit 1, I find that the
13 defendant, Mr Rivera, is competent, no mental disorder
14 that would prevent him from understanding the charge
15 against him and assisting counsel in his defense

16 Anything further from defense concerning this issue?

17 MR GAMBLE No, Your Honor

18 THE COURT Anything else from the State?

19 MR CAMPBELL No, Your Honor

20 THE COURT Do you want the doctor under subpoena or
21 do you want him released from subpoena? Do you anticipate
22 needing him during the trial at all?

23 MR CAMPBELL Only thing I needed him for was this
24 hearing

25 THE COURT Doctor, you're free to go

1 at that time I'd also ask you to not read anything in
2 the paper Make your decision what you hear in the
3 courtroom, not what some reporter, news or TV reporter's
4 interpretation of the facts Make your interpretation of
5 the facts from what you hear in the courtroom, not what's
6 on television, not what's in the paper or radio Most of
7 the time the reporter wasn't here, don't know what was
8 said Please don't listen to anything on the TV, radio,
9 or read the news or discuss the case with your husband,
10 wife, girlfriend, boyfriend, or anyone else because they
11 don't know either I want you make a decision on your own
12 and from what you hear in the courtroom So don't discuss
13 the case with anyone Does everybody understand?

14 (No negative response elicited)

15 See you in the morning Have a good evening

16 THE FORELADY Where do we meet at 9 30 in the
17 morning?

18 THE COURT Be here at 9 30 Come in the courthouse,
19 come straight to the jury room The bailiff will show you
20 where to come

21 (The following proceedings were had outside the
22 presence of the jury)

23 I believe the parties want to have a Jackson v Denno
24 on alleged, is it an oral or written statement?

25 MR GAMBLE Written statement

1 THE COURT Before we get there, Mr Gamble, are you
2 contesting whether the Miranda rights were given or not
3 given?

4 MS ADAMS According to the paper, rights were given
5 and he initialed them

6 THE COURT Are you contesting Miranda rights were
7 not freely and voluntarily given?

8 MR GAMBLE Yes

9 THE COURT And also contest that the statement was
10 not freely and voluntarily given?

11 MR GAMBLE Yes

12 THE COURT But you're not contesting they were
13 actually given the Miranda rights?

14 MR GAMBLE No But on one of them he said, "I want
15 a lawyer " And that has to be explained I think

16 MS ADAMS We're going into all that, your Honor

17 MR GAMBLE We've already talked about it And
18 there were three conditions that he wanted that were on
19 the back of the original Miranda warning that's been
20 redacted, but the other will be in the Court's Exhibits
21 for the three conditions

22 MS ADAMS Correct, your Honor We have a full
23 version of his full statements, because he goes into both
24 murders We have a Court's Exhibit for both of those to
25 be entered in, and then a redacted version that we are

1 asking to be entered into evidence just dealing with Asha
2 Wiley's murder So you will have the full statement and
3 the redacted version for purposes of this trial

4 THE COURT The redacted statement, everything out of
5 that statement concerning the second alleged murder?

6 MS ADAMS Correct And then we also have a
7 redacted version of his requests, and I'll get into that
8 once you see full three requests versus the two requests
9 we're going to put to the jury

10 THE COURT Call your first witness

11 MS ADAMS Your Honor, we call Detective John
12 Zamberlin to the stand

13 JOHN ZAMBERLIN, being first duly
14 sworn, testified as follows

15 DIRECT EXAMINATION

16 BY MS ADAMS

17 Q State your full name, spell your last name for the
18 record

19 A My name is John Anthony Zamberlin, Z-A-M-B-E-R-L-I-N

20 Q Where are you employed?

21 A Employed with Anderson Police Department

22 Q In what capacity?

23 A A lieutenant in charge of managing the investigative
24 services division, the forensics division and victim
25 services

- 1 Q How long you been in law enforcement?
- 2 A Twenty-two years and approximately six months
- 3 Q And now, Detective, you are the lead investigator in
- 4 this case, is that right?
- 5 A Yes, ma'am
- 6 Q And the defendant has been charged with the murders
- 7 of Asha Wiley and Kwana Burns?
- 8 A Yes, ma'am
- 9 Q And these murders occurred approximately three days
- 10 apart, is that correct?
- 11 A Yes
- 12 Q And through your investigation, were you able to
- 13 track this defendant in Douglasville, Georgia, by use
- 14 of a cell phone? And that's how he was arrested?
- 15 A Yes
- 16 Q Can you tell the Court, please, when the defendant
- 17 was arrested in Douglasville, Georgia?
- 18 A He was arrested on December 15th of 2006 at
- 19 approximately 7 30
- 20 Q And that was a Friday night, correct?
- 21 A Yes, it was
- 22 Q And as a result of that arrest, did you and
- 23 Lieutenant Mike Walters leave Anderson and go to
- 24 Douglasville, Georgia?
- 25 A Yes, we did

1 Q Were you able to speak to the defendant that night,
2 or actually earlier the next morning?

3 A Yes, we did

4 Q Do you recall about what time you spoke to him in the
5 early morning of December 16, 2006?

6 A The time was approximately 2 44 or 2 45 a m

7 Q All right Who was with you when you spoke to the
8 defendant?

9 A Investigator Mike Walters

10 Q Can you describe, please, the room that you were in?

11 A It was a room specifically designed for interview
12 purposes at the Douglas County jail in Douglasville,
13 Georgia It was actually within their detention
14 facility It was a relatively square room My
15 estimate would be perhaps 10 by 10, maybe 12 by 12
16 The room contained a small table and chairs

17 Q How many chairs could fit around the table?

18 A There were three chairs would fit at the table If
19 you were to pull the table away from the wall and if
20 you had a fourth chair, I guess you could put four
21 chairs at the table

22 Q Now, how did the defendant get into this room?

23 A He was actually in custody at the detention center
24 and the detention staff had brought Mr Rivera to the
25 area where the interview room was located at

1 Q Now, were you and lieutenant Mike Walters already in
2 the room when the defendant came in?

3 A We were not in the room, but we were standing just
4 outside of the room when Mr Rivera was brought over

5 Q Did you all go in together, then, basically?

6 A We did

7 Q All right Now, and at that point did the three of
8 you sit at that table --

9 A Yes, we did

10 Q -- that you described? All right What did you ask
11 the defendant first? How did you get started?

12 A I introduced myself by name, so did Investigator
13 Walters And after we sat down at the interview
14 table, I asked information in regards to name,
15 birthday, address And while that was going on, I
16 wrote that information on the top of a Miranda form
17 And then I used that form to read Mr Rivera his
18 rights

19 Q Did you ask him about his education and if he could
20 read and write?

21 A After the first part of the Miranda was read to
22 Mr Rivera, before I started reading the waiver of
23 rights section, which is below that, I asked Mr
24 Rivera about his education And he replied that he
25 had went to the eleventh grade I asked him if he

1 could read and write And he said that he could

2 Q So, after that, did you read him his rights?

3 A Yes

4 Q All right How did you go about reading him his
5 rights? Did you just follow the form?

6 A I read the rights from the actual form itself
7 (WHEREUPON, State's Exhibit No 1-2 are marked for
8 identification)

9 Q Now, is this your form that you brought, an Anderson
10 County rights form?

11 A That is on, yes, that is a form utilized by our
12 department

13 Q And is that the way you always read rights?

14 A It is

15 Q Now, did the defendant understand those rights or
16 seem to?

17 A Yes

18 Q Now, in your experience as a law enforcement officer,
19 I'm sure you come across people under the influence
20 of drugs or alcohol, correct?

21 A I have, as a matter of fact

22 Q Did the defendant appear to be under the influence of
23 any drugs or alcohol at that time?

24 A No, ma'am, he did not

25 Q Detective, I'm going to show you what's been marked

1 State's Exhibit 1

2 MR GAMBLE No objection

3 (WHEREUPON, State's Exhibit No 1 is admitted into
4 evidence)

5 BY MS ADAMS

6 Q Do you recognize that?

7 A Yes, I do

8 Q Tell me, what is that?

9 A This is a waiver of rights form

10 Q And is that the form that you went over with the
11 defendant on December 16?

12 A Yes, it

13 Q And what time did you start?

14 A Two forty-four a m

15 Q And you have that noted on the form?

16 A Yes

17 Q And how long -- how much time did you spend going
18 over the defendant's rights with him?

19 A Just a few minutes There was a pause between the
20 first section and the second section when I asked Mr
21 Rivera about his education, which I stated a few
22 minutes ago And then read the rest of his rights
23 from the bottom section

24 Q And you went through it line by line with him?

25 A Yes

1 Q And what time do you have written down that you
2 finished doing that?

3 A Two fifty-three a m

4 Q So about nine minutes?

5 A Yes, ma'am

6 Q Now, did you tell the defendant where you were from?

7 A I did

8 Q Tell us about that conversation

9 A After the rights form had been completed by me,
10 reading it to Mr Rivera, he asked me what we wanted
11 to talk about And I advised him we were from
12 Anderson, South Carolina, and just would like to talk
13 with him for a few minutes And he asked me again,
14 what we were there to talk about And I explained we
15 were there to talk about two homicides that had
16 occurred in Anderson, South Carolina

17 Q And when you said that to him, what was his reaction?

18 A He kind of held his head down and he smiled, smiled
19 at me

20 Q What was his demeanor that day?

21 A He was, I found him to be personable, he was
22 friendly, he was polite He seemed to be likeable,
23 in my opinion, anyway

24 Q Did he have anything to eat or drink at this time?

25 A No We didn't have anything on the table at that

1 time

2 Q Did he ask for anything while you were there?

3 A No

4 Q So did he ever drink any milk or get a carton of milk
5 or anything?

6 A Afterwards there was a time when he was provided some
7 potato chips and a carton of milk

8 Q Were you in the room when he was given that?

9 A No

10 Q Did the defendant sign that waiver form?

11 A He did not

12 Q When you told him where you were from, what did he
13 say?

14 A He said that he thought that he needed a lawyer And
15 I explained to Mr Rivera that I didn't understand,
16 you know, that it was up to him, you know, whether he
17 needed a lawyer or whether he didn't need a lawyer at
18 that point And I couldn't make that decision for
19 him Then he said "Well, I need a lawyer "
20 There was no doubt at that time he had invoked his
21 right to an attorney in my mind

22 Q And you actually wrote down on that form,
23 "Requested --

24 A I did

25 Q -- a lawyer"?

1 A Yes, ma'am, I did

2 Q And then did you and Mike Walters leave at that
3 point?

4 A Yes We left the interrogation room Yes

5 Q Now, at this point in time are you planning on
6 charging the defendant with the murder of Kwana
7 Burns?

8 A Yes

9 Q So what is your next step in your investigation? Are
10 you looking at extraditing the defendant back?

11 A Yes

12 Q All right Now, in order to do that, what kind of
13 paperwork is required?

14 A Well, there's a packet that I understand goes from
15 the prosecutor's office to the Ombudsman's office in
16 the State of South Carolina An official request, if
17 you will, for extradition on a particular individual,
18 and in that packet one of the things that law
19 enforcement is required to provide is fingerprint
20 cards Actually, I believe four fingerprint cards
21 along with booking information and perhaps I believe
22 they each require an incident report

23 Q Now, to get these four set of fingerprint cards, did
24 you go back to Douglas County?

25 A Yes

1 Q Tell me why didn't Douglas County get these
2 fingerprint cards?

3 A We had returned to Anderson actually on Sunday And
4 that week, that early week, I realized that we didn't
5 have the four fingerprint cards necessary for
6 extradition purposes And I sent another officer
7 back to the Douglas County Sheriff's Department to
8 retrieve the four print cards And then he brought
9 them back to me And when I received those cards
10 back, upon viewing those cards, it appeared to me
11 that they were not suitable fingerprint cards for the
12 attorney general's office

13 Q And in your -- why weren't they suitable? Were they
14 smudged? Were they hard to read?

15 A Whoever rolled the fingerprints for us, and I
16 understand that person was actually a forensic's
17 technician, but the fingerprint cards, there was part
18 of the ridge detail on both sides of the fingers on
19 most digits, that was not there

20 In other words, it appeared to me that they did a
21 straight press, which simply provided the center of
22 the detail instead of a full roll from side to side
23 where you could get a block design

24 THE COURT Solicitor, let me interrupt a second

25 Had an arrest warrant already been served on the defendant

1 by this time?

2 MS ADAMS Yes Well, they had the arrest warrant
3 for Kwana Burns Yes, sir We're trying to extradite him
4 to get him back

5 THE COURT Had been served or just a hold been
6 placed on him?

7 MS ADAMS Just a hold

8 THE COURT All right Go ahead

9 Q So basically the fingerprint cards were just not
10 good?

11 A Yes

12 Q From Douglas County?

13 A Yes

14 Q So you went back to Douglas County on December 20th,
15 correct?

16 A On December 20th Yes

17 Q Now this is four days later, after the first time you
18 talked to him?

19 A Yes

20 Q Now, who was with you when you went back to Douglas
21 County?

22 A At that time Sergeant Mike Baskins was in our
23 forensics division, and I happened to know of his
24 experience in rolling latent prints And I asked
25 Mike to go with me that morning for that purpose

1 Q So Mike Baskin was just there to get the set of
2 prints?
3 A Yes
4 Q Your Honor, I have marked as Court's Number 3 those
5 four prints that they did get from Mr Rivera on that
6 day
7 THE COURT That's fine Court's Exhibit Number
8 what, three?
9 (WHEREUPON, Court's Exhibit No 3 is marked for
10 identification)
11 MS ADAMS Three, yes, sir
12 Q Were you planning on speaking to the defendant when
13 you went to get the prints?
14 A No
15 Q So did you take anything with you?
16 A No
17 Q Were you present when Mike Baskins took the prints,
18 fingerprints?
19 A Yes
20 Q Where was it? Was it the same room?
21 A It was the same room, yes
22 Q Were you even really paying attention to what Mike
23 Baskin was doing?
24 A I was actually in the doorway, probably more outside
25 the room than inside of the room

1 Q What conversation was had between Mike Baskins and
2 the defendant?

3 A Mike Baskins advised Mr Rivera that he was there to
4 roll his fingerprints Other than that, there was no
5 conversation between him and---

6 Q And the defendant cooperated with that?

7 A Yes

8 Q Didn't have any problem giving his prints?

9 A No

10 Q Now, did you initiate any contact with the defendant
11 whatsoever on December 20, 2006?

12 A No

13 Q So after Mike Baskins took the prints, what happened,
14 what did you hear?

15 A I heard my first name called And I was actually
16 looking away and heard my name, and I turned back
17 around and it was Mr Rivera

18 Q What did he say? What did he call you?

19 A He called me "John " And he said, "Will you talk to
20 me for a few minutes "

21 And I said, "Yes, I will "

22 Q You were nowhere near the defendant and Mike Baskins
23 when this was happening?

24 A No I was in the doorway, probably just inside the
25 hallway

1 Q Did you intimidate the defendant whatsoever to call
2 your name or to get your attention?

3 A No

4 Q Did you threaten him or coerce him in any way?

5 A No

6 Q What was his demeanor this day, the 20th?

7 A He was polite, friendly

8 Q The same as he was before?

9 A He was

10 Q Did he appear to be under the influence of drugs or
11 alcohol on this day?

12 A He did not

13 Q When he called your name, said, "John," what did you
14 do?

15 A I said "Yes, what?"

16 And he said "Can you talk to me a few minutes?"

17 And I said, "Yes "

18 Q What did Mike Baskins do at this point?

19 A He had just finished And he has a portable
20 fingerprint table that he has, and he got that He
21 left the room

22 Q So what did you do after the defendant initiated
23 contact with you? What was the first thing you did?

24 A I sat down at the table and so did he And I
25 explained to him that I would need to read him his

1 rights again in order to speak with him

2 And he said---

3 Q Did you even have a rights form with you that day?

4 A I didn't

5 Q Why not?

6 A I wasn't prepared to do an interview, and I didn't
7 have one with me

8 Q Because you had no intention to talk to the defendant
9 since he had asked for a lawyer previously, correct?

10 A I didn't

11 Q Okay So what rights form did you use?

12 A There was a tablet laying on the table in the
13 interview room And there was some rights waivers on
14 that tablet So I briefed that real quickly to make
15 sure that their right's waiver was like ours, with
16 the elements in there And it appeared as though it
17 was So I used that waiver to read to Mr Rivera his
18 rights

19 (WHEREUPON, Court's Exhibit No 4 is marked for
20 identification)

21 Q And did he sign that waiver?

22 A He did

23 Q And did you sign it?

24 A I did

25 Q Did he seem to understand his rights on this day?

1 A He did

2 Q All right After you went over these rights and he
3 signed it and you signed it, what happened?

4 A He told me that he would cooperate fully But he had
5 three requests to make from the DA's office, and he
6 wanted me to make those requests for him

7 Q So what happened?

8 A I turned the right's waiver over

9 Q And I'll show you, Detective, what's been marked
10 Court's Exhibit Number 4 to help you out Is that
11 the waiver form he signed?

12 A Yes, it is

13 Q And are the requests on the back?

14 A Yes, they are

15 Q So you turned over this form he signed and what
16 happened?

17 A I asked him what were they And he gave me those
18 three requests, and I wrote those down

19 Q And what were those three requests?

20 A His first request was he was asking for the
21 prosecutors, he said "DA", I wrote prosecutors
22 because to us it's a prosecutor, but he actually said
23 DA Asking for DA to seek the death penalty, he
24 wanted to be in jail in a cell by himself, and he
25 wanted to see a chaplain when he arrived in jail

1 And he was asking for that in writing from the DA
2 And then he said he would cooperate fully After
3 writing that, I went back over it with him He said
4 that was correct

5 Q Did you read it to him?

6 A I did He said that's what he wanted And I handed
7 it to him and asked him if he would sign it if that
8 was correct And he drew a line, put an "X " And he
9 signed his first and last name to it

10 Q Can you read those three things as you read them to
11 him?

12 A Yes "Three requests from Raymondeze Rivera to
13 prosecutors Asking for prosecutors to seek the
14 death penalty, in jail alone by himself, see chaplain
15 when he gets to jail Asking for these things in
16 writing to be signed by DA, then will cooperate
17 fully "

18 Q How long were you with him on this day?

19 A Less than five minutes As long as it took to read
20 the form, to turn it over and write that and for him
21 to sign it Less than five minutes

22 Q So did you discuss these requests with him at all?

23 A No

24 Q Did you promise him anything on that day?

25 A I did not

1 Q Did you try to threaten him or coerce him in any way
2 to talk to you, despite those requests?

3 A No

4 Q You really had no questions whatsoever regarding
5 that?

6 A No

7 Q So, once you got these requests, what did you do?
8 Did you leave Douglasville?

9 A We left Douglasville, Georgia, and contacted you

10 Q And then we went over those requests and then did I
11 give you a letter responding to those requests?

12 A Yes

13 (WHEREUPON, Court's Exhibit No 5 is marked for
14 identification)

15 Q I'll show you what's been marked Court's Number 5
16 Is that the letter I gave you to give to the
17 defendant?

18 A Yes, it is

19 Q So did you return to Douglas County jail the next
20 day?

21 A Yes

22 Q That would be December 21?

23 A Yes

24 Q Who was with you that day?

25 A Layton Creamer

1 Q Where did you meet with the defendant?

2 A We met with the defendant in the same room that we
3 had met with him the day before in Douglas County
4 jail

5 Q What was the demeanor this morning?

6 A He was polite

7 Q So no change? Same person?

8 A Yes

9 Q Did you read him his Miranda rights again?

10 A Yes

11 (WHEREUPON, State's Exhibit No 3 is marked for
12 identification)

13 Q Hand you what's been marked State's Exhibit Number 3
14 Is that what you read him?

15 A Yes

16 Q And you went over line by line again, like you always
17 do?

18 A Yes

19 Q And did he seem to understand those rights?

20 A He did

21 Q What time did you start?

22 A We entered into the interview room at 10 47 a m

23 Q And this is actually your rights form?

24 A Yes, it is

25 Q You brought your police form with you?

1 A Yes

2 Q How long did it take you to go over those rights?

3 A I read it from the form and noted the time at the
4 bottom 10 50 Three minutes

5 Q And he understood those again on that day?

6 A Yes

7 Q And after reading those rights, did you give him my
8 letter?

9 A Yes

10 Q And what happened when you gave him the letter?

11 A I had a copy of the letter and I had one for me And
12 actually I handed him the letter and I read the
13 letter to him verbatim

14 Q Go ahead Read the letter to the Court, please

15 A Yes It's dated December 20, '06

16 "Dear Mr Raymondeze Lamon Rivera, it is my
17 understanding per your request you wish to speak to
18 Investigator John Zamberlin regarding the deaths of
19 Kwana Burns and Asha Wiley as long as the following
20 three conditions are met

21 Number one, the opportunity to speak with a
22 chaplain Number two, if and when you are
23 transported to Anderson County, you have requested a
24 private cell, and, number three, assurances from this
25 office that we intend to seek the death penalty

1 against you

2 Myself along with Anderson County Police
3 Department made arrangements for you to meet with a
4 chaplain upon your return, for you to be held in a
5 private cell pending the trial Furthermore, this
6 office intends to seek the death penalty against you
7 as long as the investigation and evidence support
8 such a penalty under the laws of the State of South
9 Carolina

10 Sincerely,

11 Chrissy Adams,

12 Tenth Circuit Solicitor "

13 Q Did he read that letter?

14 A Yes

15 Q What was his response?

16 A His immediate response to that was he asked me if I
17 was ready to ride

18 Q So did you ever promise him anything in exchange,
19 besides that letter you gave him for that statement?

20 A No

21 Q Did he at any point ask to speak to a lawyer again?

22 A No

23 Q Did you coerce him or threaten him in any way?

24 A No

25 Q How long were you with the defendant this day taking

1 his statement?

2 A Approximately four hours on this day

3 Q Did you ask questions or did he just talk? What
4 happened?

5 A I -- prior to starting the statement, I explained to
6 Mr Rivera that I probably could not write as fast as
7 he could speak And so that if -- that I would take
8 it line by line in the statement, and he agreed with
9 that And I advised him that if I got behind, that I
10 would stop him, or if I had a question, that you
11 know, we would stop and allow me to catch up And he
12 agreed with that

13 Q Did he ever ask for anything to eat or drink, take a
14 break?

15 A No

16 Q Did you ask him to take a break?

17 A Yes As a matter of fact, we did ask him several
18 times over the course of that four hours to take a
19 break

20 Q And he didn't want to take a break?

21 A He did not want to

22 Q Did he ever get upset at all?

23 A No

24 Q And he wanted you to write the statement He didn't
25 want to write it himself?

1 A Right

2 Q Did you offer him any food or drink during the four
3 hours?

4 A Yes

5 Q Did he want any?

6 A No He wanted to continue on with the statement

7 Q How long is his statement? Is it about ten pages?

8 A It is ten pages I ran out of statement forms and
9 had to get some from the department there It's ten
10 pages

11 Q And does that statement go into detail about the
12 deaths of both Asha Wiley and Kwana Burns?

13 A Yes, it does

14 Q After he was done with that statement, what did you
15 do? Did you go over with it with him?

16 A Yes

17 Q Tell the Court what transpired during those four
18 hours

19 A During the statement there was places in the
20 statement that he would correct me, either on my
21 spelling or on a word placement And I would mark a
22 line through the word, as the statement was going on
23 for several hours So after the statement was
24 concluded, it was concluded, it was at that time that
25 I handed the statement to Mr Rivera and asked him if

1 he would put his initials above the words where lines
2 was crossed through, indicating he asked me to do
3 that And he went through the statement reading it
4 and putting his initials

5 Q So he had already made the corrections Had you
6 changed the words?

7 A Yes, as the statement was happening

8 Q But he went back and initialed it?

9 A Yes, at the end of the statement

10 Q So you went over each page with him to make sure it
11 was accurate?

12 A Yes, read it back to him

13 Q Did he make any changes at that point or just
14 initial?

15 A No changes then

16 Q So he was very specific on which words he wanted you
17 to use in that statement?

18 A Yes

19 Q Did his demeanor change at all during this four
20 hours?

21 A It did not

22 Q Did he ever refuse to answer any of your questions?

23 A No

24 Q Did he ever ask to stop?

25 A No

1 Q Did he ever ask for a lawyer again?

2 A No

3 Q And did, in fact, he waive extradition later?

4 A Yes

5 Q Back to South Carolina?

6 A Yes

7 Q And also give DNA samples for DNA comparison?

8 A Yes

9 Q And was he in fact given his own jail cell when he
10 came back to Anderson?

11 A Yes, he was

12 Q And given opportunities to speak to a chaplain?

13 A Yes

14 (WHEREUPON, Court's Exhibit No 6 is marked for
15 identification)

16 MS ADAMS Your Honor, we have a full statement
17 that's marked as Court's Exhibit Number 6 And I am
18 asking for State's Exhibit 4, which is a redacted version
19 to be admitted into evidence This deals only with Asha
20 Wiley This has both Asha and Kwana as a Court's Exhibit

21 THE COURT Going to make it a Court's Exhibit?

22 MS ADAMS Court's exhibit, yes, sir But I'm
23 asking that the redacted version of just what he said
24 about Asha Wiley be admitted in this trial

25 THE COURT We'll deal with that later, but you are

1 welcome to mark it as a Court's exhibit

2 MS ADAMS I did That's Court's number six

3 Q Detective Zamberlin, in your opinion was this
4 statement freely, voluntarily, and intelligently
5 given?

6 A Yes

7 Q Did you initiate contact in any way with the
8 defendant?

9 A No

10 Q He is the one that initiated contact with you?

11 A Yes

12 Q All right No further questions

13 THE COURT Mr Gamble, before cross examination, let
14 me ask you one question Does the defendant admit making
15 the statement or does he deny a statement was made?

16 MR GAMBLE He admits making a statement, your
17 Honor The only thing I saw in this, he was not under
18 arrest for these charges at that time He was arrested on
19 December 28th

20 THE COURT All right Does he argue about the -- do
21 you contend that the statement is not correct as far as
22 the substance of the statement?

23 MR GAMBLE No, sir I've been over the statements
24 with him, given him copies of the statements He had
25 copies of the statements

1 THE COURT There's no -- the defendant's position is
2 that there's no conflicting evidence concerning the
3 statement

4 MR GAMBLE No, there is no conflicting evidence in
5 there

6 THE COURT All right Go ahead with your cross
7 examination as to the Miranda Rights and as to the
8 voluntariness of the statement You have any cross?

9 MR GAMBLE No, sir

10 THE COURT None at all?

11 MR GAMBLE No, sir

12 THE COURT All right Do you have any motions as to
13 the statement?

14 MR GAMBLE No, sir I don't believe I have a right
15 to any motion

16 THE COURT Well, you do when it's being offered into
17 evidence And they've offered it in evidence at this
18 time

19 MR GAMBLE Right, sir

20 THE COURT You got a right to object to it is what
21 I'm saying, since they have---

22 MR GAMBLE I would always object to a statement

23 THE COURT Let's hear your objection All I'm
24 trying to find out, since they have offered it into
25 evidence---

1 MR GAMBLE I don't really see that I have an
2 objection to be honest with you I been over and over
3 that statement

4 THE COURT Do you have one?

5 MR GAMBLE No, sir

6 THE COURT Okay All right Do you have any cross
7 examination?

8 MR GAMBLE No

9 THE COURT Okay Solicitor -- all right, first of
10 all, I find the statement was made according to the
11 defense counsel, the defendant's not taking any conflict
12 in the statement The only thing left is whether or not
13 the Miranda rights were given, they were freely and
14 voluntarily given, whether the statement was freely and
15 voluntarily given

16 The Court has considered all the evidence which has
17 been offered by the State The Court is convinced by the
18 preponderance of the evidence and I so find that the
19 alleged statement was obtained from the defendant, the
20 defendant was fully advised of his rights under the Fifth
21 and the Sixth Amendments to the Constitution of the United
22 States, and that the defendant was advised of the
23 constitutional safeguards required by Miranda vs Arizona

24 He was advised prior to interrogation that he has the
25 right to remain silent, he was advised prior to any

1 interrogation that if he waived his right to remain silent
2 and make a statement, that such statement can and will be
3 used against him in a court of law, he was advised prior
4 to interrogation that he had the right to employ or select
5 an attorney of his own choice, and that if he did not have
6 the money, funds, or resources to employ an attorney, that
7 the Court would appoint and provide an attorney for him if
8 he so desired without cost or expense to him, right to
9 consult with his attorney before interrogation and that he
10 had the right to interrupt and terminate such
11 interrogation at any time during the interrogation, and,
12 further, the right to stop answering questions at any time
13 during the interrogation, advised prior to interrogation
14 if he desired to hire an attorney, the interrogation would
15 cease until an attorney was provided for him and he would
16 be given an opportunity to consult with his attorney prior
17 to further interrogation

18 The Court bases those findings on the statement and
19 the waiver of rights that's been presented to the Court
20 marked as Court's exhibit The defendant knowingly and
21 intelligently waived his rights to the Fifth and Sixth
22 Amendments to the constitution of the United States and
23 the constitutional safeguards provided by Miranda vs
24 Arizona and the alleged statement freely and voluntarily,
25 given and intelligently given without duress, without

1 coercion, without undue influence, without reward, without
2 promise of leniency, without threat of injury and without
3 compulsion or inducement of any kind, and that such
4 alleged statement was the voluntary product of the free
5 and unrestrained will of the defendant

6 The Court finds all the foregoing conclusions by the
7 preponderance of the evidence And I find that the
8 statement is admissible into evidence And the question
9 about without promise, I do not think that had anything to
10 do with any promise as far as the disposition of the case,
11 just certain requests he made prior to talking to the
12 police which the State complied with

13 Is there anything else the State would like to add?

14 And I would admit the statement into evidence --

15 MS ADAMS Thank you, your Honor I just want to
16 add that Mr Gamble---

17 THE COURT -- without objection

18 MS ADAMS Just about the redacted request form
19 That, obviously, we took out him asking for us to seek the
20 death penalty Because, obviously, it's improper to put
21 that in front of the jury The defense has consented to
22 that redaction as well as the redaction of the statement
23 and Kwana Burns all part of his defense strategy

24 THE COURT Mr Gamble, have you looked at his
25 redacted statement?

1 MR GAMBLE Yes, sir

2 THE COURT It does not mention the alleged second
3 murder in any manner whatsoever?

4 MR GAMBLE No, sir

5 THE COURT So are you satisfied it's redacted
6 properly?

7 MR GAMBLE Yes, sir

8 THE COURT Okay

9 MS ADAMS And the requests, there's only two
10 requests that's going in front of the jury

11 THE COURT Only what?

12 MS ADAMS The two requests about the chaplain and
13 the single cell is going to the jury Not mentioning
14 seeking the death penalty to the jury

15 THE COURT Do you have an objection to that?

16 MR GAMBLE No, that's right

17 THE COURT Pardon? You don't want to go into the
18 death penalty request?

19 MR GAMBLE I don't think it would be proper at this
20 point in time

21 THE COURT Well, I just asked if you object to it
22 Asked earlier if you have any objection, you said, "No "
23 So, you do have an objection to the mention of the death
24 penalty question?

25 MR GAMBLE Oh, yeah, but we redacted that by

1 agreement last Thursday

2 THE COURT That's fine I'm just trying to find out
3 what you object to and what you don't so I can rule on it

4 MR GAMBLE I don't object We went over this
5 without you Thursday, got it all squared away

6 THE COURT That's fine

7 MS ADAMS I just want to make sure the record is
8 clear, Judge, that that part is not going in front of the
9 jury because it's not proper

10 THE COURT All right

11 Detective Zamberlin, during the investigation by the
12 State you mentioned several times about the two killings
13 and murders During your testimony before the jury I want
14 you to leave that out

15 THE WITNESS Yes, sir

16 THE COURT Do you understand?

17 THE WITNESS Yes, sir

18 THE COURT Just one murder as far as your testimony
19 is concerned

20 THE WITNESS Yes, sir

21 THE COURT Do you understand?

22 THE WITNESS Yes, sir

23 THE COURT Solicitor?

24 MS ADAMS I've gone over that with every single
25 witness

1 THE COURT I understand I'm going over it with
2 this witness Do you understand?

3 THE WITNESS Yes, sir, I do

4 THE COURT Do you understand it's still up to the
5 jury to determine beyond a reasonable doubt whether the
6 statement was voluntarily given or whether the Miranda
7 rights were voluntarily given?

8 MS ADAMS Correct

9 THE COURT Anything else?

10 MR GAMBLE I don't have anything

11 THE COURT See you at what time, 9 30?

12 MR GAMBLE That's what you told the jury 9 30

13 (Whereupon, the proceedings are adjourned for the
14 evening recess)

15 * * * * *

16 * * *

17 *

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25

1 would include the name, address, phone number, whatever
2 else information is available Under the law, both
3 parties are entitled to that

4 However, the only thing that was used was the panel
5 list that I have here, which has the name, sex, race, and
6 date of birth And I hope that answers your question,
7 Madam Forelady

8 FORELADY Thank you

9 THE COURT Let me give you a brief synopsis how the
10 trial is going to run and what to expect for your planning
11 purposes The parties will make opening statements And
12 in the opening statement they will tell you what they plan
13 on proving in their case Then the State will call
14 witnesses The State will have those witnesses on direct
15 examination After the State finishes the direct
16 examination, then the defense counsel will have an
17 opportunity to cross examine the witnesses

18 The difference between direct examination and cross
19 examination, in cross examination you can ask leading
20 questions A leading question is a question that suggests
21 an answer So on cross you'll have leading questions, on
22 direct you cannot have leading questions

23 After the State has presented all their witnesses and
24 offered whatever evidence they're going to offer into
25 evidence, then the defendant will have an opportunity to

1 present testimony or witnesses if he so chooses If the
2 defendant does offer witnesses or if the defendant
3 testifies, then the State would have an opportunity to
4 offer reply testimony After all the testimony has been
5 taken, then they will have closing arguments After
6 closing arguments I will charge you the law as appropriate
7 in the case based upon the facts of this particular case

8 As far as the hours are concerned, we were a little
9 late this morning because I had to talk to the grand jury
10 about 15 minutes this morning We will start at 9 30 or
11 shortly after 9 30, generally run until around 1 00 or as
12 close to 1 00 as we can, wherever an appropriate breaking
13 point We'll take an hour and 20 minutes or hour and a
14 half for lunch, depending upon the time frame, then run to
15 5 or 5 30 We'll take a morning and afternoon break for
16 15 or 20 minutes That's the schedule

17 I anticipate the trial taking all week, at least the
18 better portion of the week For your planning purposes
19 you might as well plan on being here until Friday

20 Solicitor

21 MS ADAMS Thank you, your Honor May it please the
22 Court?

23 OPENING STATEMENT

24 BY MS ADAMS

25 December 10, 2006, was the last day of Asha Wiley's

1 life Let me tell you, she had a whole life ahead of her
2 She was a young 27-year-old single mother who worked hard
3 She was going to school to get her master's degree in
4 counseling so she could continue to help other people
5 Asha had a good heart and she had lots of friends

6 But December 10 she met a man A man who somehow
7 swept her off her feet A man she thought she could
8 marry But he wasn't a man at all He was a predator
9 He was a wolf in sheep's clothing He gained Asha's trust
10 and brutally took her life from her

11 Ladies and gentlemen, this is going to be a difficult
12 trial It's going to be difficult because you're going to
13 hear in detail the gruesome circumstances surrounding
14 Asha's death You're going to hear how that man right
15 there, the defendant, strangled Asha Wiley to death
16 While he strangled her to death, she was saying she's all
17 her daughter had

18 You will hear from several witnesses over the course
19 of the next couple of days who will piece together for you
20 what took place that fateful day This is how it will go
21 December 10 was a Sunday Asha got up, went to church
22 with her friend Jackie Then going to Anderson Mall to go
23 Christmas shopping, was Christmas shopping for her
24 eight-year-old daughter, who was in the lower part of the
25 State with friends and family, because Asha had class that

1 week and was working on her term paper So she went to
2 the mall and she met the defendant She was instantly
3 infatuated with him

4 But the defendant wasn't at the Anderson Mall
5 shopping He was hunting Hunting for a young innocent
6 woman, and he found Asha The man of her dreams turned
7 out to be her worst nightmare They spent time together
8 They shopped together at the mall She even introduced
9 him to an old friend, Ladgen Anderson, when they ran into
10 him at the mall, and told her best friend, Joya, all about
11 him They went out to eat He told her he wanted to take
12 her out to the movies So she let him follow her back to
13 their apartment and they ended up inside alone

14 During the course of that evening the defendant had
15 sex with Asha and then strangled her to death without a
16 care in the world He then methodically and meticulously
17 cleaned up that crime scene, moved her car and left out
18 the back door accomplishing exactly what he set out to do
19 all along Now Asha was supposed to be at work that
20 Monday morning She didn't call, she didn't show Her
21 friends and coworkers were worried because that wasn't
22 like her Asha always called They knew something was
23 wrong So they called all day Monday In fact, one of
24 her friends even went by to check on her, didn't see her
25 car so she left

1 Tuesday morning no one had heard from Asha They
2 knew something was wrong, so they went by her apartment
3 This time they still didn't see the car They checked the
4 front door, it was locked They went around to the back
5 It was unlocked That also was not like Asha, to leave
6 the door open They were scared They didn't even go in
7 They called the police The police came, went inside
8 Asha's apartment, and found her upstairs in her bedroom

9 Ladies and gentlemen, it was not obvious at that time
10 what happened to Asha There were no obvious signs of
11 trauma But the police talked to Asha's friends, they
12 talked to her coworkers, they knew something was wrong so
13 they started investigating They got a description of
14 this man Asha had met at the mall They knew what he was
15 driving They knew where he was from, and they knew what
16 kind of car And they knew he went by the name of
17 Raymondeze Rivera So they started investigating

18 The officers will tell you how they were able to
19 track the defendant down in Douglasville, Georgia, where
20 he was arrested And, finally, ladies and gentlemen, you
21 will hear in the defendant's own words how he brutally
22 strangled and killed Asha while she begged for her life

23 Ladies and gentlemen, your job as jurors is to listen
24 to the testimony that's going to come from that witness
25 stand and then apply it to the law as the judge will give

1 it There's only one charge, that charge is murder
2 Murder is the killing of another with malice aforethought
3 Malice is defined as an ill will or hatred toward another,
4 a wicked or depraved heart fatally bent on mischief

5 Ladies and gentlemen, I'm confident that after you
6 hear all of this testimony, there will be no doubt the
7 defendant acted with a wicked heart and that you will find
8 him guilty Thank you

9 MR GAMBLE Waive opening

10 THE COURT You may call your first witness,
11 solicitor

12 MS ADAMS Yes, sir, your Honor We call Jackie
13 McDonald to the stand

14 JACKIE MCDONALD, being first duly
15 sworn, testified as follows

16 DIRECT EXAMINATION

17 BY MS ADAMS

18 Q Please state your full name, spell your last name for
19 the record

20 A Jacqueline D McDonald, M-C-D-O-N-A-L-D

21 Q Can you please tell the jury where you live? Do you
22 live here in Anderson?

23 A Yes

24 Q What do you do for a living?

25 A I'm director of a group home in Hartwell, Georgia

- 1 Q Jackie, you think you can just speak up?
- 2 A I'll try
- 3 Q Is that okay, judge?
- 4 THE COURT Just hang on a second Let's see if we
- 5 can get it working
- 6 Q Just so -- Jackie, tell me again, now, what do you
- 7 for a living?
- 8 A I'm a director of a group home
- 9 Q A group home?
- 10 A Uh-huh
- 11 Q Do you have any children?
- 12 A Two
- 13 Q How old are they?
- 14 A Three and six
- 15 Q Are you going to school right now?
- 16 A Yes
- 17 Q Where are you in school?
- 18 A Webster
- 19 Q Why you going to Webster?
- 20 A I'm working on getting a masters in mental health
- 21 counseling
- 22 Q Where were you working back in December of 2006?
- 23 A New Foundation
- 24 Q Tell the jury what New Foundations is
- 25 A It's a group home for adolescents

1 Q What were your duties at New Foundations?

2 A I was a supervisor, first shift

3 Q How long did you work at New Foundations?

4 A Nine and a half years

5 Q Did you work with the victim in this case, Asha
6 Willey?

7 A Yes

8 Q How long did you and Asha work together?

9 A About two years

10 Q Were you and Asha friends?

11 A Yes

12 Q Did you do things socially together?

13 A Yes, ma'am

14 Q Outside of work?

15 A Yes

16 Q Did Asha have any children?

17 A Yes She had one daughter

18 Q What was her name?

19 A Kaiya

20 Q And how old is Kaiya now?

21 A She's nine I think she's nine, ten

22 Q Was Asha going to school with you back in '06?

23 A Yes

24 Q She also getting her masters?

25 A Yes

1 Q You all were taking the same classes?

2 A Yes, the exact tame track

3 Q What kind of student was Asha?

4 A A

5 Q A student?

6 A Yes

7 Q She was pretty smart?

8 A Yes, yes

9 Q What kind of worker was Asha?

10 A She was a good worker We worked together, had a
11 good tempo

12 Q Was she pretty reliable?

13 A Yes

14 Q Let's talk about the events that took place prior to
15 her death Did you and Asha go to class that
16 Saturday, December 9

17 A Yes

18 Q Tell us about that, how long were you in class that
19 day?

20 A We were in class all day But actually I talked to
21 her earlier that morning She called me about 6 30
22 on her way back from taking Kaiya, and we talked all
23 the way down the road actually, until she got back to
24 Anderson And I had to stop by the store for her
25 that morning, pick up a jump drive I stopped, got

1 the jump drive, and we met at her house that morning
2 to go to school We were in school all day that day
3 until about three or four because we had two classes

4 Q So she was on her way back from taking Kaiya?

5 A Yes

6 Q What did you do after class?

7 A Went shopping on the first break The second break
8 we went, I mean, when we got out, we actually went to
9 Applebees and ate

10 Q Just to get something to eat?

11 A Uh-huh

12 Q Did you go back to Asha's apartment that evening?

13 A Yes

14 Q Tell me about Asha's apartment Was she an orderly
15 person?

16 A No

17 Q Tell the jury about that What kind of -- how did
18 she keep her apartment?

19 A She's a packrat It was -- what we said, it was
20 clean, but she keeps a lot of clutter

21 Q All right Did you and Asha ever watch movies
22 together at her apartment?

23 A No, I went over there before, she did my hair

24 Q Now, on Sunday, the tenth, what did you and Asha do
25 together?

- 1 A Went to church that morning
- 2 Q Where did you go to church?
- 3 A Evergreen Baptist
- 4 Q What were Asha's plans after church?
- 5 A Was going to go shopping for Kaiya, because I was
- 6 fussing at her, telling her she needed to get
- 7 Christmas stuff I said, "You're a bad mother You
- 8 need to get her, go shopping "
- 9 She said, "Okay " She went -- I talked to her about
- 10 two, when she told me some of the things already
- 11 picked up for Kaiya
- 12 Q So she had already went to the mall?
- 13 A Yes
- 14 Q What was she wearing that day?
- 15 A Had on some pinstriped black and white -- black
- 16 pants, like spandex material, purple top, and she had
- 17 on a, I guess a blouse or something underneath it,
- 18 her jewelry, her bracelets, and her hair down
- 19 Q How was her hair, straight or curly?
- 20 A Straight
- 21 Q Did you talk to Asha while she was at the mall?
- 22 A No
- 23 Q What kind of mood was Asha in that day?
- 24 A Good She was excited, she finally got some stuff
- 25 for Kaiya

1 Q All right, sir Now, on Monday morning, Jackie, did
2 Asha show up for work Monday, the 11th?

3 A No, they called me that morning, told me she had not
4 showed for work

5 Q What timed was Asha supposed to be at work?

6 A Eight

7 Q What were her duties going to be first thing that
8 morning? What did she do at New Foundation?

9 A Come to transport the female girls to the alternative
10 school they was in

11 Q She drove the bus, took the girls to the extension
12 campus?

13 A Right

14 Q Was it unusual for her to show up and not to call?

15 A No That was totally unusual

16 Q It was unusual All right So she wasn't going to
17 be at work, she would let somebody know?

18 A She would have called me That was my whole big
19 thing, she would have called Mr Harry or let me
20 know She had to leave someone to cover her for her
21 shift

22 Q Who is Mr Harry?

23 A Her grandfather

24 Q Is that who Kaiya was with?

25 A Yes

1 Q Did you try to contact Asha on Monday to see what was
2 wrong?

3 A I tried to call, didn't get an answer

4 Q Did you call her throughout the day?

5 A I called her several times that day to see if I was
6 able to get an answer I -- actually, I called a
7 couple of times, stopped calling because were working
8 on mid term, I mean on final I was kind of
9 concentrating on that, trying not to divert all my
10 attention I kept the fact something probably
11 happened at home That's actually what I thought

12 Q Did you go by her apartment that day to check on her?

13 A Yes, but her car wasn't there

14 Q So you did not see her car?

15 A Huh-uh

16 Q Where would she usually park her car?

17 A Right in front of her door

18 Q It wasn't there?

19 A No

20 Q What did you do?

21 A I left Then I was like, maybe she's gone, something
22 may have happened

23 Q Did you call Asha again that night?

24 A Yes I called that night, probably about one that
25 morning, when I was working on my file

1 Q So you were up working on your paper?

2 A Uh-huh

3 Q What happened when you called her at one?

4 A No answer

5 Q So, what did you do the next morning? Now, this is
6 Tuesday, the 12th?

7 A I got up the next morning, called again Then I was
8 like, you know what, she's not answering, I'm going
9 to get up and I'm going to go to her house So I
10 drove up to her house Me and another one of my
11 friends, and when we got there, when I got there, her
12 car wasn't there I'm like, "Let me check the door "
13 So I got out, checked the front door It was locked
14 So I was, "Well, let me go around to the back "
15 I got around to the back door, it was unlocked When
16 I came back from around the house, went to the
17 office, told them to call, which somebody was there
18 getting ready to file a missing person report

19 Q Now, why didn't you go in the apartment with the back
20 door unlocked?

21 A Just don't do that I just chose not to do that

22 Q Were you scared not to go in?

23 A Yeah

24 Q Or just not sure?

25 A Yes, unsure

1 Q You went to the manager's office, got someone to call
2 the police?

3 A Yes

4 Q Did the police come?

5 A Yes

6 Q Did you stay and talk to the police that day?

7 A Yes

8 Q Did you tell them everything you told us here today?

9 A Yes

10 Q Jackie, I don't have any further questions Please
11 answer anything Mr Gamble may have

12 THE COURT Cross examination

13 CROSS EXAMINATION

14 BY MR GAMBLE

15 Q You said that Asha had a child, Kayla?

16 A Kaiya

17 Q Kaiya?

18 A Kaiya

19 Q And where was the child?

20 A She was down with her grandfather

21 Q Is that where she stayed normally?

22 A No We were -- she was there for the holidays
23 actually then They were out of school

24 Q For the whole day?

25 A Yes She went to all-year-round school, so they were

1 on their three-week break

2 Q All right And did she have a job, other than
3 driving the bus for New Foundation?

4 A She was a counselor for New Foundation, driving the
5 bus was just one of her duties

6 Q Okay Counselor and bus driver?

7 A Counselor and she drove the vehicle

8 Q All right You didn't go into the apartment at all,
9 did you?

10 A No

11 Q All right

12 THE COURT Thank you Any redirect?

13 MS ADAMS No, Your Honor

14 THE COURT You may step down

15 (Witness steps down from the stand)

16 MR CAMPBELL Your Honor, the State calls Kaliah
17 Jordan

18 KALIAH JORDAN, being first duly sworn,
19 testified as follows

20 DIRECT EXAMINATION

21 BY MR CAMPBELL

22 Q Would you state your full name, please, and spell
23 both names, please, ma'am?

24 A Kaliah Balan Jordan, J-O-R-D-A-N

25 Q How you doing this morning, Miss Jordan?

1 A Good

2 Q A little nervous?

3 A A little

4 Q Now, Miss Jordan, you're from Anderson, is that

5 right?

6 A I'm originally from New Jersey I live in Anderson

7 Q How long you been here?

8 A About four years

9 Q Just tell the ladies and gentlemen of the jury a

10 little bit about yourself Are you married?

11 A Yes

12 Q You have any children?

13 A I have a son, two years old

14 Q And are you currently employed?

15 A I am

16 Q Where do you work?

17 A New Foundations, children and family service

18 Q How long have you worked there?

19 A A year

20 Q And what exactly is New Foundations? Can you please

21 tell the ladies and gentlemen of the jury what the

22 purpose or what you all do there?

23 A It's a group home for adolescents I'm a counselor

24 and we basically, you know, provide -- we're

25 therapeutic counsel, therapeutic for kids

1 Q This New Foundations, is it basically a group home to
2 help like runaway children?

3 A DJJ clients, DSS You know, children that have been
4 abandoned or abused by their parents or, you know,
5 anything to that aspect

6 Q And as your job as a counselor, I'm assuming you had
7 to go to school, is that right?

8 A Yes

9 Q And do you have a degree?

10 A I have a Bachelor's Degree in Sociology

11 Q And to be a counselor at New Foundations, do you have
12 to have a four-year college degree?

13 A You don't You have to have a high school diploma to
14 be a counselor at New Foundations, but if you want to
15 raise the bar, you need to at least have a Bachelors
16 or Master's degree

17 Q Most people there have a four-year degree?

18 A Yes

19 Q During this time at New Foundations, did you have an
20 opportunity to become acquainted with Asha Wiley?

21 A Yes At the time I wasn't employed with New
22 Foundations I was employed with district five and I
23 was a teacher at Hanna-Westside Extension Campus
24 This was a school where she brought the kids to I
25 was a teacher there

1 Q And as a result of her bringing the school children
2 to where you were teaching, did you all form a
3 friendship?

4 A Yes

5 Q And eventually you went to work at New Foundations?

6 A Yes

7 Q And Miss Wiley was employed at New Foundation?

8 A Yes

9 Q What position did she hold there?

10 A She was a counselor, too

11 Q And besides being coworkers, were you also friends
12 outside of work?

13 A Yes

14 Q And when you all were not at work, did you all keep
15 in constant contact?

16 A Yes Through the cell phone or instant message, what
17 she would sometime come visit my home, I watched
18 Kaiya a couple of times when she was at school

19 Q And who is Kaiya?

20 A Her daughter

21 Q Do you know how old she is?

22 A I believe she's nine

23 Q Miss Wiley, was she the type of person that lived
24 with her cell phone?

25 A Yes

1 Q Always on it?

2 A Yes And pictures of Kalya or texting you all day

3 Q Now, regarding her work, did you enjoy working with
4 her?

5 A Yes

6 Q How did the children working at New Foundations, did
7 they like her?

8 A Liked her, respected her Especially the females,
9 they looked at her as a role model She was a single
10 mom, but she was going to school to get her masters,
11 she's positive, that they could look at her, say,
12 "Okay I can do this " You know? So she was
13 definitely a positive role model

14 Q As part of her job you mentioned she used to bring
15 the children to the Westside?

16 A Extension campus Uh-huh

17 Q Continue to do that on a daily basis while she was at
18 New Foundation?

19 A Yes

20 Q Until December 10, actually December 11, 2007, was
21 that still her job first thing in the morning?

22 A Yes

23 Q And to your knowledge did Miss Wiley have any health
24 problems or issues?

25 A No She walked almost every day She actually tried

1 to get me go to the gym with her, but I'm lazy She
2 was conscious of what she ate We would eat
3 hamburgers and stuff at lunch She had her little
4 Lean Cuisine lasagne meal So she was very conscious
5 as far as that

6 Q Regarding her employment there at New Foundations, if
7 she was running late or was not going to make it, did
8 she normally call someone ahead of time?

9 A Yes

10 Q Now, I want to talk to you about the weekend of
11 December 10, 2006 Do you recall that weekend?

12 A I do

13 Q Did you see Miss Wiley that weekend?

14 A Actually she was at my home Saturday She was at her
15 house first that night with Tim and Jackie I guess
16 they were coming from school that day and they had
17 just went to her house to chill out or, you know,
18 talk or whatever And Tim, he came to my home before
19 she did to get his hair twisted And she came over
20 after that and we talked And, you know, just having
21 fun, stuff like that And she left my house
22 approximately maybe 1 30 in the morning She was on
23 the way home and my husband asked if, you know, she
24 okay getting home or whatever because it was late
25 She said, "No, I'm fine "

1 I said, "Just call me when you get there or whatever
2 The last thing I could remember, her holding my son
3 He woke up in the middle of the night, she went in
4 the bedroom got him, held him, put him back to sleep

5 Q Referring to Jackie? You referring to Jackie
6 McDonald, who was just on the stand previous to you?

7 A Yes

8 Q Who is Tim?

9 A Another coworker, a friend that, you know, united in
10 circle

11 Q He also at New Foundations?

12 A Yes, he's a supervisor

13 Q After that, when she got home, did you have occasion
14 to talk to her or see her on that Sunday December 10,
15 2006?

16 A I spoke to her that Sunday afternoon She was in
17 Ross She was like Jackie said, shopping for Kaiya
18 and I was talking to her She said she was headed to
19 Anderson Mall to another store to get some stuff for
20 her and I said, "Well, call me, because I want you to
21 do my hair "

22 She said, "Okay I'll call you when I get home "

23 And I said, "Okay And maybe around -- it had to be
24 around 3, maybe 4 00, and about 7 00 I called her and
25 I -- she didn't answer I kept calling, kept

1 calling, left messages She didn't answer
2 So I got on the computer, tried to instant message
3 her, but she didn't reply because she was still
4 logged in and she didn't reply Monday she didn't
5 show up

6 Q Did you find this unusual, not being able to get
7 ahold of her that Sunday afternoon, that night?

8 A Yeah, I did Because she usually returns phonecalls,
9 you know, if I left a message, she usually calls
10 back So I did find it a little unusual

11 Q Monday morning you went to work, were you expecting
12 to see her Monday morning?

13 A Yeah I was going to get on her about not calling me
14 back

15 Q Did she show up Monday morning?

16 A No

17 Q And she was supposed to take the children to the
18 Hanna extension campus?

19 A Yes

20 Q Now, that Monday what, if anything, did you do in
21 order to try to contact or locate Miss Wiley?

22 A I just kept calling her I left messages and I tried
23 to instant message her again, because she was still
24 logged in on the computer, but it had said idle, like
25 she hasn't typed in a long time But still hadn't

1 heard from her I had just kept calling and calling
2 and calling and didn't get any answer

3 Q Was other people trying to get in touch with her,
4 also?

5 A Yeah, everyone Everyone that she knew was trying to
6 get in contact with her

7 Q In your opinion was it unusual for her to go this
8 length of time without contacting any family or
9 friends?

10 A Yes Without contacting anyone, it was very unusual

11 Q Now, Monday, did you go out to her house Monday?

12 A I went out Tuesday

13 Q Did you continue to try to get in contact with her
14 Monday night, is that right?

15 A Uh-huh

16 Q And Tuesday morning what, if anything, did you do?

17 A I went to work Tuesday morning She still wasn't
18 there And Tim had said they were going to put out a
19 missing persons on her I said -- "Well, what I'm
20 going to do is go home, email Joya, which is her
21 friend, see if she had talked to her "
22 And I went home, said, "Well, I'm going to go by her
23 house when I got home " Me and my husband went to
24 her house and when we got there, I had went to the
25 management office I said, well, I explained the

1 situation that we hadn't heard from her, hadn't
2 talked to her, could you just go in, see if she's
3 okay

4 They said, "We can't go in without the police Can't
5 just go in apartment "

6 I said, "Okay, that's fine " While I was there
7 Jackie pulled up

8 A I believe she was there already And that's when
9 they said the door was unlocked I said, "Well, I'm
10 not going in there, you know "

11 I believe it was Jackie that noticed that her car was
12 parked all the way down, like past her home And she
13 said, "That's her car "

14 I said, "Is it?"

15 She said, "Yeah " So, the police came and they went
16 inside and they found her

17 Q And you never went inside her apartment or went up to
18 her apartment that Tuesday morning?

19 A No I didn't go inside

20 Q Do you know what kind of car she drives?

21 A I believe it was a Dodge Stratus

22 Q Other than that, did you have anything else to do at
23 this point in time in helping law enforcement?

24 A They just basically asked me a bunch of questions
25 about her and, you know, did she have any health

1 problems or anything like that

2 And I just, "No, she didn't "

3 Q And where exactly was her apartment located?

4 A It was located on the right side There was the way
5 they're formed, it's like apartments on this side and
6 that side, apartment on the right side There's like
7 a couple of doors

8 Q I guess what I'm getting at, what apartment complex
9 was it?

10 A Belton Woods

11 Q Do you know how long she had lived there?

12 A I'm not sure

13 Q I have no further questions for you If you would,
14 answer any questions Mr Gamble may have

15 THE COURT You may step down, Miss Jordan Call
16 your next witness, please

17 MR CAMPBELL Your Honor, the State calls Nikkia
18 Robinson to the stand

19 NIKKIA ROBINSON, being first
20 duly sworn, testified as follows

21 DIRECT EXAMINATION

22 BY MR CAMPBELL

23 Q State your full name Spell your last name for the
24 record, please

25 A My name Nikkia Robinson, R-O-B-I-N-S-O-N

- 1 Q Miss Robinson, how are you this morning?
- 2 A All right
- 3 Q I need you to speak up so that the ladies and
- 4 gentlemen of the jury can hear you Okay?
- 5 A (Nods head up and down)
- 6 Q Now, Miss Robinson, where do you live right now?
- 7 A I live Rock Creek Village
- 8 Q Did you live there in December of 2006?
- 9 A No
- 10 Q And where did you live?
- 11 A Belton Woods
- 12 Q Belton Woods Apartment?
- 13 A Yes, sir
- 14 Q That here in Anderson?
- 15 A Yes, sir
- 16 Q And are you currently employed?
- 17 A Yes, sir
- 18 Q Where do you work?
- 19 A Electrolux
- 20 Q How long you worked there?
- 21 A A year and a half
- 22 Q Were you working there back in December of 2006?
- 23 A Yes, sir
- 24 Q Now, when you were living at Belton Woods Apartment,
- 25 do you recall the apartment number you lived in?

1 A 150-L

2 Q How long had you lived there?

3 A Seven months

4 Q Come again?

5 A Seven months

6 Q Did you know Miss Wiley, Asha Wiley?

7 A I didn't know of her, just seen her around

8 Q You know who she was?

9 A Yeah

10 Q "Hi," in passing?

11 A Yes, sometime Just say "Hi," greet I keep going
12 to my apartment

13 Q Did she live close to you?

14 A Yes

15 Q In relationship to your apartment, how close was her
16 apartment to you?

17 A Very close Like my apartment here, you could leave
18 out my front door and hers is right here

19 Q Do you know how far, distance wise, it was between
20 your two apartments?

21 A I'm not sure

22 Q Was it close?

23 A Yeah, it was close

24 Q And did she live in her apartment with anybody that
25 you know of?

1 A No It was just her and her daughter

2 Q Now, you would see her how often? Would you see her

3 daily? Weekly?

4 A Daily

5 Q Do you know what type of car she was driving?

6 A A gray, Dodge Stratus

7 Q Now, Miss Wiley, I show you what's been marked

8 state's exhibit 6, 8, and 9 If you could, look at

9 these for a second please, ma'am

10 A Yeah That was the car

11 Q And you had an opportunity to look at them, right?

12 A Uh-huh

13 Q Whose car was this?

14 A Miss Wiley's

15 Q Your Honor, I move these into evidence

16 MR GAMBLE No objection

17 THE COURT State's six, eight, and nine, admitted

18 without objection

19 (WHEREUPON, State's Exhibit No 6, 8, 9 are admitted

20 into evidence)

21 BY MR CAMPBELL

22 Q Now, Miss Wiley, I want to talk to you about the

23 events that took place on December 10, 2006 Do you

24 recall that day?

25 A Yes, sir

1 Q And normally, you stated you worked at Electrolux, do
2 you work shift work?

3 A Second

4 Q Second shift What hours do you typically go in?

5 A My shift is three to eleven, but I always leave out
6 like two to get there, have time to drop my kids off
7 and go on to work

8 Q On December 10, 2006, were you scheduled that day
9 that Sunday afternoon to go to work?

10 A No, sir

11 Q And on that day did you have occasion to see Miss
12 Wiley?

13 A No

14 Q Now, that Sunday afternoon did you see her?

15 A No, I didn't see her until it got dark

16 Q So, that Sunday night did you see Miss Wiley?

17 A Yes, sir

18 Q I want to talk to you a little bit about that Do
19 you recall approximately what time you saw her?

20 A It was about 8 or 9 00

21 Q And where was she?

22 A She was standing outside her car like towards the
23 back

24 Q And was her car parked in front of her apartment?

25 A It was parked like right near her front window

1 Q And typically she normally park in the same spot?

2 A Sometime she do, depends on whoever get the parking
3 spot

4 Q But does she typically park in front of her
5 apartment?

6 A Yes

7 Q Did you know her to park in any other spots, other
8 than one of the couple in front of her apartment?

9 A Yes

10 Q When you saw her, was she with anybody else that
11 night?

12 A She was with a fellow

13 Q And where were you when you were seeing all this
14 going on?

15 A I was standing front of my door

16 Q And why were you standing in front of your door?

17 A I was waiting on my kid's daddy

18 Q As you were waiting on them, you saw them outside?

19 A Yes, sir

20 Q Is that right?

21 A Yes, sir

22 Q Now, besides Miss Wiley's car, did you notice any
23 other car in front of her apartment?

24 A Yes

25 Q What kind of car? Can you describe to the ladies and

1 gentlemen of the jury what type of car did you
2 observe or see?

3 A It was a Buick and it was dark colored at the --
4 light at the top and dark on the bottom

5 Q It was a Buick and it was dark colored at the --
6 light at the top and dark on the bottom?

7 A Yes, sir

8 Q Any other special features on it?

9 A Yeah It had hubcaps on it

10 Q Miss Robinson, I'm going to show you what's been
11 marked State's Exhibit 11, 12, 13, and 14 Take a
12 look at these and please tell me if you recognize any
13 of this

14 A Yes

15 Q What do you recognize?

16 A The dark color and light top, the hubcaps

17 Q Are these pictures of the photographs of the car you
18 saw in front of her apartment on the night December
19 10, 2006?

20 A Yes, sir

21 Q I move State's Exhibit 11 through 14 into evidence

22 THE COURT Any objection?

23 MR GAMBLE No objection

24 THE COURT State's 11, 12, 13, 14, admitted without
25 objection

1 (WHEREUPON, State's Exhibit No 11-14 are admitted
2 into evidence)

3 Q Now, did you see the individual that was in this car?

4 A I saw the fellow in burgundy car, dark-colored car,
5 but he had on a dark-colored shirt and low haircut

6 Q Was it a white man? Black man? Hispanic?

7 A I really couldn't tell because it was dark

8 Q But you knew it was a male, is that right?

9 A Yeah

10 Q Did you witness them go into their apartment or
11 anything?

12 A No After that I just went back in my apartment

13 Q Now, you didn't see them the rest of the night, is
14 that right?

15 A No, sir

16 Q Now, on Monday morning December 11, 2006, did you get
17 up and go outside your apartment at some point in
18 time?

19 A Yeah, I left with my cousin

20 Q When you got outside, did you see this burgundy car
21 out in front?

22 A No, sir

23 Q How about her car, did you see her car out in front
24 of her apartment?

25 A No, sir

1 Q Now later that day did you go to work?

2 A Yes, sir

3 Q And you're working second shift Electrolux?

4 A Yes, sir

5 Q About what time did you leave to go to work?

6 A I left out at two I forgot my safety glasses, so I
7 went back home to get my safety glasses

8 Q As you were driving back into your apartment at
9 Belton Woods, did you notice Mrs Wiley's car?

10 A Yes, sir

11 Q And where did you notice it at?

12 A The fifth car

13 Q Was that where she normally parked at?

14 A No

15 Q About what time of day was this?

16 A It was about like two, a little after two

17 Q On Monday?

18 A Yes, sir

19 Q After that did you see her when you got off work that
20 Monday night?

21 A No, sir

22 Q And Tuesday morning, is that when you learned of her
23 death?

24 A Yes, sir

25 Q Now, ma'am, I'm going to show you Can you see that

1 ma'am?

2 A Yes

3 Q That is the State's Exhibit Number 10 That's
4 showing the outside of the car, is that right?

5 A Uh-huh (Witness steps down)

6 Q Do you recognize this view?

7 A Yes

8 Q Is this a view of your apartment, Belton Woods?

9 A Yes

10 Q Where do you live?

11 A Right there

12 Q This is your apartment, right here?

13 A Yes, sir

14 Q Where is Mrs Wiley's apartment?

15 A Where that jeep is

16 Q This right here?

17 A Yes, sir

18 Q With the "F" on the door?

19 A Yes, sir

20 Q This is where your apartment is? This is where her
21 apartment is?

22 A Yes

23 Q Where there SUV type vehicle is parked, is that
24 normally where she would park?

25 A She would park where that blue car was

1 Q That night where did you see her car parked?

2 A It was where the jeep is

3 Q This right here?

4 A Yes

5 Q And was there a vehicle in this spot?

6 A Yes, sir

7 Q What vehicle was parked in this spot?

8 A The dark colored with black top

9 Q Now, looking at State's Exhibit 8 -- 6, 8, and 9

10 You identify this as Miss Wiley's car Is this her
11 car?

12 A Yes

13 Q Is this the back side of her car?

14 A Yes

15 Q Is that it?

16 A Yes

17 Q Now, the pictures you identified, State's Exhibit 11
18 through 14, Is this the car that you saw in front of
19 Miss Wiley's apartment December 10, 2006?

20 A Yes, sir Yes Yeah

21 Q You're referring to the light top Is this what
22 you're referring to here?

23 A Yeah

24 Q And the dark burgundy and the hubcaps?

25 A Yeah

1 Q Is that another view of this car that you witnessed
2 that night?

3 A Yes

4 Q You observed You can go have a seat, ma'am
5 (Witness resumes stand)

6 Q Miss Robinson, that's all the questions I have at
7 this point in time If you would, please answer any
8 questions Mr Gamble may have

9 CROSS EXAMINATION

10 BY MR GAMBLE

11 Q Were you able to identify the driver of the burgundy
12 car?

13 A No, sir

14 Q You didn't see him from your apartment up the hill to
15 the other apartment?

16 A I seen him in the car, I just couldn't get a good
17 look at his face I wasn't really looking

18 Q Wasn't it dark?

19 A Yes, sir

20 Q And it's not very well lit, those apartments, are
21 they?

22 A No

23 Q As a matter of fact, it's just a little bulb, isn't
24 there, above the door?

25 A And we have arc lights, too

1 Q And an arc light?

2 A Uh-huh

3 Q Where was it?

4 A On the left side of the apartments, where me and her
5 stayed at

6 Q You didn't get a good look at whoever was driving?

7 A I just seen the dark-colored shirt and low hair cut,
8 but not the face

9 MR CAMPBELL Nothing further, your Honor

10 THE COURT May step down Call your next witness

11 MS ADAMS We have no further need for Miss Robinson
12 if she may be excused

13 THE COURT Any objection?

14 MR GAMBLE No objection

15 THE COURT May stay or go Call your next witness
16 please

17 (WHEREUPON, State's Exhibit No 15 is marked for
18 identification)

19 (WHEREUPON, State's Exhibit No 16-37 are marked for
20 identification)

21 MS ADAMS Your Honor, the State calls Joya Joseth
22 to the stand

23 JOYA JOSETH, being first duly sworn,
24 testified as follows

25 DIRECT EXAMINATION

1 BY MS ADAMS

2 Q Where do you live?

3 A I live in Manning, South Carolina

4 Q Do you have any children?

5 A Yes, I have one

6 Q And how old?

7 A Three

8 Q Where do you work?

9 A I do not work I'm a full-time student

10 Q What are you studying?

11 A Nursing

12 Q Joya, I want to talk to you a little bit about your
13 friendship with Asha

14 A Okay

15 Q Were you and Asha best friends?

16 A Yes

17 Q How long have you known Asha?

18 A Since 1999

19 Q How did you all first meet?

20 A We knew each other, we met through relatives of my
21 aunt's

22 Q Where was Asha living at the time you met her?

23 A In Vance, South Carolina

24 Q Is that near Manning?

25 A Yes

1 Q Which is also near Orangeburg, correct?

2 A Yes, Orangeburg County

3 Q Okay Who was Asha living with back at the time in
4 1999 when you met her?

5 A Her grandfather

6 Q Who was that?

7 A Mr Harvey Shuler

8 Q Is that who Kaiya was with, December 10?

9 A Yes

10 Q Did Asha have any other children besides Kaiya?

11 A No

12 Q When did Asha move to Anderson?

13 A In 2001

14 Q Why did Asha move to Anderson?

15 A To go to Anderson College

16 Q All right Where was she living when she first moved
17 here to go to Anderson College?

18 A I believe she was living on campus at the time when
19 she first moved

20 Q So she wanted to get her college degree at this
21 point?

22 A Yes

23 Q Now, was she working when she first came to Anderson
24 or just going to college?

25 A Just going to school I believe at that time Just

1 school

2 Q Did she actually graduate from Anderson College?

3 A Yes, she did

4 Q Then she went on to get Master's degree?

5 A Yes Was going to Webster's University to get her
6 masters

7 Q Was that in counseling?

8 A Yes

9 Q When did Asha move into her apartment?

10 A I believe she moved into her apartment in 2002

11 Q And she was in Belton Woods?

12 A Yes

13 Q And I think she wasn't actually in this apartment?

14 A No, she was in a different apartment at first I
15 believe she staying, her and another friend was
16 rooming together, then she got her own apartment at
17 117-F

18 Q And, Joya, have you ever been to Asha's apartment?

19 A Yes

20 Q Did you all watch movies together?

21 A Yes

22 Q What would you play the movies in?

23 A In her Play Station

24 Q Now, Joya, I want to show you what's been marked
25 State's Exhibit 17 Can you ID this?

1 A Yes That's her Play Station

2 Q Is that what you all used to watch movies?

3 A Yes I recognized the mismatched controllers,
4 different colors

5 Q I'd ask State's Exhibit 17 be moved into evidence
6 THE COURT State's 17 in evidence without objection
7 (WHEREUPON, State's Exhibit No 17 is admitted into
8 evidence)

9 Q So Joya, that is the Play Station, correct?

10 A Yes

11 Q Now, let's talk about what, about around December,
12 2006 Like we said, Asha brought her daughter to
13 stay with her grandfather that weekend Is that
14 correct?

15 A Yes

16 Q Did you actually pick up Kaiya?

17 A Yes I met her in Columbia Friday night

18 Q Did you all stay in Columbia that Friday night?

19 A Yes We stayed at her brother's house until Saturday
20 morning

21 Q Kaiya and Asha stayed?

22 A Yes I left with Kaiya Saturday morning, Asha left,
23 went back home so she could go to school on Saturday
24 morning

25 Q Did you talk to Asha on Saturday night?

1 A Yes

2 Q When did you first talk to her that day?

3 A I first talked to her when she was on break I
4 believe her and Jackie was out shopping

5 Q All right Did you talk to her more on Saturday?

6 A Yes

7 Q All right And she talked to Kaiya?

8 A Yes

9 Q Now, on Sunday December 10 Asha went to the mall,
10 correct?

11 A Yes

12 Q All right How do you know she went to the mall?

13 A Because I talked to her I had Kaiya with me We
14 have a parade, we talked back and forth with her
15 while she was out shopping

16 Q Do you know what Asha had on that day? Did you all
17 talk about it?

18 A Uh-huh

19 Q What was she wearing?

20 A She had on pinstripes

21 MR GAMBLE Objection, Your Honor, that calls for
22 hearsay

23 THE COURT I sustain objection

24 BY MS ADAMS

25 Q Did you talk to her while Christmas shopping for her

1 daughter?

2 A Yes

3 Q How many times?

4 A About three or four times maybe

5 Q I want to show you, Joya, what's been marked as
6 State's Exhibit 35 Do you recognize State's Exhibit
7 35?

8 A Yes

9 Q What is that?

10 A Asha's telephone

11 Q How do you know that's Asha's phone?

12 A Because I was with her when she received it

13 Q Your Honor, I'd like to move State's Exhibit 35 into
14 evidence

15 THE COURT Any objection?

16 MR GAMBLE No objection

17 THE COURT Admitted without objection

18 (WHEREUPON, State's Exhibit No 35 is admitted into
19 evidence)

20 Q Joya, while Asha was at the mall, did you receive a
21 text message from her cell phone to your cell phone?

22 A Yes

23 Q After receiving this text message, did you then talk
24 to Asha about it?

25 A Yes

1 Q All right Now, I want to show you what's been
2 marked State's Exhibit 34 Without saying what's in
3 it, do you recognize that?

4 A Yes

5 Q Is that the text message you received?

6 A Yes

7 Q How do you know that's the text message you received?

8 A Because that's the text message she sent me When it
9 comes into my phone, it comes in with her signature
10 at the bottom, which was unique at the time

11 Q And that is the text message you received from her?

12 A Uh-huh

13 Q And did you all talk about that text message?

14 A Yes

15 Q I'd like to move State's Exhibit 34 into evidence

16 THE COURT Any objection?

17 MR GAMBLE I want to see it again

18 THE COURT Okay

19 MR GAMBLE No, no objection

20 THE COURT All right Thirty-five -- 34, excuse me,
21 admitted without objection Is that correct solicitor,
22 34?

23 (WHEREUPON, State's Exhibit No 34 is admitted into
24 evidence)
25

1 BY MS ADAMS

2 Q Can you see that Joya?

3 A Uh-huh

4 Q What was Asha's cell phone number?

5 A (803) 235-9410

6 Q What was your phone number?

7 A (803) 747-9566

8 Q Those are the two numbers that are on this text
9 message?

10 A Yes

11 Q Can you please read for the jury what that text
12 message says?

13 A "I just met a dude that I would marry next week if he
14 asked me "

15 Q You and Asha talked about that text message Is that
16 correct?

17 A Yes

18 Q When did you have this conversation with Asha? About
19 what time?

20 A It was about a little after 5 30 because she sent it
21 and at first I didn't receive it, so she called me

22 Q Then did you talk to her again?

23 A Yes

24 Q Was that around 7 30 that same evening?

25 A About 7, about 7 00

1 Q Where was Asha when you were talking to her at this
2 point?

3 A At that time she was driving She was in a car and
4 me and her were talking while she was driving

5 Q She had left the mall?

6 A Yes

7 Q Where was she going? Was she going home?

8 A At first she said she was going to the movies So I
9 thought that's where she was going But---

10 MR GAMBLE Objection to the hearsay and the
11 leading, your Honor

12 Q Joya, without saying exactly, you knew she was in the
13 car, is that correct?

14 THE COURT I sustain the objection Go ahead,
15 solicitor

16 MR GAMBLE Thank you, your Honor

17 Q And the two of you discussed, like you said, what was
18 in that -- the context of that text message Is that
19 correct, about this man she met, that she said she
20 would marry?

21 A Yes

22 Q As a result of that conversation, did she tell you
23 and describe to you the man she met at the mall?

24 MR GAMBLE Objection, Your Honor

25 MS ADAMS Just asking would she describe him

1 THE COURT Overruled Haven't asked what she said,
2 just asked to describe him Overruled

3 Q Did she describe a car this man was driving at the
4 mall?

5 A Yes

6 Q Did she describe to you this man's nationality?

7 A Yes

8 Q Did she describe the specifics about the car license
9 tag and all that?

10 A Yes

11 Q Did she give you his name?

12 A Yes

13 Q Did she describe his hair?

14 A Yes

15 Q And during this conversation did Asha at one point
16 get out of her car?

17 A Yes

18 Q And where was she?

19 A She was home

20 Q Did you go in -- she go in her apartment?

21 A Yes

22 Q Did you hear anybody else with her in the background?

23 A Yes

24 Q Was it a man or woman?

25 A A man

1 Q Was this man in Asha's apartment with her when you
2 all were talking?

3 A Yes

4 Q So you know at 7 30 that night Asha is not by
5 herself, she is with a man?

6 A Yes

7 Q And this is the man she met at the mall?

8 A Yes

9 Q Did you talk to Asha again on that night?

10 A No, we talked up until she was in the house, a few
11 minutes after she was in the house and then we didn't
12 talk anymore that night

13 Q Did you attempt to call her on Monday?

14 A Yes

15 Q Was it unusual for her not to check on her daughter?

16 A Yes

17 Q How many times did you try to get her on that Monday,
18 Joya, do you recall?

19 A I tried -- well, it was unusual for Sunday because if
20 she met someone, she would have called me back, you
21 know, to discuss the meeting afterwards you know,
22 what happened and everything So it was unusual
23 Sunday But I just, you know, I didn't think too
24 much of it on Sunday, but Monday I called her after
25 around the time I knew she would have got off work

1 I called the house and the cell phone When I didn't
2 get either, I knew it was something

3 Q When were you first contacted about Asha's death?

4 A Tuesday morning

5 Q Who called you?

6 A A friend

7 Q Did you speak to the police on the 12th?

8 A Yes

9 Q Actually you spoke with two officers I believe, is
10 that correct?

11 A Yes

12 Q Investigator Mike Walters and John Zamberlin, is that
13 correct?

14 A Yes

15 Q In two separate days?

16 A Yes

17 Q Did you relay to these officers the information that
18 Asha had given to you about the man she had met at
19 the mall?

20 A Yes

21 Q So you described the car What did you describe to
22 them?

23 A I described the car, the color, what I assume was the
24 make, the make and the state of license plate Not
25 the numbers, the tag itself, because I couldn't

1 remember that, what he said -- what she said,

2 everything, what she told me from the mall that day

3 Q Because you knew that was important for the police to
4 know?

5 A Yes

6 Q And you also told them, did you tell them about the
7 text message you received?

8 A Yes

9 Q Joya, I want to show you what's marked State's
10 Exhibit 37 just for identification Okay?

11 A Yes

12 Q Can you tell me who is in this picture?

13 A That's Asha

14 Q Can you tell me what is she wearing?

15 A Shorts and a T-shirt

16 Q Is this something she would normally wear if she had
17 company over?

18 A No

19 Q Why not, Joya?

20 A Because she wouldn't have wore that in front of
21 somebody she didn't know

22 Q Would she have been dressed nicer than gym shorts and
23 a T-shirt?

24 A Yes

25 Q Joya, real quick, this is state's exhibit 43 and 33

1 Can you tell me what those are?

2 A That's her phone

3 Q That's her phone And is that the time that the text
4 message was sent?

5 A Uh-huh

6 Q Which is 5 31?

7 A Five thirty-one

8 Q On December 10?

9 MS ADAMS Your Honor, move 43 and 33 into evidence

10 THE COURT Any objection?

11 MR GAMBLE No, sir

12 THE COURT Forty-three and 33 admitted without
13 objection

14 (WHEREUPON, State's Exhibit No 33, 43 are admitted
15 into evidence)

16 MS ADAMS Your Honor, I have no further questions
17 for Joya

18 THE COURT Cross examination

19 CROSS EXAMINATION

20 BY MR GAMBLE

21 Q You knew that Miss Wiley worked out at the gym,
22 didn't you?

23 A Yes

24 Q So it wouldn't be unusual for her to be in gym shorts
25 and T-shirt, would it?

1 A No

2 Q And I believe she worked out at the gym about two
3 times a week?

4 A Yes, about

5 Q And, of course, she would have worn gym shorts to do
6 that, wouldn't you?

7 A Yes

8 Q And you said you're from Vance?

9 A Yes, I used to live in Vance, but I live in Manning
10 now

11 Q Manning?

12 A Manning, South Carolina

13 Q All right Thank you, ma'am

14 THE COURT Any direct?

15 MS ADAMS No, sir, your Honor

16 THE COURT You may step down Thank you very much,

17 Ms Joseth Ms Joseth, you're you welcome to stay or you
18 may be excused Your choice

19 Ladies and gentlemen of the jury, what we're going to
20 do is take a morning break at this time And please don't
21 discuss the case amongst yourselves I want you to hear
22 all the testimony before you start discussing the case
23 If anyone smokes, let the bailiffs know, they'll take you
24 to an appropriate place to smoke If you need anything
25 else, let the bailiffs know They'll get it for you

1 We'll take about a 15- or 20-minute break

2 THE COURT Anything from the State before we take a
3 break?

4 MS ADAMS No, Your Honor

5 THE COURT From the defendant?

6 MR GAMBLE No, Your Honor

7 THE COURT We'll take about a 15- or 20-minute
8 break

9 (recess)

10 THE COURT The State ready?

11 MS ADAMS Yes, sir

12 THE COURT Defense ready?

13 MR GAMBLE Yes, sir, your Honor

14 MS ADAMS Solicitor, call your next witness please

15 MR CAMPBELL Your Honor, the State calls Adrienne
16 Ladgen Anderson

17 ADRIENNE LADGEN ANDERSON, being first
18 duly sworn, testified as follows

19 DIRECT EXAMINATION

20 BY MR CAMPBELL

21 THE CLERK If you'll please state your name, spell
22 your last name for the record

23 A Adrienne R Anderson, last name spelled

24 A-N-D-E-R-S-O-N My friends call me Ladgen

25 Q Mr Anderson, you know Asha Wiley?

1 A Yes, sir

2 Q How do you know her?

3 A We were friends at Anderson College

4 Q And did you all graduate together?

5 A Yes, we did

6 Q And what year did you all graduate?

7 A 2004

8 Q And how would you describe your relationship with
9 her?

10 A We were friends Asha was, if you ever heard the
11 saying a man's man, she was a real person's person
12 She got along well with everybody, and she was just a
13 real, a real straight-up person

14 Q And you all weren't dating or anything like that
15 Your relationship was friendship only, is that
16 correct?

17 A Yes, sir

18 Q What year did you say you graduated?

19 A 2004

20 Q And after 2004, did you keep in contact with
21 Miss Wiley?

22 A Yes

23 Q How often did you talk with her or see her?

24 A We spoke once every couple of months I would say
25 maybe every two or three months We'd speak to and

1 see each other about the same amount of time, maybe a
2 little less

3 Q Now, I want to take you to the day of December 10,
4 2006 Do you recall that day?

5 A Yes, sir

6 Q Now, prior to that, what time -- when was the most
7 recent time, previous to that date, you spoken or
8 seen Miss Wiley?

9 A I had spoken to her maybe about three months prior to
10 that date and I had seen her maybe seven or eight
11 months earlier It had been a while since I seen
12 her

13 Q So, it's fair to say you hadn't had contact with her
14 in a short amount of time, recent amount of time?
15 And on December 10, 2006, do you have occasion to see
16 Miss Wiley?

17 A Yes

18 Q Where was that?

19 A At the F Y E store at the Anderson Mall

20 Q Now, I want to talk a little bit about that day
21 When you saw her, where did you see her? Did you
22 actually see her in the store?

23 A Yes, I was already in the store and she walked in
24 after I was in the store

25 Q Did she see you first, you see her first? How did

1 that go?

2 A I think she saw me first

3 Q And did she come up to you?

4 A Yes, sir

5 Q Was she by herself that day?

6 A She was not

7 Q And who -- did she have someone else with her?

8 A She did

9 Q How long did you talk to her while you were in the
10 store?

11 A I talked with her, I'd say about maybe five minutes,
12 maybe a little bit less We spoke about music She
13 was buying a Robert Thicke CD, we listen to music a
14 lot She was kind of introducing me to a new artist,
15 showed me pictures of her cell phone, of her
16 daughter It has been a while since I seen Kaiya
17 She was kind of going through the phone, showing me
18 how much she had grown since the last time I saw her
19 She was just real happy

20 Q While she was talking to you, did she introduce you
21 to the person she was with?

22 A She did

23 Q Could you please describe this person you saw her
24 with?

25 A He was light skinned, not too tall, looked pretty

1 much like that gentleman right there at the defense
2 table

3 Q Is this the gentleman you saw her with that day?

4 A Yes, sir

5 Q The man in the white shirt?

6 A That would be him

7 Q And was he dressed in a white shirt that day?

8 A He had on kind of a red jacket

9 Q He have anything else on?

10 A Blue jeans, some boots, and a hat

11 Q Do you recall the color of the hat?

12 A I want to say it was red Red jacket, red hat

13 Q Did he introduce himself to you?

14 A She kind of introduced me to him as a friend or
15 associate She didn't mention his name

16 Q Did you speak at all to him?

17 A Yes

18 Q And what was you-all's conversation?

19 A Just basically, you know, just a nod

20 Q You just acknowledging that he was with her?

21 A Right

22 Q Now, after she purchased the CD, did you stay in the
23 store? Stay in the mall?

24 A I did

25 Q Did they leave?

1 A They did

2 Q Was he with her when they left the store?

3 A Yes, he was

4 Q Did you see them leave the mall?

5 A I did not see them leave the mall I saw them
6 walking towards the exit of the mall

7 Q And that was the last time you saw her on that
8 Sunday?

9 A Yes, sir

10 Q Now, when you observed all this going on in the -- I
11 think you said FYE store?

12 A That's correct

13 Q Was the store lit up? You were seeing all this?

14 A Yes, sir

15 Q Had the overheads lights on?

16 A (Nods head up and down)

17 Q How close to them were you?

18 A Say within five, no more than ten feet

19 Q So you were pretty close?

20 A Yes, sir

21 Q To observe what you saw?

22 A Yes, sir

23 Q Now, eventually you learned of Miss Wiley's death
24 Is that correct?

25 A That's correct

1 Q As a result of that, did eventually law enforcement
2 contact you?

3 A Yes, they did

4 Q As a result of them contacting you, did you go down
5 to Anderson County Sheriff's Department in order to
6 do a composite sketch?

7 A I did

8 Q I believe that was on December 15, 2006, that you
9 went down?

10 A That sounds correct

11 Q You met with this detective right here, Detective
12 Todd Caron?

13 A Yes, sir

14 Q Mr Anderson, I'm going to show you what's marked
15 State's Exhibit 15 If you could, please look at
16 this, sir, and tell me what that is

17 A This is the composite sketch that Inspector Todd and
18 I worked on, on December 15

19 Q And on the second Page, if you look down at the
20 bottom, is that your signature on it?

21 A It is

22 Q I believe it's the left-hand corner?

23 A Yes, sir

24 Q And what date is on that?

25 A 12/15/06

1 Q Your Honor, I move State's Exhibit 15 into evidence

2 MR GAMBLE No Objection, Your Honor

3 THE COURT State's Exhibit 15 admitted without

4 objection

5 (WHEREUPON, State's Exhibit No 15 is admitted into
6 evidence)

7 Q Now, you had opportunities to look at this?

8 A Yes, sir

9 Q Does this sketch fairly and accurately represent the
10 person you described to detective Caron on
11 December 15, 2006?

12 A Yes, it does

13 Q Would you change anything about this?

14 A (Witness shakes head from side to side)

15 Q That's a no, sir

16 A No, sir No change

17 Q How long was this sketch session you spent with the
18 detective?

19 A It was maybe three hours, two or three hours It
20 took a great bit of time They had several books
21 that you go through It's a pretty lengthy process

22 Q And this sketch was done in your presence?

23 A Yes, sir

24 Q He would ask you to describe things such the eyes
25 ears, face, contour of the nose, forehead, chin, and

1 when he was going through that, he would actually
2 have you look at books to help get a better
3 understanding --

4 A Yes, sir

5 Q -- about people's facial parts? And from what the
6 description you gave to him, he drew this composite?

7 A Yes, sir

8 Q Do you feel like he transferred the ideas and
9 description you gave him onto paper?

10 A Yes, sir

11 Q And after he was done, did he give you an opportunity
12 to look at it and possibly make any corrections or
13 changes to it?

14 A Yes, he did

15 Q Did you make any that you recall?

16 A Not that I recall

17 Q And you're satisfied this is the person you saw her
18 with on December 10?

19 A Yes, sir

20 Q Can you see this, Mr Anderson?

21 A Yes

22 Q First things first That's your signature right
23 there?

24 A Yes

25 Q Okay And is this a copy of the composite that was

1 drawn or the description of the man you saw her with
2 at the mall on December 10 --

3 A Yes, sir, it is

4 Q -- that you described to Detective Caron?

5 A Yes, it is

6 Q That fairly and accurately represents the persons you
7 saw her with at the FYE store on December 10, 2006?

8 A Yes, sir, it is

9 Q I have no further questions If you'll please answer
10 any questions Mr Gamble may have

11 THE COURT Cross examination?

12 MR GAMBLE No questions

13 THE COURT You may step down Thank you very much
14 Call your next witness

15 MR CAMPBELL Your Honor, may this witness be
16 excused?

17 MR GAMBLE No objection

18 THE COURT Mr Anderson, you're free to go or
19 welcome to stay

20 THE WITNESS Thank you

21 (Witness steps down from the stand)

22 MR CAMPBELL Your Honor, the State calls Detective
23 Todd Caron to the stand

24 TODD CARON, being first duly sworn,
25 testified as follows

DIRECT EXAMINATION

1
2 BY MR CAMPBELL

3 Q If you'll state your full name Spell your last name
4 for the record please

5 A Todd Caron, C-A-R-O-N

6 Q Where are you employed?

7 A Anderson County Sheriff's Office

8 Q How long have you been employed in law enforcement?

9 A Twelve years

10 Q What capacity or position are you employed in?

11 A Currently forensics investigator with the sheriff's
12 office

13 Q As part of your duties, are you also a forensics
14 artist?

15 A Yes, sir

16 Q Can you tell the ladies and gentlemen of the jury
17 what exactly training and education you have in doing
18 composite sketches?

19 A I have had three 40-hour classes at different
20 locations, all taught by the same company, Stewart
21 Parks Forensics Associates The third class of which
22 certified me as a composite artist Also prior to
23 being certified, I attended the FBI Academy in
24 Quanicco, Virginia, three weeks for additional
25 composite artist training

1 Q And Stewart Park Forensic Associates, is that one of
2 the leadings groups in the country regarding
3 composite sketches?

4 A Yes, sir, it's one of only few

5 Q This Stewart Parks, is this forensic association, do
6 they go around the country teaching composite
7 sketching to officers such as yourself?

8 A Yes, sir

9 Q As a result of going through their training in the
10 FBI, is it for three weeks?

11 A Yes

12 Q Eventually did you obtain certification in forensic
13 composite sketching --

14 A I did, sir

15 Q -- as a forensic artist? Was that the training --
16 what type of training did you have to go to in order
17 to get certified?

18 A Yes The three classes with Stewart Parks Forensic
19 Associates

20 Q As well as the FBI?

21 A Right

22 Q When you're going through the training, can you
23 describe briefly what you have to go through in order
24 to get certified at these courses, what they teach
25 you?

1 A Basically they teach you how to do composites, how to
2 do the interview process, how to use the FBI facial
3 identification catalog, how to walk you through, how
4 to do that You do numerous practice composites
5 during the classes, probably for each 40-hour class
6 you do at least five composites, at the minimum

7 Q Typically how long does a composite take to make?
8 The whole process, from interview to finish?

9 A Anywhere from two hours to four hours

10 Q And besides this type of training, are you a member
11 of any type of associations regarding forensic
12 artistry?

13 A Yes I'm a member of the IAI, the International
14 Association for Identification

15 Q And how long have you been doing composites for law
16 enforcement?

17 A Since 2004

18 Q And during this time, since 2004, have you -- I'm
19 assuming you've done composite sketches for law
20 enforcement?

21 A Yes, sir

22 Q Do you know approximately how many you've done?

23 A Approximately 26

24 MR CAMPBELL Your Honor, at this time I'm going to
25 move to have Detective Todd Caron moved as an expert in

1 forensic artistry?

2 THE COURT Any questions concerning the specialty?

3 BY MR GAMBLE

4 Q You ever testified in Court with regard to forensics
5 artistry?

6 A No, sir

7 Q No courts in the State of South Carolina or any
8 other?

9 A Not as far as composite goes

10 MR GAMBLE I object He's never testified as a
11 forensic artist

12 THE COURT Yes, sir? Any objection?

13 MR GAMBLE That's my objection, he's never
14 testified as a forensic artist He's not been recognized
15 as an artist

16 THE COURT Is that your only objection?

17 MR GAMBLE Only objection

18 THE COURT Overruled Recognized as a forensic
19 artist He has been qualified

20 BY MR CAMPBELL

21 Q Now, can you please tell the ladies and gentlemen of
22 the jury exactly what a composite sketch is

23 A A composite sketch is basically a sketch put together
24 by speaking with a witness or a victim where you show
25 them facial features from the FBI facial

1 identification catalog This book is basically
2 broken down into different features It starts with
3 head shapes, different head shapes Oval, round,
4 rectangular, long It goes through each facial
5 features as far as head shape, eyes, eyebrows, nose,
6 lids, cheeks, forehead, mouth Any facial feature
7 you can think of
8 Basically walk them through and have the witness pick
9 out which facial feature best goes with the person
10 they're describing to you If someone are describes
11 one to me, says, "Okay, it looks like this one, this
12 number," I'll ask them is there anything different
13 about it or what about that facial feature reminds
14 you of the person they're describing And basically
15 from there, after I complete the, go through the
16 entire book and get all the face shapes, I'll put
17 those onto a drawing

18 Q And what basically is the purpose of doing a
19 composite?

20 A The purpose of a composite to get a likeness of the
21 person the witness is describing I explain to them
22 it's not going to be a portrait, it's not going to
23 look just like them, but we want to get it as close
24 to it as we can

25 Q And what purpose does law enforcement use these for,

1 these composite sketches?

2 A Used to help identify suspects and to help rule out
3 other people that may not match the description

4 Q In this case here, dealing with the death of Asha
5 Wiley, were you asked to do a composite sketch?

6 A Yes, I was

7 Q I believe that was on December 15, 2006, you spoke
8 with the previous witness Adrianne Anderson?

9 A Yes, sir

10 Q Where did you do this composite?

11 A At the sheriff's office, Anderson County Sheriff's
12 Office

13 Q When you spoke with Mr Anderson, did you run through
14 basically your checklist and these manuals you have
15 regarding the individual he saw?

16 A Yes, sir

17 Q And not repeating what he said, you took this
18 information that he gave you and you did a sketch
19 from his description Is that right?

20 A That's correct

21 Q And do you remember basically how long it took to do
22 this composite?

23 A Two to two and a half hours

24 Q And as part of the questioning, you're concerned with
25 the lighting, the distance he got to observe him

1 from, how far -- how long he observed him Is that
2 right?

3 A That's correct

4 Q As well the actual facial features that he observed
5 that day, at that time?

6 A That's correct

7 Q Detective Caron, show you this for identification
8 Can you identify this?

9 A This is the composite sketch that we completed after
10 the interview with Mr Anderson

11 Q Is that your original?

12 A Yes, this is the original

13 Q How do you know this is the one you did?

14 A Well, I put my initials on the front I have the
15 witness sign and date the back And I sign and date
16 the back as well

17 Q And so in the lower right-hand corner is your
18 signature?

19 A Yes, sir

20 Q And T A C stands for your initials?

21 A Yes, sir

22 Q Todd A Caron

23 A Yes

24 Q And this State's Exhibit, is this a copy of your
25 original?

1 A Yes

2 Q Now, after the witness Mr Adrienne gave you
3 description, you drew this composite sketch in his
4 presence Is that correct?

5 A That's correct

6 Q And after you go through everything, do you give them
7 opportunities to change it?

8 A Yes, absolutely After they pick out the facial
9 features, I will do a line drawing with no type of
10 shading, just basically an outline of the entire
11 drawing, and have the witness look at that and make
12 any changes to the facial features that they feel
13 like needs to be made And then make whatever
14 changes that they request or not if they don't want
15 any changes
16 And then I'll go in and complete the shading,
17 complete the drawing, and have them come look along
18 the way and make any changes they feel necessary I
19 never finish with a drawing until they tell me I'm
20 done

21 Q Do you make suggestions to them as they're going
22 along? Or you let them completely dictate what's on
23 the sketch?

24 A For the most part, let them completely dictate

25 Q After this was done, did the witness sign,

1 Mr Anderson?

2 A Yes

3 Q Based upon your interview with him and your
4 opportunity to make this sketch, is this a fair and
5 accurate representation of the person he saw
6 Miss Wiley with on December 10, 2006?

7 A Yes

8 Q And this right here is your original, is that right?

9 A That's correct

10 Q Now, this sketch was completed on December 12, 2006
11 Is that right?

12 A Yes, sir

13 Q Later was -- after you do the sketch, did you follow
14 up after arrest is made?

15 A Yes, I usually ask the investigating officer to just
16 let me know if an arrest was made

17 Q To your knowledge was an arrest made in this case?

18 A Yes

19 Q After an arrest is made, do you request a booking
20 photograph of the individual?

21 A Yes, I usually request a copy of the booking picture
22 so I can kind of compare it to my sketch

23 Q And did you request one in this case?

24 A I did

25 Q And did you receive one in this case?

1 A Yes, sir

2 Q I'm going to show you what's been marked State's
3 Exhibit 16 If you could please, identify that,
4 please, sir

5 A That's a photograph of the defendant

6 Q Is that the picture of the booking photograph that
7 you received after his arrest?

8 A Yes, from the arresting agency Yes, sir

9 Q And after you received -- your Honor, I'll move
10 State's Exhibit 16 into evidence

11 MR GAMBLE No Objection, Your Honor

12 THE COURT Sixteen admitted without objection

13 (WHEREUPON, State's Exhibit No 16 is admitted into
14 evidence)

15 Q After you received this booking photograph, did you
16 compare it with the original, I mean your composite
17 sketch?

18 A Yes

19 Q And that is the photograph that you received from the
20 booking?

21 A Yes

22 Q And you used that to compare it, right there Is
23 that correct?

24 A Yes, sir

25 Q Detective, I have no further questions Please

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1 answer any questions Mr Gamble may have

2 THE COURT Cross examination?

3 MR GAMBLE No questions

4 (Witness steps down from the stand)

5 THE COURT You may step down Thank you very much

6 Call your next witness

7 MS ADAMS The State calls lieutenant Mike Walters
8 by

9 MICHAEL WALTERS, being first duly
10 sworn, testified as follows

11 DIRECT EXAMINATION

12 BY MS ADAMS

13 THE CLERK If you will, please state your full name
14 and spell your last name for the record

15 A Lieutenant Mike Walters, W-A-L-T-E-R-S

16 Q Lieutenant, where are you employed?

17 A With the Anderson Police Department

18 Q And what are your duties there?

19 A I'm an investigator

20 Q How long have you been employed in law enforcement?

21 A Seventeen years

22 Q What kind of training have you had, just generally in
23 those 17 years?

24 A I've had multitude of training Started out with
25 basic detective, when I went in to investigations ten

1 years ago and followed up with child abuse, sex abuse
2 investigations with the Criminal Justice Academy
3 Also went to San Diego, had advance training, had
4 advanced training in practical homicide and major
5 case load investigations

6 Q But you been in investigations 19 out of the 17
7 years?

8 A That's correct

9 Q Now, did you respond to the scene at 117 F Belton
10 Woods apartments on December 12, 2006?

11 A Yes

12 Q Is that in around Anderson County?

13 A It is

14 Q When you arrived, were other officers already there?

15 A There were

16 Q Who did you speak with when you arrived?

17 A Layton Creamer

18 Q When you arrived, were you informed what was going on
19 at 117-F Belton Woods apartments?

20 A I was

21 Q Please describe that scene for the jury

22 A Belton Woods is an apartment complex The crime
23 scene or the apartment was in the first court on the
24 left as you pulled into the complex When I arrived
25 crime scene or crime scene units were there

1 processing the scene The coroner's office had been
2 there And the scene had been secured

3 Q So where was Asha Wiley's body found?

4 A Her body was in her apartment in the upstairs
5 bedroom

6 Q Was there an obvious cause of death at that point?

7 Did you all know what had happened to Asha?

8 A No, we didn't At that point in time it was an
9 unexplained death And our policy is any time you
10 have an unexplained death, you treat it as a homicide
11 and you begin your investigation

12 Q How did you begin your investigation?

13 A I began my investigation by talking to neighbors,
14 also friends and relatives who she worked with,
15 gathered information about the past 24 to 48 hours
16 prior to the time she was discovered

17 Q Now, based on this information that you're gathering
18 from witnesses, did you feel, obviously, that the
19 circumstances surrounding Asha's death were
20 suspicious?

21 A Yes, I did

22 Q So -- now, and as part of your investigation, did you
23 all seize Asha Wiley's car for possible evidence?

24 A Say that again I'm sorry

25 Q Did you take Asha's car for evidence?

1 A Yes That's correct

2 Q Did you take pictures at the scene?

3 A The scene was processed by our crime scene unit and
4 pictures were taken

5 Q Now, while you were talking to witnesses, did you
6 speak with Joya Joeth and Ladgen Anderson?

7 A I did I got Joya's name and number from phone
8 records in her apartment, also from her friend,
9 coworkers, and contacted her that afternoon This
10 was on a Tuesday Based on that, I was informed that
11 Asha had met someone on Sunday at the mall who was
12 new She hadn't met him, did not know him before
13 And she gave me a brief description of what she could
14 remember at the time of this friend she met

15 Q Was your focus on this man that she met at the mall?

16 A It was based on the fact, as far as we could tell at
17 that point in time, he was probably the last person
18 to see her alive

19 Q What information did you have to start your
20 investigation? How were you tracking this man?

21 A The information that we had was that he was a black
22 male with Hispanic features Light skinned, as it
23 was described to me, good hair, smooth And very
24 quiet Also that he was stating he was from Georgia
25 but he drove a vehicle that had a Florida license

1 plate on it And the car was very unique in the fact
2 that it had a burgundy bottom and a very white top on
3 it

4 Q Anything else about the car?

5 A They also described the vehicle as having fancy
6 wheels on it, which were unique or not standard
7 wheels on the vehicle

8 Q Did you know what this man at the mall was wearing?

9 A Based on my conversation with Ledgon Anderson, he had
10 on a red jacket and a red hat and blue jeans

11 Q Did you have a name?

12 A The name that was related to me was either Raymon or
13 Raymond, Raymondeze

14 Q Rimerez?

15 A Rivera

16 Q You knew she was at the mall with a man by the name
17 of Raymon Rimerez, driving a red or burgundy car with
18 a white top, fancy wheels, Florida tags Said he was
19 from Georgia or Florida?

20 A Georgia as I recall

21 Q He was wearing a red jacket and a red hat?

22 A That's correct

23 Q Now, did you relay the information you had to
24 Detective Zamberlin who was the lead investigator?

25 A I did

1 Q You relayed that on the following day, the 13th?

2 A He was off on the 12th, and when he came in the next
3 morning, I relayed to him the information that I had
4 gathered because he would be the lead investigator
5 from that point

6 Q And this was the information that you all used to
7 focus your investigation on?

8 A That is correct

9 Q Now, as part of your investigation as well, were
10 video surveillance tapes retrieved from the mall to
11 help identify Asha and this man to get a picture?

12 A That's correct They were retrieved from the mall

13 Q Okay Your Honor, I have no further questions

14 THE COURT Cross examination

15 CROSS EXAMINATION

16 BY MR GAMBLE

17 Q Who gave you the name as Raymondez Rivera?

18 A Who gave me that name?

19 Q Yeah

20 A Joya, her friend from Orangeburg First, that was
21 the first time I heard that name And then when I
22 found out about Mr Anderson, he also gave me,
23 mentioned that she was with a male and thought the
24 name was Raymon

25 Q He had met him at the mall I believe

1 A That's correct

2 Q Any prints taken? Any fingerprints?

3 A From the scene?

4 Q Yeah

5 A They were processed by our crime scene technicians

6 I don't think there were any prints found at the

7 scene at that time

8 Q Any other processing taking place while you were on

9 watch?

10 A Well, they did a complete processing of the scene as

11 they would any unexplained death They took

12 photographs, swabbed, and samples of the apartment

13 and so forth

14 Q You were not part of that?

15 A I was not part of that But we have a crime scene

16 unit that does that

17 Q Right Who was the individual that called you to

18 come out to 117-F Belton Woods?

19 A Actually Lieutenant Layton Creamer did

20 Q Layton Creamer?

21 A Yes

22 Q And he had met with someone out there, hasn't he?

23 A He was the first investigator He was lieutenant

24 over criminal investigations at that time and he was

25 the first investigator on the scene And then he

1 called and asked me to come out and I arrived but
2 there were other officers on the scene Yes

3 Q Right All right And so you were filling in for
4 John Zamberlin at that time?

5 A That is correct

6 Q All I have, thank you

7 THE COURT Any redirect?

8 MS ADAMS No, sir, your Honor

9 THE COURT You may step down Thank you so very
10 much

11 Any objections to him being excused? Solicitor?

12 MS ADAMS No, sir, your Honor

13 THE COURT From the defendant?

14 MR GAMBLE No

15 THE COURT You may be excused, you're welcome to
16 stay Thank you very much Call your next witness

17 WILLIAM BROOKS, being first duly
18 sworn, testified as follows

19 DIRECT EXAMINATION

20 BY MR CAMPBELL

21 A William Brooks, B-R-O-O-K-S

22 Q Mr Brooks, where are you employed?

23 A Belk's

24 Q Belk's here in Anderson

25 A Yes, sir Anderson Mall

1 Q How long you been employed there?

2 A Seven years

3 Q And as part of your job at Belk's, if you could, tell
4 the ladies and gentlemen of the jury what your duties
5 are at Belk's

6 A Loss prevention manager Pretty much protect the
7 assets of the store through video surveillance of the
8 customers and our employees

9 Q That been your job the entire time you been there?

10 A Yes, sir

11 Q When you say video surveillance, does the store have
12 numerous cameras throughout the store?

13 A Yes, sir

14 Q Now, were these cameras operational on December 10,
15 2006?

16 A Yes, sir

17 Q As part of your job or position as loss prevention
18 person for Belk's, you routinely work hand in hand
19 with law enforcement?

20 A Yes, sir

21 Q And shortly after December 10, 2006, did someone with
22 Anderson City Police Department come to you
23 requesting to look at videotape from the date
24 December 10, 2006?

25 A Yes, sir

1 Q And as a result of that, what, if anything, did you
2 do?

3 A We verified there was a purchase made by Miss Wiley
4 We verified she was there in the store and they gave
5 us the sketch, drawing of the suspect or person of
6 interest in the case And we searched our video for
7 that person in the store that day

8 Q And did you, yourself, in fact do that?

9 A Yes, sir

10 Q And was officers present as you were going through
11 the store surveillance tape?

12 A Yes, sir

13 Q As a result of that, did you have the opportunity to
14 see or document an individual or a female that
15 matched the description of Asha Wiley?

16 A Yes, sir

17 Q And, furthermore, during your review of that
18 afternoon December 10, did you also find an
19 individual wearing a red jacket that you also
20 documented?

21 A Yes, sir

22 Q As a result of this, did you make some copies or CD's
23 from this?

24 A Yes, sir

25 Q I'm going to show you what's been marked state's

1 exhibit 40 and 41 Are these copies -- you had an
2 opportunity to look at these, haven't you?

3 A Yes, sir

4 Q Are these exact copies of the items that you down
5 loaded and gave to law enforcement?

6 A Yes, sir

7 Q And these show the events on December 10, 2006, as
8 they transpired?

9 A Yes, sir

10 Q Were they altered or edited in any shape, way, or
11 form?

12 A No, sir

13 Q And after you downloaded or took them off your camera
14 system, you gave them to the Anderson police
15 department, is that right?

16 A Yes, sir

17 Q Your Honor, at this time I move state's exhibit 40
18 and 41 into evidence

19 MR GAMBLE No objection

20 THE COURT Forty and forty-one admitted without
21 objection

22 (WHEREUPON, State's Exhibit No 40-41 are marked for
23 identification and received in evidence)

24 Q Mr Brooks I have no further questions for you

25 Please answer any questions Mr Gamble may have

1 THE COURT Cross examination?

2 MR GAMBLE No questions

3 THE COURT Step down Call your next witness

4 MR CAMPBELL Your Honor, the State calls James
5 Walker to the stand

6 JAMES WALKER, being first duly sworn,
7 testified as follows

8 DIRECT EXAMINATION

9 BY MR CAMPBELL

10 THE CLERK Please state your full name Spell your
11 last for the record

12 A James A Walker Last name spelled W-A-L-K-E-R

13 Q Where are you employed?

14 A Goody's Family Clothing, Knoxville, Tennessee

15 Q How long have you been employed with Goody's?

16 A Right at 16 years

17 Q What are your duties or job with Goody's?

18 A I'm actually the chief investigator in charge of all
19 investigations conducted by the field personnel in
20 this company

21 Q And my understanding is currently the Goody's store
22 there at Anderson Mall is closed as of today, is that
23 right?

24 A That is correct

25 Q Had you been to that store previously as part of your

1 job as security officer?

2 A Several times

3 Q Are you familiar with their security camera systems?

4 A Yes, I was

5 Q To your knowledge was it in operation on December 10,
6 2006?

7 A Yes, it was

8 Q Can you briefly describe for the ladies and gentlemen
9 of the jury how the system works and what it
10 portrays?

11 A Our camera system in that store is a multiplex
12 system You have a VCR and hooked to another system,
13 16 different cameras come into this one box, which
14 splits all the cameras so it will all fit on one
15 videotape So it takes different tracks and records
16 it on there Every camera in the store is videotaped
17 consistently all the way through There's not
18 breaks

19 Q On these tapes can a store or employee or yourself
20 pull off a machine, alter it or edit it in any way,
21 shape, or form?

22 A No The only thing you can do is stop it and record
23 over it There's no way we have any equipment in
24 that store to do anything other than that

25 Q And these videotapes fairly and accurately represent

1 the events that took place or shown on December 10,
2 2006?

3 A That's correct

4 Q I show you what's been marked State's Exhibit 42 If
5 you could, please look at that, sir

6 A Yes, sir

7 Q And that is a VHS tape Is that correct?

8 A That's correct

9 Q Is that a tape December 10, 2006, from your Goody's
10 store?

11 A Yes, from Goody's store 275, which is -- 275 is our
12 store number for Anderson, South Carolina

13 Q And does your store, you routinely work hand in hand
14 with law enforcement to provide this type of
15 information to them?

16 A Yes, sir

17 Q Regarding any type of investigation they may have
18 ongoing?

19 A Yes, sir, almost daily

20 Q And does this tape that you're looking at fairly and
21 accurately represent December 10, 2006, your Goody's
22 store?

23 A Yes, sir

24 MR CAMPBELL At this time I move it in evidence
25 THE COURT Any objection?

1 MR GAMBLE No objection

2 THE COURT State's Exhibit No 42 in evidence

3 without objection

4 (WHEREUPON, State's Exhibit No 42 is marked for
5 identification and received in evidence)

6 MR CAMPBELL Mr Walters, I have no further
7 questions Please answer any questions Mr Gamble may
8 have

9 THE COURT Cross examination

10 CROSS EXAMINATION

11 BY MR GAMBLE

12 Q What were you told to look for on this tape?

13 A Looking for individuals coming in to the store I
14 wasn't actually the person that looked at it That
15 was a former employee who has since left our
16 employment since then That was Mike Crabtree

17 Q When did you come in to play it?

18 A I was in like the day before or two days before I
19 was in Anderson and we had been doing our normal
20 audits we do in the store, normal visits I had met
21 one of the guys over there, one of the newer guys, we
22 were discussing training issues And we were having
23 some cash shortages in Anderson That's how I know
24 the system was operating correctly I was there, I
25 actually viewed videotape for two days before that

1 over cash shortages on our register

2 Q What?

3 A On our registers, when a transactions rang up, it
4 records how much cash, checks, are supposed to be in
5 the register At the end of the day there should be
6 X amount of money in the register If there's not,
7 we have a shortage or overages Sometimes could be
8 more money in the register and sometimes there's
9 less When it's less and more than 20 or \$30, we
10 come in and investigate, try to determine if it's
11 error or training-related issue or a theft issue

12 Q This other officer, theft prevention---

13 A Mike Crabtree Yes, sir

14 Q Sir?

15 A His name is Mike Crabtree

16 Q Did Mike explain what he was looking for on this
17 piece?

18 A Yes I talked to him on the phone Before any tapes
19 can be released to anybody, I have to give
20 permission He did call me on approval over this
21 video and told me what he was looking at and what he
22 was looking for

23 Q What did he tell you he was looking at or for?

24 A He told me there was an incident that he have -- he
25 was contacted by the Anderson Police Department about

1 an individual who was supposed to have entered the
2 store with a female And they wanted to see if it
3 was on our videotape and if we had any evidence of
4 it Other than that, he didn't tell me anything
5 other than they needed to see that Other than that,
6 I always ask when somebody comes up with this, is
7 this a divorce case? If it's divorce, don't get
8 involved unless we're subpoenaed If any kind of
9 criminal case, we cooperate with law enforcement
10 Whatever they need, we do it

11 Q So Mr Crabtree apparently talked with the detectives
12 and found out what he was looking for?

13 A Yes, sir To my knowledge that's what's he did,
14 found out what they were looking for I wanted to
15 say he got a brief description of what the two
16 individuals were supposed to be wearing, and that's
17 what he went by And that's usually how those happen
18 when you review videotapes, you're looking for
19 something, you have to have some kind of clothing
20 description, facial description, body height, weight,
21 you know, something that will stand out

22 Q That's what I was asking How did you know that was
23 done?

24 A From talking to Mr Crabtree

25 Q Oh, he told you?

1 A Yes When I talked to him, I always ask a lot of
2 questions before I give up videotapes Because there
3 are issues we have to go back sometimes and look at
4 pertaining to our business So I always ask a lot of
5 questions You know, why are you looking at this,
6 what they needing it for? Can they take a copy? Do
7 they need the original? Do they give you a good
8 description? You know, are you going to be wasting
9 your time by, you know, it's a male 5' tall, 5'6 and
10 a female 5'4 You look at a video camera from any of
11 our stores, you may see a hundred people come in that
12 high

13 Q Did Mr Crabtree in the ordinary course of business
14 make any notes of what he was looking for on the VCR?

15 A That not that I know of

16 Q He would have given you those?

17 A Yes Or he would have give them to the police
18 officers He never gave me anything on it I know
19 he called me back after he reviewed the videotape
20 And he said he thinks he found what the officers
21 wanted him to look for So he was either going to
22 contact the officers back or I don't remember if they
23 were there or not, and was it okay, if that's exactly
24 what they needed, could he release the videotape
25 And I said, "Yeah, it is, if that's what they needed

1 Q Where is Mr Crabtree?

2 A Mr Crabtree left employment with Goody's in July of
3 this year Actually as of right now I'm not sure
4 where he's at I heard he took employment with
5 another company, Fred's, but I'm not really sure
6 where he's located at right now I haven't seen
7 Mr Crabtree since the day he left the company

8 THE COURT Any redirect?

9 MR CAMPBELL No, Your Honor

10 THE COURT You may be excused, Mr Walker Thank
11 you so very much Call your next witness

12 MS ADAMS May we approach?

13 THE COURT All right Ladies and gentlemen of the
14 jury, I told you this morning we'd quit at a good stopping
15 point close to one It's not close to one But we're
16 going to stop now, after talking with the attorneys, this
17 is a good time to stop So we're going to stop for lunch
18 Be back in the jury room at 2 00, we'll get started at
19 that time Please don't discuss the case with anyone If
20 anyone tries to talk to you about it, please walk away,
21 don't discuss it with anyone or amongst yourselves

22 Anyone else in the courtroom remain seated please
23 You may be excused See you at 2 00

24 (Whereupon, the jury is excused for the luncheon
25 recess)

Afternoon Session

(Pursuant to the adjournment for the luncheon recess,
court was again in session when the following
proceedings were had)

THE COURT Anything from the State before we bring
the jury?

MS ADAMS No, sir

THE COURT Anything from the defendant?

MR GAMBLE No, Your Honor

THE COURT Bring us the jury, please, sir

(Whereupon, the following proceedings were had within
the presence of the jury)

Solicitor, call your next witness, please

MS ADAMS Thank you, your Honor The State calls
Dr Woodard to the stand

BRETT H WOODARD, M D , being first
duly sworn, testified as follows

DIRECT EXAMINATION

BY MS ADAMS

Q Doctor, if you'd please state your full name, spell
your last for the record

A My name is Brett Houghten Woodard, W-O-O-D-A-R-D

Q Dr Woodard, where are you employed?

A I'm employed with Piedmont Pathology Associates,
Anderson, South Carolina

1 Q What capacity?

2 A Pathologist, and specifically I'm the forensic
3 pathologist for the group

4 Q Please tell the jury a little bit about your
5 educational background

6 A I have a Baccalaureate degree from the University of
7 Pittsburgh, attended medical school at Tulane
8 University Medical School Did an internship in
9 pediatrics at Charity Hospital in New Orleans Did
10 four years of forensic pathology medicine at Duke
11 University Medical Center in Durham, North Carolina
12 I was on the faculty at Duke University Medical
13 Center for approximately a year and a half before
14 coming to Anderson, South Carolina, with Piedmont
15 Pathology Associates in 1982
16 I then returned to North Carolina, did forensic
17 pathology medical training at the North Carolina
18 Medical Examiner's office

19 Q How long you been a forensic pathologist?

20 A Since 1994

21 Q What specifically are your job duties?

22 A As far as forensic pathologist, job duties to perform
23 autopsies and examinations requested by police
24 officers or coroner's office authorities

25 Q Approximately how many autopsies have you performed?

1 A Approximately 220 to 250 autopsies a year

2 Q Have you testified as an expert before in the field
3 of forensic pathology?

4 A Yes, I have

5 Q How many times?

6 A Hundreds

7 Q At this point, move Dr Woodard be qualified expert
8 in pathology?

9 MR GAMBLE I'm familiar with him He's qualified

10 THE COURT Court so finds Thank you very much

11 Q Dr Woodard, did you have an opportunity to perform
12 an autopsy on Asha Wiley?

13 A Yes, I did

14 Q As part of that autopsy, do you take a known blood
15 sample of the victim to send to SLED for testing?

16 A Yes We take several blood samples, one for the
17 purpose of DNA or for any DNA comparisons that may be
18 wished to be done

19 Q Please tell the jury about how that's done How do
20 you preserve that sample?

21 A We're acquire it from the body, place it into a tube,
22 much like the tubes if you went to your doctor's
23 office and he drew blood from you, we place the
24 deceased's name and our identifying number, our
25 autopsy number on the tube And we place all those

1 tubes inside a second hard plastic tube to make sure
2 they're not broken in transit and then place it all
3 in a tamper proof plastic bag that bears the
4 deceased's name and our identifying numbers outside
5 the bag

6 Q And you, in turn, give that back to law enforcement?

7 A That bag is given to law enforcement to transport to
8 SLED

9 Q Is that what was done in this case --

10 A Yes, it was

11 Q -- and in every case? Dr Woodard, tell the jury how
12 Asha Wiley died

13 A She died from strangulation producing what we call
14 asphyxia

15 Q Tell the jury how she was strangled

16 A A force was placed around her neck which compressed
17 the blood vessels of her neck First the force would
18 compress the veins, takes about five pounds of
19 pressure to compress the veins Then it would
20 compress the arteries in the front of the neck, your
21 carotid arteries, which are the main blood supply to
22 your brain from your arterial side
23 The pressure was variably placed on and off from,
24 over a period of time, until a sufficient lack of
25 oxygen to the brain occurred that it resulted in the

1 death of her brain cells and her ultimate death

2 Q When you say pressure on and off, what do you mean by
3 that? Was it a one-time strangulation?

4 A No It was the -- because of the extent of
5 hemorrhage we see into the damaged capillaries around
6 the eye and around the soft tissue of the face the
7 pressure had been placed and released, or the blood
8 flow had been allowed before death occurred to
9 restart, which would bring the person back to a level
10 of conscious before the pressure was again started
11 And the result of the obstruction, the person would
12 lose consciousness And this was done for several
13 cycles in order to produce that degree of damage that
14 we observed

15 Q Tell the jury, Dr Woodard, what happens to other
16 bodily fluids when one is strangled

17 A The main thing that we observed is that because of
18 the loss of consciousness that occurs, the brain
19 level, heart still functions, people often lose their
20 bowels or bladder control They urinate or defecate
21 on themselves

22 Q At the scene when Asha's body was first found, there
23 were no obvious signs of trauma Did you find any
24 bruising around her neck?

25 A No We found no significant injuries to the skin of

1 her neck We did find bruises on other parts of the
2 body

3 Q Explain to the jury how, if someone is strangled, how
4 there may not be any bruises

5 A If an intervening object is placed between either the
6 individual's hands or an object that they use to
7 strangle the person, such as bedding, towels,
8 pillows, it will prevent marks from being placed on
9 the neck Another alternative is to use a chokehold
10 with your arm around the individual where a very
11 broad surface of your arm places pressure on the
12 individual's blood vessels in their neck

13 Q Did you find bruising anywhere else on Asha?

14 A She had bruising above her right ear in the muscle
15 that's above your right ear that would be consistent
16 with a blow to that area And then she had fresh
17 bruising and old bruises down on the shins of her
18 legs

19 Q Would that be consistent with, say, falling off a
20 bed?

21 A Oh, absolutely

22 Q Now, what about her wrists, was there any bruising on
23 her wrists?

24 A No We saw no evidence of injury to her wrists

25 Q If you know that a victim has been tied and bound,

1 would you automatically expect to find bruising
2 around her wrists?

3 A It would depend on how tightly they had been tied and
4 the object that was used to tie them If it was a
5 soft object or a broad object, no, it would not
6 produce bruises If they were loosely tied, then it
7 would not produce bruises

8 Q Dr Woodard, have you formed an opinion based on a
9 reasonable degree of medical certainty concerning the
10 cause of death in this case?

11 A Yes, I have

12 Q And what is that opinion?

13 A That she was strangled and it produced asphyxia death
14 or a lack of oxygen to the brain

15 Q Are there certain signs that you look for in victims
16 who are strangled?

17 A Yes

18 Q What are those signs?

19 A Look for hemorrhage in the soft tissues around the
20 eyes or in the face That represents a blocking of
21 the veins before the arteries are blocked or
22 re-institution of blood flow and then blocking again
23 Just like the small vessels inside the brain are
24 being damaged, these small vessels in the head and
25 face become damaged and show us the signs of injury

1 of asphyxia

2 Q And, Dr Woodard, I want to make sure the jury
3 understands that your medical findings are consistent
4 with someone who was choked and then revived, choked
5 again and then revived again, over a period of time

6 A Absolutely

7 Q And obviously, Dr Woodard, you would rule her death
8 as a homicide?

9 A That's correct

10 Q Please answer any questions Mr Gamble has

11 CROSS EXAMINATION

12 BY MR GAMBLE

13 Q Could you establish, and I think I know the answer to
14 this already, could you establish the intervals
15 between which this person was strangled and revived
16 and strangled and revived?

17 A It would have been a short time period The exact
18 time period could not be established

19 Q Did you notice any ligature marks around the mouth
20 area?

21 A No, I did not

22 Q If a person had been tied with a cord from a printer,
23 a computer printer, would you expect to find that
24 type thing causing any bruising?

25 A Unless there was some sort of the intervening object

1 that would prevent bruising, yes

2 Q All right How about arms and legs, did you find any
3 bruising on them that would indicate ligature such as
4 the cords?

5 A Nothing that would specifically indicate a ligature

6 Q You could not say?

7 A Well, there were bruises on the legs

8 Q I understand that, but you already established that
9 could have been from a fall from the bed?

10 A That's right But there weren't any specific
11 injuries that left a signature or a pattern that
12 could be said to have been ligatures only

13 Q Okay I think that's all I have If you excuse me
14 one minute I want to check one thing

15 THE COURT Any redirect?

16 MS ADAMS Just a couple of questions, your Honor

17 REDIRECT EXAMINATION

18 BY MS ADAMS

19 Q Dr Woodard, referencing being tied around your mouth
20 with a cord, would also how tight that cord was tied
21 play a part in whether or not you saw bruising?

22 A Absolutely

23 Q Thank you That's all

24 THE COURT Cross?

25 MR GAMBLE No, sir

1 THE COURT Dr Woodard, you may step down Thank
2 you very much

3 Any objection to the doctor being excused?

4 MS ADAMS No, sir

5 THE COURT Any objection?

6 MR GAMBLE No objection

7 THE COURT Doctor, thank you very much You're
8 excused

9 (Witness excused)

10 Call your next witness, please

11 MS ADAMS We call Kelly Chapman

12 KELLY CHAPMAN, being first duly sworn,
13 testified as follows

14 DIRECT EXAMINATION

15 BY MS ADAMS

16 THE CLERK State your full name Spell your last
17 for the record

18 A Kelly Jean Chapman, C-H-A-P-M-A-N

19 Q Where do you work?

20 A Piedmont Pathology Associates in Anderson

21 Q What are your duties there?

22 A To assist the pathologists, such as Dr Woodard, in
23 autopsies or to assist them in the grossing of
24 surgical specimens

25 Q And did you have an opportunity to assist in the

1 autopsy of this case with Asha Wiley?

2 A Yes

3 Q Now, were you present when the sexual assault
4 evidence kit was collected from Asha Wiley?

5 A I was, yes

6 Q Please tell the jury what a sexual assault evidence
7 collection kit is

8 A It's received as a cardboard box Inside the box are
9 separate envelopes labeled with things like vaginal
10 swab, head hair, fingernails, saliva, or bite marks

11 Q And was this collection kit performed on Asha Wiley?

12 A It was

13 Q And you were present when the vaginal and rectal
14 swabs and smears were placed into that kit, correct?

15 A I was

16 Q Did you tamper or alter with them in any way?

17 A No, I did not

18 Q Once you place them in the kit, what you do with the
19 kit?

20 A The kit is sealed with tamper-evident tape and sent
21 with law enforcement to take to SLED

22 Q And in fact did you seal it, it went with law
23 enforcement to go to SLED?

24 A It did, yes

25 Q That's all?

1 THE COURT Cross examination?

2 MR GAMBLE No, sir

3 THE COURT Miss Chapman, you may step down Thank
4 you very much You may be excused

5 (Witness excused)

6 JOHN A ZAMBERLIN, being first duly
7 sworn, testified as follows

8 DIRECT EXAMINATION

9 BY MS ADAMS

10 THE CLERK If you'll state your name and spell your
11 last for the record

12 A My name is John A Zamberlin, Z-A-M-B-E-R-L-I-N

13 Q Where are you employed?

14 A I'm employed by the Anderson Police Department

15 Q And in what capacity?

16 A I'm a lieutenant I manage the investigations
17 division, the forensic division, and victim's
18 services division

19 Q So what are your duties?

20 A I manage approximately 1400 reported criminal cases
21 on a yearly basis, broken down into four sections
22 Crimes against persons, crimes against property,
23 crimes against morality and decency, and economic
24 crimes, which is probably more commonly known as
25 white-collar crimes

1 Q Now, how long have you been in law enforcement?

2 A Twenty-two and a half years

3 Q What type of training have you had? Sure it's a
4 great deal in the 22 years, but have it directed more
5 towards homicides

6 A I've maintained state certification as basic law
7 enforcement officer I've also attended seminars
8 and/or classes dealing with advanced homicide
9 investigation, child abuse investigation, interview
10 and interrogations, investigation practices and
11 techniques I've also attended classes regarding
12 psychological profile and crime scene management and
13 assessment

14 Q How many homicides have you investigated?

15 A Approximately 21 homicides

16 Q Now Detective Zamberlin, you are the lead
17 investigator in this case, is that correct?

18 A Yes, ma'am

19 Q Were you contacted on the 12th when Asha Wiley's body
20 was found in her apartment?

21 A Yes, I was

22 Q Were you able to go to the scene that day?

23 A No

24 Q What did you do on the twelfth in relationship to
25 this case?

1 A On the twelfth I received a brief from one of the
2 detectives within the detective division about the
3 case and I had ordered that the victim's vehicle, a
4 Dodge Stratus, be seized in the case and processed
5 for evidence

6 Q So based on the information you received on the
7 twelfth, did you also feel the circumstances
8 surrounding Asha's death were suspicious?

9 A I did

10 Q And an investigation was started actually on the
11 twelfth, correct?

12 A Yes, it was

13 Q Now, you came in to work on the 13th, correct?

14 A That's correct

15 Q Tell the jury what information you were given on the
16 13th that started your investigation What did you
17 know about this case?

18 A On Wednesday, the 13th, I had information that
19 supported that the victim's vehicle had actually been
20 parked two apartment buildings away from where she
21 actually lived I also understood that the back door
22 had been found in an unsecured condition And I also
23 became aware that her keys could not be located

24 Q You were able to speak to Joya Joseth on the 13th?

25 A Yes, I was

1 Q And based on the information you were given, how did
2 you proceed with the investigation?

3 A At that time, based on the information that I was
4 provided, there was a, efforts under way to locate a
5 red automobile with a white top with a Florida tag,
6 and to attempt to locate a person possibly associated
7 with that vehicle by the name of Raymond Rimerez

8 Q Because this was the information that you had
9 received as the person Asha was with at the mall Is
10 that correct?

11 A That's correct

12 Q With the information you had, what do you do to start
13 tracking down this person with the red car and white
14 top, named Raymond Rimerez?

15 A One of the first things was done was to share
16 information via teletype services through our
17 communications division, a BOLO if you will, "be on
18 the lookout" to try to share this information with
19 other law enforcement agencies as we could, in a
20 timely manner, to see if we could develop any leads
21 or get any feedback information regarding a vehicle
22 description like this or a name
23 We also use DMV services, Department of Motor Vehicle
24 Services, in Florida and the State of South Carolina
25 in attempt to identify people with the name Raymond

1 Rimerez

2 Q Did you know at this point this was an unusual type
3 of car so to speak?

4 A Yes Not that other cars weren't manufactured like
5 that vehicle, but certainly a vehicle that probably
6 one would not see perhaps on an everyday basis

7 Q Now as part of your investigation, did you look at
8 surveillance videos from Belk's and Goody's?

9 A Yes

10 Q Were you able to identify Asha Wiley and the
11 defendant on those tapes?

12 A Yes

13 Q And detective -- your Honor, may he step down?

14 THE COURT Yes, ma'am

15 Q I'm going to play what's been marked State's Exhibit
16 41 It's actually in evidence When this tape is
17 played, Detective, please explain exactly what
18 they're looking at for me You can use this to
19 point

20 A This is the inside of Belk's store here in Anderson
21 at the Anderson Mall

22 Q Can you tell the jury what time and date it is?

23 A I believe that this particular video was---

24 Q Is that the time in the corner?

25 A Yes 3 00 p m

1 Q It's a short tape, so I'm going to play it again so
2 you can---

3 A Yes

4 Q Now who is that, that you're pointing to?

5 A That's a person that was identified as Ramondeze
6 Rivera

7 Q You recognized him how in that video?

8 A In this particular video here, the jacket that he is
9 wearing is a jacket that I had knowledge of during
10 the investigation

11 Q Is that the red jacket and the red hat that witnesses
12 told you he was wearing?

13 A Yes

14 Q And it's actually a very distinctive jacket, is it
15 not?

16 A Yes

17 Q And that is at what 3 15, 3 16 time?

18 A Yeah

19 Q Same day?

20 A Yes, December 10

21 Q We saw the defendant exit Belk's?

22 A Yes, ma'am

23 Q Now what time is this?

24 A Three thirty-five here

25 Q You're pointing to the defendant again?

1 A Yes

2 Q In the red jacket and the red hat?

3 A Yes

4 Q Is that the defendant again?

5 A Yes

6 Q And that's at 3 37?

7 A Yes, ma'am

8 Q He's exiting Belk's again, correct?

9 A Yes

10 Q I think we have one more Belk's And what time is

11 this, Detective?

12 A It's 6 09 p m

13 Q Play it one more time This video I think depicts

14 the victim, does it not? Coming into Belk's

15 A Back here in the corner

16 Q Yes What time is this video?

17 A Six twenty-seven

18 Q And we're still in Belk's, correct?

19 A Yes

20 Q Did the victim just not place some clothes right

21 there?

22 A Yes, I'm sorry

23 Q Is that the victim in the back?

24 A Here Asha Wiley

25 Q And I believe you can tell she was wearing dark pants

1 and a purple sweater?

2 A Yes

3 Q And her hair is straight?

4 A Yes A debit card purchase

5 Q And that is what time?

6 A At 6 30 p m

7 Q So we know she made a purchase at Belk's at 6 30?

8 A Yes

9 Q John, you can actually see the top of that video,
10 it's dated the December 10, 2006, is that correct?

11 A Yes

12 Q Asha just walked away?

13 A Yes

14 Q What time, about 6 35?

15 A Six thirty-five

16 Q We have one more at Goody's Six thirty-five, that's
17 her leaving, correct?

18 A Yes

19 Q That's right after her purchase?

20 A Right

21 Q We have one more This is the tape from Goody's
22 That's State's Exhibit 42 that's already in evidence?

23 THE COURT Okay

24 Q Now, this one moves a little faster I believe the
25 defendant and Asha just walked by --

1 A Yes

2 Q -- in the lower left corner?

3 A Yes

4 Q What time is this?

5 A It's at 4 43

6 Q Okay In Goody's, correct?

7 A Goody's, Anderson Mall

8 Q And that's the same jacket and hat that we saw in

9 Belk's, correct?

10 A Yes

11 Q And you can see, who is he standing next to? She's

12 getting ready to walk, the victim

13 A Yes, right here on the other side

14 Q Looks like they're talking, correct

15 A Yes

16 Q Now, you can see the victim, correct?

17 A Yes And this is a Bank of America debit card

18 purchase, Asha Wiley's account

19 Q And you can tell from that video too, she's wearing

20 the same thing as previously, obviously, in that?

21 A Yes Yes

22 Q Then they walk off together, correct?

23 A Yes

24 Q You can take your seat Thank you

25 (Witness resumes stand)

1 Q As part of your investigation, were you able to
2 confirm Asha Wiley's cell phone number was
3 (803)35-9410?

4 A Yes

5 Q Also did you find a cell phone number of interest
6 with Florida area codes?

7 A Yes

8 Q And was that number (941)301-6113?

9 A Yes, it was

10 Q What kind of account was that?

11 A This was a prepaid cell phone account held by Metro
12 PCS telephone company

13 Q Once you found this phone number of interest and that
14 Metro PCS was the carrier, did you contact Metro PCS?

15 A Yes, I did

16 Q Where are we now? What day?

17 A This is on Thursday

18 Q Thursday night?

19 A Yeah, Thursday afternoon

20 Q So that's the 14th?

21 A Yes

22 Q So two days after Asha's body was found?

23 A Yes

24 Q As a result of your conversation with metro PCS, were
25 you able to find out the subscriber information for

1 that cell phone?

2 A Yes

3 Q What name was it under?

4 A The prepaid account was opened up by someone that
5 provided the first name Raymon

6 Q And that was it, no last name?

7 A No last name was provided It's a prepaid account

8 Q What was the address?

9 A It was an address in Sarasota, Florida, a suburb of
10 Tampa, I believe

11 Q Did you try to locate this person in Sarasota with
12 the address you were given?

13 A Yes

14 Q How did you do that?

15 A We contacted law enforcement in Sarasota, Florida
16 They went to the address that had been provided by
17 the person who opened the account There was a
18 street by that name, but there was no numerical by
19 that number on that street

20 Q So it was a false address?

21 A It's a dead end

22 Q All right And a dead end Did you obtain a search
23 warrant for the cell phone records of that 941
24 number?

25 A Yes, I did

1 Q And did met Metro PCS cooperate with you in that
2 investigation?

3 A Yes, they did Yes

4 Q I want to show you what's been marked State's Exhibit
5 38 Can you just tell the jury what that is? Is
6 that what you received from Metro PCS?

7 A Yes, it is

8 Q So are those the records from that cell phone number?

9 A Yes There is a -- the first couple of -- the first
10 page is the subscriber information for the prepaid
11 account, and there is also a tower hit page here and
12 there's also some incoming and outgoing calling
13 records for that particular phone for a few days

14 Q Now, you said Metro PCS aided you in your
15 investigation?

16 A Yes

17 Q And you just mentioned a tower hit, what did they do
18 to help you in your investigation?

19 A They did a track, a live track if you will, on the
20 particular phone number of interest And they
21 provided me with information on the tower location
22 that that phone was communicating with

23 Q And this is still on the 14th, correct?

24 A The 14th Yes

25 Q What information did you obtain as a result of that

1 tracking system?

2 A This information went on from -- this track went on
3 from Thursday afternoon to, all the way up -- all
4 night long until the next morning And the last
5 information that was available to me from Metro PCS
6 was that that phone had connected with a tower on
7 Bankhead Highway in Douglasville, Georgia

8 Q So you were actually, as part of your investigation,
9 trying to find the physical location of that phone?

10 A I wanted to know where that telephone was Yes, I
11 did

12 Q Why did you want to know where that phone was?

13 A Because that phone had been connected with the
14 defendant

15 Q And especially with the person last seen with Asha,
16 correct?

17 A Yes

18 Q How -- explain to the jury the time frame How long
19 was this? How long is this taking, the time frame
20 for the track?

21 A Like I said, this is something that went into effect
22 that Thursday And I stayed up all night long back
23 and forth with that phone company asking them to
24 update the record for me to see if that phone had
25 communicated with any other towers, and, if so, where

1 they were

2 Q And all through Thursday night did that phone
3 communicate with any other tower besides the one in
4 Douglasville?

5 A No

6 Q So what did you do Friday, then, as a result of that?

7 A Friday---

8 Q Because this phone is in Georgia, correct?

9 A Yes, it is

10 Q So did you contact anybody to help you in your
11 investigation?

12 A Yes We contacted the federal marshal service in
13 Atlanta, Georgia

14 Q And this was on Friday the 15th, right?

15 A Yes

16 Q What information did you relay to the federal
17 marshals to help aid them in their investigation?

18 A I provided the federal marshals a composite sketch

19 Q This is the composite sketch that Todd Caron did that
20 Ladgen Anderson gave?

21 A Yes, ma'am And I also provided them with the first
22 few pages of the cell phone record that I had
23 available to me at that time

24 Q What about a car description, did you give them a car
25 description?

1 A Yes

2 Q Obviously, you had the name Raymon, they knew that as
3 well?

4 A Yes

5 Q Were the federal marshals able to locate the car?

6 A Yes, they were

7 Q And where was the car located?

8 A The car was at an address in Douglasville, Georgia

9 Q Did you go to Atlanta at this time?

10 A Yes

11 Q Who went with you?

12 A Myself, lieutenant Mike Walters, and CSI agent George
13 Creamer

14 Q While you were in route to Atlanta, were you in
15 constant communication with the marshals?

16 A We were in contact with them via cell phone Yes

17 Q Explain to the jury what happened while you're in
18 route to Atlanta What were the marshals doing?

19 A I received a call from the marshal who said that they
20 were looking at the car but that a man had came out,
21 got in the car and drove off, and that they were
22 trying their best to keep the car under surveillance,
23 but they were encountering some heavy traffic
24 conditions

25 Q So they're actually following the car? This car, the

1 red car with the white top, is on the move?

2 A Yes

3 Q And this car has Florida tags, correct?

4 A Yes

5 Q All right What did the federal marshals do?

6 A The car had pulled into a convenience store And I
7 received information that they had the car first
8 opportunity to get a good look at the individual that
9 was operating the car, and that he matched the
10 composite drawings that they had

11 Q Did the federal marshals actually go into that
12 convenience store to look at the driver?

13 A Yes

14 Q And they said that the person in the composite sketch
15 was the driver of that car?

16 A Yes

17 Q All right At that point where are you? Are you in
18 Atlanta yet?

19 A No, we are probably somewhere around Commerce,
20 traveling on I-85 towards Douglasville, Georgia,
21 Douglasville, Georgia, is probably on other side of
22 Atlanta from us You have to kind of go through, get
23 close to downtown Atlanta before you take Highway 20,
24 past six flags

25 Q Did the defendant get back in the car from the

1 convenience store?

2 A Yes

3 Q So the car is in motion again?

4 A Yes, sir

5 Q What do you tell the federal marshals to do?

6 A At that time they were attempting to stay with the
7 vehicle And we were trying to get to Douglasville,
8 Georgia And the car was stopped by law enforcement

9 Q What basis did they stop that car?

10 A The car had a tag on it that belonged to a BMW

11 Q So it was a bad tag?

12 A It was, yes Yes The tag on the vehicle did not
13 come back registered to the vehicle it was on

14 Q Now, at that point, when they pulled him over, did
15 they take him into custody?

16 A Yes

17 Q Where did they take him?

18 A To the Douglas County Sheriff's Department

19 Q About what time did you get to the Douglas County
20 Sheriff's Department?

21 A It was probably about 8 30 before we could arrive
22 there

23 Q They pulled him over about what time, do you recall?

24 A Approximately 7 30

25 Q Okay Now, when you arrived at that time, did an

1 investigator, Joey Garland, with the Douglas County
2 Sheriff's Office talk to the defendant?

3 A Yes

4 Q And were you able to look on and listen while
5 Detective Garland was speaking to the defendant?

6 A Yes

7 Q So you heard the conversation?

8 A Yes

9 Q Now, as a result of that conversation, I want to show
10 you what's been marked State's Exhibit 44 Can you
11 tell me what that is, please

12 A This is a consent to search, waiver of constitutional
13 rights to a search warrant, basically a consent to
14 search the vehicle

15 Q So who signed that consent form?

16 A Raymondeze Rivera signed this and lieutenant Mike
17 Walters signed this

18 Q Is the man that signed that in this courtroom?

19 A Yes

20 Q Where is he?

21 A Right there (Pointing) Defense table, in the white
22 shirt

23 Q Pointing to the defendant in the white shirt?

24 A Yep

25 Q You saw him sign it?

1 A Yep

2 Q Actually did you sign it as a witness?

3 A George Cremer and Mike Walters signed this and I did
4 not

5 Q But you were present?

6 A Yes

7 Q Basically he is signing a consent to search his car?

8 A Yes, ma'am

9 Q That's what that is?

10 A Yes

11 MS ADAMS Your Honor, I would ask State's Exhibit

12 44 be moved into evidence

13 MR GAMBLE No objection

14 THE COURT Admitted without objection

15 (WHEREUPON, State's Exhibit No 44 is marked for
16 identification and received in evidence)

17 Q Once you got that consent to search, what did you do?

18 A Proceeded to the sally port area of the Douglas
19 County jail, where the vehicle was, with CSI agent,
20 George Cremer who works for my division and he was
21 instructed to process that vehicle

22 Q Now, have you spoken to the defendant at all yet?

23 A No

24 Q Does he even know you're there?

25 A No

1 Q So George Cremer's searching the car Are you
2 present?

3 A Yes, I am

4 Q About what time is it now? Just to give the jury a
5 feel how long this is taking?

6 A This would probably be approximately 10 p m estimate
7 on that

8 Q I want to show you State's Exhibit 9, 11, 12, 13, and
9 14 They're actually already in evidence Can you
10 just tell the jury again what that -- what's in that?

11 A Yes This is actually the photograph of the burgundy
12 Buick, white top, as it was sitting in the sally port
13 area of the Douglas County jail that night And
14 there's pictures of it and pictures of the vehicle
15 that Raymondeze Rivera was arrested out of

16 Q And this is the car that the federal marshals pulled
17 over?

18 A Yes, it is

19 Q With the Florida tag?

20 A Yes

21 Q You searched that car that night, correct?

22 A Yes

23 Q I want to show you State's Exhibit 32 Can you
24 please tell the jury what that is

25 A This is a certificate of title located in the

1 vehicle, and it has the name Raymondeze Lamon Rivera

2 Q As the owner of that car?

3 A As the owner of the vehicle, yes

4 Q I ask State's Exhibit 32 be moved into evidence

5 MR GAMBLE No objection

6 THE COURT State's Exhibit 32 admitted without

7 objection

8 (WHEREUPON, State's Exhibit No 32 is admitted into
9 evidence)

10 Q Can you read that for me, please? Can you see this?

11 Here you go

12 A This is registered owner, Raymondeze Lamon Rivera,
13 5819 Whistle Wood Circle, Sarasota, Florida, 34232
14 Mailed to Ramondeze Lamon Rivera, 5819 Whistle Wood
15 Circle, Sarasota, Florida 34232

16 Q Now, was that the same Sarasota address that was
17 given to PCS?

18 A It was not

19 Q You can have a seat please Now I want to show you
20 what's been marked State's Exhibit 28, 29, 30, and
21 31 Can you please tell the jury what those are?

22 A This is a red jacket that was located inside the
23 vehicle, pictures of it, in the vehicle before it was
24 collected as evidence It's a red jacket with two
25 white stripes down the sleeves It says "G Unit,

1 heavyweight," across the front

2 Q And that is a fair and accurate representation of how
3 you found it in the car before you collected it?

4 A Yes

5 MS ADAMS I'd ask these be moved into evidence

6 THE COURT Any objection?

7 MR GAMBLE No objection

8 THE COURT State's Exhibit 28, 29, 30, and 31 in
9 evidence without objection

10 (WHEREUPON, State's Exhibit No 28-31 is admitted
11 into evidence)

12 Q If you could step down

13 (Witness steps to jury box)

14 Q Describe what the jury is seeing for me

15 A This is a jacket that was in the seat of the vehicle
16 A red jacket, zip up Has the two white distinct
17 stripes down the sleeves, both sleeves actually It
18 has the words "G Unit heavyweight" on the front of
19 it

20 Q This is the, actually the same jacket you could see
21 in the video that the jury just saw, correct?

22 A Yeah Yeah

23 Q That's the same, just the back of the jacket?

24 A Yes, ma'am

25 Q Now, what is in that picture?

1 A This is the same jacket, again, and a red-type
2 stocking cap

3 Q Same thing in that picture?

4 A Yes, ma'am

5 Q Thanks You can have a seat

6 A (Witness resumes stand)

7 Q About how long did it take you all to search the
8 defendant's car?

9 A Approximately an hour, an hour and a half, because we
10 have latent fingerprints, photography, collection of
11 evidence, the labeling of the bags, and all that
12 that's associated with collecting items, probably
13 about an hour and a half

14 Q Now, after searching the car, did you then attempt to
15 talk to the defendant for the first time?

16 A Yes

17 Q Who was with you when you were talking to the
18 defendant?

19 A Lieutenant Mike Walters

20 Q And about what time is this, do you recall?

21 A Two forty-four a m

22 Q Now, we're actually onto the 16th?

23 A Yes, ma'am

24 Q Because it's 2 44 a m?

25 A That's correct

1 Q Where were you when you spoke to the defendant?

2 A We were at an interview room located at the Douglas
3 County jail

4 Q Describe that room for the jury

5 A It was a square room, white I believe, perhaps maybe
6 10 by 10, maybe 12 by 12, contained a small square
7 table that was pushed against the wall, three chairs

8 Q How big is the table? Is it bigger than this table
9 right here?

10 A No No Well, it's a square table It's probably
11 about that size in length, but just square

12 Q How did the defendant get into this room, this
13 interview room?

14 A He was brought in to the room by the detention staff

15 Q Now, were you already in the room?

16 A We were standing outside of the room, myself and
17 Lieutenant Walters And when he was brought there,
18 we walked in the room together

19 Q So the three of you all went into the room and did
20 you all sit at the table?

21 A Yes

22 Q What did you say to him at this point?

23 A I introduced myself by name At that time I was a
24 sergeant I believe I told him I was Sergeant John
25 Zamberlin The same thing happened in Lieutenant

1 Walters' case And I asked him for his name, birth
2 date, address, and I wrote that down on the heading
3 of a waiver of rights form

4 Q Now, did you ask him about education and any -- if he
5 could read and write?

6 A I did He, when asked about his education, stated
7 that he went to the eleventh grade and that he could
8 read and write

9 Q Did you read him his rights after that?

10 A Yes

11 Q How do you usually go about reading a suspect their
12 rights?

13 A After we ask the questions about their identity so
14 we'll at least know who we're talking to, I read the
15 form verbatim as it is on the waiver of rights form

16 Q I'm going to show you what's marked State's Exhibit
17 1 Can you identify that for me

18 A This is actually a Anderson Police Department form, a
19 form our agency routinely uses when we read someone
20 their Miranda rights

21 Q Is that the form you read to the defendant at
22 2 44 a m on the 16th?

23 A Yes

24 Q Go ahead and read the form Read the rights as the
25 defendant heard them that day

1 A "Before we ask you any questions, you must understand
2 your rights You have the right to remain silent
3 Anything you say can be used against you in Court
4 You have the right to talk to a lawyer for advice
5 before we ask you any questions, and to have him with
6 you during questioning If you cannot afford a
7 lawyer, one will be appointed for you before any
8 questioning if you wish If you decide to answer
9 questions now without a lawyer present, you will
10 still have the right to stop answering at any time
11 You also have the right to stop answering at any time
12 until you talk to a lawyer "

13 Waiver of rights "I have read this statement of my
14 rights and I understand what my rights are I am
15 willing to make a statement and answer questions I
16 do not want a lawyer at this time I understand and
17 I know what I am doing, and no promises or threats
18 have been made to me and no pressure or coercion of
19 any kind has been used against me

20 Q And you read that to him this day, just like you did
21 just now for the jury?

22 A Yes

23 Q Did he seem to understand those rights?

24 A Yes

25 Q Now, in your experience as a law enforcement officer,

1 I'm sure you come across people under the influence
2 of drugs or alcohol, correct?

3 A Yes, ma'am

4 Q Did the defendant at this point seem to be under the
5 influence of any drugs or alcohol?

6 A No

7 Q How much time did you spend going over the rights
8 with the defendant? You have it noted on the form?

9 A Yes, 2 44 a m to 2 53 a m

10 Q So roughly nine minutes?

11 A Nine minutes

12 Q Did the defendant ask you any questions after you
13 read him his rights? I mean, did he ask you who you
14 were and why you were here?

15 A Mr Rivera did ask me where I was from And I told
16 him that I was from Anderson, South Carolina And he
17 also asked me what it was that we wanted to talk to
18 him about And I told him a homicide

19 Q And what was his reaction when you said that to him?

20 A He smiled and kind of put his head down toward the
21 floor

22 Q But he actually smiled?

23 A Yes

24 Q What was his demeanor this day?

25 A I found him to be polite, likeable, personable Easy

1 to talk with, communicate with

2 Q Detective Zamberlin, did he speak to you about
3 anything this day?

4 A No

5 Q And, in fact, what do you have written down on his
6 signature, where his signature is supposed to be on
7 that form?

8 A "Subject asked for a lawyer "

9 Q So after he asked for a lawyer, did you proceed any
10 further?

11 A No

12 MS ADAMS Your Honor, I ask that State's Exhibit 1
13 be moved into evidence

14 THE COURT Any objection?

15 MR GAMBLE No, sir

16 THE COURT State's Exhibit 1 admitted without
17 objection

18 (WHEREUPON, State's Exhibit No 1 is admitted into
19 evidence)

20 Q So after he refused to talk that night, what did you
21 do?

22 A We had returned to Anderson

23 Q All right Now, what was your focus upon returning
24 to Anderson?

25 A Extradition

1 Q And extradition, for the jury, is what?

2 A That's a legal agreement between states that creates
3 a legal process by which someone can be brought back
4 to a certain state to face criminal charges

5 Q Now, obviously, as part of extradition, there's a lot
6 of paperwork, correct?

7 A Yes

8 Q Is a part of that paperwork, do you have to submit
9 four sets of fingerprint impressions in order to
10 extradite someone?

11 A Yes

12 Q Now, did you have four sets of fingerprints on the
13 defendant?

14 A No

15 Q Did you return to Douglasville, Georgia, to get those
16 prints?

17 A I didn't return, I sent another detective to
18 Douglasville to get the four sets of prints we
19 requested

20 Q You actually requested them from Douglas County?

21 A Yes

22 Q Sent an officer to pick them up and bring them back?

23 A Yes

24 Q Tell the jury about those prints

25 A The prints were not really suitable and not really

1 something I wanted to submit to our attorney
2 general's office in South Carolina

3 Q Why is that? Were they smudged, smeared?

4 A The technician that actually had rolled the ink
5 prints basically, apparently, just put the finger
6 down and, you know, all of the ridge detail from
7 block to block or side to side was not evident on any
8 of the print cards And, of course, I needed---

9 Q And you're required---

10 A I'm sorry?

11 Q And we're required to have that, correct, the full
12 print?

13 A Yes

14 Q So on Wednesday, December 20, then did you return to
15 Douglas, Georgia?

16 A Yes, I did

17 Q What was your purpose?

18 A My purpose that particular day was to get a set of
19 very legible fingerprints to submit for extradition
20 purposes And to---

21 Q Who did you take with you?

22 A Sgt Mike Baskins, who was a forensics employee with
23 our department

24 Q And why else were you going back to Georgia?

25 A We were also going to Georgia to retrieve the

1 burgundy vehicle

2 Q That the defendant was driving?

3 A Yes And we had a roll back following us to bring
4 that vehicle back to Anderson, South Carolina

5 Q At any point, did you at any point -- did you intend
6 to question the defendant about the death of Asha
7 Wiley?

8 A No

9 Q Where did you meet with the defendant again? Because
10 obviously, you had to get his prints

11 A Yes The same interview room He was brought to the
12 interview room and Sergeant Baskins began the process
13 of rolling these latent prints

14 Q Did you inform the defendant why you were there?

15 A Sgt Baskins did Yes

16 Q He was told you were just there to get some prints?

17 A Yes

18 Q What were you doing? What happened?

19 A I was standing in the doorway of the room and
20 actually listening to a conversation going on between
21 some jailers that was in the hallway And I heard my
22 name called, my first name, "John "

23 Q Was this after the prints had already been taken?

24 A Almost I think that Sgt Baskins had maybe -- he
25 was right at the end of the process

1 Q And did the defendant cooperate with these sets of
2 prints?

3 A Yes

4 Q Now, so after he's almost done rolling the prints,
5 tell the jury again what did you hear?

6 A I heard my first name, "John "

7 Q What did you do?

8 A I turned, and it was Raymondeze Rivera

9 Q So the defendant actually called you by your first
10 name?

11 A By my first name Yes

12 Q What did you do when he called you by your first
13 name?

14 A He said, "Will you talk to me?"

15 And I said "Yes "

16 Q Did you intimidate him in any way at this point?

17 A No

18 Q Did you initiate contact with him at all?

19 A No

20 Q So he initiated contact with you, correct?

21 A Yes

22 Q Did you threaten or coerce him in any way?

23 A No

24 Q All right Tell jury about his demeanor this day

25 A He was polite, likeable

1 Q Same as he was before?

2 A He was Yes

3 Q Did he appear to be under the influence of alcohol or
4 drugs this day?

5 A No

6 Q Because this is a full four days later, correct?

7 A Yes

8 Q All right I want to show you what's been marked
9 State's Exhibit 2 Just describe the front of it for
10 me

11 A This is a waiver of rights form It's not one of our
12 waiver of rights forms, but it is a waiver of rights
13 form

14 Q Where did you get that waiver of rights form?

15 A I got this from the table It was on a pad on the
16 interview table there inside the interview room

17 Q So that's actually a Douglas County waiver form?

18 A Yes

19 Q Why didn't you use your form?

20 A I wasn't prepared for an interview I didn't have
21 any with me

22 Q So you weren't there to talk to him?

23 A No

24 Q So you got that form and what did you do?

25 A I read his rights off of the form

1 Q Did he seem to understand those rights?

2 A Yes

3 Q About what time is this?

4 A Eleven forty-five a m

5 Q And did you go over the Miranda rights with him as
6 you did previously?

7 A Yes I read the form verbatim

8 Q And you're in the same room?

9 A Yeah

10 Q And was anybody else present? Where was Sergeant
11 Baskins?

12 A Sergeant Baskins, after he finished the last print,
13 he packed up his table and left

14 Q What did the defendant say to you after you read him
15 his rights?

16 A He said that he would cooperate and made requests

17 Q And he actually had two requests, correct?

18 A Yes

19 Q Now, did you write those requests down for him?

20 A Yes, I did

21 Q Explain for the jury exactly what you did

22 A I turned the back -- turned the form over on the
23 back And he, his first request was that he wanted
24 to be in jail alone, by himself And I wrote that
25 down And his second request was that he wanted to

1 see a chaplain when he got to jail And he wanted
2 these things to be in writing from the DA's office
3 And he said he would cooperate fully And I wrote
4 that down And I read it, read it back to him I
5 provided him with the form, and he drew a line, put
6 an X beside it And then he signed his first name
7 and his last name to the form

8 Q So this is a fair and accurate representation of what
9 he requested from you that day?

10 A Yes, it is

11 MS ADAMS Your Honor, I ask State's Exhibit 2 moved
12 into evidence

13 THE COURT Any objection?

14 MR GAMBLE No, Your Honor

15 THE COURT State's Exhibit 2 admitted without
16 objection

17 (WHEREUPON, State Exhibit No 2 is admitted into
18 evidence)

19 MR GAMBLE Your Honor, at an appropriate time I
20 have a motion with regard to---

21 THE COURT Do you want to wait until we get to that
22 or do it now?

23 MR GAMBLE Just putting the Court on notice, I
24 would have a motion with regard---

25 MS ADAMS I'll stop

1 THE COURT Do you want to wait until we get to
2 the -- when he goes back? Or you got the motion before he
3 goes back?

4 MR GAMBLE I can do it later

5 THE COURT Okay All right Go ahead

6 MS ADAMS All right

7 THE COURT Whenever you're ready to make your
8 motion, just stand up I'll stop

9 Q Detective Zamberlin, step down for me

10 A (Witness steps to jury box)

11 Q Show the jury, this is the front of the waiver of
12 rights form and just explain to the jury exactly what
13 you did

14 A Yes I filled out Douglas County jail, where it says
15 place The date was 12-20-06, the time 11 45 a m
16 And I read this statement to Mr Rivera "Before we
17 ask you any questions, you must understand your
18 rights You have the right to remain silent
19 Anything you say can and will be used against you in
20 a court of law You have the right to talk to a
21 lawyer and have him present with you while you're
22 being questioned If you cannot afford to hire a
23 lawyer, one would be appointed to represent you
24 before any questions if you wish You can decide at
25 any time to exercise these rights and not answer any

1 questions or make any statements "

2 And then the waiver of rights "I have read this
3 statement of my rights and I understand what my
4 rights are I am willing to make a statement and
5 answer questions I do not want a lawyer at this
6 time I understand and know what I am doing and no
7 promises or threats have been made to me and no
8 pressure or coercion of any kind has been used
9 against me "

10 It has a place for the person to sign That's
11 Raymondeze Rivera's signature on that line And I
12 was the only one in there with him, that's my
13 signature under the witness

14 Q Okay So -- and then you took this waiver of rights
15 form and turned it over?

16 A I did

17 Q And read that for the jury, please

18 A Well, he said he had requests and that he wanted to
19 make those requests to the DA I asked him what
20 those were He said he wanted -- that's my
21 handwriting, "In jail alone by self," and "see
22 chaplain when he gets to jail "
23 Again asked him -- "these things in writing to be
24 signed by the DA, then he would cooperate fully " He
25 drew that line, put the "X" by it, signed his first

1 name and his last name

2 Q And then you actually wrote down what? When that
3 happened, correct?

4 A Yes

5 Q What do you have written down at the bottom?

6 A It says, "Present are," John Zamberlin -- or "John A
7 Zamberlin and Mike Baskin "

8 Q Because he took the prints And then you have,
9 "Asked to speak to me"?

10 A "After Sgt Baskin rolled prints "

11 Q So he initiated the contact?

12 A Yes, ma'am

13 Q Okay You can have a seat

14 A (Resumes stand)

15 Q Once he made these requests, did you talk to him any
16 further?

17 A No

18 Q Did you really even discuss those requests with him?

19 A No

20 Q Did you try to force him into a statement at any
21 point?

22 A No

23 Q What did you do?

24 A We loaded up the vehicle on the rollback and I
25 contacted you

1 Q All right Now, when you contacted me that following
2 day, what arrangements were made?

3 A There were arrangements made with the Anderson City
4 Police Department to single cell Mr Rivera and
5 arrangements made that we could provide him with a
6 member of the clergy

7 Q Those arrangements were made?

8 A Yes

9 Q Did you then go back the following day on the 21st
10 and meet with the defendant?

11 A Yes

12 MS ADAMS I think this is an appropriate time

13 THE COURT Okay Ladies and gentlemen of the jury,
14 I'm going to have to take up a motion And the reason I'm
15 taking this up out of your presence is I'm not permitted
16 to comment on the facts during the case And when I'm
17 hearing certain motions, I ask the jury to leave so I'll
18 be free to comment on the facts and make a decision
19 whether or not that evidence is admissible or not
20 admissible

21 So, I'm going to ask you to go to the jury room
22 It's twenty minutes until four We've been going for
23 about an hour and 25 minutes So after I hear this
24 motion, we'll take a 15- or 20-minute break If you need
25 a smoke break, let the bailiff know If you need anything

1 else, let him know

2 Please don't discuss the case among yourselves, Madam
3 Forelady, members of the jury Follow the bailiff to the
4 jury room

5 (Whereupon, the following proceedings were had
6 outside the presence of the jury)

7 THE COURT Mr Gamble, do you have a motion?

8 MR GAMBLE Yes, sir In the waiver of rights, your
9 Honor, there is, the last paragraph says, "No promises
10 have been made to me "

11 He requests a chaplain, a private cell, and one
12 other -- and I'm handing the Court, Court's Exhibit Number
13 5, which puts official sanction on this promise

14 THE COURT That's the letter from the solicitor

15 MR GAMBLE Yes, it is, your Honor I'm not putting
16 on record exactly what it says except the chaplain,
17 private cell, and another condition would be met That
18 amounts to official sanction and is a form of promise in
19 this case So can't say no promises were made

20 THE COURT So you object to the statement?

21 MR GAMBLE I object to the statement

22 THE COURT Anything the State would like to put on
23 the record?

24 MS ADAMS Yes, sir, your Honor As you well know,
25 to determine whether or not a statement is voluntary and

1 therefore admissible, the test is totality of the
2 circumstances In this case the defendant initiated
3 contact with the officer We had no -- we did not
4 initiate contact with him He asked to speak to the
5 detective and then he makes these requests And these
6 requests are not so connected with the confession that the
7 confession is therefore coerced or induced by any means
8 He knows the system He refused to talk the first time
9 He had a full four days to think about this and then
10 another 24 hours before he even made the confession once
11 the detective came back and told him we would make these
12 requests

13 The bottom line, your Honor, and case law supports
14 that when a defendant initiates, solicits, and controls
15 the bargaining of the deal, then the confession is
16 voluntary, and it is, therefore, admissible And all that
17 happened in this case And there's case law specifically
18 on point I believe about a chaplain And those cases have
19 been held the confession is still voluntary and being in a
20 cell by himself is just a minor comfort It has nothing
21 to do with the lengthy confession that he did get He did
22 not induce, threaten, or coerce him in any way, and he
23 initiated and solicited the deal

24 THE COURT Thank you very much Anything in
25 rebuttal?

1 MR GAMBLE I recognize this was initiated by my
2 client And under Edwards versus Arizona, doesn't have to
3 be Mirandized, but once you start to Mirandize, comply
4 with strict Miranda laws

5 THE COURT Thank you very much The motion is
6 overruled and I'll allow the confession in evidence
7 Okay

8 MS ADAMS And, your Honor, just to add for the
9 record, based on the third request, no leniency was
10 promised

11 THE COURT The third request is Court's Exhibit
12 Number 5, which states assurances from this office that we
13 intend to seek the death penalty against you And I'm not
14 going to allow that request to go to this jury That had
15 previously been agreed upon by the parties, and I agree
16 with it

17 MS ADAMS Correct Because it would be improper
18 for the jury to hear sentencing, and plus that's not a
19 promise of leniency to render a confession inadmissible

20 THE COURT I understand All right We'll take
21 about a 15- or 20-minute break

22 (Recess taken)

23 THE COURT Anything from the State before we get
24 started?

25 MS ADAMS No

1 THE COURT Anything else?

2 MR GAMBLE No, sir

3 THE COURT Bring us the jury please

4 (Whereupon, the following proceedings were had within
5 the presence of the jury)

6 BY MS ADAMS

7 Q Investigator Zamberlin, before we took a break we
8 were talking about State's Exhibit 2, the waiver of
9 rights the defendant signed on December 20 at
10 11 45 a m and his requests on the back

11 A Yes

12 Q So you came back to Anderson and spoke with me?

13 A Yes

14 Q And we reviewed those requests and worked it out?

15 A Yes

16 Q Okay And then you went back to Douglas County on
17 the 21st?

18 A I did on the next day

19 Q So did you meet with the defendant again on the 21st?

20 A Yes

21 Q Where did you meet with him?

22 A We were at the Douglas County jail in the same room
23 that we had met on the prior occasion

24 Q Who was with you on the 21st?

25 A Lieutenant Layton Creamer

1 Q So this is the third time you met with the defendant,
2 correct?

3 A Yes

4 Q Were you already in the room before the defendant
5 came in? Or tell the jury how it transpired this
6 morning

7 A Yeah We were, actually Layton Creamer and I, were
8 already in the room on this occasion and the jail
9 staff had brought Mr Rivera in

10 Q So what happened when he came in? He sat at the
11 table?

12 A He did He sat down And, of course, we already
13 knew one another from the previous day And I
14 provided him with a copy of a letter from the
15 prosecutor's office

16 Q So you basically explained to him that we had -- we
17 were going to meet his requests, correct?

18 A Yes

19 Q And he was fine with that?

20 A Yes

21 Q So what did he say after you told him we were going
22 to meet those requests?

23 A After I read the form to him, I read him his rights
24 again

25 Q I want to show you what's been marked State's Exhibit

1 3 Can you identify that for me, please?

2 A Yes This is an Anderson Police Department waiver of
3 rights form

4 Q What's the date at the top of that waiver?

5 A 10/21/2006

6 Q And what's the time?

7 A Two forty-seven a m

8 Q So is that the same waiver that you read to him?

9 Just a different day, obviously a different form?

10 A Yes

11 Q But it's your Anderson form?

12 A Yes

13 Q Explain to the jury exactly what you did this day
14 with that waiver form

15 A I wrote the place down, which is the Douglas County
16 jail, the date 12/21/2006, 10 47 a m And I read the
17 form to him

18 "Before we ask you any questions, you must understand
19 your rights You have the right to remain silent,
20 anything you say could be used against you in court
21 You have the right to talk to a lawyer for advice
22 before we ask you any questions and to have him with
23 you during questioning If you cannot afford a
24 lawyer, one will be appointed for you before any
25 questioning if you wish If you decide to answer

1 questions now without a lawyer present, you will
2 still have the right to stop answering at any time
3 You also have the right to stop answering at any time
4 until you talk to a lawyer "

5 And the bottom section says, "Waiver of rights I
6 have had read this statement of my rights and I
7 understand what my rights are I am willing to make
8 a statement and answer questions I do not want a
9 lawyer at this time and I understand and know what I
10 am doing No promises or threats have been made to
11 me and no pressure or coercion of any kind has been
12 used against me "

13 And Raymondeze Rivera signed this form on the bottom
14 with his first and last name, and I signed it in the
15 top witness block, John A Zamberlin It was also
16 signed in the second witness block by Lieutenant
17 Layton Creamer and the time is 10 58

18 Q Now, had the defendant met Lieutenant Layton Creamer
19 before?

20 A No

21 Q Did you introduce them?

22 A Yes

23 MS ADAMS Your Honor, I'd ask State's Exhibit 3 be
24 moved into evidence

25 THE COURT Any objection?

1 MR GAMBLE Only ones stated previously, your Honor
2 THE COURT All right Overruled Admitted with
3 objection

4 (WHEREUPON, State's Exhibit No 3 is admitted into
5 evidence)

6 Q Did the defendant understand his rights that day?

7 A Yes

8 Q Tell the jury about his demeanor this day

9 A Again, Ramondez was a likeable person I found him
10 to be personable, likeable, able to communicate

11 Q Did he seem intelligent to you?

12 A Yes Yes, he did

13 Q Was he cooperative?

14 A Very Yes, he was

15 Q Did his demeanor change at all in the three times you
16 met him?

17 A No No

18 Q Did you ever threaten him or coerce him in any way to
19 get this statement?

20 A No

21 Q Did he ever indicate to you at all he wanted to stop
22 talking?

23 A No

24 Q Did he appear to be under the influence of drugs or
25 alcohol this day, the 21st?

1 A No

2 Q After you went over the two requests that we were
3 going to meet, what did he say to you?

4 A He asked me if I was ready to write

5 Q So he asked you to write the statement for him?

6 A Yes

7 Q Did you take any breaks during this statement?
8 Because it's a lengthy statement?

9 A It is And there was no breaks

10 Q How much time did you spend with the defendant?

11 A Approximately four hours

12 Q Did you offer him anything to eat or drink at this
13 time? You could tell it's around lunch time, quarter
14 to 12?

15 A Yes Yes

16 Q Did he want anything?

17 A No

18 Q Did he want to stop at all?

19 A No

20 Q How -- explain to the jury exactly how you proceeded

21 A I had some statement forms with me And I explained,
22 on the top of the form -- I wrote his name down, his
23 address down again, and the personal information on
24 the actual statement form And I explained to Mr
25 Rivera that he could probably talk a lot faster than

1 I could write, so that maybe we could take it
2 sentence by sentence And that if I got behind, he
3 would stop and we would just take this sentence by
4 sentence, and then I might have some questions
5 intermittently And that's how -- and he agreed with
6 that -- and that's how the statement was taken

7 Q Did he make corrections along the way?

8 A Yes

9 Q How did you handle that? What kind of corrections?

10 A There was some places perhaps I may have misspelled a
11 word or there was a word he wanted another word
12 replaced and so I would just draw a line through that
13 word

14 Q And then write the word that he told you?

15 A Write the word that he wanted me to write

16 Q Now, when you were done with the statement, did you
17 review it with him again?

18 A Yes I read the statement back in its entirety out
19 loud to him

20 Q While you're writing the statement, what is he doing?
21 Is he watching you? Obviously paying attention?

22 A Yes As a matter of fact, I'm left handed and this
23 table we were at is kind of small So in order that
24 I don't have to write like this, like some
25 left-handed people do, I'll turn the page And it's

1 easier for me to write that way And he was on the
2 other side of the table, kind of looking over He
3 was reading along the statement actually as I was
4 writing it

5 Q So it was easy for him to see? He wasn't reading it
6 upside down, so to speak?

7 A No Not totally

8 Q Did he ever ask you to stop at all?

9 A No

10 Q Did he ever ask for a lawyer during this time?

11 A No

12 Q And he never asked for a break?

13 A No

14 Q I want to show you State's Exhibit 4 Can you
15 identify that for me, please?

16 A This is the voluntary statement form our police
17 department uses when we take statements from
18 witnesses, suspects We use this form for anybody
19 that we take a written statement from

20 Q Now, is that the statement that Mr Rivera gave you
21 on December 21, 2006, in regards to Asha Wiley's
22 death?

23 A Yes

24 MS ADAMS Your Honor, I'd ask that State's Exhibit
25 4 be moved into evidence

1 THE COURT All right State's Exhibit 4 admitted
2 into evidence with the objection previously stated by
3 defense counsel in camera

4 (WHEREUPON, State's Exhibit No 4 is admitted into
5 evidence)

6 MS ADAMS At this point I'd ask to publish the
7 statement to the jury

8 THE COURT Yes, ma'am

9 Q "Sgt John A Zamberlin has written this statement
10 for me at my request I was traveling from
11 Washington D C and I was coming by Anderson, South
12 Carolina I needed gas so I stopped at a gas station
13 across from a Wendy's This was on Sunday, December
14 10, 2006 I asked somebody directions to the mall
15 It was still daylight and I want to say about
16 2 00 p m to 3 00 p m Then I went to the mall
17 I walked around a little bit, then I went into the
18 store that has the men and women's store I noticed
19 that my cell phone didn't work in Anderson I walked
20 around some more
21 I met this woman close to where the bungee jump was
22 Her name was Asha Wiley She was going into this
23 store, I don't know the name of it, but you can enter
24 it from the outside of the mall Asha was looking at
25 some jewelry and a dress I was talking with Asha

1 and she told me she didn't give her number out to
2 strangers I gave her my cell number
3 I left and walked back over to where the bungee jump
4 was I didn't have my keys They had fell out of my
5 pocket I went back to Asha some more Asha picked
6 out some jewelry and bought it I asked Asha if she
7 wanted something to eat Asha wanted McDonald's, so
8 I followed her in my car to McDonald's We went
9 inside and ate We talked a little while and I asked
10 Asha to the movies
11 Instead of driving two cars, I followed her back to
12 her apartment to drop her car off Asha got her bags
13 out of her car, and I spilled a Sprite in my car
14 Asha came over and asked me if everything was okay
15 I went inside
16 Asha asked me if I wanted something to drink I
17 asked her if she had any alcohol, and she said she
18 had some Gray Goose Asha got it from the top of the
19 refrigerator Asha showed me some clothes she had
20 bought for her daughter Asha said she just didn't
21 want to drink, to make it interesting we should play
22 cards We played two hand spades, whoever lost had
23 to drink a shot
24 After that, Asha asked me if I wanted to watch a DVD
25 movie I looked at some of her DVDs and picked out a

1 Bruce Lee movie, put it in her Play Station II
2 downstairs We were watching the movie and I kissed
3 Asha I was on top of her I took her panties off
4 Asha asked me if that's how I was going to take it
5 We had went from the couch to the floor By the time
6 we were on the floor, I had took Asha's clothes off
7 We had sex on the floor
8 Asha asked me if she could go to the bathroom, and I
9 said 'No,' so she peed on the floor Then we moved
10 back to the couch and we fell asleep
11 Asha woke me up shaking She said she needed some
12 sugar I thought she was playing, so I told her no
13 Asha asked me to get a banana, it was beside the
14 microwave I told her I didn't know where that was,
15 so I told her to get it Asha was crying, said I was
16 trying to kill her because I wouldn't let her get
17 sugar I told her I didn't know she was a diabetic
18 I told Asha I didn't want to sleep on the couch
19 anymore I wanted to go upstairs Asha said it was
20 messy, but I told her I didn't care We went
21 upstairs into her bedroom We had sex again on the
22 bed, then we fell asleep again
23 Asha woke me up and told me she had to go to the
24 bathroom I followed her to the bathroom and then
25 got back in bed I tried to have sex with her again,

1 but she refused I went downstairs and got a knife
2 Asha had went back to sleep I got a small
3 steak-type knife from the kitchen I went back
4 upstairs and put the knife to her throat Asha woke
5 up I told her we were going to have sex I got on
6 top of her on the bed and had sex with her Then I
7 told Asha to put her hands behind her back After
8 the sex I cut some cords from the printer I tied
9 her arms and hands, then I cut some more cords and
10 tied her legs Then I put a sheet over her head
11 Asha asked me not to kill her, that she was all her
12 daughter had I turned the TV up One of the cords
13 I had cut, I put it around her neck and I choked her
14 with it Asha peed on the bed again We fell off
15 the bed and somehow the cords broke on her legs
16 Asha asked me to take the pillow case off her face,
17 so I did
18 Asha told me that her daughter was the only thing she
19 had Asha asked me if I had a daughter And I said
20 that I did Asha told me that I didn't have to kill
21 her, that it was her fault and she wouldn't say
22 anything
23 I went downstairs, put my clothes on, then I went
24 back upstairs and put the pillow case back on Asha's
25 face She was crying and told me that she had a

1 friend, Joya, she had told about me Asha told me
2 she told Joya about what kind of car I had and that I
3 was from Atlanta That's when I put the cord around
4 her mouth, started strangling her with my hands She
5 peed on the floor
6 I checked to see if she was dead and she was I cut
7 the cords off her mouth and wrist I started wiping
8 everything down I found a rag in the bathroom and
9 some cleaning supplies I washed the knife down I
10 washed the shot glasses I wiped the Gray Goose and
11 I put it back on the refrigerator I wiped down the
12 door
13 I got her cell phone and erased my name I found a
14 trash bag under the sink, in the kitchen, and put the
15 banana, bra, panties, cords, and cards in the bag I
16 went back upstairs, found a douche bottle, put it
17 inside her and cleaned her I wiped her down from
18 head to toe Then I found some underwear, a bra,
19 some shorts, and a shirt, and I dressed her
20 There was some blood on the floor beside her, so I
21 cleaned that up
22 I went downstairs, found the car keys, went out the
23 back door I moved Asha's car two apartment
24 buildings away and threw the car keys away in the
25 dumpster Then I moved my car I went back in the

1 apartment in the back door and got the bag I heard
2 someone pull up in the front in a car I left out
3 the back door threw the bag in the dumpster and left
4 I drove back to Atlanta "

5 Then he says, "End of statement This is a true and
6 voluntary statement and I have received a copy of
7 it "

8 Detective Zamberlin, after you obtained that
9 statement, did you return to Anderson?

10 A Yes

11 Q Did you send the investigators back to Asha's
12 apartment?

13 A Yes, I did

14 Q Why?

15 A We were now looking for some very specific things
16 based on his statement

17 Q So you went back to the apartment to find the things
18 that he described to basically corroborate his
19 statement?

20 A Yes

21 Q The defendant said in his statement that he wiped the
22 entire apartment down and the car Did you attempt
23 to take fingerprints anyway?

24 A Yes

25 Q And of the car as well, Asha's car?

1 A Yes

2 Q Did you find any prints?

3 A There were no suitable prints located that was
4 identifiable

5 Q Did you fingerprint the Gray Goose vodka bottle and
6 playing cards you found?

7 A Yes

8 Q Did you find any prints?

9 A No suitable prints actually on the Gray Goose bottle
10 and playing cards There was actually no prints at
11 all

12 Q Based on the defendant's statement, did you attempt
13 to locate the banana, bra, panties, cut cords, and
14 playing cards and the keys that he said he threw in
15 the dumpster?

16 A Yes

17 Q Tell the jury about that What did you find out?

18 A We contacted the waste management company that
19 handles the account for Belton Woods apartments We
20 had discovered that the trash has actually been --
21 the dumpsters had actually been taken from the
22 premises on a Saturday, which would have been the
23 16th, I believe So by the time the statement was
24 received, the dumpsters located at the apartment
25 complex had already been taken to the landfill

1 We contacted the landfill that was in Georgia and we
2 were advised by the people that work there that this
3 is a very large complex and that they accept tons and
4 tons of trash on a daily basis and they had active
5 bulldozing activities that goes on all through this
6 process

7 Q So was there any feasible way to find the items the
8 defendant said he threw in that dumpster?

9 A No way

10 Q When was the defendant transported back to Anderson?

11 A On the 28th he was brought back to Anderson, South
12 Carolina

13 Q And in fact did he waive his extradition?

14 A Yes

15 Q Was he given his own cell upon being brought back to
16 Anderson?

17 A Yes

18 Q To the best of your knowledge was he given the
19 opportunity to talk to a preacher?

20 A Yes

21 Q Were you able to determine whether or not Asha Wiley
22 was in fact a diabetic?

23 A She was not a diabetic

24 Q I have no further questions Please answer anything
25 Mr Gamble has

1 A Yes

2 CROSS EXAMINATION

3 BY MR GAMBLE

4 Q You referring to prints not being found How long
5 you been in the detective business?

6 A Detective business since 1995

7 Q And, as such, you attempted to get prints on hundreds
8 of cases, haven't you?

9 A Well, I have certainly had my share of time invested
10 in trying to recover latent prints So now our
11 forensic services division does that

12 Q You don't always get prints at a crime scenes, do
13 you?

14 A No, sir

15 Q As a matter of fact, you're kind of elated when you
16 do get prints?

17 A Yes, sir

18 Q All right It's not uncommon, then, not to find any
19 prints, even if they have not been cleaned up?

20 A No, sir I wouldn't describe that as uncommon

21 Q All right, sir You gave him what's known as Miranda
22 warning on four separate occasions?

23 A Yes, sir

24 Q The first time he asked for a lawyer?

25 A Yes, sir

1 Q The second time he -- you didn't do anything the
2 second time Third, he signed the Georgia form?

3 A Yes

4 Q Fourth he signed the South Carolina form?

5 A Yes, sir

6 Q Am I right?

7 A Yes, sir I believe so

8 Q So it took quite some time for you to get him --
9 expert interrogator to get an eleven year old --
10 eleventh grade graduate to tell you what you wanted
11 to hear?

12 A Well, I didn't really get him to really tell me
13 anything Mr Rivera wanted to speak with me the day
14 that we went to Douglas, Georgia, to get his
15 fingerprints

16 Q Okay On this Metro PC, were you able to have them
17 triangulate where that cell phone had been on 10
18 December?

19 A According to representatives for Metro PCS, that
20 particular telephone only worked in the Metro Atlanta
21 area or the Sarasota area, it don't have roaming
22 capabilities, and it will not work outside those
23 areas at all now So now there are no triangulation
24 to determine where that phone was on the tenth

25 Q Except it wasn't used in the Atlanta area on that

1 date?

2 A Right I would have to look at the entire phone
3 record, sir, which is rather lengthy, to actually
4 answer that question accurately

5 Q Now the tag on the car, the, Buick was a B, BMW tag?

6 A Yes, sir

7 Q And was it stolen?

8 A The tag wasn't registered as stolen at that time

9 Q Could have been off junk or something else, couldn't
10 it?

11 A I imagine it could have been, sir

12 Q Something interests me You first contacted him with
13 George Cremer on, I have the 16th of December,
14 2 44 a m?

15 A Yes, sir

16 Q But you didn't arrest him until December 28?

17 A Yes, sir

18 Q Why is that?

19 A That time period there was still active investigation
20 going on, on several multi-layered fronts regarding
21 this case, and the 28th is actually when he waived
22 extradition to come back to the State of South
23 Carolina, or at least that's the day that we picked
24 him up It may have been that he actually waived the
25 day before, but around that period of time

1 Q I thought he waived it back on December 21st

2 A He waived extradition prior to us going to get him
3 Without the extradition document in front of me, I
4 couldn't testify from memory

5 Q You didn't come back on the 21st, obtain a warrant
6 for him and then go back and arrest him, would you?

7 A No, he wouldn't have been formally charged in South
8 Carolina until he arrived at our facility after
9 extradition

10 Q You could have got an arrest warrant here and
11 transferred to Georgia, couldn't you?

12 A No, sir Not to my knowledge

13 Q You can

14 A Okay

15 Q All right Thank you, John?

16 A Yes, sir

17 THE COURT Any redirect?

18 MS ADAMS No, sir, your Honor

19 THE COURT You may step down Thank you very much
20 Call your next witness

21 MS ADAMS Your Honor, the State calls Mike Baskin
22 to the stand

23 W MICHAEL BASKIN, being first duly
24 sworn, testified as follows

25 DIRECT EXAMINATION

1 BY MS ADAMS

2 Q State your full name, spell your last for the record
3 please, sir

4 A William Michael Baskin, B-A-S-K-I-N

5 Q Mr Baskin, where are you currently employed?

6 A Solicitor's office

7 Q What do you do with the solicitor's office?

8 A I'm an investigator for the solicitor's office

9 Q Where were you employed September 2006?

10 A Anderson Police Department

11 Q And what were your duties at the Anderson Police
12 Department?

13 A I'm sorry?

14 Q What were your duties at the Anderson Police
15 Department?

16 A I handled all the evidence and worked crime scene

17 Q You were basically in forensics, correct?

18 A Correct

19 Q Now, were you at the scene 117F Belton Woods
20 apartments when Asha Wiley's body was found on
21 December 10, 2006?

22 A Yes, sir -- Yes, ma'am I was called to the scene

23 Q What was your purpose for being called to the scene?

24 A Due to forensic, collect evidence

25 Q Explain to the jury what your forensic work includes

1 A Photograph the crime scene and collect evidence
2 there

3 Q As part of that, pictures are also taken?

4 A Correct

5 Q And would you take pictures of the victim as well,
6 Asha Wiley?

7 A Yes, ma'am

8 Q I want to show you what's been marked State's Exhibit
9 37 Can you tell me what that is?

10 A Upstairs bedroom where Asha Wiley was found And
11 that's her body there

12 Q Is that a fair and accurate representation of the
13 scene as you all found it when you all arrived?

14 A Yes, ma'am, it is

15 MS ADAMS Your Honor, I ask this be admitted into
16 evidence, State's Exhibit 37

17 THE COURT Any objection?

18 MR GAMBLE Yes, sir Objection tended to arouse
19 passion and prejudice

20 THE COURT Overruled Admitted over the objection
21 (WHEREUPON, State's Exhibit No 37 is admitted into
22 evidence)

23 Q Mr Baskin, if you don't mind, if you could come down
24 please and explain to the jury exactly what this
25 picture depicts

1 A This is her bed This is her body There is a
2 comforter we collected This is just her bedroom,
3 the upstairs Left, front bedroom upstairs

4 Q And that is exactly as her body was found that day,
5 correct?

6 A Correct

7 Q And, in fact, you collected evidence from this room
8 and I think that blanket at the top and the chair,
9 was that collected?

10 A This

11 Q Okay And that was actually sent to SLED, was it
12 not?

13 A Yes, ma'am It was

14 Q You can have a seat

15 (Resumes stand)

16 Q Mr Baskin, were you also present when a known blood
17 standard was taken from the defendant to send to SLED
18 for DNA purposes?

19 A Yes, ma'am

20 Q Signed a consent form?

21 A Yes, ma'am, he did

22 Q Show you State's Exhibit 45 Is this the consent you
23 were given that the defendant signed for that blood
24 sample?

25 A Yes, ma'am, it was

1 Q Explain to the jury for me exactly how you go about
2 or what is done to collect a blood sample to send to
3 SLED for DNA purposes

4 A Once I get a consent to search, then I call, what I
5 call the doctor, it's a nurse practitioner that works
6 at the police, well he comes in early in the morning
7 at the police department I contact him, tell him I
8 need to get a blood sample the next morning I'll
9 meet him, I'll pick up whoever the defendant is,
10 whoever is giving the blood sample, and take him to
11 the office I'll take out a tube, write the person's
12 name on it, social security number, and his date of
13 birth

14 The nurse practitioner takes a needle and draws
15 blood I'm holding the blood, he sticks the needle
16 in the tube, the syringe in the tube, and I empty the
17 tube and put the syringe in a Sharps container, seal
18 the blood up in a suspect kit and refrigerate it

19 Q So you are present when the blood is taken?

20 A Yes, ma'am

21 Q And when was his blood taken?

22 A Twenty-ninth

23 Q And did you tamper with that sample in any way?

24 A No, ma'am, I did not

25 Q Or alter it in any way?

1 A No, ma'am, I did not

2 Q Then you actually seal it up?

3 A In an envelope

4 Q How do you actually seal it?

5 A Okay It's got -- it's actually three envelopes

6 It's a suspect kit I put a chain of evidence on,

7 and in this envelope with a plastic -- it's sort of

8 like padded plastic -- and I stick it down there and

9 it has a seal and I seal it And I put it in another

10 envelope and then stick it in the big envelope

11 Q And then you actually transport that sample to SLED

12 Is that correct?

13 A That is correct

14 Q And you transported the defendant's blood sample to

15 SLED in this case?

16 A Yes, I did

17 MS ADAMS Your Honor, I ask that State's Exhibit 45

18 be moved into evidence

19 MR GAMBLE No objection

20 THE COURT State's Exhibit 45 admitted without

21 objection

22 (WHEREUPON, State's Exhibit No 45 is marked for

23 identification and received in evidence)

24 Q Now, Mr Baskin, I want to actually take you back to

25 Asha's apartment, the crime scene, and show you

1 state's exhibit 5 and 7 Can you tell me what those
2 are, please?

3 A Okay This is the picture of where Asha Wiley's car
4 was It was two parking lots down and actually it
5 would be one, two, three, four buildings from---

6 Q Let me ask you this Is this a fair and accurate
7 representation of where her car was found?

8 A Correct

9 Q And is this a fair and accurate representation of the
10 number where her car was found on the building?

11 A Yes, ma'am, it is

12 Q Your Honor, I'd ask five and seven moved into
13 evidence

14 MR GAMBLE No objection

15 MS ADAMS If you can step down for me, explain --

16 THE COURT Admitted without objection

17 (WHEREUPON, State's Exhibit No 5,7 are admitted into
18 evidence)

19 BY MS ADAMS

20 Q If you can, explain to the jury for me exactly what
21 you're talking about so they can see where her car
22 was

23 A Okay This is building 123 This is where it is
24 This is 121, this is 119 And her car was up here
25 towards the end Like on the end

1 Q So if this was her building, she's all the way down
2 to the right, correct?

3 A Correct

4 Q That's her car?

5 A That's her car

6 Q Now, Mr Baskin, Kelly Chapman with the coroner's
7 also testified she collected rectal, vaginal, swabs
8 and smears and placed them in a sexual assault
9 evidence collection kit Did you receive that kit?

10 A Yes, ma'am I did

11 Q Had that kit been tampered with in any way?

12 A No, ma'am It was sealed

13 Q You know that because it was sealed?

14 A Yes, ma'am

15 Q What did you do with it?

16 A Put it in the refrigerator

17 Q Did you take that kit to SLED?

18 A Yes, I did

19 Q Did you tamper with the contents in any way?

20 A No, ma'am

21 Q What did you do when that kit got to SLED? What's
22 the process?

23 A I put it in front of a log-in technician She
24 empties the box and seals it up in plastic, and they
25 have me initial it and date it

1 Q So they actually open it up in front of you?

2 A Yes, ma'am

3 Q And put it in their own bags and seal it?

4 A Yes

5 Q What happens to the box?

6 A They give the box back to me, the empty box back to
7 me

8 Q Can you real quickly, and I apologize, explain to the
9 jury exactly what SLED is?

10 A It's the South Carolina law enforcement division
11 where I take it is to the laboratory they have a
12 log-in center

13 Q That's basically the place we take our evidence to be
14 tested?

15 A Yes, ma'am

16 Q Did you also transport the known blood standard of
17 the victim, Asha Wiley, that Dr Woodard put in your
18 custody?

19 A Yes, I did

20 Q Was that standard tampered or altered with in any
21 way?

22 A No, ma'am

23 Q How do you know that?

24 A Because it was also in a sealed bag

25 Q Did you tamper with it or alter it in any way?

1 A No, I did not

2 Q After the defendant gave his statement on the 21st,
3 did you go back to the crime scene to collect
4 evidence?

5 A Yes, I did

6 Q And that was on December 22, correct?

7 A Correct

8 Q So that was the day after his statement?

9 A Yes, ma'am

10 Q I want to show you what's been marked as, we've got
11 state's exhibit 18, 19, 20, 21, 22, 23, 24, 25, 26,
12 27, and 36 And if you can look at these for me,
13 please, and tell me where were those pictures taken

14 A These were taken in Asha Wiley's apartment

15 Q On the 22nd, after you received the defendant's
16 statement?

17 A Yes, ma'am

18 Q Now, do they fair and accurately represent the
19 apartment on that day?

20 A Yes, ma'am

21 MS ADAMS Your Honor, I ask all these pictures be
22 entered into evidence

23 MR GAMBLE I'd like to see them first

24 It's 19, 20, 21, 22, 18, 23, 24, 25, 26, 27, and 36

25 No objection

1 THE COURT All right Solicitor, 18, 19, 20, 21,
2 22, 23, 24, 25, 27, and 36, is that correct?

3 MS ADAMS Did you say 26?

4 THE COURT Twenty-six Okay I have 27 and 36, is
5 that right?

6 MS ADAMS Correct

7 THE COURT So 19 through 27 and then 36, is that
8 correct?

9 MS ADAMS Eighteen

10 THE COURT Excuse me, 18 through 27

11 MS ADAMS Yes, sir

12 THE COURT Admitted without objection

13 (WHEREUPON, State Exhibit No 18-27, 36 are admitted
14 into evidence)

15 Q Will you step down for me please, Mr Baskin Let's
16 start with, this is State's Exhibit 36 Can you
17 please tell the jury what we have in this picture

18 A That was cleaning materials from the bathroom

19 Q And you all took pictures of this based on the
20 defendant's statement saying he cleaned?

21 A Yes, ma'am

22 Q This is 27 Can you tell the jury---

23 A Playing cards

24 Q That the defendant said he and Asha did, right,
25 played with?

1 A Yes, ma'am

2 Q And this is which room in the house?

3 A This is upstairs bedroom This is Asha Wiley's

4 bedroom

5 Q And this is 25, your Honor What does that depict?

6 A It's playing cards

7 Q Up close This is 24

8 A A playing card

9 Q And this is another picture, I believe this is 23, of

10 just the bedroom?

11 A Yes, ma'am

12 Q And then 22?

13 A Playing cards

14 Q Now, let's look at 18

15 A Gray Goose bottle that was on the refrigerator

16 Q That picture is actually on top of the refrigerator

17 just like the defendant said he put it?

18 A Yes, ma'am

19 Q This is State's Exhibit 19 Tell the jury what that

20 is

21 A Cut the top of the mattress off

22 Q Was that sent to SLED?

23 A Yes, it was

24 Q The purpose of that to test for what?

25 A Urine

1 Q Based on the defendant's statement, correct?

2 A Yes

3 Q And here is State's Exhibit 21 Explain to the jury
4 what that is

5 A These are cushions that were taken off the love seat
6 and the couch They were the -- had to unzip each of
7 the cushions

8 Q So you did this, placed them and folded them on top?

9 A Yes, ma'am

10 Q And what were -- what was the purpose of doing that?

11 A We were looking for urine to corroborate the
12 defendant's statement

13 Q And the last picture, State's Exhibit 20 Please
14 tell the jury what that is?

15 A That is cut cable wire that we photographed and took
16 THE COURT Mr Baskin, speak up a little bit,
17 please

18 A Cut cable wire we photographed and took as a result
19 of the defendant's statement that he cut cable wire

20 Q Where was this, in her bedroom?

21 A No -- yes Yes this was in her bedroom, on the floor
22 in her bedroom

23 Q Thank you You can have a seat

24 A (Witness resumes the stand)

25 Q I'm going to show you one more picture It's

1 actually already been admitted into evidence This
2 is State's Exhibit 17 You can probably -- I'll just
3 turn this around You took this picture obviously
4 after the defendant's statement, correct?

5 A Yes, ma'am

6 Q Tell the jury what that is, what it depicts

7 A That was a Play Station that was on the living room
8 floor

9 Q Was it opened when you found it?

10 A Yes, ma'am

11 Q That is as you found it?

12 A That is as we found it Yes

13 Q Okay

14 MS ADAMS I have no further questions, your Honor

15 THE COURT Cross examination?

16 CROSS EXAMINATION

17 BY MR GAMBLE

18 Q Did you photograph any DVD's, specifically a Bruce
19 Lee DVD?

20 A No, sir, I did not

21 Q Did you look for one?

22 A I think I did I remember a Bruce Lee but I don't
23 remember in what connection it was

24 Q Well, you didn't take one, did you?

25 A No, sir, I did not

1 Q Okay

2 THE COURT Anything else?

3 MR GAMBLE No, sir

4 THE COURT Redirect examination?

5 MS ADAMS No, sir

6 THE COURT Thank you so much Let me see the
7 attorneys up here just a second

8 Madam Foreman, members of the jury, we're going to
9 stop at this time, resume in the morning at 9 30 Please
10 don't discuss the case among yourselves Don't read the
11 paper, don't watch television I want you to make a
12 decision on what you hear in the courtroom, not what some
13 TV reporter, some news reporter puts in the paper Don't
14 discuss the case with anyone else or among yourselves
15 I'll see you in the morning We'll adjourn until 9 30 in
16 the morning

17 Everybody in the courtroom sit tight five or ten
18 minutes, give the jury a chance to get out of the
19 courthouse

20 (Whereupon, the proceedings are adjourned for the
21 luncheon recess)

22 * * * * *

23 * * *

24 *

25

Wednesday, February 13, 2008

(WHEREUPON, Court reconvened with all parties present, when the following proceedings were had)

MR CAMPBELL Your Honor, the only we thing we have a few Court's exhibits for the SLED witnesses that are going to testify, SLED's 7, 8, and 9 Mr Gamble has seen it, has no objection

They're just Court's Exhibits, for the record

THE COURT Anything else?

MR CAMPBELL No, sir

(WHEREUPON, Court's Exhibit No 7-9 are marked for identification only)

THE COURT Bring us the jury, please

(The following proceedings were had within the presence of the jury)

RAINEY WILLIAMS, being first duly sworn, testified as follows

DIRECT EXAMINATION

BY MR CAMPBELL

THE CLERK If you'll state your name and spell your last for the record

A Rainey Williams, W-I-L-L-I-A-M-S

Q Ms Williams, where are you employed?

A Metro PCS

Q And what capacity are you employed in?

1 A I am a custodian of records

2 Q Basically at Metro PCS -- tell the ladies and
3 gentlemen of the jury what Metro PCS is

4 A Metro PCS is a prepaid cellular provider

5 Q Where exactly, just in a broad sense, is your
6 coverage areas? Where are you located mainly?

7 A We are located in California, Florida, Atlanta,
8 Dallas, and Detroit

9 Q So it's safe to say you're mainly in large
10 metropolitan areas?

11 A Yes, sir

12 Q And your phone company has a limited range or area of
13 those places?

14 A Yes, sir

15 Q Your duties, your custodian of records What does
16 that mean?

17 A I process subpoenas, Court orders, and search
18 warrants and provide records to law enforcement

19 Q In fact, you received a search warrant in connection
20 with this case here, is that right?

21 A Yes, sir

22 Q Now, I want to talk to you a little bit about cell
23 phones, how they work and everything When a person
24 makes a cell phone call, is the information that
25 person dials recorded?

1 A Yes, sir

2 Q And do you all record that in your normal course of
3 business when one of your customers or clientele
4 makes a cell phone call?

5 A Yes, sir

6 Q What exactly gathering of information do you all
7 record?

8 A We capture incoming and outgoing calls

9 Q Now, I'm going to show you what's been marked State's
10 Exhibit 38 If you could, please look at this,
11 ma'am, and tell me what this is

12 A This is a subscriber profile and call detail records

13 Q And was this information provided to the Anderson
14 City Police Department, Anderson Police Department
15 pursuant to their search warrant request?

16 A Yes, sir

17 Q Now, I want to talk to you a little bit, have you had
18 an opportunity to look through that?

19 A Yes, sir

20 Q And I think the dates on that are actually
21 December 6, 2006, through December 15, 2006?

22 A Yes, sir

23 Q Do these records fair and accurately describe the
24 information that was made from the telephone number
25 of (941)301-6113?

1 A Yes, sir

2 Q And are these records kept in the ordinary course of
3 business through Metro PCS?

4 A Yes, sir

5 MR CAMPBELL Your Honor, at this time I'd like to
6 move State's Exhibit 38 into evidence

7 MR GAMBLE No objection

8 THE COURT Any objection? Thirty-eight admitted
9 without objection

10 (WHEREUPON, State's Exhibit No 38 is admitted into
11 evidence)

12 BY MR CAMPBELL

13 Q Now, Miss Williams, I want to talk to you a little
14 bit about these records First of all, the first two
15 pages of it deals with subscriber information Is
16 that correct?

17 A Yes, sir

18 Q And the number we are dealing with (941)301-6113?

19 A Yes, sir

20 Q Can you please tell the ladies and gentlemen of the
21 jury what subscriber name this is related with?

22 A Raymond

23 Q Any other name listed besides Raymond?

24 A No, sir

25 Q What address is also given, associated with the name

1 of Raymond?

2 A 1715 Morrell Street, Sarasota, Florida

3 Q Now, talk a little bit about your company Is your
4 company the type where a person pays as they go? Or
5 is it a type where they pay on a monthly basis?

6 A We ask our customers to pay on a monthly basis

7 Q And is it a prepaid service?

8 A Yes, sir

9 Q So when a person uses your company, they pay ahead of
10 time for the amount of service they want and they can
11 use it until it's gone?

12 A Yes, sir

13 Q And after that, they have to pay again for the next
14 month?

15 A Yes, sir

16 Q The service they want?

17 A Yes, sir

18 Q Now, when you all on an account on a subscriber, do
19 you verify, check to see if the information is
20 correct?

21 A Since we are a prepaid provider, we do not have
22 contracts, we are not a credit risk We do not
23 require proper identification

24 Q So, it's not unusual, you wouldn't find it unusual
25 for you to just get a first name of Raymond?

1 A You're correct

2 Q If you were to check, see the 1715 Morrell Street in
3 Sarasota, Florida, would you check to see if that was
4 a legitimate address?

5 A No, sir

6 Q Would you find it unusual that that was not a
7 legitimate address?

8 A That would not be unusual

9 Q Now, was this account active up through December 15,
10 2006?

11 A Yes, sir

12 Q And on this subscriber profile information it says at
13 the bottom of Page 1, bottom right, this account was
14 hotlined Can you please tell the ladies and
15 gentlemen of the jury what that means?

16 A Whenever an account goes into hotline status, means
17 the subscriber has not paid his up-front fee for his
18 service He is hotlined for 30 days And during
19 those 30 days he can only access customer service and
20 911

21 Q And look at also the subscriber process menu on the
22 left-hand side, in this box, column right here, talks
23 about contract It states there is no contract on --
24 associated with this telephone number?

25 A That is correct

1 Q And that's what you were talking about and referred
2 to as prepaid?

3 A Yes, sir

4 Q Now, these records you provided to law enforcement,
5 you testified, pursuant to their subpoena, is that
6 right?

7 A Yes, sir

8 Q Now, in this case were you asked to compare the
9 records to see if this number, this (941)301-6113
10 associated with a Raymond, that this phone number
11 called an (803)235-9410?

12 A Yes, sir

13 Q And did you have an opportunity to review the records
14 to see if that phone number was called between
15 December 12 -- actually December 10 through
16 December 15?

17 A Yes Yes, sir

18 Q And were you able to see if this number was actually
19 called, this 803 number was actually called?

20 A Yes, sir

21 Q Miss Williams -- your Honor, may I have the witness
22 step off the stand, please

23 THE COURT Yes, sir

24 Q Miss Williams, I'm going ask you to step off the
25 stand, please I want you to take a look at this

1 chart For the ladies and gentlemen of the jury, can
2 you all see that? I want to go through the records
3 You stated we talked about that the 803 number was
4 called and you found on these records, is that right?

5 A Yes, sir

6 Q Now, is the first time that you see the number (803)
7 called on December 12, 2006, at 10 33 07?

8 A Yes, sir

9 Q And can you please, going through the records,
10 explain what this is? First of all, did you have an
11 opportunity to review this chart?

12 A Yes, sir

13 Q Does this chart fairly and accurately represent the
14 information that was provided on your records, your
15 call detail sheet from the number (941)301-6113 to
16 (803)235-9410?

17 A Yes, sir

18 Q Your Honor, at this time I'd ask to move State's
19 Exhibit 39 into evidence

20 THE COURT Any objection?

21 MR GAMBLE No, sir

22 THE COURT Thirty-nine admitted into evidence
23 without objection

24 (WHEREUPON, State's Exhibit No 39 is admitted into
25 evidence)

1 BY MR CAMPBELL

2 Q Now, Miss Williams, I'm going to look at December 12,
3 2006, going to start going through these records
4 Can you please identify and explain to the jury
5 starting with that date what was going on

6 A On 12-12-2006 at 10 33 07, you will see target number
7 (941)301-6113 dial *67, (803)235-9410

8 Q And the (941)301-6113 number, that is a number of
9 subscriber Raymond that's with your account?

10 A Yes

11 Q And this 803 number is not one of you all's clientele
12 or customers?

13 A No, sir

14 Q When you said dialed *67, can you please tell the
15 ladies and gentlemen of the jury what *67 means?

16 A Whenever a customer is trying to mask his number,
17 whenever calling another handset, usually comes up
18 with caller ID, *67 he blocks that

19 Q And is this type of information that you have in
20 State's Exhibit 3, is this information provided to
21 your clientele to the customers of your cell phones?

22 A No, sir

23 Q And why is that? What is this record kept for then?

24 A We keep these records strictly for law enforcement
25 purposes

1 Q And how are these records kept?

2 A Chronologically

3 Q And if a call is made, I made a cell phone call to
4 you right now, is my cell phone call going to be
5 recorded?

6 A Yes, sir

7 Q And it goes to your company?

8 A Yes, sir

9 Q So these numbers, this information is recorded at or
10 near the time that these calls were made?

11 A Yes, sir

12 Q Now, I want to continue Can you please, when we're
13 talking about duration of seconds, it shows on the
14 chart duration of seconds, and it's also on your call
15 detail sheet What does that mean?

16 A How long the call was connected

17 Q Is that when the other end picks up?

18 A It's whenever it gets -- oh, yes Whenever it
19 connects to the other handset

20 Q Based on your review, you reviewed and found this is
21 correct amount of calls made to the 803 number?

22 A Yes, sir

23 Q And this is the associated dates with it

24 December 12, it was called at 15 26 53? And this has
25 also been converted into 24-hour time, right?

1 A Yes, sir

2 Q And because all your records are kept in 24 hour
3 time?

4 A Military time, yes, sir

5 Q So on the 12th a call was placed from the 6113 number
6 to the area code of -- 9410 number?

7 A Yes, sir

8 Q And can you just go through what dates and times that
9 you have that you discovered?

10 A All right We have on 12/12/2006 at 15 26 53, we
11 have (941)301-6113, dialed *67 (803)235-9410 for a
12 duration of 28 seconds, on 12-13-2006 at---

13 Q Let me stop you a second So two calls placed on
14 December 12 from your clients's phone number to this
15 number while he was blocking his call?

16 A Yes, sir

17 Q Continue to the 13th

18 A On 12-13-2006, 18 23 25, (941)301-6113 dialed *67
19 (803)235-9410 for a duration of six seconds On
20 12-13-2006 at 18 23 59 (941)301-6113 dialed *67
21 (803)235-9410 At 12-13-2006, at a time of 18 26 21,
22 (941)301-6113 dialed *67 (803)235-9410 The day of
23 12-13-2006 at 18 26 45, (941) 301-6113 dialed *67
24 (803)235-9410 On the date of 12-13-2006, at the
25 time of 18 38 17 (941) 301-6113 dialed *67,

1 (803)235-9410 On 12-13-06 at 18 48 31 (941)301-6113
2 dialed *67, (803)235-9410 On 12-13-06 at 18 04 32
3 (941)302-6113 dialed *67, (803)235-9410 On 12-13-06
4 at 19 01 08, (941)301-6113 dialed *67, (803)235-9414
5 On 12-13-2006 at 19 45 69, (941)301-6113 dialed *67,
6 (803)235-9410

7 Q I want to stop you here just a second On the date
8 December 13, 2006, nine telephone calls were placed
9 from your client's subscriber with a number of
10 (941)301-6113 to the (803)235-9410 Is that correct?

11 A Yes, sir

12 Q And each of these calls the person who was making
13 these phone calls attempted to block their phone
14 number from being registered on the caller ID of this
15 803 number?

16 A Yes, sir

17 Q And continue please

18 A On 12-14-2006, 23 51 33 (941)301-6113 dialed *67,
19 (803)235-9410 On the day of 12-15-2006 at 12 25 24
20 (941) 301-6113 dialed *67(803)235-9410 And on the
21 day of 12-15-2006 at 14 37 28 (941)301-6113 dialed
22 *67(803)235-9410

23 Q And that's all documented on this chart Is that
24 correct?

25 A Yes, sir

1 Q Based on your call detail records for this number
2 right here?

3 A Yes, sir

4 Q And every call that was made, the caller attempted to
5 block his telephone number for coming through or
6 showing up on the receiving telephone number, this
7 803, is that right?

8 A Yes, sir

9 Q Miss Williams, will you please take the stand?

10 A Yes, sir (Resumes stand)

11 Q Miss Williams, that is all the questions I have for
12 you at this time If you could please answer any
13 questions Mr Gamble may have

14 A Yes, sir

15 THE COURT Cross examination, Mr Gamble

16 CROSS EXAMINATION

17 BY MR GAMBLE

18 Q Were you able to do a triangulation on these calls?

19 A I can tell you based on the records in front of me
20 the cell towers that were used during the times of
21 these calls

22 Q You can't tell where they came from?

23 A I can tell you the cell tower that was used

24 Q I'm sorry? I didn't hear you

25 A I can tell you the cell tower that was used to

1 connect these calls

2 Q Right, but not where it was used?

3 A The exact pinpoint precision location, no, sir

4 Q And does your service cover the South Carolina area?

5 A We do not have service in South Carolina He can use
6 cell towers for roaming

7 Q Okay And if you're roaming, can you tell what the
8 call is and where it comes from?

9 A If he's roaming, we can tell you if it shows up on
10 the call details Any attempt that is made will show
11 up on the call details

12 Q Thank you, ma'am And can you tell if the calls were
13 answered or not?

14 A Yes, sir

15 Q And were any of these calls answered?

16 A No, sir

17 Q All right Thank you

18 THE COURT Any redirect?

19 REDIRECT EXAMINATION

20 BY MR CAMPBELL

21 Q Miss Williams, just a couple of follow-up questions
22 for you Even though these calls may have not been
23 answered, is it possible these calls went to voice
24 mail?

25 A It's possible, yes

1 Q Based upon what he was talking about the tower
2 triangulation, while you may not be able to pinpoint
3 the exact location of the tower, if that phone is
4 hitting off that tower, it will be indicated in your
5 records, is that right?

6 A Yes, sir

7 Q And what exactly is the range, just a broad -- I know
8 you don't know -- each tower has its own range, is
9 that right?

10 A Yes

11 Q Just in a general sense, what would be the broadest
12 range of a tower, say, in the Atlanta area

13 A The average diameter range, would be a mile and a
14 half to two miles

15 Q So it's safe to say, if, that person using the
16 (941)310-6113 cell phone, if he made a call, or fired
17 his phone up, turned his phone on, he would ping off
18 a tower within whatever range he's in, is that right?

19 A Yes, sir

20 Q And that would be recorded on your information sheet?

21 A Yes, sir

22 Q Because you wouldn't have -- the tower would not have
23 a hit unless the person was actively using their
24 phone?

25 A You are correct

1 Q I have no further questions

2 THE COURT Any recross?

3 RECROSS EXAMINATION

4 BY MR GAMBLE

5 Q Where were these calls originating from? What area?

6 A If you would point out a specific call, I can tell
7 you the tower that was used If you would point out
8 a specific call, I can tell you the tower that was
9 used

10 Q Any one of these calls that you alluded to on that
11 cardboard thing

12 A Well, we can start with the call on 12-15-06 at
13 14 37 28 I can tell you the tower that was used was
14 B3027, and I can tell you the address of that tower
15 is 7195 Kembleton Road Southwest, Atlanta

16 Q Southwest?

17 A In Atlanta

18 Q In Atlanta?

19 A Yes, sir

20 Q Were all of them from that tower?

21 A No, sir No, sir they were not

22 Q What other tower was there?

23 A On 12-12-2006 at 10 33 07, the tower that was used
24 for that call was B4235, and that address is 4711
25 Best Road at College Park On 12-12-2006 at

1 15 26 53 the tower used there was A4327 And that
2 cell tower, the address for that cell tower is 9405
3 The Landing Drive in Douglasville

4 Q So whoever was making these calls was roaming around?

5 A He was hitting off of different towers

6 Q Right

7 A Yes, sir

8 Q All right Thank you And you don't know who
9 Raymond is on your billing, do you?

10 A No, sir

11 Q And you don't have an address for it? You have an
12 address but it's not verified?

13 A Yes, sir

14 Q Thank you

15 THE COURT You may step down Thank you very much

16 THE WITNESS Thank you, sir

17 THE COURT Call your next witness

18 MS ADAMS Your Honor, the State calls Sheree Brown

19 SHEREE BROWN, being first duly sworn,
20 testified as follows

21 DIRECT EXAMINATION

22 BY MS ADAMS

23 Q State your full name, spell your last for the record

24 A Sheree Brown, B-R-O-W-N

25 Q Where are you employed?

1 A South Carolina Law Enforcement Division

2 Q What are your duties at SLED?

3 A Forensic technician within the DNA department

4 Q What does that mean, your duties as a forensic
5 technician?

6 A One of my duties is any agencies that brings evidence
7 for SLED to analyze, I pick it up from our evidence
8 control and take it into my custody physically and
9 computer wise and distribute it from that point on

10 Q Now, did you receive a sexual evidence collection kit
11 on the victim in this case, Asha Wiley?

12 A Yes, I did

13 Q And when you received that kit, was it sealed?

14 A Yes

15 Q Explain to the jury for me how those kits are sealed
16 when you get them

17 A When I get it, the evidence is broken down in
18 evidence control and it's in a heat-sealed pouch and
19 the officer that brought it has sealed, sign and the
20 date the heat seal And if it's not broken, it's
21 considered sealed

22 Q So, and was this seal broken?

23 A No, it wasn't

24 Q Okay So this kit had not been tampered or altered
25 in any way?

1 A When I do find something, it's noted into the
2 computer system

3 Q What did you do with the kit?

4 A At the time that it was submitted from the -- it
5 could not be assigned to an analyst to develop any
6 DNA from it, there's a liquid blood standard in the
7 kit I had to open it from that point to take the
8 liquid tube and stabilize it into a filter paper so
9 it could dry

10 Q That was the known blood standard from Asha Wiley,
11 correct? You just basically dried it so it could be
12 processed for DNA, is that correct?

13 A For future reference, yes

14 Q Did you do anything else to the blood standard?

15 A No

16 Q So after that, then did that evidence go to Robin
17 Taylor of SLED for DNA comparison?

18 A Eventually it was routed to her Before it was just
19 stored in a secure area

20 Q So it was stored and then it goes to DNA analysis?

21 A Yes

22 Q No further questions, your Honor

23 THE COURT Cross examination?

24 MR GAMBLE No questions, your Honor

25 THE COURT You may step down, Miss Brown Thank you

1 very much

2 ADRIENNE RILEY, being first duly
3 sworn, testified as follows

4 DIRECT EXAMINATION

5 BY MS ADAMS

6 Q If you'll state your full name, spell your last for
7 the record

8 A Adrienne Riley, RILEY

9 Q Adrienne, what is your occupation?

10 A I'm a forensic DNA analyst with the South Carolina
11 Law Enforcement Division, commonly known as SLED

12 Q How long have you been employed with SLED?

13 A A little over ten years

14 Q Please tell the jury a little bit about your
15 educational background and training

16 A I have a Bachelor of Science degree in Biology from
17 the University of South Carolina I have taken
18 post-graduate courses in the field of molecular
19 biology, genetics, and statistics And I've also
20 worked in laboratory setting before joining SLED and
21 since SLED for the last ten years

22 Q And have you ever testified as an expert before?

23 A I have

24 Q About how many times?

25 A Approximately about 36 times

1 Q Your Honor, at this point I'd like to qualify her as
2 an expert in the field of forensic serology and DNA?

3 MR GAMBLE No objection

4 THE COURT The Court so finds

5 Q Please tell the Court what serology is

6 A Serology is the scientific identification of body
7 fluids And the common body fluids we test at SLED
8 are blood, semen, saliva, and urine

9 Q Tell the jury a little bit about testing for urine
10 How do you do that?

11 A Sure The test that we use to indicate the presence
12 of urine is known as a creatinine test The
13 by-product, chemical reaction occurs in the body and
14 it is excreted in your urine The average adult
15 excretes a little less than two grams of creatinine
16 per day We use a chemical test and in the presence
17 of creatinine we see a color change, a reddish-orange
18 change

19 Q If you see that color change, do you know that urine
20 is present?

21 A It indicates presence of urine

22 Q How is testing for urine different from testing for
23 blood or semen?

24 A Well, testing for blood and semen is done a little
25 differently It's also done by a chemical reaction

1 but we usually take blood and semen test for that,
2 identify it onto DNA, whereas with urine we
3 oftentimes don't get DNA from urine, so we don't take
4 it any further

5 Q Why can't you get DNA from urine?

6 A The average person would not have enough white blood
7 cells in the urine to get a DNA profile from In
8 order to have that amount of white blood cells, you
9 have to be a pretty sickly individual to be able to
10 get a DNA profile from urine

11 Q You can only test it's presence?

12 A That's correct

13 Q So it's not possible to say if you have a positive
14 test for urine, whose urine that is?

15 A That's correct

16 Q So, did you receive items in this case to test for
17 the presence of urine?

18 A Yes, ma'am, I did

19 Q Please explain to the jury if you were able to detect
20 any urine

21 A I was able to detect urine on several of the items
22 that I received

23 Q And what were those results?

24 A The middle sofa cushion, comforter/bedspread and the
25 mattress, top of the mattress

1 Q Was that actually a cutting from the top of the
2 mattress?

3 A That's correct

4 Q So you found urine on, then, cutting from the top of
5 the mattress, a comforter/bedspread, you said that
6 was white, do you recall?

7 A I believe it was Yes, ma'am

8 Q And then a sofa cushion?

9 A Yes

10 Q That was actually the middle sofa cushion?

11 A The middle sofa cushion

12 Q And, Adrienne, are you able to tell if urine is male
13 or female? Can you tell anything besides it's just
14 there?

15 A No, ma'am

16 Q I have no further questions, your Honor

17 MR GAMBLE No questions

18 THE COURT Cross examination

19 MR GAMBLE No questions

20 THE COURT You may step down Thank you very much
21 Call your next witness

22 MS ADAMS Your Honor, the State calls Robin Taylor

23 ROBIN TAYLOR, being first duly sworn,
24 testified as follows

25 DIRECT EXAMINATION

1 BY MS ADAMS

2 Q If you'll state your full name, spell your last for
3 the record

4 A My name is Robin Taylor, T-A-Y-L-O-R

5 Q Robin, what is your occupation?

6 A I, too, am a forensic DNA analyst at SLED

7 Q How long have you been employed with SLED?

8 A March will be 18 years

9 Q And please tell the jury a little bit about your
10 educational background and training

11 A I have a Bachelor of Science degree in medical
12 technology from the University -- Medical University
13 of South Carolina I worked in clinical laboratories
14 including Greenville Memorial Hospital for two and a
15 half years approximately prior to joining SLED I
16 have been at SLED, like I said, for 18 years and
17 during which time I've completed intensive training
18 programs in the field of forensic serology, forensic
19 RFLP DNA analysis and forensic PCR DNA analysis

20 Q And are those just different types of DNA profile?

21 A Different types of analyses I've been required to
22 perform

23 Q You been required to testify in Court?

24 A Yes Yes

25 Q How many times have you testified?

1 A In excess of 50 times

2 MS ADAMS Your Honor, at this point I'd like to
3 qualify her expert in the field of serology and DNA
4 analysis

5 THE COURT Any objection?

6 MR GAMBLE No objection

7 Q Tell the jury what DNA is

8 A DNA is A chemical found in most of the cells of your
9 body And these cells have to contain a nucleus
10 Most people think you can find DNA in a red blood
11 cell but it's actually not present in red blood cells
12 because the cell does not contain a nucleus You
13 find mostly in skin cells, sperm cells, things of
14 that nature

15 DNA actually carries genetic information from one
16 generation to the next You get half of your DNA
17 from your father and half of your DNA from your
18 mother At SLED in forensics, we don't test all your
19 DNA forensic targets Small portions of DNA that are
20 known to be highly variable from person to person

21 Q What does that mean, when you say highly variable?

22 A Well, most of human DNA is the same, it's what makes
23 us human, gives us two legs, two arms, our hair
24 color, things like that But there are portions that
25 are different from person to person And in

1 forensics we target those portions of DNA that are
2 very different In fact, no two people have the same
3 DNA except for identical twins

4 Q What type of fluids do you normally test?

5 A Usually blood, semen, and saliva Those are the most
6 common we deal with

7 Q Tell the jury really what a DNA analyst does What's
8 the process?

9 A The bottom line function of having DNA, the reason we
10 do it, is to receive unknown stains involved in a
11 criminal case and known standards from the people
12 involved When I say a known standard, I mean it
13 could be a blood sample or swab rubbed on the inside
14 of a person's cheek to collect skin cells that we
15 know that's their DNA We perform the same analysis
16 on both of them to compare the profiles and determine
17 whether or not there's a match and to report our
18 results in a report and when necessary in Court

19 Q So, let's say in this case you would receive a known
20 sample from the victim, Asha Wiley, blood sample

21 A I did

22 Q And then did you also receive a known blood sample
23 from the defendant?

24 A I did

25 Q When you received those, obviously, had those samples

1 been tampered with in any way?

2 A Absolutely not And, in fact, if I saw anything out
3 of the ordinary, I don't even start analysis I
4 contact the agency and try to clarify any potential
5 problems But, no, in this case I saw nothing out of
6 the ordinary

7 Q Explain to the jury what evidence you received in
8 this case to compare

9 A As you stated, I received a blood standard from Asha
10 Wiley I also received right- and left-hand
11 fingernails from her There was also a sexual
12 assault evidence collection kit And what that is,
13 is a standardized kit that SLED has compiled and
14 supplied, for as long as I've been there, to medical
15 personal who are going to collect sexual assault
16 evidence And what it does, it standardizes what
17 we're going to receive as evidence It gives them
18 guidance on how to and, you know, what we need them
19 to collect And it also let's us know -- it makes it
20 easier for us because we pretty much know what we're
21 going to get
22 These kits include a variety of samples, usually a
23 known blood standard There are some swabs from
24 vaginal, oral, and rectal areas from the victim, and
25 corresponding microscope slides to examine There's

1 also other things, there are hair standards, pubic
2 hair combings collected, things like that, that are
3 collected And usually what's collected, what's most
4 pertinent for that case

5 In this one I received vaginal swabs, oral swabs, and
6 rectal swabs and pubic hair combings from Miss Wiley,
7 and smears Vaginal, oral, and rectal smears, which
8 were the microscope slides I mentioned earlier

9 Q A smear different from a swab?

10 A It is What should normally happen, a swab is
11 collected and then they take the clean microscope
12 smear, or the slide and rub that swab across it to
13 deposit some of that material, just a little bit,
14 onto that, and then dry the swab and send it on And
15 that allows me to, when necessary, examine a sample
16 under the microscope, see if I can visualize sperm
17 cells usually what we're looking for

18 Q Usually taken from the victim at autopsy, is that
19 correct?

20 A In cases such as this, yes

21 Q Now, did you receive -- or you did say, I think you
22 received fingernails right- and left-hand fingernails
23 of Asha Wiley?

24 A I did

25 Q What were your findings regarding the fingernails?

1 A When we're examining fingernails, usually looking for
2 tissue foreign to the victim And I examined her
3 fingernails, didn't do any preliminary testing or
4 anything, took those straight to DNA And on the
5 left-hand fingernails I did develop a DNA profile,
6 but it was her profile It was the victims And I
7 didn't see anything foreign to her Now, on the
8 right-hand fingernails I didn't get a profile

9 Q Is that unusual?

10 A Well, it would depend In a case such as this
11 sometimes the victim's fingernails can be somewhat
12 bloody But usually I'm not actually wanting to
13 target that I'm trying to avoid the victim's blood,
14 I'm going to try and swab the edges of them where
15 there might be skin cells present that would be
16 foreign to her
17 In that case, no, it's not terribly unusual not to
18 get a profile simply because I would be trying to
19 avoid her DNA which would be very usual to be found
20 on that and just trying to be careful what I
21 collected and trying to target it

22 Q If you knew that her body had been wiped down from
23 head to toe before those swabs and nails were
24 collected, could that make a difference as well?

25 A Certainly it could if someone went to the trouble to

1 actually wipe the edges of the fingernails down in
2 order to take away any superficial DNA that could be
3 present

4 Q Could even take away her DNA, which is why you
5 couldn't do a profile?

6 A Well, that potential was there But, again, in
7 swabbing these and trying to find DNA that's foreign
8 to her, you know, I was just trying to be very
9 careful not to get her own blood or her own DNA And
10 I didn't get any at all off of that

11 Q Now, let's talk about the vaginal and rectal swabs,
12 were you able to identify any semen in your analysis?

13 A I was I did identify semen on both the vaginal
14 swabs and the rectal swabs

15 Q Did you take the semen from Asha Wiley's vaginal and
16 rectal swabs and compare them to the DNA profile you
17 developed known blood standards of the defendant?

18 A I did make that comparison

19 Q And what were your results?

20 A In referring to my report, the DNA profile developed
21 from the semen on item 7 4, the rectal swabs, matches
22 the DNA profile of Mr Rivera The probability of
23 randomly selecting an unrelated individual having a
24 DNA profile matching this semen is approximately
25 three in 390 quadrillion I also developed a DNA

1 profile from the semen on the vaginal swabs and it
2 matched Mr Rivera, also

3 Q What do those statistics mean? Explain that number
4 to this jury, please

5 A When you hear the word 390 quadrillion, you think a
6 very large number But it's actually, this is a
7 probability, it's a one in 390 quadrillion, actually
8 a very small number or a very rare profile 390
9 quadrillion, I don't know, 390 with 15 zero's behind
10 it So it's many times the world population And,
11 as I said before, as a matter of fact, a rare
12 profile

13 Q So, in your opinion to a reasonable degree of
14 scientific certainty, does the semen you found on the
15 vaginal and rectal swabs match the defendant?

16 A Yes, it does

17 Q Thank you, Robin Please answer any questions Mr
18 Gamble may have

19 THE COURT Cross examination?

20 MR GAMBLE No, sir

21 THE COURT You may step down Thank you very much
22 Any reason the SLED agents can't be excused?

23 MS ADAMS No, sir, your Honor In fact, I ask that
24 they can be

25 THE COURT All three excused or welcome to stay if

1 they so choose

2 (Witnesses excused)

3 Call your next witness

4 MS ADAMS Your Honor, may we approach real quick?

5 THE COURT Yes, ma'am

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury)

9 Solicitor, all your exhibits been in evidence you
10 want in evidence?

11 MS ADAMS Yes, sir, your Honor

12 THE COURT Do you have any further witnesses

13 MS ADAMS No, sir, your Honor The State rests

14 THE COURT All right Madam Forelady, members of
15 the jury, at this time I have to take up certain motions
16 and I have to take them up out of your presence So, I'm
17 going to ask you to go to the jury room

18 Don't discuss the case among yourselves I'll get
19 you back just as soon as I can If you'll follow the
20 bailiff

21 (Whereupon, the following proceedings were had
22 outside the presence of the jury)

23 Any motions?

24 MR GAMBLE Not at this time, your Honor

25 THE COURT Pardon?

1 MR GAMBLE Not at this time

2 THE COURT Okay All right Go call and give me a
3 time frame and I'll let the jury know what that time frame
4 will be Okay

5 All right We're going to take a recess and we'll
6 reconvene at 12 00

7 MS ADAMS Yes, sir

8 THE COURT Thank you very much Donna, for the
9 record I'm going to go tell the jury I'm going to release
10 them from the courthouse and the jury room Tell them to
11 be back in the jury room at 12 00 I'm going to do that
12 without bringing them back in

13 (Whereupon, a recess is taken, after which the
14 following proceedings are had outside the presence of
15 the jury)

16 MR GAMBLE Your Honor, we've taken this hour and a
17 half to talk with our client, Mr Rivera, Mr Thomason and
18 I have Both of us have advised him we think there's no
19 profit for him taking the stand, no advantage in it,
20 whatever He has made a decision that he wishes to
21 testify in this case It is against the advice of both
22 his council, and we have both advised him in regard to his
23 Fifth Amendment rights, but it's his decision, and his
24 alone We have left it at that

25 THE COURT Did he appear to understand the

1 conversation that you had with him for the last hour and a
2 half?

3 MR GAMBLE Yes, sir And he appeared to know what
4 I have told him for the last year, your Honor At almost
5 every meeting I had with him, I told him that he did not
6 have to take the stand, he did not have to testify But
7 that was his decision to make and not my decision to make

8 THE COURT Mr Rivera, would you stand, please, sir?
9 Raise your right hand

10 RAMONDEZE L RIVERA, being first duly
11 sworn, testified as follows

12 BY THE COURT

13 Q All right Mr Rivera, you have talked with your
14 attorneys, I believe, for the last, I know the last
15 hour and a half concerning whether you desire to
16 testify or not to testify Is that correct?

17 A Yes

18 Q Is that correct?

19 A That's correct, sir

20 Q Speak up so I can hear you

21 A That's correct

22 Q Did you understand the conversation that you had with
23 your attorneys?

24 A Correct

25 Q All right I'm going to explain some things to you

1 about your Fifth Amendment rights And during this
2 explanation if you have any questions, please ask
3 them, or if you want to discuss anything I ask you
4 with your attorneys, please let me know I'll give
5 you an opportunity to do that Do you understand?
6 Can you do that?

7 A Yes, sir

8 Q Do you understand under the constitution of the
9 United States as well the State Constitution you have
10 the right to remain silent? No one can make you
11 testify against yourself, do you understand that?

12 A Yes, sir

13 Q The State's required to prove you guilty beyond a
14 reasonable doubt You are not required to prove your
15 innocence Do you understand?

16 A Yes, sir

17 Q Any question about that concept?

18 A No, sir

19 Q All right Can you hear me?

20 A Yes, sir

21 Q All right Speak up if you would, Mr Rivera,
22 because I want to hear what you have to say Okay?
23 All right?

24 The right to testify or not to testify is yours
25 personally, only yours, as your attorney stated into

1 the record earlier Do you understand?

2 A Yes, sir

3 Q No one can waive that right to testify except you
4 Do you understand?

5 A Yes, sir

6 Q You have the right to testify, but you also have the
7 right not to testify That's your decision Do you
8 need any further time to talk to your attorney about
9 whether you desire to testify or not?

10 A No, sir

11 Q If you elect not to testify, your failure to testify
12 cannot be used against you as an inference of guilt
13 and your failure to testify cannot be considered by
14 the jury in its deliberations If you elect to
15 testify, you will assume the role of a witness,
16 you'll have to answer all the questions Do you
17 understand?

18 A Yes, sir

19 Q In other words, you either take the Fifth Amendment
20 and don't testify, or you testify and answer
21 questions It's not like on television, where you
22 take the Fifth Amendment to individual questions
23 while you're on the stand Do you understand?

24 A Yes, sir

25 Q If you take the stand, you will have to testify and

1 answer the questions Do you understand?

2 A Yes, sir

3 Q Has anybody forced you, threatened you, coerced you
4 one way or the other to make you testify or to not
5 make you testify?

6 A No, sir

7 Q Do you understand if you decide not to testify, I
8 will instruct the jury that they cannot use this
9 against you in any manner whatsoever?

10 A Yes, sir

11 Q Do you understand?

12 A Yes, sir

13 Q Do you understand what I have explained to you?

14 A Yes, sir

15 Q Do you know that?

16 A Yes, sir

17 Q You have any questions about what I've explained to
18 you?

19 A No, your Honor

20 Q Do you wish to testify?

21 A Yes, sir

22 Q Now Solicitor, what type of prior criminal history
23 does he have that would qualify under the rules of
24 evidence for impeachment?

25 MS ADAMS He has an aggravated assault he was

1 convicted of March 9, 2003, for choking Renee Karls with
2 his hands Family violence, battery, and simple battery
3 and cruelty to children all on the same day

4 THE COURT The simple battery would not qualify So
5 we're talking about the aggravated, high and aggravated
6 assault and battery, is that correct?

7 MS ADAMS Yes, sir

8 THE COURT Anything else?

9 MS ADAMS No, sir

10 THE COURT That's just that one crime

11 MS ADAMS The aggravated assault by choking

12 THE COURT Mr Gamble, do you agree that that
13 particular charge would qualify under the rules of
14 evidence?

15 MR GAMBLE Yes, sir

16 BY THE COURT

17 Q Mr Rivera, I do not know if the solicitor is going
18 to ask you about that or if your attorney is going to
19 ask you about it, but if they do, you're going to
20 have to answer Do you understand?

21 A Yes, sir

22 Q You have any questions about it?

23 A No, sir

24 Q All right Mr Gamble, anything else you would like
25 to ask your client concerning his right to testify,

1 his decision to testify or not testify?

2 MR GAMBLE No, your Honor He's got his mind made
3 up

4 THE COURT Anything you would like to ask?

5 MR THOMASON I would just like to reiterate Mr
6 Gamble's position We have gone over this ad nauseam with
7 Mr Rivera and we have explained to him the pitfalls of
8 doing this, and he is bound and determined that that's
9 what he wants to do And we have advised him in strenuous
10 terms that we do not think it would be in his legal best
11 interest And, yet, having been given that advice, he
12 stills wants to testify

13 THE COURT Okay Is that correct, Mr Rivera?

14 THE DEFENDANT That's correct

15 THE COURT Thank you so very much You may go have
16 a seat

17 All right Anything from the State before we bring
18 the jury?

19 MR CAMPBELL No, your Honor

20 THE COURT Anything else from the defendant before
21 we bring the jury?

22 MR GAMBLE For the record, your Honor, I'd like to
23 move for a directed verdict

24 THE COURT Denied Anything else?

25 MR GAMBLE No, sir

1 THE COURT All right Bring us the jury, please

2 (The following proceedings were had within the
3 presence of the jury)

4 Mr Thomason, you may call your first witness

5 MR THOMASON Call Raymondeze Rivera to the stand,
6 your Honor

7 THE COURT Mr Rivera, come around, be sworn please,
8 sir Mr Rivera, have a seat on the witness stand if you
9 would please, sir

10 RAMONDEZE RIVERA, being first duly
11 sworn, testified as follows

12 DIRECT EXAMINATION

13 BY MR THOMASON

14 Q Mr Rivera, how old are you, sir?

15 A Twenty-eight

16 Q Twenty-eight And do you have any family in this
17 area?

18 A No, sir

19 Q Where is your family from?

20 A Atlanta, Georgia

21 Q Georgia Are your folks still alive?

22 A My mother stays in Tampa My father passed away last
23 year

24 Q I believe he passed away in March, is that right?

25 A Passed away March 24th

1 Q Do you have any brothers or sisters?

2 A I have two brothers and one sister

3 Q At this point, Mr Rivera, I'm just going to ask you
4 to tell us your story

5 A Basically, the reason why I'm here today, because I
6 waited a whole year to get my testimony I
7 understand that the State has said some things that
8 wasn't true And I waited to face Mr Anthony Wiley
9 and also to identify Mrs Joseth, Joya Joseth
10 Basically I was headed back two weeks prior to
11 December 10 I was given assignment to code name,
12 Code Circle K, dealing with Mrs Kwana Burns My
13 objective was to assess and assist the environment
14 here in Anderson County where Miss Kwana Burns was
15 located at

16 MS ADAMS Your Honor, I object Can we approach?

17 THE COURT Yes, ma'am

18 Madam Forelady, members of the jury, would you step
19 to the jury room just a few minutes, please? Don't
20 discuss the case among yourselves

21 (Whereupon, the following proceedings were had
22 outside the presence of the jury)

23 Mr Rivera would you go have a seat at defense
24 counsel table, please, sir

25 (Witness steps down from the stand)

1 Mr Gamble and Mr Rivera, the way I understood you
2 were talking about Kwana Burns, who is the second victim
3 and there's charges for murder pending against you in that
4 charge Now, you can say whatever you want to say on the
5 witness stand I'm not trying to restrict that

6 At this point in time I have one of two choices I
7 can either admonish the jury to disregard any mention of
8 Kwana Burns, do you understand? Or we can ignore it and
9 go on However, if you keep on insisting on talking about
10 Kwana Burns and the death of Kwana Burns, then you have
11 opened the door and I'm going to allow the State to have a
12 mini-version trial of the second murder if it takes the
13 rest of the week and all next week Do you understand?

14 (The defendant nods head up and down)

15 But I'm not trying to tell you what to say on the
16 witness stand The only thing I'm telling you, if you
17 continue to talk about Kwana Burns, the State's going to
18 try that second murder trial this week On direct -- I
19 mean, excuse me, on cross and rebuttal Do you understand
20 what I'm telling you?

21 THE DEFENDANT Yes, sir

22 THE COURT Now, it's your choice You can say what
23 you want and I'm not trying to restrict you from saying
24 whatever you want to say on your statement That's your
25 right You can do that I'm just trying to advise you of

1 the consequences if you continue to talk about the death
2 of Kwana Burns Do you understand?

3 (Defendant nods head up and down)

4 Yes or no?

5 THE DEFENDANT Yes, sir

6 THE COURT All right Mr Gamble, Mr Thomason do
7 you want me to give a curative instruction to the jury?
8 Our do you want to leave it as it is now?

9 MR GAMBLE Leave it as it is, your Honor No
10 curative instructions would be requested I don't like
11 curative instructions I find it just calls the jury's
12 attention to what you're trying to cure

13 THE COURT I understand But I'm offering it and I
14 will do it It's been waived, is that correct?

15 MR GAMBLE That's correct

16 MR THOMASON I concur with Mr Gamble

17 THE COURT Mr Rivera, do you understand what I have
18 told you?

19 THE DEFENDANT Yes, sir

20 THE COURT Do you need more time to talk to your
21 attorneys about what I have told you?

22 THE DEFENDANT No, sir

23 THE COURT Do you understand? I'm not restricting
24 you from talking about Kwana Burns and the death, the
25 killing or whatever transpired Do you understand? If

1 that's what you want to do I'm just telling you about
2 the consequences of doing that Do you understand?
3 That's your decision

4 THE DEFENDANT Yes, sir

5 THE COURT Not mine nor your attorneys Do you
6 understand?

7 THE DEFENDANT Yes, sir

8 THE COURT All right I'm -- it's 20 minutes after
9 12 We're going to take a lunch break at this time
10 We're going to start back at 1 20 We'll start back 1 45
11 give your attorneys an opportunity to talk to you Do you
12 understand?

13 THE DEFENDANT Yes, sir

14 THE COURT During the lunch break And we'll start
15 back at 1 45 You can get on the witness stand and say
16 whatever you so choose Do you understand?

17 THE DEFENDANT Yes, sir

18 THE COURT Bring us the jury

19 (The jury returns to open court)

20 Madam Forelady, ladies and gentlemen of the jury,
21 we're going to take a lunch break at this time It's now
22 12 20 If you'll be back in your jury room at 1 45, we'll
23 get started at that time Have a good lunch Don't
24 discuss the case See you then

25 (Whereupon, the jury retires for the luncheon

1 recess)

2 Mr Thomason, you want to put Mr Rivera up to test
3 the microphone?

4 MR THOMASON Please, your Honor

5 THE COURT Mr Rivera, come back up, have a seat on
6 the witness stand, please, sir Pull your chair up close
7 to the microphone so everybody can hear you Okay?

8 THE DEFENDANT Yes, sir

9 THE COURT Go ahead

10 BY MR THOMASON

11 Q I'm going to be standing about right here Can you
12 hear me?

13 A Correct

14 Q Okay Can everybody -- now you hear him? Robert?

15 MR GAMBLE Even I heard him

16 MR THOMASON If Robert heard him, I'm satisfied

17 THE COURT Okay Step back down Thank you very
18 much

19 Anything else from the State before we break for
20 lunch?

21 MS ADAMS No, sir

22 THE COURT Anything from the defendant?

23 MR THOMASON No, sir

24 THE COURT Have a good lunch See you at 1 45

25 (WHEREUPON, at 11 30 a m the proceedings are

1 adjourned for the luncheon recess)

2 Afternoon Session

3 (Pursuant to the adjournment for the luncheon recess,
4 Court is again in session at 1 45 p m when the following
5 proceedings were had)

6 All right Mr Gamble, Mr Thomason, you ready to
7 proceed?

8 MR CAMPBELL We are

9 THE COURT Which direction?

10 MR THOMASON We're calling Mr Rivera back to the
11 stand

12 THE COURT The plea is off the table?

13 MR THOMASON Yes, sir

14 THE COURT All right Bring us the jury

15 MR THOMASON Could I put something on the record
16 just a moment? Just for the record, since we broke for
17 lunch, we have once again been through extensive
18 negotiations involving resting our case, continuing with
19 the testimony, or entering into a negotiated guilty plea
20 -- or a guilty plea After going through all that again,
21 Mr Rivera has decided that he, once again, wishes to take
22 the witness stand and testify He understands the
23 pitfalls in so doing and the ramifications of going into
24 certain areas of testimony that may have certain horrible
25 consequences to him

1 With that in mind, I call Mr Rivera back to the
2 stand once the jury gets back

3 THE COURT Mr Rivera, if you'll come have a seat on
4 the witness stand, please If you'll come around have a
5 seat on the witness stand please

6 (The following proceedings were had within the
7 presence of the jury)

8 RAMONDEZE L RIVERA, having been
9 previously sworn, testified as follows

10 DIRECT EXAMINATION

11 BY MR THOMASON

12 THE COURT Speak into the microphone so everybody
13 can hear you Okay?

14 A Yes, sir

15 THE COURT Thank you very much

16 Mr Thomason, you may proceed

17 Q Mr Rivera, you prepared to resume your testimony?

18 A I am

19 Q All right As to the alleged victim, Miss Asha
20 Wiley, would you please continue your story that you
21 would like for the jury to hear? As to the victim,
22 Asha Wiley

23 A I was here two weeks prior to December 10 I was
24 here to track down Kwana Burns My objective was to
25 identify Mrs Burns and basically to establish

1 connection with her Prior to that I found out
2 Mrs Kwana Burns worked at the Belk's store in
3 Anderson County, at the Anderson County Mall Prior
4 to that, I came back December 10 on a Sunday I was
5 notified that Kwana Burns was at work

6 Q Let me redirect your focus a little bit, Mr Rivera
7 Could you please tell us -- pick up with the
8 testimony regarding Miss Wiley, if you could What,
9 if any, contact you had with her, what, if any,
10 conversations did you have with her?

11 A Basically, when I was at the Belk's store, I met with
12 Kwana Burns during that time She gave me her
13 business card with her cell phone number on it We
14 had decided that we was going to meet during that
15 day She had been leaving work at 3 30 that day and
16 I trailed behind her

17 Q Excuse me? Mr Rivera, I didn't understand the last
18 thing you said

19 A I said that Miss Kwana Burns got off work 3 30
20 that day I trailed behind her She did not know I
21 was following her at the time to her apartment
22 complex Basically I noted that she had a friend, a
23 male friend at this time, during that day So I
24 decided to come back to the Anderson Mall At that
25 time I met a female named Asha Wiley outside the

1 Goody's store

2 Q Is that the Asha Wiley we have seen pictures of the
3 last couple of days here on the video screens?

4 A That's correct

5 Q All right

6 A I basically, during that time, I met Mrs Asha Wiley,
7 she appeared to be a outgoing person, a friendly
8 person, very laid back At first we hit it off real
9 good She asked me to pick out some jewelry for her
10 at the Goody's store during that day and she was
11 picking out an outfit She also told me that she --

12 Q What time of day was this?

13 A I believe it was about 4 30 She also told me that
14 she was going shopping for her daughter that same
15 day At that time we exchanged numbers, me and
16 Miss Wiley
17 I decided to leave the mall at that time, and I
18 called Kwana Burns on a payphone Mrs Burns did not
19 answer the phone at the time that day, but I already
20 knew what she was doing during that day anyway
21 So I decided to come back to the Anderson Mall to
22 meet with Mrs Asha Wiley I called Miss Wiley on
23 the payphone, same payphone I called Kwana Burns
24 on -- and she told me she was inside the music store
25 At that time I met Mr Anthony Anderson, [sic]

1 acquaintance of hers

2 Q Is that the gentleman that testified here yesterday?

3 A That's correct He explained to me that he was
4 friends with Asha Wiley and that he was preparing to
5 move out of Anderson County because he had been
6 robbed During that time me and Mrs Wiley decided
7 to leave the music store, and I asked her did she
8 want to go out to a movie or something
9 She explained to me that she did She also explained
10 to me that she haven't ate that day, so we decided to
11 go to McDonald's After that I asked her to call and
12 check on a movie that she liked During that time
13 Ms Wiley decided that it was best for us to take a
14 -- or ride in one car She explained to me that she
15 wanted to drop off her car at her apartment complex
16 During that time I trailed Mrs Wiley to her
17 apartment at Belton Woods

18 Q What kind of car did Mrs Wiley drive?

19 A At the time she was driving a gray car I don't know
20 the make or the model I believe it was a Dodge
21 I'm pretty sure

22 Q Okay Go ahead

23 A After that I made a mistake and spilled some Sprite
24 in my car

25 Q You spilled Sprite in your car?

1 A Right I had no intention of going inside to
2 Mrs Wiley's apartment at the time, but she invited
3 me in So I decided to take her on her offer
4 During that time Mrs Wiley wanted to have a little
5 drinking session She decided to make it a little
6 bit interesting so we --

7 Q By drinking, you mean some sort of alcoholic
8 beverage?

9 A Right It was Gray Goose, I believe She wanted to
10 play two-man Spades for a shot She also showed me
11 the clothes she bought for her eight-year-old
12 daughter that day And she also asked me did I want
13 to watch a movie while we were waiting on the movies
14 to start
15 I picked out a Bruce Lee movie She put it in her
16 Play Station II, which was downstairs At that time
17 me and Mrs Wiley was sitting on the couch We began
18 to kiss That lead to us having sex Mrs Wiley
19 then -- excuse me, I became a little bit angry off
20 the alcohol that day I guess Mrs Wiley noted I was
21 getting aggressive, so she started backing away I
22 then pushed Miss Wiley to the floor and held her
23 there
24 She told me that she had diabetes and then she asked
25 me to get her a banana from the refrigerator I

1 explained to her at the time I wasn't going to get a
2 banana because I didn't believe her at the time
3 Basically, Mrs Wiley started to cry And said I was
4 trying to kill her I explained to her that I didn't
5 believe her at the time, and I asked her where was
6 the banana located I went in the kitchen and found
7 out the banana was located on the refrigerator, the
8 top of the refrigerator Mrs Wiley began to eat the
9 banana after I gave it to her
10 At that time we fell asleep on the couch We decided
11 to go to the movie theater, when we began to sleep on
12 the couch At the time I woke up previous to that,
13 explained to Mrs Wiley that the couch was
14 uncomfortable, and I asked her to go upstairs
15 She explained to me that the upstairs was not
16 appropriate because she had a lot of mess in her
17 bedroom And I told her I didn't care at the time, I
18 was tired She lead me up there to her bedroom and I
19 noticed that her bedroom was real filthy and I
20 couldn't understand how a female would live like
21 that, especially with kids
22 We began to -- well, after the fact that we entered
23 the bedroom, she began to move some things on top of
24 the bed She had some sheets that wasn't there I
25 believe that she -- that was in the laundry basket,

1 excuse me, that was on the floor We began to have
2 sex again and I ended up falling asleep
3 I started to erase -- excuse me, I started to -- I
4 woke up at the of the middle of the night, I believe
5 it was 2 00 and I went back downstairs to erase my
6 number from her phone at that time As I began to do
7 that, I noticed that she had sent a text message to
8 Mrs Joya Joseth I began to get angry at that time
9 because my whole accomplishment was to come up here
10 to Anderson County to eliminate Mrs Kwana Burns
11 I then went into the kitchen to grab a knife I had
12 planned to cut Mrs Asha Wiley's throat while she was
13 sleeping As I entered the bedroom Mrs Wiley
14 noticed that I had the knife in my hand during that
15 time So I began to think about what I was going to
16 do
17 I told Mrs Wiley to put her hands behind her back
18 and I had cut some cords from the printer from her
19 computer I ended up tying Mrs Wiley's legs, I end
20 up tying Mrs Wiley back -- her hands behind her
21 back, excuse me I then began to put a sheet over
22 Mrs Wiley head
23 At that time Mrs Wiley explained to me that she was
24 the only person in her daughter's life and she begged
25 for me not to kill her

1 I began to question her about Mrs Joya Joseth and
2 her whereabouts She explained to me that Mrs Joya
3 Joseth lived in Vance, South Carolina, at the time
4 I also retrieved a phone number from Mrs Joya
5 Joseth Asha Wiley refused to give me her address
6 At that time I got irritated after questioning
7 Mrs Wiley I began to choke her And she ended up
8 peeing on the bed At that time she began to cry
9 again and she asked me to take the sheet off her so
10 she could talk to me
11 She explained to me again that she only had her
12 daughter to live for And she asked me did I have a
13 daughter And I explained to Mrs Wiley I did And
14 she asked me to put myself in her place and could I
15 kill a mother that her daughter only had
16 I explained to Mrs Wiley that during the situation
17 and the events that transpired at this time, because
18 she had gave my information to Mrs Joya Joseth, I
19 had no point but to kill her
20 I had choked Mrs Wiley again and she fell on the
21 floor At that time I began to put a sheet over
22 Mrs Wiley head And I told Mrs Wiley to pray
23 because this is the last time that she will be on
24 this earth She began to cry again and she said a
25 little prayer At that time I had strangled

1 Mrs Wiley and I believe it took me two minutes to
2 execute her
3 I went downstairs to retrieve my clothes At that
4 time I got a rag and some cleaning supplies I began
5 to wipe down the crime scene area I began to go
6 back upstairs I picked out a bra, a panty, and
7 shorts and a shirt for Mrs Wiley I began to dress
8 Mrs Wiley Excuse me, let me take that back
9 I began to wipe down Mrs Wiley I also began to
10 douche Mrs Wiley I then cut all the restraining
11 cords I had on Mrs Wiley At that time I began to
12 dress Mrs Wiley and clothe her
13 At that time I decided to move Mrs Wiley' car, so I
14 found her phone, too, and I found her car keys
15 downstairs I had moved Mrs Wiley car two
16 apartments down I went back to the apartment,
17 through the front door
18 I then began to gather all the items, the playing
19 cards, Mrs Wiley's attire of the day before that,
20 the douche bottle, the cords
21 At that time I began to hear a knock at the door and
22 I saw a female standing outside Apparently, as I
23 was going downstairs the female ended up leaving I
24 didn't get a positive ID on the female, so I went
25 back upstairs I make sure that all the evidence

1 that I leave was taken care of I then went, got all
2 my things, my cell phone, my charger, and anything
3 else that I could find that I had left I also made
4 sure that my information wasn't in Mrs Wiley's cell
5 phone

6 I tracked the crime scene one more time and did an
7 evaluation of the crime scene At that time I felt
8 like everything was taken care of and so I left I
9 began to go to Atlanta

10 At that time I called Mrs Kwana Burns at the time
11 Mrs Burns answered the phone call

12 Q I'm going to stop you there Is that the last
13 contact you had with Miss Wiley?

14 A That's the last time I spoke to Miss Wiley after her
15 death

16 Q Is that the last time you ever saw Miss Wiley after
17 that?

18 A Correct

19 Q Okay

20 A After that I began to talk to Mrs Kwana Burns on the
21 cell phone She had lied to me and said that she was
22 at an aunt's house, which I already knew where she
23 was I found out that she was with a friend in
24 Greenville, South Carolina, a male friend She also
25 told me that she was in the process of moving to a

1 house

2 At that time my plans changed because I had planned
3 to kill Miss Kwana Burns at her apartment I then
4 went to a hotel off Old Ash in Atlanta, Georgia, and
5 I decided to replan my initial purpose for coming
6 here to Anderson County

7 Q Mr Rivera, at this point did you ever see, obviously
8 you didn't hear or contact Mrs Wiley after this
9 point But did you -- is there any more interaction
10 between you and Mrs Wiley after this point?

11 A No

12 Q Okay Well, then, that would be all the questions
13 that I have for you After having advised you as I
14 had before testifying before this jury, is there
15 anything else about Miss Wiley that you have to say?

16 A Yes

17 Q What would you like to say about Miss Wiley?

18 A At the time of leaving the hotel, I went to a friend
19 house in Douglasville, Georgia, by the name of
20 Mr Mark Newman after that Mr Newman was not home
21 prior to that I end up leaving a note, explaining
22 to Mr Newman to get back -- contact me as soon as
23 possible Mr Newman contacted me at the hotel,
24 explained to me to come over
25 I then called Mrs Kwana Burns at the time and she

1 explained to me that she was getting adjusted to her
2 new house and gave me the address where I could
3 locate her at At that time I began to look up her
4 address on the internet through Mapquest

5 Q Let me stop you one more time Is there anything
6 that you did, said, saw, heard, with any of your five
7 senses, that has anything to do with Miss Wiley after
8 this point?

9 A After the time I called Miss Kwana Burns back

10 Q No, I'm asking you about Miss Wiley

11 A Right, I'm getting to that I called Mrs Kwana
12 Burns back at this time and we had scheduled to meet
13 each other on Wednesday I asked Miss Kwana Burns to
14 leave her kids with a relative Prior to that I got
15 lost coming up here on Wednesday because Mapquest
16 information wasn't, it wasn't the right information
17 that it gave me During the time I called Mrs Kwana
18 Burns from a gas station at a Shell off Mall Road
19 She explained to me that she lived---

20 Q Mr Rivera, I'm going to ask you one more time,
21 after -- at this point, after you left Miss Wiley's
22 home, did you ever, through any of your five senses,
23 ever have any other knowledge or any other dealings
24 with Miss Wiley?

25 A Correct

1 Q Okay Then that's all the questions I have for you
2 Answer any questions the solicitor might have

3 THE COURT Solicitor, have at it The door is open

4 MS ADAMS Your Honor, could we take a five-minute
5 break?

6 (Ms Adams approaches bench)

7 CROSS EXAMINATION

8 BY MS ADAMS

9 Q Mr Rivera, please tell the jury about your scheduled
10 meeting with Miss Burns on Wednesday

11 A My scheduled meeting with Mrs Burns, basically, we
12 had scheduled together for her to meet together
13 around 8 00 Wednesday night At the time, as I said,
14 I got kind of lost following Mapquest directions I
15 then called Mrs Burns at a Shell gas station off of
16 Mall Road in Anderson County

17 Q And this is Wednesday the 13th, correct?

18 A This is Wednesday the 13th, and Mrs Burns explained
19 to me that she had stayed three minutes from the
20 Shell gas station and she said that she would be on
21 her way to meet me

22 I waited for her at the time And she had showed up
23 in a van, I believe it was burgundy But I'm sure,
24 pretty sure it was a van I noted her, she had
25 stopped at a gas station and she had waived me over

1 And I asked her it was okay to follow her or did she
2 want me to leave my car at the gas station
3 And she told me to go ahead and follow her to her
4 house at that time

5 Q Now, Mr Rivera, this is this red car with the white
6 top that we have in evidence? Is this the car you
7 were driving when you met Kwana as well?

8 A Correct

9 Q Showing you State's Exhibit 14 That's your car,
10 correct?

11 A Correct

12 Q And State's Exhibit 11, that's it with the Florida
13 tags, right?

14 A Correct

15 Q All right Please go ahead

16 A At the time she introduced me to her son, Kameron
17 Burns, and her daughter, Camillia Jackson Her son
18 was very polite at the time And I also helped him
19 with a few groceries that they had inside the van I
20 noticed that the house wasn't set up at the time,
21 prior to her moving in

22 She had offered me to get comfortable and also said
23 that she had a movie for me to watch if I was
24 interested We did watch a movie, I don't remember
25 the name I remember the fellow, Kurt Russell

1 She explained to me that her kitchen wasn't set up
2 and said that her -- I believe her aunt and her
3 cousin, Mrs Polly Hatten, was cooking some pork
4 chops, some mashed potatoes, cornbread

5 Q What time was this, Mr Rivera? It's late, isn't it,
6 about 11 p m do you think?

7 A I believe it was about 9 15, 9 30, close to 10 00
8 She asked me to wait at the house while she takes her
9 son, Kameron Burns, to her aunt's to drop him off so
10 he could take a shower and get ready for school the
11 next day Explained to me that she would be back
12 with a plate, a hot plate

13 At that time I went through her house and made sure
14 that every room was clear I made sure that I had a
15 place to kill Mrs Kwana Burns at the time I also
16 made sure that I had some things to wipe her down
17 with

18 I waited for Mrs Burns to come back alone She came
19 back with her cousin, Kiki Hatten, and with her
20 daughter Camillia Jackson She introduced me to her
21 cousin, Kiki, and also gave me my plate to eat She
22 offered me a two-liter Sprite that was in the van
23 She also told me that she was getting situated and
24 that she wanted to change clothes at that time

25 Q Where is her daughter?

1 A With her and Kiki

2 Q How old is her daughter?

3 A I believe her daughter is two years old At that
4 time I heard a knock at the door, and a --

5 Q Is her cousin still there or just her and her
6 daughter?

7 A Correct

8 Q Wait, which one?

9 A Both of them still there

10 Q So you heard a knock at the door then?

11 A Correct At that time I heard a knock at the door
12 and I believe it was Mr Rick or Richey or Rich
13 Campbell came by to clean the oven

14 Q What time is it now?

15 A I'd say it's about 10 30 And went back to the
16 house, to Mrs Polly Hatten's house, to get the
17 cleaning supplies for the oven He came back and
18 sprayed the oven down, explained to Mrs Burns that
19 he would be back around 6 00 that day At that time
20 Mrs Kiki decided to leave
21 I then asked Mrs Kwana Burns --

22 Q Did she leave by herself?

23 A Correct

24 Q So her two-year-old daughter is still in the
25 apartment with you and Kwana?

- 1 A Correct I asked Mrs Kwana Burns to drop Camillia
2 off at Mrs Hatten's house She explained --
- 3 Q Why did you ask her to do that?
- 4 A She explained to me that her daughter was attached to
5 her and that her daughter was uncomfortable because
6 it was a new house and that she wanted her daughter
7 to sleep with her I told her I didn't think it was
8 a good idea for that because I had plans in mind
- 9 Q Did you tell her you had other plans, or is that just
10 what you're thinking?
- 11 A That's what I'm thinking
- 12 Q But you told her it wasn't a good idea for her
13 daughter to stay?
- 14 A Correct
- 15 Q And what did Kwana tell you?
- 16 A Again, Mrs Burns explained to me that it was a new
17 house and that her daughter was uncomfortable
18 sleeping in a bed by herself, and that she thought it
19 would be best for her daughter to sleep with her for
20 the night She also asked me to, what time that I
21 was going to leave that day because she didn't want
22 her son, Kameron, finding out that she had a man
23 sleeping over I explained to her that I probably
24 would decide to leave around 7 00, 6 00
- 25 Q Had she invited you to spend the night?

1 A No

2 Q Did you know Kwana before you met her, on this -- I'm
3 assuming you met Kwana on the tenth? When did you
4 meet her?

5 A I was here two weeks ago prior to the tenth, like I
6 said

7 Q Is that when you met Kwana?

8 A That's when I positively identified Mrs Kwana Burns

9 Q We'll get to that later, then Tell us, though, she
10 didn't want her son to find out that you were
11 spending the night?

12 A Correct

13 Q Was this just understood that you were going to spend
14 the night, then?

15 A Eventually it was understood that I was going to
16 spend the night because I explained to her that I
17 didn't feel like driving back to Atlanta And it was
18 a two-hour drive She eventually agreed it was okay
19 to spend the night with her On the sofa

20 Q Okay

21 A I began to watch the movie And Mrs Kwana Burns
22 decided to put her daughter to sleep on the couch I
23 believe it was the main couch So I began to sit by
24 her on the loveseat And she kissed me and said that
25 she was thinking about me all that day

1 Q When did you first actually meet her?

2 A I established contact with Mrs Burns on December the
3 10th at the Belk's store in Anderson County Mall

4 Q While she was working, correct She worked at
5 Belk's, didn't she?

6 A Mrs Kwana Burns worked for the cosmetics at the
7 Belk's She also gave me her business card with her
8 cell phone on it

9 Q So you had conversations by phone from the tenth to
10 this day, the 13th?

11 A Correct

12 Q She's telling you that she's been thinking about you
13 all day?

14 A Correct

15 Q Her daughter is sleeping on the sofa and she starts
16 kissing you?

17 A Correct

18 Q Then what happened?

19 A After that I began trying to take Mrs Burns' shirt
20 off Somehow Mrs Burns got upset And she started
21 getting loud At that time she had moved back and
22 sat with her daughter I did decide to kill
23 Mrs Burns

24 I asked Mrs Burns to step inside the hallway because
25 we needed to talk I explained to Mrs Burns that I

1 didn't want to wake her daughter up As Mrs Burns
2 approached me, I ended up grabbing Mrs Burns by the
3 neck and I forced her to her bedroom Mrs Burns
4 ended up falling down And I believe that Mrs Burns
5 grabbed the pole -- no, excuse me, it was a lamp
6 pole And Mrs Burns was trying to hit me with the
7 lamp pole I grabbed Mrs Burns' arm and made her
8 release the pole I then grabbed Mrs Burns' neck
9 and explained to Mrs Burns what I planned to do her
10 that day And I also explained to Mrs Burns that
11 this wasn't my first time killing somebody

12 Q What? You explained to her what? Excuse me?

13 A I explained to Mrs Burns that this was my first time
14 killing somebody

15 Q But it wasn't, was it?

16 A It wasn't

17 Q Was Asha the first one?

18 A No I explained to Mrs Burns that --

19 THE COURT Solicitor, don't go there Okay?

20 MS ADAMS Yes, sir

21 A I explained to Mrs Burns that I was, just had been
22 on TV with the sketch that you seen yesterday And I
23 explained to Mrs Burns that I'm a wanted man and
24 that she needs to follow my directions if she wanted
25 to live I also explained to Mrs Burns that upon

1 following my directions that I would spare her
2 daughter, Camillia Jackson

3 I asked Mrs Burns to take off her clothes She
4 refused She began to get loud again, began to try
5 to fight me At that time Mrs Burns started
6 screaming for her daughter, Camillia, who was
7 sleeping on the sofa at the time I couldn't believe
8 that she did that So I ended up choking Mrs Burns,
9 which took two minutes to kill her I then seen her
10 daughter who was standing at the door

11 Q Did she witness you choke her mother?

12 A Correct I seen Camillia Jackson standing at the
13 door

14 Q Was she crying? What was she doing?

15 A She was crying for her mother I seen her, I again
16 approached her My initial plan was to kill her
17 daughter, but I couldn't because I had a daughter
18 My other plan was to take Camillia with me to
19 Douglasville, Georgia I decided not to
20 I then began to look for my cleaning supplies and I
21 began to wipe down Mrs Kwana Burns I began to wipe
22 down the two-liter bottle, the remote control, the
23 doorknobs, the bathroom toilet, kitchen area, any
24 place that I felt like my fingerprints was on
25 I also found a jump-rope inside a box I began to

1 hogtie Mrs Kwana Burns I then placed Mrs Kwana
2 Burns' daughter, Camillia Jackson, on top of her and
3 I proceeded to leave Anderson County
4 On my way back to Georgia, I stopped at the Waffle
5 House for some breakfast I thought about what I
6 did, and I knew that Joya Joseth was still out there
7 I decided to track Mrs Joya Joseth down and planned
8 to kill her I headed back to Douglas County,
9 Georgia, to make some assessments

10 Q What kind of assessments?

11 A I understand that Mrs Joseth stayed at Vance City or
12 Vance, South Carolina

13 Q How did you know that?

14 THE COURT Solicitor, move onto something else,
15 please, ma'am Okay? We're not going to go into Vance

16 MS ADAMS I don't think he went to Vance, Judge
17 The police caught him

18 Q So, after you killed then Kwana, you went back to
19 Atlanta on the 13th, correct, that night?

20 A That's correct

21 Q Did you, in fact, call the cell phone numbers of Asha
22 Wiley and Kwana Burns after their death, after you
23 killed them?

24 A Correct

25 Q So, all these calls to Asha, after you strangled her

1 to death, are correct, if that's what your phone
2 records say, you called her?

3 A Correct

4 Q Why did you call her? You knew she was dead, she
5 wasn't going to answer

6 A That's correct

7 Q Couldn't let it go? Had to hear her voice one more
8 time? What was it?

9 A The reason why I called Asha Wiley back, like you
10 say, I had to hear her voice on voice mail one more
11 time

12 Q Made you feel good about what you had done? Felt
13 proud of yourself?

14 A I wasn't proud what I did

15 Q You proud of what you did to Kwana?

16 A Mrs Burns was a, an assignment

17 Q What kind of assignment?

18 A I came here to -- excuse me, I was sent here

19 Q Who sent you?

20 A I had a -- I want to say an anonymous person

21 Q No, not anonymous You said assignment, what kind of
22 assignment would bring you to Anderson to kill
23 somebody? They need to know Someone called you,
24 told you to come kill Kwana Burns?

25 A No, ma'am

1 Q How did you even know Kwana Burns existed?

2 A I found out by a P O box I had set up in Georgia

3 That gave me information of Kwana Burns

4 Q Who is they?

5 A I never said they I said it gave me information

6 Q What do you do for a living? You get assignment and

7 kill people?

8 A Not an every-day basis I don't

9 Q Just every now and then?

10 A Is that what you want to call it

11 Q Asha Wiley begged for her life, didn't she, when you

12 strangled her to death? She begged for her life?

13 A Correct

14 Q And you still killed her?

15 A Correct

16 Q A couple more things, Mr Rivera When you were at

17 Asha's house, she was on the phone at one point, was

18 she not, on her cell phone? Do you remember that?

19 A I was at Miss Asha Wiley's house I didn't recall

20 seeing her on the cell phone

21 Q You don't remember Asha being on the telephone and

22 actually talking to Joya and telling -- you told

23 Asha, "Why don't you just send a copy of my driver's

24 license?" Send it to her or something to that

25 effect?

- 1 A That was at the McDonald's She explained to me she
2 was talking to a friend about me But at the time I
3 didn't take her seriously because she was in a joking
4 manner She also said that she didn't know me, and
5 she probably should take down my tag number, my
6 identification
- 7 Q So basically you just killed Asha Wiley because you
8 drank too much and you got angry with her so you just
9 killed her Why did you kill Asha? Asha wasn't an
10 assignment
- 11 A I killed Asha Wiley because she was able to identify
12 me
- 13 Q Well, you let her be able to identify you, didn't
14 you? I mean, you went back to her apartment, you
15 asked her to go to the movies?
- 16 A That's correct
- 17 Q You wanted to spend time with her, didn't you?
- 18 A When I met Mrs Wiley, I say I had no prior intention
19 of killing her It was just to come back to get
20 Kwana Burns
- 21 Q So you killed Asha Wiley to come back to kill Kwana
22 Burns?
- 23 A No, no, no I had no intention of killing Mrs Wiley
24 at the time
- 25 Q So why did you then?

1 A Because I found out that Mrs Wiley had leaked my
2 information to Mrs Joya Joseth

3 Q But if you hadn't killed Asha, why would anybody have
4 even talked about you again? Why would Joya have
5 even known who you were? She wouldn't have known who
6 you were

7 A Mrs Joya Joseth was able to identify me by my tag
8 number, and she also gave her a positive description
9 of me that night

10 Q Well, did you think there was some relationship
11 between Asha Wiley and Kwana Burns?

12 A At the time I knew there was no relationship between
13 the two of them that I knew of

14 Q So if you were on a mission just to kill Kwana, then
15 they would never be related, so you didn't have to
16 kill Asha?

17 A I didn't have to kill Mrs Wiley That's correct

18 Q So you just did it because you wanted to?

19 A Again, I didn't kill Mrs Wiley because I wanted to
20 I killed Mrs Wiley because I understood that she
21 leaked my information out to Mrs Joya Joseth

22 Q So you were just protecting your identity for your
23 assignment?

24 A I was protecting my identity because I knew that I
25 could be leaked back to my car, the same vehicle that

1 I planned to meet up with Mrs Kwana Burns

2 MR THOMASON Your Honor, just any time you get
3 ready to jump in I kind of want an and asked and
4 answered sort of objection

5 THE COURT What's your legal objection?

6 MR THOMASON She asked, he told her

7 THE COURT I'm sorry, what's your legal objection?

8 MR THOMASON She asked him why he killed her and he
9 told her

10 THE COURT Okay Question asked and answered,
11 Solicitor

12 MS ADAMS Your Honor, I have nothing further

13 THE COURT Any redirect?

14 MR THOMASON I don't believe so, your Honor

15 THE COURT Mr Rivera, you may step down

16 You have any further witnesses?

17 MR THOMASON No, sir The defense closes its case

18 THE COURT Thank you very much

19 Let me see the attorneys up here just a second
20 (Bench conference held)

21 Madam Forelady, ladies and gentlemen of the jury, I
22 need to take up some motions Please don't discuss the
23 case among yourselves until we've had closing arguments
24 and the charge I'll get you back very shortly Thank
25 you very much

1 Any motions from the State?

2 MR CAMPBELL No, sir

3 THE COURT Any motions from the defendant?

4 MR GAMBLE Yes, your Honor Prior to warning our
5 client about to take the stand or at the time we did, we
6 also told him explicitly not to mention the Burns case
7 As you saw, he started out with the Burns case He ended
8 up with the Burns case after being told by your Honor, the
9 Court, not to go into that case, being told by myself and
10 Mr Thomason not to go into that case What he's left us
11 with now is a confession to two murders

12 The only argument I can make to a jury at this point
13 in time is, "Thank you for being here " I mean, really, I
14 cannot say anything to that jury and be ethical about it
15 Neither can Mr Thomason So, if he wants a closing
16 statement, since he's gone loose on the witness stand, I
17 think it's up to him to act in his own behalf to do it
18 Because we ethically cannot do it

19 THE COURT I understand I understand

20 Mr Rivera, if you want to make a closing statement
21 to the jury, at the appropriate time I will give you that
22 opportunity Do you understand?

23 (Defendant nods head up and down)

24 MR THOMASON I would just add that during the
25 testimony I feel like I did my level best to keep him from

1 going there He just absolutely would not do it So, I
2 tried to limit the scope of my questioning as much
3 possible

4 THE COURT Do you renew your directed verdict
5 motion?

6 MR GAMBLE Sir?

7 THE COURT Do you renew your directed verdict
8 motion?

9 MR THOMASON Oh, yes, sir We renew the directed
10 verdict motion

11 THE COURT Well, I'm asking Mr Gamble He made it
12 at the end of the State's case, you going to renew it?

13 MR GAMBLE I honestly don't believe I can after
14 that testimony Scott -- well, maybe not

15 THE COURT Like I said, if there was any such animal
16 as a directed verdict of guilty in a murder trial, I
17 should be able to give one in this case, but I can't do
18 that

19 MR GAMBLE I understand I can't in good
20 conscience look at this Court, say I want a directed
21 verdict after that testimony It would be totally
22 irrational for me to do that

23 THE COURT I understand And let me put this on the
24 record for summation During the voir dire, during the
25 jury, I think we limited 20, 21 jurors had knowledge of

1 the two killings through the newspaper, both parties made
2 an effort, all statements were redacted concerning Kwana
3 Burns, and the attorneys and prosecutor made every effort
4 not to go into Kwana Burns' case However, Mr Rivera
5 wanted to have his say, and he had it I told him the
6 consequences, sent the jury out, gave him the consequences
7 after he took the stand the second time, and he stated he
8 came to Anderson to eliminate Kwana Burns

9 He said, "I had planned to kill Kwana Burns at that
10 time " I give the solicitor permission to further develop
11 those facts concerning Kwana Burns Because I felt like
12 he had opened the door and all parties made every effort
13 not to go into the Kwana Burns issue at that time That
14 was the Court's reason for allowing the solicitor to go
15 into it

16 Anything else? How long you need before opening
17 statements, solicitor? Closing, excuse me?

18 MS ADAMS Not long, your Honor If you want to
19 take a break

20 THE COURT Are you ready right now?

21 MS ADAMS Five minutes, that would be great

22 THE COURT We'll take about a five-minute break

23 Okay

24 (Recess)

25 Mr Rivera, your attorneys explained they cannot make

1 a closing argument on your behalf Do you want to make a
2 closing argument to the jury?

3 THE DEFENDANT No, sir

4 THE COURT You do not?

5 THE DEFENDANT No, sir

6 THE COURT You understand I will give you the right
7 to make a short statement to the jury?

8 THE DEFENDANT Yes, sir

9 THE COURT You do not want to exercise that?

10 THE DEFENDANT (Shakes head from side to side)

11 THE COURT All right Solicitor, how much time do
12 you need?

13 MS ADAMS Not much, your Honor Five minutes

14 THE COURT All right Bring us the jury

15 (Whereupon, at 3 30 p m the jury returns to open
16 court, when the following proceedings were had)

17 CLOSING STATEMENT

18 MS ADAMS This case, ladies and gentlemen, is about
19 Asha Wiley It is not about the defendant It is about
20 the life that was lost, a young mother, hard working, good
21 person It's not about him And, you know, there's
22 really nothing else to say You have heard from that
23 witness stand from a cold-blooded killer It's as simple
24 as that And you must find him guilty Guilty of
25 murder

JURY CHARGE

THE COURT Madam Forelady, members of the jury, the State of South Carolina charges the defendant, Raymondeze Lamon Rivera, with murder I will give you a copy of these instructions in written form During your deliberations you may refer to the instructions to guide your decision making You must consider the instructions as a whole and not follow some and ignore others Please return the instructions to the Court, Madam Forelady, after you have reached a verdict

As to these indictments, the defendant as entered a plea of not guilty, which places upon the State the burden of proving the defendant guilty A person charged with committing a criminal offense in South Carolina is never required to prove themselves innocent I charge you it is a vital, important rule of law of evidence that the defendant in a criminal trial, no matter how great or serious may be the offense with which he is charged, must always be presumed innocent until his guilt has been proven beyond a reasonable doubt

This presumption of innocence remains with the defendant at all times, from the moment of his appearance in this court, throughout the trial, until you, the jury, upon the testimony and evidence presented have reached a verdict of guilty beyond a reasonable doubt For it is

1 the solemn duty of the jury, if not clearly convinced of
2 his guilt beyond a reasonable doubt, to acquit the
3 defendant

4 The burden of proof is upon the State to establish by
5 evidence to your satisfaction guilt beyond a reasonable
6 doubt of this defendant

7 Now, what is reasonable doubt? A reasonable doubt is
8 the kind of doubt that would cause a reasonable person to
9 hesitate to act If you have such a doubt as to the guilt
10 of the defendant, he would be entitled to a verdict of not
11 guilty A reasonable doubt may arise from evidence in the
12 case or from the absence or lack of evidence in the case
13 You alone must make the determination whether or not
14 reasonable doubt exists as to the guilty of the defendant

15 The term reasonable doubt should be given its
16 everyday, plain and ordinary meaning Proof beyond a
17 reasonable doubt is proof that leaves you firmly convinced
18 of the defendant's guilt There are very few things in
19 this world we know with absolute certainty In criminal
20 cases the law does not require proof that overcomes every
21 possible doubt If based on your consideration of the
22 evidence, you are firmly convinced the defendant is guilty
23 of the crime charged, you must find him guilty On the
24 other hand, if you're not firmly convinced the defendant
25 is guilty, you must give him the benefit of the doubt and

1 find him not guilty

2 The evidence from which you are to decide what the
3 facts consist of, the sworn testimony of witnesses, both
4 on direct and cross examination, regardless of who called
5 the witness, the exhibits that have been received into
6 evidence, and any facts which the lawyers have agreed or
7 stipulated

8 What is not evidence? Certain things are not
9 evidence You may not consider them in deciding what the
10 facts are I will list them for you Arguments and
11 statements by lawyers are not evidence The lawyers are
12 not witnesses What they have said in their opening
13 statements, closing arguments, and at other times is
14 intended to help you interpret the evidence, but it's not
15 evidence If the facts as you remember them differ from
16 the way the lawyers have stated them, your memory
17 controls

18 Questions and objections by lawyers are not evidence
19 Attorneys have a duty to their clients to object when they
20 believe a question is improper under the rules of
21 evidence You should not be influenced by the objection
22 or the Court's ruling on it Testimony that's been
23 excluded or stricken or that you've been instructed to
24 disregard is not evidence and must not be considered
25 Anything you may see on television, read in the paper, or

1 heard from others while the court was not in session is
2 not evidence You are to decide the case solely on
3 evidence received in the trial

4 Under our constitution and Code of Laws only you, the
5 jury, can make findings of facts in the case I am not
6 permitted to indicate to you how I may feel about the
7 testimony or evidence which has been presented
8 Throughout this trial it has been my intention to be fair
9 and impartial toward each of the parties involved To
10 determine the facts in this case you have to evaluate the
11 credibility, which means the believability of each
12 witness

13 Some of the things you may consider as you decide
14 whether or not to believe a witness's testimony about a
15 particular matter include What was the manner and
16 appearance of the witness who testified? Was he or she
17 straightforward or hesitant in answering? Second, was the
18 testimony of a witness consistent or inconsistent? Third,
19 how did the witness come to know the facts that he or she
20 testified to? Was the person present during the incident
21 or did he happen on the scene after it occurred? Fourth,
22 is there some reason a witness would want to give
23 testimony which would help or hurt one side or the other?
24 In other words, was the witness biased or prejudiced?

25 You can believe as much or as little of each

1 witness's testimony as you think proper You may believe
2 the testimony of a single witness against that of many or
3 just the opposite Of course, you do not determine the
4 truth merely by counting the number of witnesses presented
5 by each side Throughout this process you have but one
6 objective, to seek the truth, regardless of its source

7 There are two types of evidence which are generally
8 presented during a trial, direct evidence and
9 circumstantial evidence Direct evidence is the testimony
10 of a person who asserts or claims to have actual knowledge
11 of a fact, such as an eyewitness Circumstantial evidence
12 is proof of a chain of facts and circumstances indicating
13 the existence of a fact The law makes absolutely no
14 distinction between the weight and value to be given to
15 either direct or circumstantial evidence, nor is a greater
16 degree of certainty required of circumstantial evidence
17 than of direct evidence

18 You should weigh all the evidence in the case on a
19 contested factual issue You may have some direct
20 evidence and some circumstantial evidence Determine the
21 facts in the case and evaluate the credibility, which
22 means the believability of each witness

23 The same constitution and laws which designate and
24 make you the finders of the fact, as I have just
25 explained, also make me the sole instructor of the law

1 You should accept statements of the law as I give them to
2 you The attorneys are not the instructors of the law
3 Please base your decision making on what the law is, not
4 what you think it should be

5 The rules of evidence ordinarily do not permit
6 witnesses to testify as to their opinion or conclusions
7 An exception, however, to this rule does exist for those
8 whom we call expert witnesses Expert witnesses are
9 witnesses who by education or experience, have become
10 expert in some art, science, profession, or calling
11 These witnesses may state their opinions as to relevant
12 material matter in which they profess to be an expert
13 They may also state their reasons for opinion

14 You should consider expert opinions received in
15 evidence in this case, give it such weight as you may
16 think it deserves If you should decide the opinion of an
17 expert witness is not based upon sufficient education and
18 experience, or you should conclude the reasons given in
19 support of the opinion are not sound or if you feel it is
20 outweighed by other evidence, you may disregard the
21 opinion entirely

22 A statement alleged to have been made by the
23 defendant has been admitted into evidence While the
24 Court has determined the statement is admissible, I
25 instruct you, that you make the ultimate decision whether

1 or not the defendant made the statement If the defendant
2 did make the statement, you must determine whether the
3 statement was made by the defendant voluntarily, of his
4 own free will This means that the statement was not
5 caused by pressure, force, fear, threats, coercion,
6 intimidation, or by hope or promise of leniency or reward
7 of any kind

8 In determining whether the statement was voluntary,
9 you should consider both the characteristics of the
10 defendant and the details of the questioning Some of the
11 factors you may consider are the age of the defendant, the
12 defendant's education or lack of education, the
13 defendant's mental ability or capacity, the defendant's
14 I Q or intelligence, the defendant's background and
15 environment, the place and length of detention, the nature
16 of the questioning, the advice or lack thereof to the
17 defendant of his or her constitutional rights, including
18 but not limited to The right to remain silent, and any
19 statement could be used against him or her in a court of
20 law, the right to have a lawyer present, that if he or she
21 could not afford a lawyer, a lawyer would be appointed to
22 represent him without any cost, that he could stop making
23 a statement at any time

24 You must carefully consider all of the surrounding
25 circumstances before you give any weight to an alleged

1 statement

2 The State has the burden of proving, beyond a
3 reasonable doubt that the alleged statement was voluntary
4 If you determine it was, you may give the statement any
5 further consideration you deem proper You must decide
6 what weight, if any, should be given to the alleged
7 statement

8 If you determine an alleged statement was not free
9 and voluntarily you should not consider the statement at
10 all

11 Definition of murder What is murder by definition?
12 Murder may be defined as the willful, felonious killing of
13 a human being with malice aforethought That malice being
14 either expressed malice or implied malice Malice is a
15 word suggesting wickedness, hatred, a determination to do
16 what one knows to be wrong, without just cause or excuse
17 or legal provocation

18 Malice need not be in the state of the mind of the
19 one doing the killing any particular length of time before
20 the act Its presence would be sufficient to render the
21 killing murder Malice is said to be express, where there
22 is where manifest a violent, deliberate intention
23 unlawfully to take away the life of another human being
24 Malice is implied where one intentionally and deliberately
25 does an unlawful act, which he or she then knows to be

1 wrong in violation of a duty to another, and where no
2 excuse or legal provocation appears

3 When circumstances attending a killing show an
4 abandoned heart, a malignant heart, fatally bent upon
5 mischief, malice may be expressed as where other previous
6 threats of vengeance, lying in wait, or other
7 circumstances show directly that an intent to kill was
8 entertained A jury may also conclude by deductive
9 reasoning under certain circumstances malice may arise,
10 even though there is no express or direct evidence of
11 intent to kill

12 Malice may be inferred where, though no express
13 intent to kill is proved by direct evidence, it may be
14 inferred from the facts and circumstances which are
15 proved Malice may be inferred from the willful,
16 deliberate and intentional doing of an unlawful act
17 without cause or legal excuse In other words, in its
18 general significance, malice means the doing of a wrongful
19 act, intentionally, without justification or legal excuse
20 If facts proved to be sufficient raise an inference of
21 malice, this inference would be simply an evidentiary fact
22 to be taken into consideration

23 The use of a deadly weapon permits you to infer
24 malice, but you're not required to infer malice In other
25 words, if such conduct results directly in the death of

1 another, such conduct was so culpable, inexcusable, so
2 aggravated and grossly reckless as to show an active
3 intentional disregard for the consequences human life,
4 thus denoting a malignant spirit, a heart devoid of social
5 duty and fatally bent on mischief, the implication of
6 malice may arise

7 You have been selected as fair and impartial jurors,
8 sworn to impartially try and determine the facts of the
9 case When you comply with your oath to do so, no one
10 would have a right to criticize your verdict You would
11 have fully discharged your duty as jurors You are to
12 decide this case according to the testimony that you have
13 heard from the lips of sworn witnesses, along with the
14 other evidence introduced

15 I charge you, as jurors, you must decide the issues
16 in this proceeding without bias, without prejudice to any
17 party You should not allow yourself to be governed by
18 sympathy, passion, prejudice, public opinion or any other
19 arbitrary factor Both the State and the defendant have
20 the right to expect each of you will carefully and
21 impartially consider all of the evidence in the case, that
22 you will follow the law as I've explained it to you

23 Nothing I may have done or said during the course of
24 this trial has been in any way intended to express or
25 suggest a view of the case or opinion as to the facts, the

1 weight of the evidence, or the credibility of the
2 witnesses If any of my actions or words seem to so
3 indicate, you will disregard such, form your own opinions
4 as to these matters

5 Madam forelady, I have prepared a verdict form It
6 has the name of the case with the number, a place for the
7 foreperson to sign, place for the date Says, "We, the
8 jury, find the defendant, Raymondeze Lamon Rivera, guilty
9 of the murder of Asha Wiley "

10 "We the jury find the defendant, Raymondeze Lamon
11 Rivera, not guilty of the murder of Asha Wiley " A place
12 for the foreperson to sign

13 Madam forelady, members of the jury your verdict has
14 to be unanimous, all 12 of you have to agree I will tell
15 you it's a collective reasoning process on your behalf,
16 listen to each others opinions, share your opinions,
17 arrive at a just verdict

18 Madam forelady, members of the jury, I'll ask you to
19 go to the jury room Very shortly the bailiff will bring
20 the charge book, the verdict form, all the exhibits to the
21 jury room You may begin your deliberations once the
22 bailiff brings these items to the jury room The two
23 alternates, if you will just keep your seat please Madam
24 Forelady, ladies and gentlemen of the jury, if you would
25 follow the bailiff to the jury room

1 (WHEREUPON, the jury exits the court at approximately
2 3 40 p m , when the following proceedings were had)

3 THE COURT Any exceptions from the State?

4 MS ADAMS No, sir

5 THE COURT Any from any from the defendant?

6 MR GAMBLE No, sir

7 THE COURT Thank you very much Look at the
8 exhibits, make sure they're all there Put on the record
9 all the exhibits are present

10 (Attorneys confer with court reporter)

11 Are all exhibits present?

12 MR CAMPBELL Yes, sir

13 THE COURT Let me see the attorneys up here just a
14 second

15 (The jury deliberates from 3 45 to 3 57 p m , after
16 which court is again in session, and the following
17 proceedings were had)

18 Anything from the State before we bring the jury?

19 MR CAMPBELL No, sir

20 THE COURT Anything from the defendant?

21 MR GAMBLE No, sir

22 MR THOMASON No, sir

23 THE COURT All right Bring us the jury, please

24 (WHEREUPON, the jury came into open court at
25 approximately 4 00 p m , when the following

1 proceedings were had)

2 Madam Forelady, I understand you've reached a
3 verdict, is that correct?

4 FORELADY Yes, sir

5 THE COURT Would you hand it to the bailiff, please?
6 Thank you very much You may publish the verdict please,
7 ma'am

8 THE CLERK Indictment 2007-GS-04-650, the State of
9 South Carolina versus Raymondeze Lamon Rivera The
10 verdict of the jury "We, the jury, find the defendant,
11 Raymondeze Lamon Rivera, guilty of the murder of Asha
12 Wiley " That's signed Erin A Overstreet, foreperson

13 Madam Forelady, ladies and gentlemen of the jury, if
14 this is your verdict, would you please indicate by raising
15 your right hand

16 (No negative response elicited)

17 All hands raised, verdict of the jury, your Honor

18 THE COURT Any motions as far as the jury is
19 concerned from the State?

20 MS ADAMS No, sir

21 THE COURT Any from the defendant?

22 MR GAMBLE No, your Honor

23 THE COURT Thank you very much I'll be glad to
24 hear from the State or anyone you would like for me to
25 hear from concerning sentencing

1 MS ADAMS I believe the victims would like to
2 speak

3 THE COURT That's fine Anybody? Mrs Wiley's
4 family, I'll be glad to hear from anybody concerning
5 sentencing If you can stand right over there so she can
6 hear what you have to say

7 Yes, sir, your name?

8 MR WILEY Anthony Wiley

9 THE COURT Was this your daughter?

10 MR WILEY Yes

11 THE COURT I'll be glad to hear anything you would
12 like to tell me I'm awful sorry for your loss I know
13 it was a very trying experience, sitting listening this
14 week, but thank you for being here

15 MR WILEY Thank you I've thought about this, and,
16 Lord knows, I've -- you took away my daughter She had
17 everything to live for She had a -- she has a beautiful
18 daughter, my granddaughter She was striving to be the
19 best that she could be You didn't care

20 I just pray for strength from the Lord, that I don't
21 be bitter for the rest of my life I also pray that the
22 Lord will find a better place for you I hope the Lord
23 shows you what you did not show my daughter, mercy

24 I work in a prison and this nonsense to give you a
25 single cell is -- no, no, I don't know what kind of

1 justice goes on down here, but, no, he don't deserve a
2 single cell He needs to be out there where somebody can
3 give him what he deserves But that's not why I'm here
4 I'm here because, your Honor, he's taken away my -- it's
5 not for me to say what happens with him, but I just hope
6 that you give him the full extent of the law, whatever it
7 can be And I pray my daughter is in a better place I
8 had to relive this again I didn't want to, but I'm glad
9 I did go through it Thank you

10 THE COURT Thank you, Mr Wiley Anyone else,
11 Solicitor?

12 MS ADAMS Your Honor, this is Miss Wiley's sister

13 THE COURT What's your name?

14 MS WILEY Kaneesha Wiley

15 THE COURT I'll be glad to hear from you

16 MS WILEY Hearing the testimony today was really
17 hard To hear someone describe such a vicious act that
18 was so calculated and to take someone's life unwarranted,
19 to feel like they have the power or the justification to
20 be judge, jury, and executioner of somebody else's life
21 because they feel that the value of their life is so
22 important is something hard for me to hear But knowing
23 that I still have my niece I have to be strong for, I no
24 longer have my sister, thanks to you

25 I pray also that I won't be bitter for the rest of my

1 life and that I will find some peace with this because
2 it's going to be extremely hard But I pray for someone
3 who can be so cold and has a heart that is so lacking and
4 that can be so calculated and be so vicious without any
5 remorse or reason Raymondez, I know that what you have
6 to receive is not anything beyond what I can give, but you
7 will get what is due And not from me, but you will get
8 what's due That's all I have to say

9 THE COURT Thank you, ma'am All right, Solicitor

10 MS ADAMS That's all, your Honor

11 THE COURT What's his prior criminal history?

12 MS ADAMS Your Honor, he has one prior conviction
13 in September 26, 2003, he was convicted of aggravated
14 battery, aggravated assault, simple battery and cruelty to
15 children

16 THE COURT Doing what to children?

17 MS ADAMS Cruelty to children

18 THE COURT All right Mr Rivera, if you'll please
19 stand I'll be glad to hear from your attorneys or you on
20 anything you would like to say concerning sentencing I
21 believe the time is anywhere from 30 years to life
22 Anything you would like to say?

23 THE DEFENDANT No, sir

24 THE COURT Mr Gamble?

25 MR GAMBLE No, sir

1 MR THOMASON No, sir

2 THE COURT Thank you very much On indictment
3 2007-GS-04-650, charged with murder, sentenced to the
4 State Department of Corrections for a period of life
5 Thank you very much

6 Mr Rivera, what I would like to say to you, I
7 believe this Court has an obligation to possibly look into
8 this information During cross examination by the
9 solicitor when you were on the witness stand, she asked
10 you the question was Mrs Wiley the first person you had
11 killed

12 You said, "No "

13 Now, she was going into that further I stopped her
14 because at that time I felt like it was not appropriate
15 before the jury Now, if you would like to take the
16 witness stand and continue that testimony, tell us who
17 else you have killed, we'll be glad to receive it

18 THE DEFENDANT No

19 THE COURT Come have a witness seat on the witness
20 stand

21 MS ADAMS He said no

22 THE COURT He said no?

23 THE DEFENDANT Yeah

24 THE COURT The TV cameras are here If you want to
25 sit down and give a statement, we'll be glad to receive

1 it We have a court reporter here

2 THE DEFENDANT No, your Honor

3 THE COURT Pardon?

4 THE DEFENDANT I do not wish to

5 THE COURT You do not want to Okay I'm going to
6 ask the law enforcement officers to further investigate
7 that Do you understand?

8 THE DEFENDANT (Nods head up and down)

9 THE COURT All right Thank you very much

10 MS ADAMS Thank you, your Honor

11 THE COURT I want to thank you all very much for
12 your services And I believe the Clerk will have -- Madam
13 Forelady, if you all would go to the jury room, she'll
14 give you a statement We'll adjourn Thank you very
15 much Everyone will remain seated

16 * * * * * END OF REQUESTED TRANSCRIPT OF RECORD * * * * *

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WITNESSES

APD, J ZAMBERLIN

DOCKET NO 2007 GS-04-1050**The State of South Carolina,**
ANDERSON

County of _____

COURT OF GENERAL SESSIONS

FEB 20 2007 TERM _____

RLC

THE STATE

vs

RAYMONDEZE LAMON RIVERA

ARREST WARRANT NO I-715678

ACTION OF GRAND JURY

TRUE BILLFEB 20 2007

Foreman of Grand Jury

Foreperson

VERDICT

Indictment for

MURDER

16-3-10/16-3-20 [0116]

Foreman of Petit Jury

Date

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

INDICTMENT FOR

MURDER
16-3-10/16 3 20 [0116]

At a Court of General Sessions, convened on FEB 20 2007 ,
the Grand Jurors of ANDERSON County present upon their oath

MURDER

That Raymondeze Lamón Rivera did in Anderson County, within the city limits of Anderson, South Carolina, on or about December 10, 2006, feloniously, wilfully and with malice aforethought, kill one Asha Wiley by means of physical force, and the said victim died as a proximate result thereof

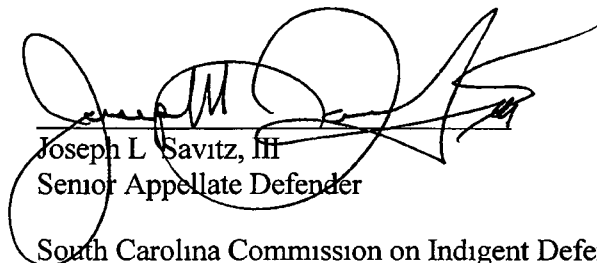
Against the peace and dignity of the State, and contrary to the statute in such case made and provided

 Ramel Campbell
 asst SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings "

January 13th, 2010

A handwritten signature in black ink, appearing to read "Joseph L. Savitz, III", is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Joseph L. Savitz, III
Senior Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT