

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

ORIGINAL

Certiorari to Allendale County

Honorable Diane Schafer Goodstein, Circuit Court Judge

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DEREK MANER,

PETITIONER **S.C. SUPREME COURT**

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000230

APPENDIX

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JENNIFER CLAYTON - DIRECT

1 ferrets. To the best of my knowledge it will not test
2 positive on any other species including dogs, rabbits,
3 squirrels, cows, deer, any of those.

4 Q. Well after you performed this analysis, do you stop
5 there or do you do anything more?

6 A. If it tests positive, if I have blood identified then
7 I take it onto DNA analysis to see if I can develop a DNA
8 profile.

9 Q. Did you bring specifically item number two and perform
10 that test?

11 A. Yes. Item number two was taken to DNA.

12 Q. If you could, please explain to the jury how that
13 sample was tested and the results of the further test you
14 did?

15 A. Okay. It was a swab so I just took a cutting from the
16 swab and put it into a tube and added the reagents we use
17 to extract, to separate the DNA from everything else. I
18 amplified it just as I would with any other DNA sample,
19 ran it on the instrument and from there I had a DNA
20 profile that could be compared to any standards that might
21 be submitted.

22 Q. Did you get any standards to compare those results to?

23 A. I did.

24 Q. And could you please explain to the jury the process
25 by which you got the standards to compare those samples

JENNIFER CLAYTON - DIRECT

1 to?

2 A. I'm not sure I understand the question.

3 Q. Could you explain to the jury what you compared your
4 results to?

5 A. Okay. I received a standard from three individuals.
6 I received a standard from a Jackie Bradley. I received a
7 standard from a Henry Bradley.

8 MR. GIPSON: May we approach?

9 THE COURT: Yes.

10 (Off-the-record discussion.)

11 BY MR. PEARSON:

12 Q. I think you testified that you received a sample from
13 Jackie Bradley and Henry Bradley?

14 A. That's correct.

15 Q. Let's talk about that for a second. Why did you take
16 samples from those two individuals?

17 A. Samples were collected from Jackie Bradley and Henry
18 Bradley because it's my understanding they are the
19 biological parents of Ericka Bradley and a standard could
20 not be obtained for Ericka Bradley because at the time I
21 did my DNA testing a standard could not be obtained.

22 Q. If you were looking for a standard for Ericka Bradley,
23 what does that mean? What did you not have?

24 A. Generally what we use for a DNA standard is either a
25 tube of blood that's taken from the individual or a buccal

JENNIFER CLAYTON - DIRECT

1 swab, which is just a sterile cotton swab and you kind of
2 run it on the inside of the cheeks.

3 So it's a known source of DNA. You know specifically
4 it came from that individual and therefore it can be
5 considered a standard.

6 Q. And did you -- were you able to do that in this
7 particular case?

8 A. For Ericka Bradley?

9 Q. Right.

10 A. No.

11 Q. And you were able to get a standard from Jackie and
12 Henry Bradley. Why that is important?

13 A. It allows us to do what's generally considered, it's
14 called paternity testing. You can compare -- I can
15 compare a sample to standards of parents to determine if
16 that profile is consistent with any offspring of those two
17 individuals.

18 And that allows you an ability to do some
19 identification in the absence of a standard from the
20 individual in question.

21 Q. And were you able to perform these tests on items
22 number two and items number four?

23 A. Yes, I was.

24 Q. And what was the results of that comparison?

25 A. The DNA profile from items two and four is consistent

JENNIFER CLAYTON - DIRECT

1 with that of a female offspring of Jackie Bradley and
2 Henry Bradley.

3 Q. Now when you say consistent with a female offspring,
4 what exactly does that mean? Does that mean a specific or
5 all or what does that mean?

6 A. What that means is, as I said before, a DNA profile is
7 a set of numbers and you get half of your numbers from
8 your mom and half of your numbers from your dad. So if
9 you have an unknown individual or a child in question that
10 you're comparing to the supposed parents' standards, you
11 look at each location and you say, yes, the question --
12 could one of these numbers come from one parent and the
13 other come from the other parent. And you do that at each
14 location.

15 And if the answer to that is yes, then every location,
16 one of the child's numbers could have come from each
17 individual, then that sample is considered to be
18 consistent with an offspring of that individual, of those
19 two individuals.

20 And we do a test that we test locations called
21 amelogenin which is considered a sex determiner. Only X
22 indicates a female and X and a Y indicates a male. There
23 was only an X in this case so that would indicate that it
24 was a female, consistent with being a female offspring of
25 those two individuals.

JENNIFER CLAYTON - CROSS

1 But it could be -- if there's multiple female
2 offspring from the parents, then the only way to identify
3 conclusively which individual it came from would be to
4 test all of the siblings.

5 Q. But based on your expertise and the analysis that you
6 did in this particular case, was the blood found under the
7 Defendant's car consistent with a female offspring of
8 Jackie and Henry Bradley?

9 A. Yes, it was.

10 MR. PEARSON: Your Honor, I have no more
11 questions for this witness.

12 THE COURT: Cross-examination.

13 MR. GIPSON: Thank you, Your Honor. May it
14 please the Court.

15 THE COURT: Mr. Gipson.

16 CROSS-EXAMINATION

17 BY MR. GIPSON:

18 Q. Now, Ms. Clayton, you had an opportunity, as you just
19 testified, to actually to go through and test several
20 different standards that were submitted to you by people
21 in your own office, well, people with SLED; correct?

22 A. I would have to refer to the chain of custody to know
23 exactly who submitted the standards.

24 Q. But you received several standards from Vicki Hallman,
25 correct, with this case?

JENNIFER CLAYTON - CROSS

1 A. May I check my photos?

2 Q. Sure. Absolutely.

3 A. To make sure.

4 Q. Absolutely. Sure. Sure.

5 A. Thank you. The standards were actually submitted by a
6 Winston Robinson of the Allendale County Sheriff's
7 Department. According to the chain of custody the
8 evidence, I believe, was submitted by Vicki Hallman.

9 Q. So it was officially collected by Vicki Hallman?

10 A. The items of evidence were. I do not know who
11 collected the standards.

12 Q. Well, let me ask you this: When you actually received
13 these standards, you only received them -- you cannot tell
14 us exactly where they came from. You just trust that they
15 come from the source that they purport to come from;
16 correct?

17 A. That's correct. They come in labeled and I assume
18 that according to the paperwork and what's written, that
19 they are from the individuals they're said to be from.

20 Q. And if a piece of information is incorrectly
21 documented, then you may run a test but you -- that would
22 hurt your results; wouldn't it?

23 A. If it was incorrectly documented?

24 Q. Yes.

25 A. How specifically?

JENNIFER CLAYTON - CROSS

1 Q. Well, if it was incorrectly documented say, if, for
2 instance, a document was submitted with a person's name on
3 it but it wasn't that person, then that may skew your
4 results a little bit?

5 A. It's possible. You could draw the wrong conclusion,
6 for instance, if the standard was taken from a completely
7 different individual but it was labeled as, say, Jane Doe
8 but it was actually from Janice Brown, then whatever
9 conclusions I would make I would relate back to Jane Doe
10 when actually they should relate back to Janice Brown's
11 record.

12 Q. And so in these situations it's always best in order
13 to, when you're trying to establish -- you mentioned the
14 word chain of custody. Essentially that's kind of a term
15 that we use here in court that suggests that you should
16 always have a record of who took evidence of, you know,
17 so, for instance you have a record of who collected the
18 evidence all the way to the point that it reaches your
19 office, correct, or your laboratory?

20 A. That's correct. You should have a chain of everyone
21 that handled the evidence.

22 Q. Exactly. And if you have that chain then you can
23 begin to determine that it, that the sample that you're
24 looking at and testing has not been tainted or anything
25 along those lines; correct?

JENNIFER CLAYTON - CROSS

1 A. Correct.

2 Q. All right. So, it's best to have the person who
3 actually took the sample at some point in time so that
4 they can say, yes, I took this sample and they seal it and
5 then they pass it on and it eventually gets to you.

6 But you know for a fact if, for instance, if Vicki
7 Hallman took this sample and there's a chain of custody
8 that walks into your office, that shows through the
9 paperwork to your office, you can tell that that piece of
10 evidence that you're looking at has not been tainted?

11 A. I would assume so; yes.

12 Q. Okay. And if you don't have the person who initially
13 collected the evidence, in your expert opinion how does
14 that compromise, potentially compromise the report?

15 A. Well, I'm not sure exactly what you're asking. As far
16 as the chain that we have --

17 Q. Uh-huh.

18 A. -- it starts with the person that submitted it.

19 Q. This is just a general question about the process.

20 A. Okay.

21 Q. In your expert opinion, if you don't have the person
22 who initially took the standard that you're viewing, then
23 you really you can't, I mean, it can taint your results in
24 some way, shape or form?

25 A. If they didn't properly seal the evidence, initial it

JENNIFER CLAYTON - CROSS

1 and submit it.

2 Q. Or if they mislabeled it?

3 A. Or if they mislabeled it, yes, I believe that's
4 possible.

5 Q. And the best evidence would be the person to took the
6 sample to verify that they took the sample so that you can
7 know that that chain is absolutely correct?

8 A. That would be best in some sort of documentation; yes.

9 Q. Now in this particular case you were given some 20 or
10 so DNA samples, correct, or samples that you were asked to
11 test; correct?

12 A. Yes, sir. I believe that's correct.

13 Q. All right. And as a result of that you performed
14 different types of testing on these samples and you came
15 back with a detailed report about what you tested in those
16 results; correct?

17 A. That's correct.

18 Q. And the report that you came back with you labeled as
19 a serology analysis; is that correct?

20 A. It has two parts. The first part is the serology
21 analysis and the second part is the DNA analysis.

22 Q. Okay. First is serology, second is DNA. Now,
23 Mr. Pearson had you go through the first five but in fact
24 there are about 15 more that you went through; correct?

25 A. Approximately; yes, sir.

JENNIFER CLAYTON - CROSS

1 Q. Okay. Approximately 15 more. So, as you looked at --
2 since he stopped at number five -- well, first of all, you
3 were at number one. You said a swab from a dented area of
4 the front passenger side bumper; correct?

5 A. Correct.

6 Q. So I'm going to show you; -- it may take me a moment to
7 flip through these.

8 THE COURT: Take your time.

9 (Pause.)

10 BY MR. GIPSON:

11 Q. I'm going to show you what's been marked as State's
12 Exhibit Number 41. And I don't know if you've ever had a
13 chance to look at that picture or any pictures involved in
14 this case, but can you tell us what that is based on what
15 you're looking at there?

16 A. It appears to be a dented bumper of a car.

17 Q. Okay. And to your knowledge a swab was taken of that
18 of a left passenger side bumper, correct, based on your
19 notes?

20 A. Based on my notes I received a swab from a dented area
21 of a front passenger side bumper; correct.

22 Q. And your results stated that no blood was indicated?

23 A. That's correct.

24 Q. And, again, the test that you run is a two-part test.

25 The first test, I think you said, the Phenolphthalein

JENNIFER CLAYTON - CROSS

1 test?

2 A. Right.

3 Q. You said I think you called that a presumptive test.
4 You said that just tells you if there's any blood there;
5 correct?

6 A. It indicates the possibility of blood. It's not a
7 confirmatory test. It's a presumptive test.

8 Q. Okay. And that just means blood, period?

9 A. It could mean blood. It does also test positive on
10 some types of metal like iron but, yes, it's an indicator
11 that there might be blood present.

12 Q. What about skin cells, things like that?

13 A. No, not unless there's also blood there as well.

14 Q. Now let me ask you this: Have you ever heard of mixed
15 samples where there's blood there but also skin cells
16 mixed in it?

17 A. Yes.

18 Q. So in a situation where you have a mixed sample, could
19 you get a positive test for the blood but actually be
20 testing the skin sample?

21 A. You mean -- it's -- the blood is going to contain some
22 DNA. It is possible, however, if there's considerably
23 more skin cells present than blood cells that the only
24 profile you would develop would be from the skin cells.

25 Q. Is there a way to determine what that is or if that

JENNIFER CLAYTON - CROSS

1 happened in this manner?

2 A. If the profile is from the skin cells or from the
3 blood?

4 Q. Yes, ma'am.

5 A. No. However, if that were the case, I would expect to
6 be able to see the skin cells because generally if you
7 only have a few skin cells and you have blood present, the
8 DNA profile you develop is generally from the blood.

9 Q. Okay.

10 A. But, no, there's no way for me to determine which case
11 it came from.

12 Q. Okay. We talked about number, specimen number two.

13 In that one you said that there was blood identified and
14 then it was submitted for DNA analysis; correct?

15 A. Correct.

16 Q. But there's also another portion there, too. It says,
17 no analysis performed on hairs; correct?

18 A. That's correct.

19 Q. You did find hairs or Ms. Hallman found hairs
20 underneath that car and submitted them. And when I say
21 she submitted them, I understand it's a chain?

22 A. Yes.

23 Q. I'm going to cut to the chase. She submitted them to
24 you and those weren't tested; correct?

25 A. That's correct.

JENNIFER CLAYTON - CROSS

1 Q. Okay. Why weren't those tested?

2 A. Because usually we start with what's called the best
3 evidence. We start with the evidence that's most likely
4 to give us a profile.

5 Hairs, unless they have a good root with some skin
6 around them or some tissue around the root generally do
7 not give us a profile, whereas if there's blood present
8 that's usually, there's usually a very good possibility
9 that we'll be able to develop a DNA profile.

10 So I start with that evidence. If I'm able to develop
11 a DNA profile from that evidence, then I don't go to the
12 hairs.

13 Q. All right. Now, there's a number three, the lower
14 bumper cover of the driver's side. You say there's
15 blood -- essentially I'll go through it more quickly.

16 There was blood identified on items three, four, five
17 and six; correct?

18 A. Correct.

19 Q. And those were submitted for DNA analysis; correct?

20 A. Correct.

21 Q. Now you also had items seven, eight, nine, ten, and
22 11. And essentially there was no analysis performed on
23 any of those; correct?

24 A. That's correct.

25 Q. Okay. So, number seven says, if you'll read, what

JENNIFER CLAYTON - CROSS

1 does number seven say?

2 A. Oh. Number seven says, unknown tissue from stabilizer
3 bar on driver's side. I actually have to correct myself
4 on that. Item seven was analyzed later. It was
5 resubmitted as item 20. And so the report that I issued
6 on that, it's listed as item 20.

7 Q. And item 20, what's the result that you got for item
8 20?

9 A. Item 20 was, no DNA profile was developed from item
10 20.

11 Q. Okay. So the only tissue that you analyzed in this
12 case came back with no DNA profile; correct?

13 A. That's correct.

14 Q. To your knowledge was that tissue used anywhere else
15 in this case or analyzed by anyone else in this case?

16 A. Was it analyzed by anyone else?

17 Q. Yes, or relied upon by anyone else in this case?

18 A. I'm -- I don't know. My understanding was that it
19 went to -- I don't know if it was a coroner or a doctor or
20 someone, but I don't know what they did with it.

21 Q. But you tested it and in your expert opinion there was
22 no DNA profile developed?

23 A. That's correct. There was human DNA present but not
24 enough to develop a DNA profile.

25 Q. Okay. And none developed. So when you looked at that

JENNIFER CLAYTON - CROSS

1 and it says, no DNA profile developed, then you cannot
2 attribute it to anything or anybody in particular;
3 correct?

4 A. That's correct. I can't say who the DNA came from.

5 Q. Okay. Now you went further. You looked at hair
6 collected from the back of the trunk near the vehicle
7 (sic). There was no analysis performed there, which is
8 number eight; correct?

9 A. That's correct.

10 Q. Number nine, hair collected from the center of the
11 vehicle. No analysis performed on that; correct?

12 A. That's correct.

13 Q. Hair collected from the undercarriage of the vehicle,
14 driver's side which is number ten. No analysis performed
15 there; correct?

16 A. That's correct.

17 Q. Number 11, hair collected from the undercarriage of
18 the vehicle near the driver's side front tire, no analysis
19 performed; correct?

20 A. That's correct.

21 Q. Item 13, these are swabs from Highway 278. No human
22 blood identified; correct?

23 A. That's correct.

24 Q. Now 14.1, this is a swab from shoes and the insoles of
25 the shoes that you were submitted. No DNA analysis;

JENNIFER CLAYTON - CROSS

1 correct?

2 A. For item 14.2?

3 Q. For 14.1?

4 A. 14.1 did go to DNA analysis.

5 Q. And the result of that DNA analysis was, no human DNA
6 was detected; correct?

7 A. Give me just one moment, please.

8 Q. Sure, sure.

9 A. Thank you.

10 That's correct. No human DNA was detected.

11 Q. That was 14.1. 14.2, swab from shoes from ankle area
12 of shoes. No DNA analysis performed; correct?

13 A. Correct.

14 Q. 14.3, insoles from shoes. You have, see DNA analysis?

15 A. That's correct.

16 Q. Okay. And your DNA analysis shows no DNA profile was
17 developed for 14.3; correct?

18 A. That's correct.

19 Q. 14.31 -- well, 14.3.1 is the cutting from the right
20 insole; correct?

21 A. Correct.

22 Q. And it says, no human blood identified, see DNA
23 analysis?

24 A. That's correct.

25 Q. And your DNA analysis is, no human DNA detected;

JENNIFER CLAYTON - CROSS

1 correct?

2 A. That's correct.

3 Q. Now, a lot of records -- just bear with me, please.

4 Now you've mentioned in your direct testimony with

5 Mr. Pearson that one of the things you like to do in this

6 type of case is to get a standard from the mother and

7 father; correct?

8 A. If the -- yes, if you cannot obtain a DNA standard

9 from the individual in question, then the parents are a

10 good source.

11 Q. Okay. And that's something that you did; correct?

12 A. Yes.

13 Q. Okay. And you also mentioned that that test came back

14 as you said to have been, that two spots on this card,

15 which I think you mentioned were numbers two and four?

16 A. Correct.

17 Q. Could potentially be traced back to an offspring of

18 Henry and Jackie Bradley; correct?

19 A. That's correct.

20 Q. Okay. Now, specifically, you said a better way to

21 narrow this down is if the person had other siblings then

22 they need to be tested as well; correct?

23 A. If it's -- if it's thought that they may have been in

24 the same location or where the sample was taken from, then

25 that would be a good idea; yes.

JENNIFER CLAYTON - CROSS

1 Q. All right. And in fact you wrote some notes
2 contemporaneously or at the same time as phone calls came
3 in, as you were doing work in this case; correct?

4 A. I made phone calls, yes, that's correct.

5 Q. You made a notation just so you could be thorough with
6 who you talked to, what was being asked of you, things of
7 that nature; correct?

8 A. Yes; that's correct.

9 Q. And isn't it true that on or about the 6th of
10 December, 2006, and I'll give you a moment if you need to,
11 but that you, you essentially offered the opinion that you
12 should run standards on Bradleys' other daughters to
13 eliminate them as the source of the DNA under the car?

14 A. I offered the opinion that I could if they felt that
15 was necessary and that would be helpful; yes.

16 Q. And was that ever done?

17 A. No, sir.

18 Q. When you're talking about DNA, if you have siblings,
19 in this case we're talking about daughters?

20 A. Correct.

21 Q. If you have other daughters, Ericka being a female and
22 having other sisters then there are going to be similar
23 strands of DNA because they have the same parents?

24 A. All the siblings will be consistent with being
25 offspring of the parents; correct.

JENNIFER CLAYTON - CROSS

1 Q. And the best way to narrow that down so there is no
2 question is to have the other information?

3 A. That would eliminate all the other siblings as the
4 possible source of the DNA, correct.

5 Q. Will you explain to the jury when the State provided
6 that information to you that you felt was good to have so
7 that you could make a more thorough opinion?

8 A. I'm not sure I understand the question. Would you
9 repeat that, please?

10 Q. Sure. Will you explain to the jury when the State
11 submitted those things that you said would be good for you
12 to have in order for you to offer a more complete opinion?

13 A. They did not submit standards from the siblings, did
14 not determine that that was necessary for one reason or
15 another.

16 Q. Now, how old is the DNA that was found under the car?

17 A. I cannot determine that.

18 Q. And so, you can't come on this witness stand and put
19 your hand on the Bible and testify that that DNA evidence
20 was from six weeks ago?

21 A. No, I cannot.

22 Q. Or six months ago? A year ago? Any of those things?

23 A. No. There are some limitations on samples that are
24 exposed to the environment. You know, if it rains or if
25 it gets too hot or humid, as I said before, the DNA will

JENNIFER CLAYTON - REDIRECT

1 begin to degrade, but I can't set a time frame on that,
2 no.

3 Q. Court's indulgence.

4 And, as you -- let's look back for a just a moment.
5 As you run the presumptive test, the phenolphthalein test
6 and then the HemaTrace test which is the second test you
7 mentioned, you said that one of the things that can skew
8 that test or give you a false positive reading is if the
9 blood or DNA of an upper primate or a ferret?

10 A. Yes. Any type of animal will test positive under
11 phenolphthalein. Any type of -- blood from any type of
12 animal will test positive from phenolphthalein. And
13 higher primates and a ferret will test positive on
14 HemaTrace.

15 MR. GIPSON: That's all I have.

16 THE COURT: Redirect?

17 MR. PEARSON: Yes, Your Honor. Briefly.

18 REDIRECT EXAMINATION

19 BY MR. PEARSON:

20 Q. Would the blood of an upper primate also test to be
21 the offspring of two humans?

22 A. It's extremely unlikely.

23 Q. And by extremely unlikely, could you give us an idea
24 of what that means?

25 A. I mean, I --

JENNIFER CLAYTON - REDIRECT

1 MR. GIPSON: Object, Your Honor. Not -- I would
2 object to the scope.

3 MR. PEARSON: Your Honor, that was his last
4 question of upper primates and -- may we approach?

5 (Off-the-record discussion.)

6 BY MR. PEARSON:

7 Q. Again when you say unlikely, what exactly does that
8 mean?

9 A. I couldn't put a statistical number with it, but if
10 you have siblings that are half siblings and you test the
11 half sibling with the biological mother and father of the
12 other half sibling, then whichever parent they share in
13 common with the half sibling will be consistent with it
14 being the offspring of that parent but not very likely it
15 would be the offspring of the other parent.

16 If you take a total stranger and compare them to
17 someone parents, it's very unlikely that they would test
18 positive to be consistent of being the offspring of those
19 parents.

20 And then to switch species entirely. That's a whole
21 another story. I'm not real sure what kind of numbers
22 you're looking at there.

23 Q. Based on your expert opinion was this, the blood that
24 you tested, was that the blood of an upper primate?

25 A. I would say most likely not, no.

PAUL SILVAGGIO - DIRECT

1 Q. You also testified, or Mr. Gipson was cross-examining
2 you concerning the other female offspring. Would they all
3 have different DNA between one another?

4 A. Yes. They would be separate DNA profiles assuming
5 they're not identical siblings.

6 Q. Again, you also answered the question concerning the
7 age of DNA. Does the age of the DNA necessarily matter?

8 A. Only if the sample becomes -- as far as DNA analysis
9 is concerned, the only time that it's relevant is if the
10 age or the, more specifically the exposure to the
11 environment has caused the DNA to degrade, it can affect
12 our ability to develop a DNA profile.

13 Q. Did you have problem with that in this case?

14 A. I did not.

15 MR. PEARSON: Nothing further.

16 THE COURT: You may step down. Any objection to
17 this witness being excused?

18 MR. PEARSON: No, Your Honor.

19 THE COURT: You're free to leave. Thank you very
20 much. You may call your next witness.

21 MR. PEARSON: Yes, Your Honor. At this time the
22 State calls Paul Silvaggio.

23 PAUL ANDREW SILVAGGIO, having been duly sworn,
24 was examined and testified as follows:

25 THE COURT: Yes, sir. If you'd have a seat in

PAUL SILVAGGIO - DIRECT

1 the witness chair. I'm going to ask that you pull up real
2 close to that microphone. Speak loudly and clearly and
3 slowly. This is sort of a cavernous courtroom, so I want
4 you to speak loudly. Could you state your full name?

5 THE WITNESS: Paul Andrew Silvaggio. S. I. L. V.
6 A. G. G. I. O.

7 THE COURT: Very good. Thank you.

8 DIRECT EXAMINATION

9 BY MR. PEARSON:

10 Q. Mr. Silvaggio, what is your current profession?

11 A. I'm employed with the Greenville County Sheriff's
12 Office as a homicide investigator slash supervisor.

13 Q. How long have you been working with Greenville County?

14 A. Twenty-one and a half years.

15 Q. What were you doing prior to that?

16 A. Prior to that I was with the United States Army as an
17 investigator and prior to that I was in school in
18 Syracuse, New York.

19 Q. All right. And what -- I know you said you were a
20 homicide detective, but what exactly does that mean?

21 Could you please explain to the jury what your day-to-day
22 job is?

23 A. Yes. In the Greenville County Sheriff's Office we
24 have specialized teams. One of the specialized units is a
25 homicide unit where we're responsible for the response to

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1 death investigations ranging from accidental deaths,
2 suicides, natural deaths, homicides and undetermined
3 deaths.

4 We are responsible for the investigation of industrial
5 workman's comp type death investigations within our
6 jurisdiction, along with cases of violent crime and
7 extortion-type situations.

8 Q. Now, you said that you're from Greenville County.
9 You're a little far away from home in Allendale.

10 A. Yes, sir.

11 Q. Did you have the occasion to work on the case of the
12 State of South Carolina versus Derek Maner?

13 A. Yes, I did, sir.

14 Q. Could you please explain to the jury how you became
15 involved in this investigation?

16 A. Yes. As a homicide investigator, I was asked several
17 years ago to attend a coroner's conference at Myrtle Beach
18 where I met Sheriff Tom Carter of Allendale County.

19 Pursuant to that, Sheriff Carter upon the report of
20 the disappearance of Ms. Bradley, he contacted Sheriff
21 Steve Loftus who is the Sheriff of Greenville County who
22 is my boss and asked that, if I could come to Allendale
23 and assist them in the investigation into the
24 disappearance of Ms. Bradley.

25 Q. And did you accept his request?

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1 A. Yes, sir.

2 Q. All right. Could you please tell the jury what you
3 did, how you started your investigation?

4 A. Once I responded to Allendale, which I responded on
5 January 30th of '07. I responded from Greenville to
6 Allendale County where I met with Sheriff Tom Carter and
7 met with Detective Tony Hutto.

8 At that point they went over their case in respect to
9 the disappearance of Ms. Bradley. And pursuant to that I
10 then devised with law enforcement a plan as to how to
11 further approach the investigation and further determine
12 whether Ericka Bradley was missing on her own accord or
13 missing under distress or if something had tragically
14 happened to Ericka Bradley.

15 Q. That three-prong test you just described, why is that
16 important? Why is that important to do that?

17 A. In a case that I was entertained with being a missing
18 person's investigation, you must do a thorough and
19 accurate victimology, that is, the background on the
20 person that is missing. Going into the depths of their
21 routines, going into the depths of their background, into
22 their financial world, into their relationship world,
23 educational world and employment.

24 And in doing so you look for consistent patterns of a
25 person. And then you seek out those patterns and you look

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1 for deviations from those patterns in doing the
2 victimology.

3 It's important for law enforcement to proceed in
4 locating a missing person, and doing whatever it takes in
5 that regard to devising a plan to effectively attempt to
6 locate an individual. And if you cannot locate them why
7 can't you locate them, and come up with something beyond
8 reasonable expectations as to where this person may be or
9 what may have happened to this person.

10 Q. In this particular case, were you able to start to, I
11 guess, were you able to create this victimology for Ericka
12 Bradley?

13 A. Yes, sir.

14 Q. And how did you go about doing that?

15 A. Upon the initial -- once I learned of some collections
16 and law enforcement activity prior to my involvement in
17 the case, we proceeded with obtaining, proceeding with
18 meeting with personnel at DHEC, the Department of Health
19 and Environmental Control, where we obtained a known
20 blood sample --

21 MR. GIPSON: Objection. Going beyond the scope
22 (inaudible).

23 THE COURT: I'm sorry. I couldn't hear.

24 MR. GIPSON: May we approach for just a moment?

25 THE COURT: Yes.

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1 MR. GIPSON: Thank you.

2 (Off-the-record discussion.)

3 THE COURT: Madam Forelady, ladies and gentlemen
4 of the jury, I'm going to ask you to retire to the jury
5 room. Do not discuss this case.

6 (Jury exits courtroom at 2:38 p.m.)

7 THE COURT: Mr. Gipson, you're recognized.

8 MR. GIPSON: May it please the Court, Your
9 Honor. We have come to talk about this issue at the bench
10 a few times. And my objection to this, I think, based on,
11 you know, my brief time in speaking with Detective
12 Silvaggio and of course looking at the records and all
13 that are about to be proffered, at least put forward and
14 maybe proffered in this case.

15 There was a blood sample that purports to be from
16 [REDACTED] T.M. [REDACTED] T.M. is the child or has been
17 discussed as the child of Ericka and Derek. And that
18 blood sample was evidently obtained from the Aiken
19 Regional Medical Center or the Aiken Hospital when
20 [REDACTED] T.M. was born. At some point in time it was sent over
21 to DHEC and then placed in its records.

22 And I believe Detective Silvaggio is going to
23 speak about getting those records from DHEC and taking
24 them up to Greenville where some work was done on the
25 records.

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1 It's my position, Your Honor, that we have a
2 chain of custody issue if we're talking about blood that
3 was taken, a blood standard, a blood sample that was
4 taken. And we would need to know who took that sample,
5 who took the sample, how it was taken, when it was taken,
6 and how it was housed and kept until it got to DHEC. I
7 mean, and go forward from there.

8 That has not been established. I think there's a
9 serious break in that chain. To my knowledge, they can't
10 provide -- they don't know who took it. In talking to
11 some of the experts outside who are well versed with this
12 subject, they don't know who took the blood. I think
13 they'll tell you that. And they can't determine who took
14 the blood.

15 That direct question, I mean, I asked that direct
16 question and that was the answer from him in the hall
17 during lunch, or in a room, a side room during the lunch
18 hour. Basically they have no idea who took it.

19 And for us to start to enter into that type of
20 realm knowing that we don't even know who took the sample,
21 labeled it, all that kind of stuff, and the person who
22 would have supervised that person is now retired and moved
23 to Virginia.

24 It's almost like a third person generation is
25 coming in here to try to testify about things that are

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1 just too, quite frankly, not admissible based on the lack
2 of a chain.

3 MR. PEARSON: Your Honor.

4 THE COURT: Yes, sir.

5 MR. PEARSON: I do believe Mr. Gipson's
6 characterization of when the sample was taken is not
7 completely accurate.

8 I was in the same room. We do have the doctor
9 from DHEC who's in charge of this. He's prepared -- we've
10 got him, shown Mr. Gipson a chain of custody of this. And
11 the, and I suppose this is going to be in testimony when
12 this witness gets up, but basically the doctor supervised
13 the sample being taken. He didn't actually put the needle
14 in and remove the sample.

15 All of these things are going to be testified
16 to. He's already seen that chain of custody.

17 What this particular witness is doing is only
18 saying, I received this and I took it to here. He is also
19 part of the chain. And he's going to have to testify as
20 to his role in transporting this blood sample from point A
21 to point B, and that's all he's done at this point.

22 Now out of abundance of caution, I don't think
23 there would be anything wrong with him saying what he did
24 without identifying specifically what sample, what
25 particular sample or the name of the sample that he's

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1 doing, but all he's testifying to right now is, I picked
2 this up and took it from here to here which is exactly
3 what the State has to show in a chain of custody.

4 We're getting to the very testimony that
5 Mr. Gipson is asking for. It seems like he's asking for
6 us to complete it before we can start.

7 THE COURT: All right. Why doesn't counsel
8 approach the bench?

9 MR. GIPSON: Yes, sir.

10 (Off-the-record discussion.)

11 MR. PEARSON: Your Honor, after speaking with
12 co-counsel, the State has decided not to offer that as
13 evidence. We do have a question of Your Honor.

14 There are a couple of witnesses, the sisters of
15 Ericka Bradley, who are not on the witness list and we're
16 going to ask the Court for permission to call them only in
17 regards to, as to one simple question. That is, whether
18 they had been under the Defendant's car at any point.

19 THE COURT: Mr. Gipson?

20 MR. GIPSON: Your Honor, I would object to that.
21 Again, this case has been going on for over two years.
22 Every procedure that all of these 50-some odd law
23 enforcement officers have had, they've had the opportunity
24 to come to the Court, request things. That request that
25 was in the report that Ms. Clayton mentioned was back in

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1 December of '06.

2 And now again, you know, we're -- we aren't even
3 in the eve of trial. We're in the middle of the trial.
4 It's midday. It's three o'clock. And they're attempting
5 to start to bring in evidence and to try to gather
6 evidence to try to bring things into this Court that
7 should have, could have been done at earlier dates.

8 And I object to it, Your Honor. I think at this
9 point, I mean --

10 THE COURT: Might counsel approach the bench for
11 just one moment?

12 (Off-the-record discussion.)

13 MR. PEARSON: The State will accept that
14 stipulation.

15 THE COURT: All right. Very good.

16 MR. GIPSON: Will the State draft it and we'll
17 just agree on the language?

18 THE COURT: Yes. We'll do that at the close of
19 evidence.

20 MR. GIPSON: Yes, sir. We can do that. If
21 you'll draft it, I'll publish it to the jury.

22 MR. PEARSON: Okay. We'll work it out.

23 MR. GIPSON: We'll put it together, Your Honor.

24 THE COURT: Is there going to be anything further
25 of this witness?

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1 MR. PEARSON: Yes, not a lot but, yes, there will
2 be additional questions.

3 THE COURT: Are you ready for the jury?

4 MR. PEARSON: Before you bring the jury in, will
5 you instruct him not to mention -- I don't know how you
6 want to handle that.

7 THE COURT: I think probably the best way to do
8 is ask the appropriate questions. But there won't be any
9 testimony elicited from you with regards to the DNA of the
10 minor child of the alleged deceased individual and the
11 Defendant, Derek Maner. T. M. ?

12 MR. PEARSON: T. M. yes.

13 THE COURT: T. M.

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Very good.

16 MR. GIPSON: And, Your Honor, I believe the
17 subsequent witnesses, or one witness won't be needed.

18 MR. PEARSON: No, there will be one witness that
19 will not be needed.

20 MR. GIPSON: I'm sure if we finish we would have
21 to caucus so I could explain Dr. Bennett, a lot of his
22 theories, I think, may be based on hearsay.

23 THE COURT: All right.

24 MR. GIPSON: Thank you.

25 THE COURT: We're ready for the jury.

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1 (Jury enters courtroom at 3:05 p.m.)

2 THE COURT: You're recognized.

3 MR. PEARSON: Thank you, Your Honor.

4 BY MR. PEARSON:

5 Q. Before we broke I do believe you were testifying about
6 the, establishing Ericka Bradley's pattern of behavior. I
7 believe you called it victimology?

8 A. Yes, sir.

9 Q. Could you please expand on that and explain to the
10 jury what exactly you did to establish that?

11 A. Yes. What I did was in conjunction with Special Agent
12 Johnson with the South Carolina Law Enforcement Division
13 and Detective Hutto with Allendale County Police --
14 Sheriff's Office, excuse me, ran a background on Ericka
15 Bradley, obtained her schooling, interviewed and spoke
16 with the school staff, administration, her employer,
17 employment, employees, management level personnel at her
18 place of employment being Hardee's.

19 Interviewed approximately 20 individual people from
20 friends to family of Ericka Bradley to establish a pattern
21 and establish any type of inconsistency or behavioral
22 changes in Ericka Bradley.

23 Once that was done, I then obtained an order through
24 an Honorable Magistrate Judge to obtain a credit history
25 on Ericka Bradley to see if she had any credit cards, to

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1 see if maybe she had wandered off somewhere and didn't
2 want to tell anybody. Ran a credit history on her,
3 continued on to steadily assist and we went on to
4 providing with the records of her behavior, and the
5 exploring her avenues of her pursuit of a college
6 education and a life for her and her child.

7 Q. All right. And based upon all of the work that you
8 did in establishing this, were you able to find any
9 evidence of her being seen anywhere after November 6th,
10 2006?

11 A. There was absolutely no evidence to that regard; none.

12 Q. And you testified that you spoke to individuals at her
13 school?

14 A. Yes.

15 Q. Could you tell the jury what type of student she was?

16 A. She was a good student, committed. From all
17 indications, having a baby, she kept her grades up. If
18 she missed an assignment, she would complete her
19 assignments. She was college bound and in the opinion of
20 her educational staff, she was suitable for college.

21 MR. GIPSON: Object to the opinion portion, Your
22 Honor.

23 THE COURT: I'll sustain the objection.

24 MR. GIPSON: Your Honor, I suggest that the
25 testimony is cumulative.

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1 THE COURT: I'll overrule that objection.

2 BY MR. PEARSON:

3 Q. Were you able to, through the course of your
4 investigation, determine Ms. Bradley's place of
5 employment?

6 A. Yes, sir; I was.

7 Q. And where was that?

8 A. Hardee's here in Allendale County.

9 Q. During the course of your investigation, were you able
10 to establish what type of worker she was?

11 A. Yes.

12 Q. And could you please tell the jury what type of worker
13 she was based on your investigation?

14 A. She was a good worker, slightly confrontational at
15 times, but showed up for work or called in. If she wasn't
16 going to make it to work she would call in, but on the
17 most part she would show up for work on time and she would
18 work her shift, generally speaking.

19 Q. Were you able to determine any information regarding
20 Ericka Bradley's work and her pay?

21 A. Yes.

22 Q. Could you please explain to the jury what you were
23 able to find out about that?

24 A. Yes. During the course of the investigation it was
25 found that Ericka did not pick up her last two checks from

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1 Hardee's.

2 And with that her father -- identified that her father
3 did after a period of time, went to Hardee's and picked up
4 her checks. That being inconsistent with her behavior.
5 Ericka was always there on payday and always picked up her
6 payday checks according to management staff.

7 Q. Based on your investigation, was there anything that
8 would lead you, that leads you in your official capacity
9 as an investigator to believe that she disappeared of her
10 own free will?

11 A. No, there's not.

12 MR. GIPSON: Objection, Your Honor. He has no
13 knowledge of that particular event.

14 THE COURT: I'll overrule the objection.

15 MR. PEARSON: I'm sorry. I didn't get your
16 answer.

17 THE WITNESS: No, there's not, sir.

18 BY MR. PEARSON:

19 Q. Thank you. Now, after you concluded that part of your
20 investigation, what would you move onto?

21 A. At that stage and during the course of that, we
22 reevaluated the vehicle that was impounded by the
23 Allendale County Sheriff's Office. That was reevaluated
24 and portions of the vehicle were removed and packaged and
25 sealed for potential evidentiary value.

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1 Q. And why did you do that?

2 A. At that point there was a great concern at that stage
3 that something tragic had happened to Ericka Bradley.
4 With that, we needed to be able to provide, looking ahead
5 as an investigator, the mechanisms for which Ericka
6 Bradley was hurt and sustained any potential injury.

7 So at that point we removed the struts up underneath
8 the car and sealed that for evidentiary process.

9 Q. And after you did that, did you have any other
10 involvement in this particular investigation?

11 A. Yes.

12 Q. Could you please tell us what additional involvement
13 you had?

14 A. I had continued to return to Allendale. I would work
15 in Allendale, return back to Greenville, work the tasks
16 that were given to me by Detective Hutto and SLED and then
17 would return to Allendale with the findings and we would
18 communicate back and forth.

19 In other words, I had a lot of responsibility in
20 Greenville and have an enormous amount of death
21 investigations there. I was going back and forth on the
22 highways for the interest of all parties involved in this
23 case.

24 So as a result of that, we continued on with the
25 interview, the interview process continued on for a

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1 considerable period of time and the obtaining of records,
2 to firm up that Ericka Bradley was not missing on her own
3 accord.

4 I wanted to make sure that during the course of the
5 investigation that that was a critical piece that we
6 needed to explore and we needed to eliminate. And once
7 that process was eliminated, I then carried on with my
8 business and did not return back to Allendale until this
9 morning.

10 Q. All right. Did you involve anyone else in this
11 investigation from Greenville?

12 A. Yes. Yes, I did.

13 Q. And who did you involve?

14 A. Forensic pathologist Dr. Michael Ward who is a
15 forensic pathologist in Greenville, South Carolina who
16 conducts medical process, autopsy procedures and
17 evaluation of pathology.

18 Q. You said you involved Dr. Michael Ward?

19 A. Yes.

20 Q. How exactly did you involve him?

21 A. Once the -- when I reviewed the photo documentation in
22 the case, I had questions as to what exactly this material
23 was foreign to the undercarriage of the suspect vehicle.

24 With that, I needed Dr. Ward to consult on the case
25 and give law enforcement his opinion and finding as to,

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1 one, what is that up underneath the car and how it relates
2 to whether somebody could survive, if it were that of a
3 human, could they survive an injury and the sustaining of
4 the, what was discovered up underneath the undercarriage
5 of the vehicle.

6 MR. PEARSON: Thank you. That's all the
7 questions I have of this witness.

8 THE COURT: Cross-examination.

9 MR. GIPSON: Court's indulgence, Your Honor.

10 Yes, sir. Just briefly, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. GIPSON:

13 Q. Now, you said you were out of Greenville, South
14 Carolina; correct?

15 A. Yes, sir.

16 Q. That's about how far from here? Close to 200 miles;
17 correct?

18 A. Roughly, that's correct, sir; yes.

19 Q. So you came down several times; correct?

20 A. Yes, sir.

21 Q. Probably five to ten times in this case?

22 A. Probably five or slightly less; yes, sir.

23 Q. Okay. Now, there are investigators in closer
24 proximity, in, what Columbia; correct?

25 A. Yes; there are, sir.

PAUL SILVAGGIO - REDIRECT

1 Q. Medical examiners in Columbia; correct?

2 A. Yes, there are.

3 Q. Medical examiners in Charleston, closer proximity?

4 A. That is correct.

5 Q. Investigators in closer proximity?

6 A. Yes.

7 Q. And Orangeburg, just surrounding areas that aren't
8 quite as far as the Upstate, not as far as Greenville;
9 correct?

10 A. Absolutely; yes, there are.

11 Q. You came down here because Sheriff Carter asked you
12 to?

13 A. That's correct, sir; yes.

14 Q. You're all friends who met in Myrtle Beach?

15 A. We're not friends; no, sir. Met through professional
16 relationship through law enforcement.

17 Q. Professional acquaintances through law enforcement who
18 met in Myrtle Beach?

19 A. That is correct; yes, sir.

20 MR. GIPSON: That's all my questions, Your Honor.

21 THE COURT: Any redirect?

22 MR. PEARSON: Very briefly.

23 REDIRECT EXAMINATION

24 BY MR. PEARSON:

25 Q. How exactly did you meet Sheriff Carter in Myrtle

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1 Beach?

2 A. I was a guest speaker at a homicide presentation with
3 all the coroners and medical examiners within the State of
4 South Carolina and North Carolina. I was a guest speaker
5 and gave a presentation to them at Myrtle Beach at a
6 conference.

7 Q. You were presenting. Was Sheriff Carter also
8 presenting?

9 A. He was not presenting. He was an attendee.

10 Q. He was an attendee?

11 A. Yes, sir.

12 MR. PEARSON: No further questions.

13 THE COURT: You may step down. Any objections to
14 this witness being excused?

15 MR. GIPSON: No, sir.

16 MR. PEARSON: None from the State.

17 THE COURT: You're free to leave. Thank you,
18 sir.

19 MR. PEARSON: At this time the State calls
20 Dr. Michael Ward.

21 (Off-the-record discussion.)

22 THE COURT: Dr. Ward, counsel would like to speak
23 with you outside for just a moment.

24 (Pause.)

25 MICHAEL EUGENE WARD, having been duly sworn, was

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1 examined and testified as follows:

2 THE COURT: Dr. Ward, please have a seat in the
3 witness chair. I'm going to ask that you pull up real
4 close to that microphone. Speak loudly, clearly and
5 slowly.

6 We have kind of an unusual situation in this
7 courtroom. It's sort of a cavernous courtroom and we need
8 for you to speak loudly and, but not too close to the
9 microphone. If that makes sense.

10 THE WITNESS: Yes, sir.

11 THE COURT: Your full name?

12 THE WITNESS: Michael Eugene Ward.

13 THE COURT: Very good. A little bit louder.
14 Very good.

15 DIRECT EXAMINATION

16 BY MR. PEARSON:

17 Q. Dr. Ward, could you please tell us what your current
18 profession is?

19 A. I'm a forensic pathologist and I'm employed in
20 Greenville County as the Chief Medical Examiner.

21 Q. And what exactly is entailed in your job and duties as
22 chief medical examiner?

23 A. My responsibilities are to investigate deaths that
24 occur in Greenville County to determine cause and manner
25 of death.

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1 Q. Do you have to be a medical doctor to hold this
2 position?

3 A. Yes, you do.

4 Q. Could you please give the jury a little bit of
5 background on your education?

6 A. I received my bachelor's degree in biology from the
7 University of Alabama. A master's degree in forensic
8 science from the University of Alabama in Birmingham. I
9 received my medical degree from the University of South
10 Alabama in Mobile. I did a four-year anatomic pathology
11 residency at the Medical University of South Carolina in
12 Charleston. I had a one-year fellowship in forensic
13 pathology at the University of New Mexico in Albuquerque.
14 I'm certified by the American Board of Pathology in both
15 anatomic and forensic pathology.

16 Q. And if you could, exactly what does pathology mean?

17 A. Pathology is the study of disease and disease
18 processes and how they affect man. Forensic pathology
19 takes that one step further to interpret injuries, injury
20 patterns and those disease processes and interpret to how
21 and why people die.

22 Q. And is part of that training -- or the education and
23 training that you received, does that include training on
24 DNA?

25 A. To some degree, yes.

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1 Q. When you say to some degree, exactly, have you taken
2 any specific courses on it or done anything, any
3 continuing education while you've been the pathologist in
4 Greenville concerning DNA?

5 A. I have not.

6 Q. Have you ever been admitted as an expert in South
7 Carolina Courts?

8 A. Yes, I have.

9 Q. And what have you been qualified as an expert as?

10 A. I'm qualified as an expert in both anatomic and
11 forensic pathology.

12 Q. And how many times have you been admitted as an
13 expert?

14 A. Well over a hundred times.

15 MR. PEARSON: Your Honor, at this time the State
16 would like to move Dr. Michael Ward to be recognized as an
17 expert in forensic pathology.

18 THE COURT: Any questions with regard to his
19 qualification, Mr. Gipson?

20 MR. GIPSON: No, sir.

21 THE COURT: Madam Forelady, ladies and gentlemen
22 of the jury, once again, this gentleman has been qualified
23 as an expert witness. An expert witness is different than
24 a lay witness in that they can render opinions in their
25 field of expertise.

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1 Just by virtue of the fact that a person's an
2 expert doesn't mean you have to accept their opinion. If
3 you feel as though their opinion is not based on adequate
4 education or experience or facts, you can disregard it.

5 I'll charge you in greater detail in regard to
6 how to evaluate expert testimony in my jury charge.

7 You're recognized, Mr. Pearson.

8 MR. PEARSON: Yes, Your Honor.

9 BY MR. PEARSON:

10 Q. Dr. Ward, in the course of your employment did you
11 ever become involved in the investigation and the
12 disappearance of Ericka Bradley?

13 A. Yes, I did.

14 Q. Could you please explain to the jury how you became
15 involved in this investigation?

16 A. Detective Silvaggio approached me and asked me to
17 review some photographs that were basically of a vehicle
18 and the undersurface of that vehicle in an attempt to help
19 interpret what the findings may have been.

20 Some of those findings included some spatter pattern
21 and tissue deposition on the undersurface of the car. I
22 gave him my impression that those certainly could be blood
23 spatter. And it could be certain types of tissue that
24 were present.

25 And it would be my recommendation to him that he have

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1 those sampled, and I would try to help him evaluate what
2 those samples could mean.

3 Q. Did you ever actually receive any of those samples?

4 A. Yes. Detective Silvaggio then later brought some
5 samples of small pieces of tissue to our laboratory. A
6 portion of those samples were submitted for microscopic
7 examination.

8 And basically those tissues were processed in our
9 usual fashion. They were cut and made into microscopic
10 slides which I then reviewed under the microscope. A
11 portion of that sample was returned to Detective
12 Silvaggio.

13 Q. Now these samples that you looked at under microscopic
14 slides, what were they of or were you able to determine
15 what they were of?

16 A. Yes, I was.

17 Q. And could you please explain to the jury what you saw
18 in those samples?

19 A. Microscopically these tissues represented dried-out
20 pieces of skeletal muscle and peripheral nerve. So they
21 were pieces of tissue that had been dried due to their
22 exposure to the environment which microscopically
23 demonstrated the changes that we see in skeletal muscle
24 and in nerve tissue.

25 Q. Now specifically about that tissue, are you able to

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1 say anything other than it is skeletal tissue or nerve
2 tissue?

3 A. No, I was not.

4 Q. You can't -- can you say whether it was from an animal
5 or human?

6 A. It would be from either a mammal that has similar
7 skeletal muscle to humans or from a human.

8 Q. In addition to that particular microscopic sample, did
9 you receive any other materials in relationship to this
10 investigation?

11 A. I received the results of the DNA analysis performed
12 on the remaining portion of the tissue that was not
13 submitted for microscopic examination.

14 Q. Did you receive -- and where did you receive that
15 from?

16 A. It was given to me by Detective Silvaggio.

17 Q. Do you know who performed that analysis?

18 A. LabCorp.

19 Q. And could you please tell the jury what LabCorp is?

20 MR. GIPSON: Your Honor, may we approach for a
21 moment?

22 (off-the-record discussion.)

23 BY MR. PEARSON:

24 Q. Could you please explain to the jury exactly what is
25 LabCorp?

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1 A. LabCorp is a private laboratory which specializes in
2 certain diagnostic tests. Many relatively simple tests go
3 to LabCorp, from blood work to urine analysis. They do
4 some drug testing, and they also do DNA testing for
5 identification as well as for parentage.

6 Q. Speaking specifically to the parentage, have you used
7 their results before to come to conclusions?

8 A. I have.

9 Q. Was there a parentage result in this case?

10 A. Yes, there was.

11 Q. Were you able to determine through the course of
12 checking through these records and were you able to form
13 an opinion as to who these samples belonged to from under
14 this car?

15 A. From a review of the LabCorp results, the DNA analysis
16 from the tissue removed from the undersurface of the
17 suspect vehicle, that the tissues were consistent with --

18 MR. GIPSON: Your Honor, move for withdrawal
19 (inaudible).

20 THE COURT: Just one moment.

21 (Off-the-record discussion.)

22 BY MR. PEARSON:

23 Q. Dr. Ward, speaking specifically of the blood, based on
24 the analysis of parentage were you able to determine whose
25 blood that belonged to?

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1 A. I don't know that the testing, that the DNA analysis
2 as I understand it was specifically to blood. It was just
3 from the specimens retrieved from the undersurface of the
4 car. Whether they determined that to be blood, I'm not
5 certain from reading the results.

6 Q. All right. Do you remember making a report concerning
7 this?

8 A. I do.

9 Q. All right.

10 A. I have that with me.

11 Q. Oh, okay.

12 A. Yes. With a question mark.

13 Q. After having the chance to review your report, your
14 notes on the matter, I'll ask the question again: Based
15 on your analysis and your expert opinion, everything that
16 you've read and seen in regards to this case, are you able
17 to give us an opinion as to who that blood belonged to?

18 A. Yes, sir.

19 Q. Could you please tell the jury your results?

20 A. The DNA results are consistent with the blood from the
21 undersurface of the vehicle being that of the child of
22 Jackie and Henry Bradley.

23 Q. Thank you. Based on all the evidence that you
24 received and everything that you reviewed in this
25 particular case, do you have an opinion about how that

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1 blood was deposited there?

2 A. Yes, I do.

3 Q. Could you please explain to the jury how in your
4 expert opinion this blood was deposited there?

5 A. It would be my opinion that the person whose DNA and
6 tissue this is, in this case, Ericka Bradley, was
7 deposited there by being run over by this suspect vehicle.

8 Q. Do you have an opinion as to the types of injuries or
9 the severity of the injuries?

10 MR. GIPSON: Objection to leading, Your Honor.

11 BY MR. PEARSON:

12 Q. Do you have any other opinions concerning this
13 particular matter? Were you able to draw any further
14 conclusions?

15 A. Yes. It's my opinion that the body who was run over
16 by this vehicle would likely receive significant bodily
17 injury which would cause great bodily harm or possibly
18 death.

19 Q. Thank you, Dr. Ward. That's all I have for you.

20 THE COURT: Cross-examination.

21 MR. GIPSON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. GIPSON:

24 Q. Now, Dr. Ward, you have kind of painstakingly gone
25 through this process. You said you looked at some

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1 pictures that were submitted to you by your friend,

2 Detective Silvaggio; is that correct?

3 A. That's correct.

4 Q. Tell the jury about what you observed when you went

5 and looked at the car.

6 A. I'm sorry?

7 Q. Tell the jury what you personally observed when you

8 went and looked at the car.

9 A. I have not personally looked at the car, only the
10 photographs.

11 Q. You have not looked at the car?

12 A. That's correct.

13 Q. Is this your first time in Allendale County --

14 A. Yes --

15 Q. -- regarding this case?

16 A. -- it is.

17 Q. So essentially you got some pictures in the mail or
18 brought to you by your friend, Mr. Silvaggio, you looked
19 at the pictures and you offered an opinion but you haven't
20 even taken the time to just go around the corner and look
21 at the car?

22 A. That's correct. I have not seen the car.

23 Q. Do you realize -- do you even know where the car is?

24 A. No, sir. I do not.

25 Q. Isn't it one of the better practices to at least look

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1 at something in person so you can see things that you may
2 not be able to establish from looking at pictures?

3 A. In this case I see no reason to have seen the
4 undersurface of this vehicle, no.

5 Q. Do you perform autopsies by pictures?

6 A. I do not.

7 Q. You get your hands in it, don't you?

8 A. Yes, I do.

9 Q. Because it's better to get your hands in it so you can
10 fully understand what you're dealing with; is that
11 correct?

12 A. In an autopsy, that's correct.

13 Q. Now, let me ask you this: You keep referring to some
14 tissue here or there; correct?

15 A. Yes, that's correct.

16 Q. Isn't it true that in the SLED records that you
17 received from SLED's DNA expert -- and by the way, you're
18 not purporting to be a DNA expert; correct?

19 A. I am not.

20 Q. Now from SLED's DNA expert, Ms. Jennifer Clayton, she
21 submitted to you a series of reports; correct?

22 A. She did not submit them to me.

23 Q. Well, Mr. Silvaggio did. You're aware of the reports?

24 A. Yes, I am.

25 Q. You're aware of results of the report; correct?

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1 A. Not immediately. I've reviewed them.

2 Q. Well, do you have them with you?

3 A. I think so.

4 Q. Well, I tell you what, I'll expedite it. I'll let you
5 see mine. I'm just going to show these to you to see.

6 A. So we're talking about the report?

7 Q. Yes, sir. Give me one moment. I apologize.

8 I'm going to show this to you, if I may. I'd like to
9 show you that copy.

10 A. Uh-huh.

11 Q. Do you remember receiving access to that from somebody
12 in this case, whether it be Mr. Silvaggio or whether it be
13 the solicitor's office, through the Attorney General's
14 Office, somebody with the State, do you remember seeing
15 that report?

16 A. This is part of the package that I had, yes.

17 Q. Okay. And specifically that report is referring to
18 tissue that was taken from the car; correct?

19 A. That's correct.

20 Q. And in the results page, isn't it true that it says no
21 DNA analysis collected?

22 A. I'm sorry?

23 Q. What does it say? Will you publish that to the jury?

24 A. I'm sorry. Under results from item 20, no DNA profile
25 was developed from item 20.

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1 Q. So, no DNA profile was developed from item 20 which is
2 this tissue that we keep talking about; right?

3 A. That's correct.

4 Q. So part of your testimony you said that you just saw
5 skeletal tissue which could come from a mammal; correct?

6 A. That's correct.

7 Q. So for us to get up here and start talking about
8 tissue as if it belonged to Ericka Bradley is not quite
9 appropriate; correct? Because based on the documents that
10 you've seen, DNA analysis, there's nothing that points to
11 that being Ericka Bradley's tissue; does it?

12 A. From the SLED report, no, but from the LabCorp report,
13 yes.

14 Q. Well SLED is the DNA expert; correct?

15 A. SLED is a laboratory that performs DNA analysis.

16 Q. Jennifer Clayton is a DNA expert and you are not;
17 correct?

18 A. That is absolutely correct.

19 Q. So if Jennifer Clayton took the time to analyze and to
20 go through and to perform the appropriate tests, you know,
21 phenolphthalein test, HemaTrace test, all those things
22 that you're not qualified to testify about because you're
23 not an expert in those areas; correct?

24 A. That's correct.

25 Q. And in her expert opinion there was no DNA analysis

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1 that could be gathered from that tissue; correct?

2 A. On that particular piece of tissue; that's correct.

3 Q. And that's the only tissue that was submitted, or are
4 you suggesting that there's tissue?

5 A. I do not know if the tissue that SLED performed
6 analysis on and the tissue that LabCorp performed the
7 analysis on is the same tissue.

8 Q. But Dr --

9 A. I do know that LabCorp can perform more extensive DNA
10 testing on tissues to determine parentage and
11 identification greater than the ability that the South
12 Carolina Law Enforcement Laboratory has --

13 Q. So Dr --

14 A. -- which is why we use LabCorp for forensic
15 identification.

16 Q. So LabCorp is better than SLED, is what you're
17 essentially saying?

18 A. For this particular instance; yes.

19 Q. Okay. So the expert who put her hands in this
20 essentially is not credible, based on the fact that
21 LabCorp made a couple of calls?

22 A. I'm sorry?

23 Q. Well, let me ask you this: Who from LabCorp came down
24 and looked at the car and did these DNA test?

25 A. I suspect that no one from LabCorp has been here.

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1 Q. May I see the report for a moment, please? Oh. I'll
2 look at their copy.

3 A. (Document handed to Attorney Gipson.)

4 Q. Thank you.

5 Now, are you aware that there were two spots on this
6 vehicle that had blood on?

7 A. Not specifically; no, sir. I'm aware that the
8 photograph was taken, that there was a distribution of
9 material on the undersurface of the car, that this
10 material was collected in various ways, by removing what
11 appeared to be tissue and by swabbing. Some of the tissue
12 was submitted to me for microscopic analysis. Some of the
13 swabbings were submitted to LabCorp for DNA analysis.

14 Q. Are you aware that some 20 pieces of evidence were
15 collected?

16 A. I'm not surprised, no.

17 Q. Are you suggesting that all of that blood out of that
18 car was Ericka Bradley's blood?

19 A. No, sir.

20 Q. Were you even provided information that this car was
21 involved in an accident with an animal at some point in
22 time? Were you provided that information?

23 A. No, I was not.

24 Q. Okay. Does that even matter to you?

25 A. No, it does not.

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1 Q. Okay. Because you have the opinion, after looking at
2 some pictures -- you have an opinion after looking at some
3 pictures that all of these things are true that you've
4 opined, that's the opinion that you've offered?

5 A. Yes. It's my opinion that there's skeletal tissue and
6 peripheral nerve underneath the body of this car, that
7 blood --

8 Q. And the skeletal tissue --

9 A. -- that blood consistent with a child of the Bradley's
10 was found under the car.

11 Q. Okay. And your opinion is irrespectable (sic) with
12 what SLED says; correct?

13 A. That's correct.

14 Q. Correct? That is correct?

15 A. That is correct.

16 Q. Okay. Now, you're employed by Greenville County?

17 A. I'm employed by Pathology Associates of Greenville.

18 Q. Okay. How are you paid in these matters?

19 A. I'm employed -- I'm paid by Pathology Associates. I
20 have a salary from them.

21 Q. Are you paid anything additional to come testify
22 today?

23 A. I am not.

24 Q. So you're just coming down out of your own good
25 graces?

1 A. That's correct.

2 MR. GIPSON: Ask the Court's indulgence, Your
3 Honor.

4 That's all the questions I have, Your Honor.

5 THE COURT: Redirect?

6 MR. PEARSON: Very briefly.

7 REDIRECT EXAMINATION

8 BY MR. PEARSON:

9 Q. Dr. Ward, you had -- you just answered a series of
10 questions concerning the pictures you reviewed. Did you
11 need any additional evidence to come up with your opinion?

12 A. I did not.

13 Q. Was that -- the evidence that was presented to you,
14 was that adequate?

15 A. For what I was asked to do', yes.

16 Q. No further questions.

17 THE COURT: All right. You may step down. Any
18 objection to this witness being excused?

19 MR. GIPSON: No, sir.

20 MR. PEARSON: None from the State.

21 THE COURT: You're free to leave. Thank you,
22 sir.

23 THE WITNESS: Yes, sir.

24 THE COURT: Call your next witness.

25 MS. ARMSTRONG: Your Honor, the State would like

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1 to call to the stand Sheriff Carter.

2 May we approach?

3 (Off-the-record discussion.)

4 THE COURT: Madam forelady, we have to take up
5 one matter of law about the case. I'm going to ask you to
6 retire to the jury room. Please do not discuss the case.
7 And thank you for your patience.

8 (Jury exits courtroom at 3:43 p.m.)

9 THE COURT: We'll stand at ease for about five
10 minutes.

11 MR. PEARSON: Thank you, Your Honor.

12 (Jury enters courtroom at 3:53 p.m.).

13 THE COURT: Sheriff Carter, come forward as the
14 clerk administers the oath.

15 TOM CARTER, JR., having been duly sworn, was
16 examined and testified as follows:

17 THE COURT: Sheriff Carter, pull up real close
18 that microphone spoke loudly clearly and slowly.

19 THE WITNESS: Yes, sir.

20 THE COURT: State your full name, Sheriff Carter.

21 THE WITNESS: Sheriff Tom Carter, Jr.

22 THE COURT: Very good.

23 DIRECT EXAMINATION

24 BY MS. ARMSTRONG:

25 Q. Good afternoon, Sheriff.

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1 A. Good afternoon.

2 Q. What is your current occupation?

3 A. I'm the Sheriff of Allendale County.

4 Q. How long have you been the sheriff?

5 A. Six years.

6 Q. And what are your duties as the sheriff?

7 A. To achieve law enforcement in the county, patrol the
8 county, be out on mental patients, we do investigations;
9 whatever the call is.

10 Q. Do you have subordinates?

11 A. Yes, I do.

12 Q. Do you know approximately how many?

13 A. Fourteen.

14 Q. What did you do before becoming the sheriff here in
15 Allendale?

16 A. I was a deputy for 13 years, before that at the
17 solicitor's office four and a half years.

18 Q. Do you know the Defendant, Derek Maner?

19 A. Yes, I do.

20 Q. How so?

21 A. Mainly back in, I think it was 2004, I was a chaperone
22 for the band. That's where I first met Derek. We went to
23 Disney World and they wanted so many chaperones to go and
24 I met him then.

25 Q. Do you know Ericka Bradley?

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1 A. No, I didn't know Ericka.

2 Q. In regards to this case, how did the case start?

3 A. I received a call one night and there was a missing
4 person and the family was at the sheriff's office. And so
5 I came out to the sheriff's department and I talked to the
6 Bradley family. And they advised me that they had,
7 daughter was missing. Ever since they just found out that
8 night that she possibly missing since that Monday and
9 started collecting information and we started on it the
10 next day, the next morning.

11 Q. Okay. And just to go back for a second. What is the
12 normal procedure when there's a missing person, just
13 typically?

14 A. Well, it depends on the case and where they're missing
15 from. Collect as much information as you can, try to find
16 out as much information about the person as you can and
17 then you start doing the investigation to see what type of
18 person, just something they normally do or they don't do.

19 Q. Is that what you did in this case?

20 A. Yes.

21 Q. What are some of the things that you did?

22 A. Well, I went to the school first. Checked with the
23 guy to see what kind of attendance she had at school. She
24 had perfect attendance. She'd be late sometimes. She had
25 a baby to take care of. I went to her job at Hardee's. I

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1 talked to the manager. She said she had good attendance
2 at her job. I talked to her mother and her father,
3 family, she never did anything like this before.

4 Q. Okay. Were there any search efforts in this case?

5 A. Yes, ma'am.

6 Q. Can you tell me about those or what you know about
7 those?

8 A. Well, with the search, this case was a little
9 different from a normal missing person because we didn't
10 really have a starting point. We started with Mr. Maner
11 said she got out of the car and that was on Highway 125.
12 That's all we had to go with. And that's where we started
13 the search at along 125.

14 Prior to that I had just went to a, responded to
15 missing persons course with missing persons N.C.I of
16 Alexandria, Virginia. And they got a technique they use
17 from the start, then you start fanning out, searching the
18 area. You want to do a thorough search of the area.

19 And I think that that was on a Thursday. That Friday
20 or Monday I called Alexandria, Virginia up there and
21 talked to them about it. And they wanted to come down and
22 assist me with it and I brought them down.

23 Q. Okay. Were there any other companies that came down
24 or contacted you to help assist?

25 A. Yes. There was Equis Search out of Texas. They

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1 contacted me and wanted to come down. There was a company
2 out of Aiken that just got formed Star-something. I don't
3 remember. I don't have the name in front of me. There
4 was fire departments, a lot of civilians. This case
5 really devastated the community. And everybody wanted to
6 help.

7 So I had my hands full with the search because it was
8 hunting season and I really don't want all those figures
9 in the woods.

10 Q. Did you yourself help with the search?

11 A. Yes, yes.

12 Q. So this was a pretty extensive search?

13 A. It was.

14 Q. Did you at any point call any outside agencies to help
15 you in the investigation?

16 A. Yes. At a certain point in the investigation -- SLED
17 was already, I called SLED the same night. They was
18 already there. I think it was in the first of January I
19 called Greenville to speak to Sheriff Loftus to ask him, I
20 wanted Paul Silvaggio to look over my case. At that point
21 we had already searched for two months and hadn't turned
22 up a body.

23 Q. Before you go on. Let me ask you, Paul Silvaggio, who
24 is that?

25 A. He was a chief detective for Greenville Sheriff's

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1 Office.

2 Q. And how did you know him?

3 A. Investigator.

4 Q. How did you know to ask for him?

5 A. I met Paul in the beginning of 2005, I think it was,
6 end of 2004 at a coroner's conference. He was the guest
7 speaker for that conference.

8 And Paul impressed me. He had a lot of experience in
9 cold cases and homicides. And that's how. At that time I
10 had another homicide in the county, a missing person in
11 the county that I figured was a homicide and I wanted to
12 get with Paul on that particular case.

13 And he gave me his card, told me to contact him but
14 before that happened this occurred.

15 Q. Okay. And did Paul in fact come down and help with
16 the investigation?

17 A. Yes. I initially asked him to come down and look over
18 the case. It had turned to the point where the evidence
19 we was collecting, it was looking it was going to be a
20 homicide. And I wanted him to look over the case because
21 he had a lot of experience in doing this.

22 Q. Okay. And what was his involvement in the case?

23 A. Well, when he came down me looked through the case
24 that I already had together. And he said, well, Sheriff,
25 you pretty much got everything that I would have done. He

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1 said, only thing I know let's just start from scratch and
2 go back through the case again. And that's what we did.

3 Q. Okay. May I ask the Court indulgence for a moment?

4 THE COURT: Yes, ma'am.

5 BY MS. ARMSTRONG:

6 Q. Sheriff Carter, just to go back to the searches, were
7 you the person of contact or were you over the searches?
8 Did you organize the searches? Did you delegate that to
9 one of your --

10 A. No, I pretty much handled the searches because, like I
11 said, it was hunting season and I wanted to try to keep, I
12 don't want nobody to get shot in the woods. Allendale
13 County is a big hunting county for the hog hunters.

14 Q. Did you keep accurate documents for each search?

15 A. No, I did not.

16 Q. And why is that?

17 A. Well at the point when the search first started, I was
18 looking for a missing person. I wasn't documenting
19 anything for a case. I was looking for a missing person.
20 And as we got into it, SLED and my investigators took care
21 of it, got to the point that we believed it could turn
22 criminal. They handled all of that. I really didn't do
23 any documenting. My main function at that point was to
24 try to find Ms. Bradley because the evidence that turned
25 up with the car, we assumed that she could have been

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1 injured also.

2 So that was my main function. I do not really keep
3 any records to go back for. We was looking for a person.

4 Q. So you were on the ground with the search parties?

5 A. Right.

6 MS. ARMSTRONG: Thank you. No further questions,
7 Your Honor.

8 THE COURT: Cross-examination, Mr. Gipson?

9 MR. GIPSON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. GIPSON:

12 Q. We have spoken before?

13 A. Yes.

14 Q. And you are what's known as the chief law enforcement
15 officer of Allendale County; correct?

16 A. Correct.

17 Q. Essentially that means as it comes to any alleged
18 criminal matter here in town, if there's an investigation
19 essentially the buck stops with you; correct?

20 A. Sometimes, yes.

21 Q. Okay. If you initiate an investigation and something
22 goes; right?

23 A. Yeah. If I initiate a investigation.

24 Q. And if something goes right you get the credit;
25 correct?

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1 A. Yes, I guess so.

2 Q. So if things are done or not done then sometimes there
3 are other things that come with it; correct?

4 A. True.

5 Q. Now you have been very active in speaking about this
6 case in the community; haven't you?

7 A. Well, yes, I guess I have.

8 Q. Speaking to the different news stations about this
9 case on a whole lot of different occasions; correct?

10 A. Yeah. They interviewed me several timings.

11 Q. And offering your opinion about what you think you'd
12 be able to prove; correct?

13 A. Offering my opinion.

14 Q. Yes, sir. And you've been doing that for several
15 months, probably good first 16 months or so of this case;
16 correct?

17 A. Probably was.

18 Q. Okay. Because, quite honestly, this -- the testimony
19 that we've heard is that the last time Ericka was seen was
20 November 6th, '06. And Mr. Maner was charged in April of
21 '08; correct?

22 A. Correct..

23 Q. So most months you were somewhere out, you know,
24 making statements about this case for a long period of
25 time; correct?

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1 A. I guess you could put it that way.

2 Q. All right. Now, as a chief law enforcement officer in
3 this county, that means you were privy to certain
4 information; correct?

5 A. Correct.

6 Q. And some of that stuff that you were privy to was
7 stuff, was the searches that you essentially initiated or
8 called in parties to take care of; correct?

9 A. Correct.

10 Q. And you spoke about those things with the press;
11 correct?

12 A. No, not all of them.

13 Q. Some of them?

14 A. The ones that I could; yes.

15 Q. All right. Now, let's back up one moment, then I'll
16 come back to that point. You of course attended the
17 Criminal Justice Academy; didn't you?

18 A. I did.

19 Q. And before -- you said that you were a sheriff's
20 deputy for, I think you said, seven years?

21 A. Thirteen years.

22 Q. Thirteen years. I apologize. And then a police
23 officer for four years prior to that?

24 A. Yes.

25 Q. So you attended the Criminal Justice Academy prior

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1 to --

2 A. Right.

3 Q. -- becoming a police officer?

4 A. Yes.

5 Q. How many weeks?

6 A. I think it was eight weeks.

7 Q. And during that eight weeks you learned the
8 rudimental, the fundamentals of being police officer;
9 correct?

10 A. True.

11 Q. Teaches you a little bit about investigation; right?

12 A. True.

13 Q. Teaches you a little bit about memorializing crime
14 scenes, kind of keeping stuff where it's supposed to be if
15 there's an alleged crime scene; correct?

16 A. They didn't do a whole lot of it, but they did touch
17 on it.

18 Q. Did touch on it. And taught you about taking notes,
19 you writing down things as soon as they took place; right?

20 A. True.

21 Q. One of the things you want to do that just in case
22 there is a matter that has to be handled in court then you
23 can refer to those notes to explain to people what you've
24 done; right?

25 A. True.

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1 Q. And you want to do that so that you don't have to rely
2 on your recollection; correct?

3 A. True.

4 Q. Because your memory is going to be a whole lot better
5 right after something occurs as opposed to 24, 26 months
6 later; correct?

7 A. True.

8 Q. You didn't keep many notes in this matter; did you?

9 A. Not in this matter.

10 Q. And that's kind of against what you're taught to do at
11 the Criminal Justice Academy?

12 A. Not really. As I say, I wasn't working the case. I
13 wasn't looking for a homicide. I was doing a search for a
14 missing person. Two different issues.

15 Q. Okay. So I didn't characterize the issues but you
16 don't think it's important to write down what you've done
17 so there will be a record of what you've done, either way?

18 A. I didn't see a need at the time. Like I said, there
19 wasn't a crime committed, I was looking for a missing
20 person.

21 Q. So does the Criminal Justice Academy draw a line
22 between when you write stuff down and when you don't, when
23 you take notes and when you don't, when you memorialize
24 what you've done and when you don't?

25 A. The Criminal Justice Academy will tell you, we just

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1 teach you some of the basics. You learn the rest when you
2 get back to wherever you're working at.

3 Q. Now that you've said that, and you learned the rest
4 over years of law enforcement experience; right?

5 A. True.

6 Q. You've been to several seminars about how to be an
7 effective law enforcement officer; right?

8 A. Not -- I've gone to a few.

9 Q. A few. And one of those was when you met
10 Mr. Silvaggio; correct?

11 A. No. That was a coroner's conference.

12 Q. Okay. Seminars, conferences. But you've been to
13 different types of education -- you've had different
14 educational experiences at places to help you be a better
15 law enforcement officer; correct?

16 A. Yes.

17 Q. Okay. Now, once this matter was brought to your
18 attention, and correct me if I'm wrong, you said that you
19 were called in to speak to the Bradley family about a
20 missing person; correct?

21 A. Correct.

22 Q. And when they came to you, they had just found out
23 that she was missing; correct?

24 A. Yes.

25 Q. And that was when?

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1 A. That was Wednesday night, November 8th.

2 Q. Okay. So on November 8th, they -- November 8th, they
3 had just found out that she was missing?

4 A. Yeah. That's what they said.

5 Q. Now you said you started this search on Highway 125;
6 correct?

7 A. 125.

8 Q. And you kind of worked your way up; correct?

9 A. Correct.

10 Q. And you did that because that's one of the tactics you
11 were taught at that seminar in Myrtle Beach or Virginia, I
12 don't know, may have been Alexandria?

13 A. At the seminar.

14 Q. Okay. One of the seminars you went to you learned
15 that tactic; correct?

16 A. Correct.

17 Q. And you had ten to 15 officers going on foot patrol
18 around that area and riding around; didn't you?

19 A. Not in the beginning.

20 Q. Not in the beginning?

21 A. It was only about, maybe five of us out there.

22 Q. Five of you rode around in the very beginning. And
23 pretty quickly it turned into 15 or so people; correct?

24 A. Correct.

25 Q. And pretty soon it turned into 20 or so people;

TOM CARTER, JR. - CROSS

1 correct?

2 A. Correct.

3 Q. And then 30 or 40 people; correct?

4 A. Correct.

5 Q. And during that period of time, massive searches took
6 place all throughout this area, this county and other
7 counties for this case; correct?

8 A. Yes.

9 Q. All right. Now, you mentioned an Equis Search team
10 out of Texas; correct?

11 A. Yes, sir.

12 Q. And equis is just a Latin term for horse?

13 A. I guess so.

14 Q. Okay. A horse team came up here from Texas?

15 A. I guess so.

16 Q. And they rode around on horses and they conducted
17 searches; didn't they?

18 A. I don't know if they had horses or not. They may have
19 brought four-wheelers.

20 Q. Four-wheelers?

21 A. Four-wheelers.

22 Q. They went around the area; didn't they?

23 A. Yeah. They went, yeah, a certain area.

24 Q. And they came back with results; correct?

25 A. Yeah. Didn't find anything.

TOM CARTER, JR. - CROSS

1 Q. They didn't find anything?

2 A. No.

3 Q. And when you say they didn't find anything, they
4 didn't find anything that said Derek Maner did anything
5 criminal; correct?

6 A. They didn't find nothing.

7 Q. And nothing is composed of two words --

8 A. No, they didn't find Ericka Bradley.

9 Q. Nothing is composed of two words, no and thing;
10 right? There was no thing that they found that directed
11 your attention to say that Derek Maner did anything
12 criminal; correct?

13 A. Correct.

14 Q. All right. After that you said a group had started,
15 out of Aiken came out; correct?

16 A. Yes.

17 Q. What did they do?

18 A. They conducted a search. It was at the same weekend
19 that Equis Search was here.

20 Q. They found no thing that said that Derek Maner did
21 anything criminal; correct?

22 A. They didn't find anything.

23 Q. You said a lot of civilians came out. Now in fact
24 some people from Allendale-Fairfax High School and

25 different other groups came out, concerned citizens and

TOM CARTER, JR. - CROSS

1 they searched; correct?

2 A. Correct.

3 Q. And no thing pointed to Derek Maner saying that he did
4 anything criminal; correct?

5 A. Not from the searches.

6 Q. All right. A helicopter was brought in as well;
7 correct?

8 A. That's true.

9 Q. That was brought in through SLED; correct?

10 A. SLED or Wildlife, one of the two.

11 Q. And they searched the area; correct?

12 A. Correct.

13 Q. And through the air, they looked around and did all of
14 the things that they do with heat and different imaging
15 and looked around and they found no thing that pointed to
16 Derek Maner and said that he did anything criminal;
17 correct?

18 A. No, we was looking for Ericka Bradley.

19 Q. I'm sorry?

20 A. We was looking for Ericka Bradley.

21 Q. But they found no thing that pointed to Derek Maner
22 and said he did anything criminal; correct?

23 A. No.

24 Q. Now you said the fire department assisted you as well;
25 correct?

TOM CARTER, JR. - CROSS

1 A. Correct.

2 Q. Then a scuba diving team came out, too; right?

3 A. Yes, sir.

4 Q. And they went through lakes in the area and over by
5 Highway 125 and ponds and things of that nature; correct?

6 A. Okay. Went through the ponds. Two ponds up there.

7 Q. And again no thing; correct?

8 A. Nothing was found in the ponds.

9 Q. Nothing in the ponds; correct?

10 A. No.

11 Q. And did something happen in Hampton County as well
12 with the search?

13 A. The only thing happened in Hampton County was when
14 Agent Johnson went down to Lake Warren.

15 Q. And found no thing that said Derek Maner did anything
16 criminal; correct?

17 A. They didn't find anything. We were looking for her.

18 Q. Cadaver dogs came out; correct?

19 A. Yes.

20 Q. In your 17 or so years of law enforcement experience
21 prior to even being the sheriff, had you ever worked with
22 cadaver dogs before?

23 A. Yes.

24 Q. Tell the jury what they do.

25 A. They smell out dead bodies basically.

TOM CARTER, JR. - REDIRECT

1 Q. And they went all around to wherever you all took them
2 and found no thing that pointed to Derek Maner that said
3 he did anything wrong?

4 A. They put them around the pond to see if they could
5 sniff a body.

6 Q. And you mentioned you didn't write anything down but
7 that's the stuff you remember doing; correct?

8 A. True. Yes.

9 Q. If you had kept records there would be no thing in
10 there that said anything?

11 A. There would be no thing; yes, sir.

12 Q. Court's indulgence very briefly, Your Honor.

13 MR. GIPSON: No further questions, Your Honor.

14 THE COURT: Any redirect?

15 MS. ARMSTRONG: Very briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. ARMSTRONG:

18 Q. Sheriff Carter, what were you looking for in the
19 search?

20 A. In the search I was looking for, like I say, we was
21 looking for Ericka Bradley. And that is what we was
22 looking for. Nothing from the search pointed to Derek
23 Maner. Nothing from the search caused us to get a warrant
24 for Derek Maner.

25 Q. I'm sorry?

SARAH SMITH - DIRECT

1 A. I said nothing from the search was the reason we got
2 the warrants for Derek Maner.

3 Q. So you were not looking for evidence?

4 A. We weren't looking for evidence. We were looking for
5 Ericka Bradley.

6 MS. ARMSTRONG: Thank you. No further questions,
7 Your Honor.

8 THE COURT: Sheriff Carter, you may step down.

9 THE WITNESS: Thank you, sir.

10 THE COURT: You may call your next witness.

11 MS. ARMSTRONG: Your Honor, the State would like
12 to call Sarah Smith to the stand.

13 THE COURT: Ms. Smith, I'm going to ask if you
14 could come forward as the clerk provides the Bible and
15 swears you in. Just come around this way over here.

16 SARAH ANN SMITH, having been duly sworn, was
17 examined and testified as follows:

18 THE COURT: Ms. Smith, have a seat in the witness
19 chair right here. I'm going to ask you to speak loudly,
20 clearly and slowly.

21 THE WITNESS: Yes, sir.

22 THE COURT: State your full name.

23 THE WITNESS: Sarah Ann Smith.

24 THE COURT: Very good. Thank you.

25 THE WITNESS: You're welcome.

SARAH SMITH - DIRECT

DIRECT EXAMINATION

BY MS. ARMSTRONG:

Q. Good afternoon, Ms. Smith.

A. Good afternoon.

Q. Can you tell the jury what you do for a living?

A. I manage the Hardee's here in Allendale, South Carolina.

Q. How long have you been in that position?

A. At this particular Hardee's, ten years.

Q. And what are your duties in that position?

A. I manage and I direct the employees, instruct them to do the jobs that is required of them.

Q. Okay. Were you at a different Hardee's before this one here in Allendale?

A. Yes.

Q. And you do work -- which Hardee's do you work for now?

A. The Allendale County Hardee's.

Q. Okay. Did you know Ericka Bradley?

A. Yes.

Q. How so?

A. She was an employee of mine.

Q. What type of employee was she?

A. She was an outgoing employee. She always wore a smile on her face. She never gave me any problems. She always did what I asked her to do.

SARAH SMITH - DIRECT

1 Q. Was she usually on time for work?

2 A. Usually, except for on rare occasions.

3 Q. And on those occasions, would she have some type of
4 rational excuse for --

5 A. Yes, she did.

6 Q. Did she work well with others?

7 A. She did.

8 Q. Was she ever in a bad mood?

9 A. Um.

10 MR. GIPSON: Object.

11 THE COURT: I'll sustain the objection. I'm
12 going to allow you to do that to some extent. Just ask a
13 direct question.

14 MS. ARMSTRONG: Yes, Your Honor.

15 BY MS. ARMSTRONG:

16 Q. When is the last date that Ericka showed up for work?

17 A. On November 6th.

18 Q. Were you working that day?

19 A. I worked earlier, an earlier shift that day.

20 Q. I'm going -- I need to mark that. I'm going to show
21 you what's been marked as State's Exhibit 157 for
22 identification purposes only. Do you recognize that
23 document?

24 A. Yes.

25 Q. Can you tell me what it is?

SARAH SMITH - DIRECT

1 A. It a clock-in and -out activity report that is used at
2 our store to record if an employee is actually, have
3 worked her hours for that day and if they've already
4 clocked out for that day.

5 Q. And how is that report made?

6 A. It is made by our home office. When an employee
7 clocks in it records it in the computer by e-mail and it
8 sends it to the home office and it remains in our computer
9 for, like, 90 days so that way we can go back and verify
10 if someone said they worked these particular hours, we can
11 always go back and see if they worked those particular
12 hours for that day.

13 Q. So it's a computer-generated document?

14 A. It is a computer -- yes.

15 Q. Have you had a chance to look at this document here
16 before today?

17 A. This one particular, no, I have not looked at but I do
18 look at them daily, different documents of this kind
19 actually.

20 Q. Well, can you take a look at that for me now?

21 A. Yes. It says employee, as I stated before, it has
22 clock-in and -out activity of any and all employees that
23 worked that particular day.

24 Q. This is a fair and accurate representation of how your
25 employee hour summary always looks?

SARAH SMITH - DIRECT

1 A. Yes.

2 MS. ARMSTRONG: Your Honor, at this time I'd like
3 to offer State's Exhibit Number 157 into evidence.

4 MR. GIPSON: Without objection, Your Honor.

5 THE COURT: State's Exhibit 157 is in evidence
6 without objection from the defense.

7 (Thereupon, State's Exhibit No. 157, Hardee's
8 time records, was submitted into evidence.)

9 BY MS. ARMSTRONG:

10 Q. Can you tell me what time Ericka came to work on
11 November 6, 2006?

12 A. It says she clocked in one minute before five p.m.
13 which she was scheduled to come in that particular day at
14 five p.m.

15 Q. And can you tell me what time she left that evening?

16 A. She clocked out at 22:45 on that particular day which
17 is 9:45 in the p.m.

18 Q. 22:45. Are you sure that's 9:45?

19 A. 9:45 -- 10:45. Excuse me.

20 Q. That's okay.

21 A. I'm sorry.

22 Q. That's quite all right. And do you know when Ericka
23 was next scheduled to work?

24 A. She was supposed to work the following week. She was
25 supposed to return to work, I'm not sure of the exact date

SARAH SMITH - DIRECT

1 but she was on the schedule to return to work the
2 following week.

3 Q. Okay. I'm going to show you what's been marked as
4 State's Exhibit 158 for identification purposes. Do you
5 recognize this document?

6 A. Yes.

7 Q. Can you tell the Court what it is?

8 A. It is a weekly work schedule that was prepared by
9 myself every week and then placed in the computer to come
10 out to look like a computerized item.

11 Q. Did you in fact create that document?

12 A. Yes, I did.

13 Q. Is it a fair and accurate representation of the
14 document you created?

15 A. Yes.

16 Q. At this time, Your Honor, I'd like to offer State's
17 Exhibit Number 158 into evidence.

18 MR. GIPSON: Without objection.

19 THE COURT: State's Exhibit 158 is in evidence
20 without objection.

21 (Thereupon, State's Exhibit No. 158, weekly work
22 schedule-Hardee's, was received into evidence.)

23 BY MS. ARMSTRONG:

24 Q. After reviewing the schedule, can you now tell the
25 jury what the dates Ericka was next scheduled to work

SARAH SMITH - DIRECT

1 after November 6, 2006?

2 A. She was due to return to work on November the 9th,
3 2006.

4 Q. Did she return to work on that date?

5 A. No, she did not.

6 Q. Did she call?

7 A. No, she did not.

8 Q. Was she scheduled any other days after that?

9 A. Yes, she was scheduled through November the 12th of
10 2006.

11 Q. Did she come in any of those days?

12 A. No, she did not.

13 Q. Did you hear from her any of those days?

14 A. No, I did not.

15 Q. Ms. Smith, let me ask you: Are all of your employees
16 on the same pay schedule or does it --

17 A. It fluctuates.

18 Q. Generally, how often does an employee get paid?

19 A. Get paid?

20 Q. Yes.

21 A. Every two weeks.

22 MS. ARMSTRONG: Your Honor, may we approach for a
23 second?

24 THE COURT: Yeah.

25 (Off-the-record discussion.)

SARAH SMITH - DIRECT

1 (Thereupon, State's Exhibit No. 159, copy of
2 payroll checks, was marked for identification.)

3 BY MS. ARMSTRONG:

4 Q. Ms. Smith, I'm going to show you State's Exhibit 159.
5 Can you review those and tell me if you recognize those
6 items?

7 A. This is a payroll check that was issued or that was
8 supposed to have been picked up by Ms. Ericka Bradley.

9 Q. Can you tell me the dates on those two checks?

10 A. It's payroll ending, the check date was made for
11 11-10-06.

12 Q. And there's another one on the following page?

13 A. And let's see. And this one is dated 11-24-06.

14 Q. Just as a matter for the jury, did Ericka usually come
15 and pick up her own paycheck?

16 A. Yes, she did.

17 Q. Did she come to pick these up?

18 A. No, she did not.

19 Q. Do you know who came and picked them up for her?

20 A. Her grandmother.

21 MS. ARMSTRONG: Ask the Court's indulgence for a
22 moment.

23 No further questions for this witness, Your
24 Honor.

25 THE COURT: Cross-examination.

SARAH SMITH - CROSS

1 MR. GIPSON: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. GIPSON:

4 Q. Good afternoon, Ms. Smith.

5 A. Good afternoon.

6 Q. What was Ericka's position over at Hardee's?

7 A. Cashier.

8 Q. Cashier?

9 A. Yes.

10 Q. And the particular date that we're talking about which
11 is November 6, 2006, were you her manager? Well, you were
12 the manager of the entire Hardee's; correct?

13 A. Yes.

14 Q. Were you her manager that particular evening? Were
15 you there on site?

16 A. No, I was not.

17 Q. Who was there on site with her that evening?

18 A. Ms. Alva Carter.

19 Q. And are you aware of the circumstances surrounding why
20 she clocked out before eleven o'clock?

21 A. Yes.

22 Q. What were those?

23 A. There was an altercation between her and one of her
24 fellow workers.

25 Q. An altercation?

SARAH SMITH - CROSS

1 A. Yes. They had gotten into an argument and I was
2 called, and I said they both needed to go home, clocked
3 them out and I send them home.

4 Q. So she didn't just leave, had to go, she left because
5 she was sent home?

6 A. Right. She left because she was sent home.

7 Q. And as a result of being sent home, is there any type
8 of paperwork or anything that you do at that point in
9 time?

10 A. Both of them was written up on verbal warnings for
11 horseplaying on that particular night because it started
12 out with them teasing one another and one got, it got out
13 of hand with the other and.

14 Q. It caused a scene; didn't it?

15 A. It did.

16 Q. And one thing that you don't like when you're
17 managing, you know, a restaurant is to cause a scene?

18 A. Correct.

19 Q. And to make other people or patrons feel
20 uncomfortable?

21 A. Correct.

22 Q. You did what a good manager would do and send them
23 both home?

24 A. Yes.

25 Q. Almost like a parent with a child?

SARAH SMITH - CROSS

1 A. Yes.

2 Q. Now in that situation, are you aware of any complaints
3 being lodged against anyone in particular that evening?

4 A. No.

5 Q. Now, and is there a process that Hardee's has, when a
6 complaint's filed?

7 A. Yes. That employee is terminated, yes.

8 Q. All right. And you're not aware of any complaints
9 being filed that particular evening?

10 A. No.

11 Q. Now normally if you close or during closing time --
12 let's say you all close at eleven o'clock Monday through
13 Thursday; is that about right?

14 A. Actually Sunday through Thursday.

15 Q. Sunday through Thursday?

16 A. Uh-huh.

17 Q. You don't just leave at eleven o'clock, do you?

18 A. No.

19 Q. There's a lot to be done?

20 A. Yes.

21 Q. What are those things that have to be done?

22 A. There are dishes that have to be washed, floors have
23 to swept and mopped, trash have to be changed and actually
24 stocking up for the next day.

25 Q. And in average time, I mean you've been managing there

SARAH SMITH - REDIRECT

1 for ten years, so the average time for that kind of clean
2 up is, what?

3 A. An hour.

4 Q. So if you're scheduled to get off at 11, most times
5 you get off at 12, essentially?

6 A. Right.

7 Q. Now isn't it true that if you clock out, that just
8 means you're off the clock; correct?

9 A. Correct.

10 Q. It doesn't mean that you've left the premises?

11 A. No, it doesn't.

12 Q. What time did Ericka Bradley leave the premises on
13 11-6-06?

14 A. I was told by my manager, Ms. Abercrombie --

15 Q. We can't get into what you were told by others. But
16 from your independent knowledge, I mean -- and if you
17 don't know, that's okay. You can say that.

18 A. Around about 30 minutes after she clocked out.

19 Q. So about 11:15?

20 A. Maybe.

21 Q. Okay.

22 MR. GIPSON: That's all my questions, Your Honor.

23 THE COURT: Any redirect?

24 MS. ARMSTRONG: Very briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. ARMSTRONG:

2 Q. Can you tell me one more time, what time Ericka
3 Bradley clocked out work that day?

4 A. She clocked out at 11, yeah, 11:45.

5 Q. Do you want to check the records one more time?

6 A. Let me check. It's kind of hard to remember and it's
7 kind of -- okay. 22:45 in the p.m.

8 Q. And that was on what date?

9 A. That was on 11-6.

10 Q. Thank you.

11 A. You're welcome.

12 MS. ARMSTRONG: No further questions, Your Honor.

13 THE COURT: Thank you. You may call your next
14 witness.

15 MR. PEARSON: Your Honor, may we approach first?

16 THE COURT: You're free to leave at this time.

17 THE WITNESS: Thank you.

18 (Off-the-record discussion.)

19 THE COURT: Madam Forelady, ladies and gentlemen
20 of the jury, y'all have worked very hard today. We've
21 made a lot of progress. I anticipate that the State will
22 have a couple more witnesses before they rest. We will
23 address that issue in the morning.

24 Once again, I'm going to advise, direct and order
25 that you not watch any news coverage. There's going to be

1 television, radio and newspaper. Divert your attention in
2 that regard.

3 Do not discuss the case amongst yourselves or
4 with anyone else.

5 Do not do any independent investigation of sites
6 that you have heard mentioned here today or speak with
7 anyone about the facts and matters which have been
8 testified to here today.

9 I ask that you be back early in the morning.
10 We're going to start at nine o'clock. Once again, don't
11 tarry around in the anteroom or in the common area out
12 there. Come directly to the jury room. Avoid any
13 inadvertent contact.

14 Once again, if anyone were to contact you, let me
15 know and I'll deal with them accordingly. You're free to
16 leave at this time. Do not discuss the case amongst
17 yourselves or with anyone else.

18 (Jury exits courtroom at 4:33 p.m.)

19 THE COURT: Everyone remain seated as the jury
20 exits the courtroom.

21 All right. Before we go any further, Mr. Gipson,
22 I understand we have maybe one more witness in the morning
23 and since we have a little bit of time, I want to take
24 this opportunity to talk with you about your client and
25 his decision in regard to whether or not he would

1 testify. I'm going to ask if you could to have your
2 client stand where he is, raise his right hand as the
3 clerk administers the oath.

4 (Defendant placed under oath.)

5 THE COURT: Mr. Maner, are you under the
6 influence of any drugs or alcohol here today?

7 THE DEFENDANT: No, sir.

8 THE COURT: Are you experiencing any kind of
9 physical or mental problem that would prevent you from
10 understanding what we're doing here today?

11 THE DEFENDANT: No, sir.

12 THE COURT: We have reached the stage in this or
13 very near to the stage in this case where the State is
14 going to rest and you're going to have an opportunity to
15 present witnesses and testimony on your own behalf.

16 My inquiry is specifically to you. You have an
17 opportunity to take the witness stand if you want to, but
18 in order for you to make that decision you need to know
19 about your constitutional rights. The Fifth Amendment of
20 the United States Constitution says that no person shall
21 be compelled in any criminal case to be a witness against
22 himself.

23 You can't be required to take the witness stand.
24 Mr. Pearson, Ms. Armstrong, they can't call you to the
25 witness stand. Mr. Gipson can't require that you get on

1 the witness stand. You can talk with Mr. Gipson, your
2 lawyer, about this matter. He can advise you as to what
3 he thinks would be in your best interests from a strategic
4 standpoint. That's not his right.

5 It's your constitutional right. You have to make
6 that decision. One thing that you need to be made aware
7 of is that if you take the witness stand you heard
8 witnesses testify here in this trial and the witnesses who
9 are called to the witness stand, if you were called to the
10 witness stand, Mr. Gipson would ask you what we call
11 softball questions. He would ask you things to elicit
12 whatever information which would support any defense that
13 you might have.

14 But just like other witnesses who have come forth
15 in this trial, you'd be subjected to cross-examination
16 questions. I refer to those as hard balls, where they ask
17 you very pointed questions and cross-examine you. You
18 would, just like the other witnesses, would be subjected
19 to cross-examination.

20 In addition to that, if you have a criminal
21 record and I haven't been informed whether you do or not
22 but if you have a record for something more than a year or
23 a crime of moral turpitude and I make an independent
24 determination that the probative value outweighs the
25 prejudicial value, those criminal offenses can be

1 introduced against you.

2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand if you don't take
5 the witness stand those matters won't come out? Do you
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. If you decide to take the
9 witness stand, it must be your decision. It must be made
10 freely, voluntarily and intelligently, with knowledge of
11 your constitutional rights particularly those included in
12 the Fifth Amendment.

13 Have you had an opportunity to discuss this
14 matter with your lawyer?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand the rights that
17 I've explained to you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you have any questions about your
20 Fifth Amendment rights and your right to remain silent?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: All right. Do you wish to testify?

23 MR. GIPSON: Your Honor, if I may, could we
24 discuss those matters and inform the Court in the
25 morning?

1 THE COURT: You certainly may.

2 MR. GIPSON: Thank you, Your Honor.

3 THE COURT: Any questions that you have,
4 Mr. Maner, about your constitutional rights?

5 THE DEFENDANT: No, sir.

6 THE COURT: Very good. All right. Thank you.
7 We'll address that issue in the morning.

8 MR. GIPSON: Yes, sir.

9 THE COURT: Anything from the State?

10 MR. PEARSON: Nothing further from the State,
11 Your Honor.

12 THE COURT: Anything further from the defense?

13 MR. GIPSON: Just generally, Your Honor, I have
14 spoken with Dr. Bennett.

15 As I informed the Court, we moved a lot faster in
16 this case than I anticipated. I informed him that we may
17 need him and potentially other defense witnesses around
18 two tomorrow. So we're going to try to restructure that
19 and be available much earlier.

20 Dr. Bennett informed me today that he would need
21 to do some testing of the hair in the car. I came back
22 out and informed Mr. Pearson. So just wanted to inform
23 him of that. And I'm sure that if, you know, if need be
24 in presenting the case and I believe that he will, I know
25 he'll be subject to any examination that Mr. Pearson or

1 Ms. Armstrong sees fit.

2 But I have advised him of that fact. I'm
3 sure he'll bring all of the appropriate information to
4 support his findings from.

5 THE COURT: Okay.

6 MR. PEARSON: Obviously, Your Honor, if he
7 prepares any sort of report we would like to see it before
8 he gets on the stand.

9 MR. GIPSON: Yes.

10 MR. PEARSON: That's the only thing we request.

11 THE COURT: Certainly.

12 MR. PEARSON: All right.

13 THE COURT: Hearing nothing, we will stand
14 adjourned until nine o'clock in the morning. Nine
15 o'clock. Let's be here early so we can get started on
16 time.

17 MR. PEARSON: Yes, sir.

18 THE COURT: Very good.

19 END OF DAY: 4:45 P.M.

20 * * * *

21 ON THURSDAY, FEBRUARY 12, 2009 AT 9:04 A.M.:

22 THE COURT: Anything from the State before we
23 proceed?

24 MR. PEARSON: Yes, Your Honor. Very briefly. I
25 spoke to our witness. We discussed this matter in

1 chambers. There is some audiotape evidence. The witness
2 had indicated to me she wishes to hear the evidence prior
3 to taking -- to re-listening to her taped conversations
4 prior to her taking to the stand. I would ask the Court
5 for about ten minutes to allow her to do that.

6 THE COURT: Do we have another witness we can
7 call?

8 MR. PEARSON: This will be the last witness for
9 the State.

10 THE COURT: All right. Very good. We will
11 indeed do that then.

12 MR. PEARSON: If I -- do -- should I bring her in
13 to listen to it on the stand or can I just take her to a
14 room and let her do that?

15 THE COURT: I think you can probably take her in
16 a room. Can we have the forelady of the jury out?

17 THE BAILIFF: Forelady?

18 THE COURT: Bring the forelady out, yes.

19 THE BAILIFF: Yes, sir.

20 (Madam Forelady of the jury enters courtroom at
21 9:06 a.m.)

22 THE COURT: Madam Forelady, you can just stand
23 right there. I want to let you know we're all here. We
24 have one legal matter to attend to. Thank you for y'all
25 being here and being on time. I anticipate we'll be

1 starting in about ten minutes.

2 MADAM FORELADY: All right. Thank you.

3 THE COURT: Thank you.

4 (Forelady exits courtroom.)

5 THE COURT: I did not -- they can't discuss that
6 in the jury room.

7 MR. GIPSON: Yes, sir.

8 THE COURT: In fact, I did not do that. I would
9 ask your client if he can stand. I'm going to go over his
10 rights to take the witness stand in toto in order to make
11 the record very clear in that regard.

12 MR. GIPSON: Yes, sir.

13 THE COURT: Mr. Maner, here shortly the State is
14 going to rest. We've got one more witness and then you'll
15 have an opportunity to present your defense. As a part of
16 your defense, you are going to be called upon to make the
17 decision as to whether or not you're going to take the
18 witness stand.

19 You need to understand that the United States
20 Constitution, the Fifth Amendment, says: No person shall
21 be compelled in any criminal case to be a witness against
22 himself. You cannot be required to take the witness
23 stand, however, if you want to, you can.

24 It's your constitutional right. You have an
25 absolute right to take the witness stand. You can confer

1 with your family, you can confer with your lawyer, but
2 that's your decision. It's your fundamental right.
3 Nobody can take that from you.

4 If you do take the witness stand, as we discussed
5 yesterday, your lawyer will ask you direct questions but
6 you, like the other witnesses who have testified, will be
7 subject to cross-examination. Very pointed questions,
8 more difficult questions.

9 If you have a criminal record, some of those
10 crimes will be introduced against you. If they're crimes
11 of moral inturpitude, if they're greater than one year
12 potential penalty or greater than one year in prison and
13 if they aren't too old. If I make the independent
14 determination that the probative value outweighs the
15 prejudicial value, those convictions could be introduced
16 against you.

17 If you decide to take the witness stand, your
18 decision must be your decision. Must be made freely,
19 voluntarily, intelligently with the knowledge of your
20 fifth amendment rights. However if you decide not to take
21 the witness stand, I'm going to specifically instruct the
22 jury that they can't hold that against you.

23 You don't have to testify. You don't have to
24 prove anything. Not only can they not hold that against
25 you, I'm going to give them a specific instructions that

1 they can't even discuss that in the jury room. Do you
2 understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. I've talked with you on
5 two different occasions about your right to take the
6 witness stand. Have you been engaging your lawyer in
7 conversations about this matter?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Have you understood all of your
10 conversations with him?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Have you understood what I've told
13 you here today?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you have any questions?

16 THE DEFENDANT: No, sir.

17 THE COURT: Very good. I'll call upon you at the
18 appropriate time and make the determination whether or not
19 you're going to take the witness stand. Thank you, sir.

20 THE DEFENDANT: Thank you, Your Honor.

21 MR. GIPSON: Thank you, Your Honor.

22 THE COURT: We're ready for the jury.

23 (Jury enters courtroom at 9:20 a.m.)

24 THE COURT: Madam forelady, ladies and gentlemen
25 of the jury, good morning. We're ready to proceed forward

MADOREE PIPKINS - DIRECT

1 with the trial. Mr. Pearson, you're recognized.

2 MR. PEARSON: Thank you, Your Honor. At this
3 time the State calls Madoree Pipkins.

4 THE COURT: Ms. Pipkins, please come forward.

5 MADOREE PIPKINS, having been duly sworn, was
6 examined and testified as follows:

7 THE COURT: Yes, ma'am. Have a seat on the
8 witness chair there. I'm going to ask you to pull up real
9 close to that microphone. Speak loudly, clearly and
10 slowly so that everything can hear what you've got to
11 say. Mr. Pearson.

12 MR. PEARSON: Thank you.

13 DIRECT EXAMINATION

14 BY MR. PEARSON:

15 Q. Ms. Pipkins, could you tell the jury where you're
16 from?

17 A. I'm from Temecula, California.

18 Q. California. What brings you to South Carolina?

19 A. I got a scholarship to attend Benedict College.

20 Q. When did you first start attending Benedict?

21 A. In August of 2007.

22 Q. Are you still enrolled there?

23 A. Yes.

24 Q. Ms. Pipkins, do you know the Defendant, Derek Maner?

25 A. Yes, I do.

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1 Q. Please explain to the jury how you know the
2 Defendant.

3 A. Derek and I met in August 2007. We had the same class
4 together at school and we started dating in October 2007.

5 Q. Ms. Pipkins, are you still dating the Defendant?

6 A. No.

7 Q. When did you stop dating?

8 A. Shortly after he was released.

9 Q. When you say shortly after he was released, released
10 from where?

11 A. From jail.

12 Q. Do you know why he was in jail?

13 A. Yes.

14 Q. Could you please tell the jury why?

15 A. He was charged.

16 Q. Charged with?

17 A. Murder.

18 Q. Do you know whose murder?

19 A. Ericka Bradley.

20 Q. I'd like to talk to you very briefly about this time
21 that you just testified the Defendant was in jail. If you
22 could, did you have any contact with the Defendant during
23 this time?

24 A. Yes.

25 Q. How did you have contact with him?

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1 A. He called me. He called me quite frequently and I saw
2 him once a week and I wrote him letters every day.

3 Q. Now when you say you saw him -- once a week?

4 A. Yes.

5 Q. When you saw him once a week, where would that take
6 place?

7 A. At Hampton County Jail.

8 Q. The Hampton County Jail?

9 A. Yes.

10 Q. Do you know if that's where the Defendant was being
11 housed at that time?

12 A. I'm sorry. I didn't --

13 Q. Do you know if that's where he was staying at that
14 time?

15 A. Yes.

16 Q. Do you know approximately what time period this is?

17 A. Probably April until November.

18 Q. April to November of what year?

19 A. 2007.

20 Q. Let me make sure I understand this. You met him in
21 August of 2007, but you were visiting him in April of
22 2007?

23 A. Yes.

24 Q. Are you sure?

25 A. I met him August 2007 while we were in class

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1 together. We became friends, and he was arrested in April
2 3rd. That was -- had to have been a year later.

3 Q. So would that be 2008?

4 A. I think it was 2008.

5 Q. You think? Or, I'm just trying to get the time
6 frame.

7 A. You're confusing me. Obviously you're confusing me.
8 I met him -- I met him in August.

9 Q. Okay.

10 A. We started dating in October. He was arrested in
11 April.

12 Q. Of the following year?

13 A. Of -- yes.

14 Q. That was all I'm asking.

15 A. Okay.

16 Q. So you met him in August of 2007. Does that mean
17 you're speaking about April of 2008?

18 A. Yes.

19 Q. Okay. Now, when you visited would you drive all the
20 way down back and forth from Columbia to the Hampton
21 County Jail?

22 A. I'd drive sometimes. At first I didn't. I would
23 drive to his mother's house and we would go together to
24 visit him. And then after I, after I could make it
25 myself, I would follow her sometimes.

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1 Q. Uh-huh.

2 A. Or if I had class, I would come and leave the same day
3 so I could make it back to class.

4 Q. Are you still on good terms with the Defendant?

5 A. Yes.

6 Q. You also testified that you received phone calls from
7 the Defendant. How do you know that you received phone
8 calls from him?

9 A. Because it says. When he calls it says, you're
10 receiving a phone call from inmate, says the name, do you
11 accept.

12 Q. Did you recognize his voice --

13 A. Yes.

14 Q. -- on the other side?

15 A. Yes, I did.

16 Q. Did you know anybody else that was in the Hampton
17 County Jail at that point?

18 A. No.

19 Q. How often would you speak with the Defendant during
20 this time period?

21 A. Probably once a day for about two to five minutes.

22 Q. Would you say you were familiar with his voice?

23 A. Yes.

24 Q. During this period of time when you were talking to
25 the Defendant on the telephone from the jail, did he ever

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1 ask you to do anything for him?

2 A. Yes.

3 Q. Could you please explain to the jury what he asked you
4 to do for him?

5 A. He asked me to do a couple of things for him.

6 Q. Please tell us what he asked.

7 A. He asked me to write a letter to find out why he was
8 administratively withdrawn from school. He asked me to
9 find out why he couldn't come back to school. He asked me
10 to get shoes for him when he came back. He asked me to
11 find out exactly what was stolen from his room. He asked
12 me to find out -- he asked me to go get some jewelry. He
13 asked me to make sure that I would contact his mom every
14 day because he called me more than he called his mom.

15 He asked me to do a lot.

16 Q. Let's talk specifically about when he asked you to go
17 get some jewelry. Where exactly did he ask you to go get
18 this jewelry from?

19 A. He asked me to go towards, to Lake Warren.

20 Q. Do you know where Lake Warren is?

21 A. I know now. I didn't know then.

22 Q. He asked you to go to Lake Warren and what else?

23 A. He asked me to go to Lake Warren and to locate a brown
24 building which there would be a flower pot -- or, yeah, a
25 flower pot. Inside the flower pot there'd be jewelry. He

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1 asked me to pick it up for him. He said the jewelry was
2 from someone who was incarcerated.

3 Q. Now you said Lake Warren in a flower pot. Is the
4 flower pot the name of a store? Is it a store we're
5 talking about? I'm a little confused.

6 A. I don't know what he's talking about. I thought it
7 was a house.

8 Q. All right. Now, you say that he told you that he
9 bought this jewelry from someone incarcerated?

10 A. Yes.

11 Q. When did he tell you that?

12 A. When? I'm not exactly sure. Either when I went to go
13 see him or over the phone.

14 Q. Now, Ms. Pipkins, did you have the opportunity to
15 review telephone conversations that took place between
16 yourself and the Defendant?

17 A. Yes.

18 Q. Is it your testimony now that he told you during those
19 phone calls that he was telling you to go get some
20 jewelry?

21 A. Can you rephrase the question?

22 Q. Sure. Did he tell you during one of your phone
23 conversations with him that it was jewelry that you were
24 supposed to go pick up?

25 A. No.

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1 Q. He didn't say that during the phone conversations?

2 A. No.

3 Q. During those phone conversations, does he tell you
4 specifically at all what you're supposed to go get?

5 A. No.

6 Q. Did you go out and search for this jewelry?

7 A. Yes.

8 Q. Did you go by yourself?

9 A. No.

10 Q. Who went with you?

11 A. His brother, Donald.

12 Q. Could you please tell the jury the circumstances
13 surrounding your looking for this jewelry?

14 A. Can you rephrase your question?

15 Q. Sure. Could you please explain to the jury what
16 happened when you went to look for the jewelry?

17 A. Sure. Donald and I went to Lake Warren to go find the
18 jewelry. We didn't. We drove on the Allendale-Hampton
19 Highway going from Allendale to Hampton. We saw the signs
20 for Lake Warren so we beared off. And we got -- we saw --
21 we was driving and we saw the lake.

22 And so we were driving around the lake but we didn't
23 see anything. And we got lost. So on the way back we had
24 to get directions. And we stopped, we stopped cops and
25 they helped us get back on the highway. We came back

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1 home.

2 Q. Were you able, were you ever able to locate this
3 jewelry?

4 A. No.

5 Q. Did you discuss that with the Defendant?

6 A. Yes.

7 Q. And what did he tell you when you said you couldn't
8 find it?

9 A. Well, he told me to go back --

10 MR. GIPSON: Objection. (Inaudible.)

11 THE COURT: I'm sorry. What?

12 MR. GIPSON: He's a party defendant.

13 THE COURT: Overruled.

14 THE WITNESS: Well, he asked me to go back.

15 BY MR. PEARSON:

16 Q. Yes. He asked you to go back to do what?

17 A. To go find it.

18 Q. Did he give you directions as to where it was?

19 A. He gave me the best directions he could. He got the
20 instructions from the person he bought the jewelry from.

21 Q. Who did he buy this jewelry from?

22 A. He didn't give me a name.

23 Q. No name?

24 A. Not at the time. I know now.

25 Q. Did he instruct you to do anything with the jewelry

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1 once you found it?

2 A. He asked me, he told me to wipe it off, to keep it,
3 and to take it home with me, it was mine.

4 Q. To wipe the jewelry off?

5 A. Yes.

6 Q. Did he tell you anything else?

7 A. No.

8 Q. Are you certain?

9 A. Unless you have something else that can refresh my
10 memory.

11 Q. I do.

12 MR. PEARSON: Your Honor, may we approach?

13 (Off-the-record discussion.)

14 BY MR. PEARSON:

15 Q. Ms. Pipkins, isn't it true that the Defendant, Derek
16 Maner, asked you to take the jewelry, to take a rag, to
17 wipe it down, to take it back with to you California and
18 to not tell anyone where you got it from?

19 A. Yes.

20 Q. Beg the Court's indulgence.

21 Ms. Pipkins, you testified just a little while ago
22 that you began dating the Defendant in 2007. Did he
23 mention to you that he had a child at that point?

24 A. Yes.

25 Q. Did he ever make any mention of the child's mother?

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1 A. Yes.

2 Q. What did he tell you?

3 A. Well, when we were friends, like I said, and when we
4 began dating he told me that he had a son who was
5 approaching two, two years old. And he told me that when
6 his son turned six months old that his girlfriend
7 disappeared and that he hadn't heard from her, that he
8 didn't know where she was, and that he didn't have
9 anything to do with it.

10 He told me this because he wanted me to know, he
11 wanted me to know and he wasn't hiding anything. He
12 wanted me to know that he didn't have anything to hide.

13 MR. PEARSON: Beg the Court's indulgence.

14 Nothing further for this witness, Your Honor.

15 THE COURT: Cross-examination, Mr. Gipson.

16 MR. GIPSON: If it please the Court, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. GIPSON:

19 Q. Ms. Pipkins, interestingly enough, you said prior to
20 you and Derek even formally beginning to date he told you
21 these things?

22 A. Yes.

23 Q. He did that to lay his cards on the table?

24 A. Yes, sir.

25 Q. He told you everything about this situation; correct?

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1 A. Yes.

2 Q. Did he at any point in time ever tell you that he had
3 done anything criminal to Ericka Bradley?

4 A. No.

5 Q. Did he suggest that he had done anything to murder
6 her, hurt her in any way, shape or form?

7 A. No.

8 Q. Did he ever tell you that he had hit her with a car?

9 A. No.

10 Q. Did he ever tell you that he tried to hide her body or
11 do anything along those lines?

12 A. No.

13 Q. In fact, he told you that she was missing and he had
14 nothing to do with it; correct?

15 A. Yes.

16 Q. And you all dated after that point; correct?

17 A. Yes.

18 Q. And at that point you also had an opportunity to meet
19 his family and his son; correct?

20 A. Yes.

21 Q. And you were dating in April of 2008; correct?

22 A. Yes.

23 Q. And that's the time when he was arrested; wasn't it?

24 A. Yes.

25 Q. When he was arrested he was arrested in his room at

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1 Benedict College; correct?

2 A. Yes.

3 Q. And they took him out of his room in handcuffs, walked
4 him through campus and put him in the back of a police
5 car?

6 A. Yes.

7 Q. And you witnessed that?

8 A. Yes.

9 Q. Was there anybody in this courtroom from law
10 enforcement who was there when that took place?

11 A. Yes.

12 Q. Can you point that person out?

13 A. Right there. Special Agent Richard Johnson.

14 Q. Special Agent Richard Johnson?

15 A. Yes.

16 Q. He was there the day that Derek was arrested?

17 A. Yes.

18 Q. Did you have an opportunity to see or meet with him on
19 a later occasion?

20 A. Yes.

21 Q. When was that?

22 A. This is during -- while I was still in school, about a
23 week after fall break. I was -- went to my Monday morning
24 class and classes started and I had two Benedict Police
25 Officers come to class, escort me out. I grabbed all my

MADOREE PIPKINS - CROSS

1 belongings and they led me to the back of a police car.

2 Q. So let's take this piece by piece. You were in class,
3 you said, an eight o'clock class; right?

4 A. Ten o'clock class.

5 Q. I'm sorry. Ten o'clock class. But you were in your
6 classroom and two police officers came in the class?

7 A. Yes.

8 Q. And what happened?

9 A. They instructed me to follow them. They wouldn't give
10 me any information, and they led me to the back of a
11 police car. They treated me like a criminal.

12 Q. Had you done anything criminal?

13 A. No.

14 Q. What happened next?

15 A. I told them I wasn't going to get in the back of a
16 police car because I wasn't going to look like a
17 criminal. They let me sit in the front and we drove from
18 my building, the Fine Arts building to Starks Building,
19 which is the headquarters of Benedict College Police.

20 Q. What happened when you got to the Starks Building, the
21 headquarters of the Benedict College Police?

22 A. They led me to the investigation room where Special
23 Agent Richard Johnson was waiting for me.

24 Q. So essentially at his direction they pulled you out of
25 class and brought you there for questioning?

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1 A. Yes.

2 Q. All right. What happened when the questioning began?

3 A. Questioning began. He introduced himself. He showed
4 me his badge. And he started showing me photos of a
5 little blue-green car.

6 Q. Okay. And Court's indulgence a moment.

7 I'm just going to show you what's been marked as
8 State's Exhibit Number Nine, State's Exhibit Number Ten.
9 Do those look familiar to you?

10 A. Yes.

11 Q. Will you identify those for the jury, please?

12 A. This is the car. This is -- these are pictures, some
13 of the pictures that he showed me.

14 Q. What are some of the other types of pictures that he
15 showed you?

16 A. He showed me underneath the car. He showed me blown-
17 up pictures of stuff.

18 Q. Okay. Of stuff. And what is it that he led you to
19 believe based on what he was showing you or what is it?

20 A. He was trying to tell me that that was Ericka
21 Bradley. Like, first, I think he asked me if I saw
22 anything wrong with the car. I pointed out the dent. And
23 I said, well, that's when a dog was hit by the car and he
24 said, yeah, that's where a dog was hit by the car.

25 Q. So he confirmed that the dent was from a dog hitting

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1 --

2 MR. PEARSON: Objection. Calls for hearsay.

3 MR. GIPSON: It's a direct conversation.

4 THE COURT: I'll allow her to answer.

5 BY MR. GIPSON:

6 Q. He confirmed that the dent on the passenger side of
7 the car came from a dog being hit by the car?

8 A. Yes.

9 Q. Okay. And did he show you something similar to
10 Plaintiff's Exhibit -- excuse me, State's Exhibit Number
11 96 and State's Exhibit Number 51?

12 A. Yes.

13 Q. Okay. And those, and he told you what as a result of
14 showing you those pictures?

15 A. He told me that that was Ericka Bradley.

16 Q. And you -- and at that point, what did you do?

17 A. At that point I didn't believe him. And he was, he
18 asked me if I would sign, if I wanted to write a
19 statement. And I told him I didn't because I didn't want
20 to get involved in any of this.

21 I met Derek a year later and he had already told me,
22 Derek had already told me that she had been missing and he
23 was trying to get me to write something so I'd get
24 involved and I didn't feel like I wanted to have any part
25 of it.

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1 Q. Now at that point in time -- did he at any point in
2 time make any comments that made you uncomfortable?

3 A. Yes.

4 Q. Will you explain those comments?

5 A. He said to me that he was enemy number one to Derek
6 Maner and his entire family. You know you said it. You
7 know you said it.

8 MR. PEARSON: Objection, Your Honor.

9 THE COURT: All right. Yes, ma'am. You need
10 to -- the way this works, he asks the questions, you
11 provide answers and they need to be responsive to his
12 questions. Thank you very much.

13 THE WITNESS: Okay.

14 THE COURT: We don't make editorial comments to
15 one another. Do you understand?

16 THE WITNESS: Yes.

17 THE COURT: Very good. Mr. Gipson.

18 BY MR. GIPSON:

19 Q. And what else did he say?

20 A. He stated he was enemy number one to Derek Maner and
21 his family. He said that Derek needs to watch out because
22 he was on his trail. And I'm not surprised that we have
23 media cameras and stuff here because --

24 MR. PEARSON: Objection.

25 THE COURT: Objection overruled. Go ahead.

MADOREE PIPKINS - CROSS

1 THE WITNESS: He also mentioned about how he
2 turned Derek into a movie star and how the media was going
3 to be involved with him because he wanted, he wanted his
4 exposure that way. And he did it for a reason. He did it
5 on purpose.

6 BY MR. GIPSON:

7 Q. Now you've put your hand on the Bible here today;
8 correct?

9 A. Yes.

10 Q. And you've come in here to tell the truth, the whole
11 truth and nothing but the truth; correct?

12 A. Yes.

13 Q. And are you being truthful with the Court here today?

14 A. Yes.

15 Q. Do you have any reason to come in here and shade your
16 testimony or tell something that's untrue?

17 A. No.

18 Q. Now in reference to this jewelry that's been talked
19 about, why did you go out there looking for jewelry? You
20 said in a --

21 A. Flower pot.

22 Q. In a flower pot. What sense does that make?

23 A. Derek told me that he bought the jewelry and he asked
24 me to go pick it up for him.

25 Q. You said later you found out who he bought it out

MADOREE PIPKINS - CROSS

1 from.

2 A. Yes.

3 Q. Who?

4 A. Dawan Doe.

5 Q. He told you at that point in time he bought the
6 jewelry from Dawan Doe and wanted you to do, what?

7 A. To pick it up and to keep it.

8 Q. Why didn't you feel that it was out there and you'd be
9 going and looking for it in a flower pot?

10 A. Because I thought it was someone's house. I thought
11 that it was someone's house and they wouldn't be home like
12 how if you leave a key underneath the rug or in a fake
13 rock, you want somebody to get it. I thought that it was
14 just left there for me.

15 Q. Did you do anything criminal?

16 A. No.

17 Q. Did Derek tell you that he had done anything criminal
18 to obtain any jewelry or anything along those lines?

19 A. No.

20 Q. Did Derek ever tell you that the jewelry belonged to
21 Ericka Bradley or anything along those lines?

22 A. No.

23 Q. Now, have you had any other direct contact with law
24 enforcement or with Mr. Johnson or anyone else prior to
25 coming to court today?

MADOREE PIPKINS - REDIRECT

1 A. No.

2 Q. Are you still a student over at Benedict College?

3 A. Yes.

4 Q. And is it your plans to continue to be a student at
5 Benedict College?

6 A. Yes.

7 Q. Just ask the Court's indulgence for a moment, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. GIPSON: That's all the questions I have,
11 Your Honor.

12 THE COURT: Any redirect?

13 MR. PEARSON: Yes, Your Honor. Briefly, may we
14 approach?

15 (Off-the-record discussion.)

16 REDIRECT EXAMINATION

17 BY MR. PEARSON:

18 Q. Ms. Pipkins, is it your testimony here today in this
19 courtroom that this jewelry you were going to pick up was
20 in fact located at a house; is that your testimony?

21 A. That I thought it was a house; yes.

22 Q. Your Honor -- you've had the opportunity to review
23 these taped telephone conversations; haven't you?

24 A. Yes.

25 Q. And you've had ample opportunity to do that?

MADOREE PIPKINS - REDIRECT

1 A. Yes.

2 Q. And it is still your testimony here today that you
3 thought you were going to a house?

4 A. When I went up to Lake Warren and was looking for a
5 brown building, those -- that's all that was out there,
6 that's it, was houses.

7 Q. It's a yes or no question. Either you thought it was
8 a house or you didn't?

9 A. I thought it was a house.

10 Q. I'm going to play you a telephone conversation between
11 yourself and --

12 MR. GIPSON: Your Honor, may we approach?

13 THE COURT: Yes.

14 (Off-the-record discussion.)

15 THE COURT: Madam Forelady, ladies and gentlemen
16 of the jury, I'm going to ask that you retire to the jury
17 room. Do not discuss the case. Do not discuss the case.

18 (Jury exits courtroom at 9:49 a.m.)

19 (Off-the-record discussion. Thereafter, a break
20 was taken.)

21 THE COURT: We're ready for the jury.

22 (Jury enters courtroom at 10:03 a.m.)

23 THE COURT: Mr. Pearson, you're recognized.

24 MR. PEARSON: Yes, Your Honor.

25 BY MR. PEARSON:

MADOREE PIPKINS - REDIRECT

1 Q. Before our break you indicated that you thought you
2 were going to a house. I'm going to play a section of a
3 conversation between yourself and the Defendant

4 (Thereupon, audiotape played for the jury.)

5 BY MR. PEARSON:

6 Q. So it's your testimony today that even though it had
7 no address and he told you that it wasn't a house, that
8 you were going to a house?

9 A. Yes. Derek has never been out there. When I went out
10 there, he wouldn't know because he's never been there.
11 When I was driving out there, all I saw was houses. Those
12 are the only kind of buildings that I saw. I assumed it
13 was a house.

14 Q. So despite the fact that it had no address and it was
15 at a state park, you thought it was a house; is that your
16 testimony?

17 A. Yeah. A lot of houses around here don't have
18 addresses.

19 Q. Oh?

20 A. I'm not from around here. I just -- that's what I
21 saw. I saw a bunch of houses. I thought it was a house
22 and I didn't want to argue with him over the phone. He
23 didn't know what he was talking about. He'd never been
24 there. He had never been there.

25 Q. He's -- how do you know he's never been there?

MADOREE PIPKINS - REDIRECT

1 A. Well, if he had been there, like what I realize, Lake
2 Warren is a very, very beautiful place. And if he had
3 been there there, I'm sure he would have taken me to go
4 see it. He's taken me to other places but he's only taken
5 me to places that he's been to.

6 Q. Oh. So because he never took you that means he hasn't
7 been there?

8 MR. GIPSON: Objection, Your Honor. I would ask
9 that she be allowed to finish her answer before he --

10 MR. PEARSON: I'm sorry. I thought she was
11 finished.

12 THE COURT: I'll sustain the objection. Allow
13 her to finish.

14 THE WITNESS: He's taken me to other places that
15 he's been to. He took me to Augusta. He's taken me to
16 Aiken. Like I said, I'm not from around here. I'm from
17 the west coast. I'm over here. Anyplace that he knows, I
18 always ask him to take me. I always ask him to take me.
19 I want to see what the east coast has to offer.

20 BY MR. PEARSON:

21 Q. So because he's never taken you, that means he's never
22 been there?

23 A. Yes.

24 MR. PEARSON: Thank you. Nothing further.

25 MR. GIPSON: May we (inaudible)...

MADOREE PIPKINS - RECROSS

1 THE COURT: Pardon?

2 MR. GIPSON: May we approach for a moment, please?

3 (Off-the-record discussion.)

4 RECROSS-EXAMINATION

5 BY MR. GIPSON:

6 Q. Now, Ms. Pipkins, you said there were two
7 conversations that you had with Mr. Maner regarding
8 jewelry; correct?

9 A. Yes.

10 Q. And in the conversations that we listened to, you
11 distinctly said we went out there and didn't see anything;
12 correct?

13 A. Yes.

14 Q. That suggests that that's your second conversation;
15 correct?

16 A. Yes.

17 Q. And in there you said there was nothing out there but
18 houses; correct?

19 A. Yes.

20 Q. Did you ever say in that conversation there were
21 buildings -- you say there was nothing out there but
22 houses; correct?

23 A. Yes.

24 Q. Bottom line, when you went out there you didn't see
25 anything; correct?

1 A. Correct.

2 Q. Nothing based on any directions that you were ever
3 given; correct?

4 A. Correct.

5 Q. You didn't touch anything, didn't do anything;
6 correct?

7 A. Correct.

8 Q. Did you do anything criminal?

9 A. No.

10 Q. And where -- according to what you were told, where
11 was this jewelry from?

12 A. From Dawan Doe.

13 Q. That's all my questions, Your Honor.

14 THE COURT: You may step down.

15 MR. PEARSON: Your Honor, the State would ask
16 that this witness be released.

17 MR. GIPSON: Without objection.

18 THE COURT: You're free to go. Thank you, ma'am.
19 Mr. Pearson, you may call your next witness.

20 MR. PEARSON: Your Honor, at this time the State
21 rests.

22 THE COURT: Madam Forelady, ladies and gentlemen
23 of the jury, the State has completed the presentation of
24 their case and we're required by law and by procedure to
25 take up matters of law.

1 I'm going to ask that you retire to the jury
2 room. Once again, do not discuss the case.

3 (Jury exits courtroom at 10:11 a.m.)

4 THE COURT: Any motions at this time?

5 MR. GIPSON: If it please the Court, Your Honor,
6 I understand right now the State --

7 THE COURT: If you can speak a little bit louder
8 and maybe stand a little bit closer to the court reporter.

9 MR. GIPSON: I will, Your Honor.

10 Understanding where we are at this portion of the
11 trial, Your Honor, and the burden of proof that the State
12 has, I respectfully will request that the Court consider
13 directing a verdict of not guilty here.

14 Mr. Maner has been charged with murder. And as
15 the Court knows, the definition of murder is the unlawful
16 killing of a person with malice aforethought. And I would
17 suggest to the Court that at this point in time we have
18 not had any proof, number one, that there's been a
19 murder. Number two, that, first of all, we haven't had
20 any proof that anyone has died, whether it's been lawful
21 or not, that's not been proved.

22 Secondly, malice aforethought has not been
23 mentioned. And the State has not even begun to even touch
24 those elements. They have suggested a lot of essentially
25 suspicion is what we've been talking about this entire

1 time. There is not any proof of remains or a body of any
2 sort. We've talked about that. We've gone through
3 cadaver dogs, all of the different ways searches could be
4 done. Nothing could be found.

5 Quite honestly, Your Honor, there has not been a
6 suggestion that anything -- that if, if, and we're not
7 suggesting that it did, but if a murder occurred that it
8 happened in Allendale County.

9 I mean, we've talked about Hampton County. We've
10 talked about all these outlying areas. There has never
11 been anything that points to Allendale County. We've
12 talked about occurrences on Highway 125 suggesting it's
13 Allendale County but at no time did we say that, were you
14 at this particular place in time and it was in Allendale
15 County in this location.

16 So there's additionally a question of
17 jurisdiction. I'm aware of the corpus delicti
18 jurisprudence used in this state. And I would suggest to
19 the Court that the point in time, although corpus delicti
20 can be proven through circumstantial evidence, cases that
21 talk about it talk about a whole lot more circumstantial
22 evidence than what we're dealing with here.

23 There is a suggestion that there's blood on the
24 car in two spots. I'd suggest to the Court as if this
25 Dr. Ward claimed, you know, Ms. Bradley was run over and

1 received the trauma that he said she would have received,
2 you'd have a whole lot more blood than two spots of
3 blood. And nothing has been found.

4 In the cases that talk about corpus delicti, yes,
5 a person came up missing. However they found \$66,000 of
6 unmarked bills hidden in one of a family member's room.
7 They found blood and things in the house that suggested
8 there had been some type of struggle, some type of fight.
9 They found a lot of other evidence that tied, a lot
10 stronger tie than anything we're talking about here.

11 All we've got here, Your Honor, is a situation,
12 where -- and it's important. So I'm not saying all are
13 minimized, but what we've got here is a missing person and
14 there are two spots of DNA under the car. That's what
15 we've got and everything else is anecdotal.

16 We're here talking about jewelry now. Again
17 there's no tie-in but again, Your Honor, everything that
18 we've talked about is speculative and I just don't see
19 that's enough for a jury, to submit a question of fact to
20 the jury. It all rises to a level of suspicion.

21 THE COURT: Mr. Pearson?

22 MR. PEARSON: Yes, Your Honor. First, as this
23 Court is well aware, the standard proof, the standard for
24 a directed verdict motion is that the Court must take all
25 facts in the light most favorable to the prosecution.

1 Your Honor, in this case we've had several
2 witnesses get up and testify concerning the habits of
3 Ericka Bradley, that she would not have disappeared.
4 There has been numerous witnesses have got up and
5 testified directly from the stand that she did not
6 disappear of her own accord.

7 Also the DNA evidence is being referenced by the
8 defense in a misleading way. He keeps saying two spots.
9 What's really true is that there are two separate
10 locations that they found DNA evidence and that link is
11 very strong. We've had two expert witnesses testify, one
12 from SLED, one from Greenville, that this is in fact --
13 well, the DNA expert said that this is a female offspring
14 of Jackie and Henry Bradley. The expert we brought in
15 from Greenville said, this is Ericka Bradley's blood under
16 this car. He also testified that in order to get the
17 spray pattern in the location that it was located in, it
18 would have to be -- it would have to be placed there in
19 such a way that it would cause grave injury or death.

20 As for the jurisdiction part of the Defendant's
21 argument, Your Honor, jurisdiction has been established by
22 numerous witnesses in this case. Specifically, I asked
23 questions of Special Agent Richard Johnson, questions were
24 asked of Peter Tony Carter, Jessica Bradley, Maggie
25 Aldrich, about the location of Appleton community, about

1 the location of the Maner home where Ericka Bradley lived,
2 about the location of Highway 125 and 278.

3 In addition, Special Agent Richard Johnson took
4 the Defendant out to the spot that we also established all
5 of that is in Allendale County. That establishes the
6 jurisdiction. Obviously, the Defendant has been
7 identified by several witnesses from the stand.

8 Your Honor, at this point the State has more than
9 met its burden to take this case as a question of fact to
10 a jury. And we would respectfully ask that the
11 Defendant's motion not be granted.

12 THE COURT: Anything further, Mr. Gipson?

13 MR. GIPSON: Just briefly, Your Honor. I mean,
14 Mr. Pearson speaks about the two experts. It's just
15 curious that one is the medical examiner who's never set a
16 foot in Allendale regarding this case. Essentially
17 discredited the DNA expert by saying essentially her
18 science was nothing, is what it boiled down to.

19 And you've got the State's own witnesses
20 quibbling about whether or not the DNA was done properly.
21 He's not an expert. She's the DNA expert (inaudible) --
22 her testimony is essentially nothing and then he even
23 tries to rely on the evidence that was incorrectly
24 presented. He never indicated that. All he said it was
25 muscle tissue. And it's clear, clear. It's in his

1 testimony, he said it's of an animal of some sort. It's
2 clear, you know, from all testimony that's come from the
3 State said that a dog or an animal was hit with his car.

4 I just think, again, this is a bunch of suspicion
5 that's been mulled over and kind of thrown against the
6 wall by the State in the hopes of gaining a conviction
7 without any real solid direct evidence.

8 THE COURT: I think your arguments have some
9 merit. However, the standard of my review, I must take
10 the evidence presented by the State in the light most
11 favorable to them.

12 Clearly circumstantial evidence may be used to
13 establish corpus delicti in a murder even though the cause
14 of death cannot be determined. And in addition to that,
15 the law specifically says in State versus Owens that you
16 can use circumstantial evidence of a victim's personal
17 habits to give rise to a sudden death as a result of a
18 sudden departure from their personal habits.

19 There's been circumstantial evidence and evidence
20 presented in that regard.

21 And as far as the experts contradicting one
22 another, certainly those are factual issues for the jury
23 to resolve.

24 Although what you say has merit, I think that
25 what the State has put up has gotten beyond the directed

1 verdict stage, and your motion is denied.

2 Are you ready to proceed?

3 MR. GIPSON: If I could check my hallways to see
4 who's around, Your Honor. If I could maybe have a couple
5 minutes also express to rulings of the Court to my client.

6 THE COURT: We'll take about five-minute recess.

7 (Thereupon Court's Exhibit No. 3, audio CD of
8 telephone calls, was entered into the record.)

9 (Thereupon a break was taken from 10:26 until
10 10:42 a.m., when the trial resumed:)

11 THE COURT: Madam Forelady, ladies and gentlemen
12 of the jury, I'm going to publish to you a stipulation
13 between the parties.

14 The State of South Carolina and the Defendant,
15 Derek Maner, stipulate that the following witnesses if
16 called to the witness stand would testify that they are
17 the daughters of Jackie and Henry Bradley, and never been
18 under the 2005 Suzuki Verona driven by the Defendant;
19 Jessica Bradley, Lashanta Bradley, Kwyanna Bradley and
20 Tearron Bradley.

21 (Thereupon, stipulation was entered as Court's
22 Exhibit No. 4.)

23 Mr. Gipson, you're recognized.

24 MR. GIPSON: Thank you, Your Honor. I'd like to
25 call to the stand Mr. Danny McDaniel.

DANNY WAYNE McDANIEL - DIRECT

1 DANNY WAYNE McDANIEL, having been duly sworn, was
2 examined and testified as follows:

3 THE COURT: Yes, sir. If you could come forward,
4 have a seat in the witness chair. I'm going to ask that
5 you speak loudly, clearly and slowly.

6 THE WITNESS: Yes.

7 THE COURT: Could you state your full name,
8 please?

9 THE WITNESS: Yes, sir. My name is Danny Wayne
10 McDaniel.

11 THE COURT: Yes, sir.

12 MR. GIPSON: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. GIPSON:

15 Q. Mr. McDaniel, where are you employed?

16 A. I own a -- my wife and I own a private investigation
17 company here in South Carolina.

18 Q. Where are you based out of?

19 A. I have two offices in Saint Matthews and one in
20 Orangeburg, South Carolina.

21 Q. You are a licensed private investigator?

22 A. Yes, sir; I am. We're licensed and regulated by SLED,
23 State Law Enforcement Division.

24 Q. Were you employed prior to becoming a licensed private
25 investigator?

DANNY WAYNE McDANIEL - DIRECT

1 A. Yes, sir. I was employed by the South Carolina
2 Highway Patrol. I'm a retired South Carolina State
3 Trooper.

4 Q. How many years were you with the Highway Patrol?

5 A. Roughly from 1989 until 2002, March 29th, 2002.

6 Q. Since that time, March of 2002, you've been in
7 business as a private investigator?

8 A. Yes. We started our company shortly after I retired
9 and we've been doing that ever since.

10 Q. Now, have you investigated matters in this area
11 before?

12 A. Yes, sir. In Allendale County specifically; yes, sir.

13 Q. Can you tell us a little bit about what you've done in
14 this county before?

15 A. We've done some car wrecks. We've done some civil
16 things, like car wrecks, some shootings, things of that
17 nature. We've also done some criminal investigations.

18 Q. But you're familiar with Allendale County?

19 A. Yes, sir.

20 Q. With many of the officers and many of the people,
21 dealings and people that you have to meet with in
22 Allendale County?

23 A. Yes, sir; that's correct.

24 Q. Have you had any time to do any matters that are
25 involving the case with Derek Maner?

DANNY WAYNE McDANIEL - DIRECT

1 A. Yes, sir. I was contracted to investigate certain
2 aspects of the Derek Maner criminal charges.

3 Q. And as a result of that investigation, have you done
4 some things right here in this area in Allendale?

5 A. Yes, sir; I have.

6 Q. Will you -- did you have any dealings with the car as
7 it's related to this case?

8 A. Yes, sir. I attempted to locate the car and actually
9 look at the car.

10 Q. And -- I'm sorry?

11 A. Yes, sir. At a little garage right down the road, I
12 think it was T&H, the garage.

13 Q. All right. And what happened when -- did you have a
14 chance to go to T&H Garage?

15 A. Yes, sir; on January the 3rd, 2009 I went to a little
16 garage just about a half mile from where we're at right
17 now. I was going to try to look at the car and see if the
18 car was in fact there.

19 When I arrived at the garage it was probably around
20 4:30, five in the afternoon. I found there was nobody --
21 the garage is actually two buildings. It's a building
22 that looks like an office, might do body work or
23 whatever.

24 There's another metal building beside it where you can
25 probably do mechanical work like fixing alternators,

DANNY WAYNE McDANIEL - DIRECT

1 brakes and stuff like that. Behind the garage there's a
2 fenced-in area where it looks like cars could be stored or
3 maybe they can use those for parts. I'm not sure what
4 they do.

5 Q. And what did you observe when you went into the area?

6 A. Well, my wife and I, who is also a private
7 investigator, we pulled up into the front of T&H Garage.
8 We got out to go inside. There was nobody in the garage
9 on the left and there was nobody in the garage on the
10 right.

11 We actually entered the garage on the left and we
12 announced ourselves. And nobody was there. We went to
13 the shop or the garage beside it. Nobody was there. And
14 we looked behind it and we could see where the cars were,
15 so we walked back to where the cars were actually stored
16 behind it.

17 The gate was open. We walked back there but there was
18 nobody at the garage, you know, to, you know, to talk to
19 us or whatever. So we waited about ten or 15 minutes.
20 You know, the gate was unlocked. It was open. And we
21 were actually looking for the car that is the car, the
22 subject of this investigation.

23 Q. Now let me ask you this: So for that ten, 15 minutes
24 you were there, nobody was around?

25 A. No, sir; nobody was there at all. I was actually a

DANNY WAYNE McDANIEL - DIRECT

1 little concerned because I didn't know what was happening
2 inside either one of the two offices and there was nobody
3 there. So we just stood in the opening and a gentleman,
4 an older white gentleman pulled up and we introduced
5 ourselves and -- not as private investigators.

6 I just gave him my name and told him I was looking for
7 parts. I was driving a Honda CRV and he stated he didn't
8 have any.

9 I never actually saw the car that is the subject of
10 this investigation but the back was unlocked. The garage
11 was unlocked. And the shop next to the garage was
12 unlocked. There was nobody there.

13 Q. How secure was that location while you were there?

14 A. Well, it wasn't secure at all. I was actually
15 concerned that this guy might come back and think we were
16 doing something we were not supposed to be doing.

17 So we went out of our way to stand in the middle so he
18 could see that we were not back by where the cars were.

19 Q. Were there any tarps up or anything and blocked in?

20 A. No, sir. There was no tarps or anything up to block
21 any vision or anything like that. However when I rode by
22 this morning, I noticed there was some tarps up now that
23 weren't there then. I didn't stop by to look but I
24 noticed that.

25 Q. Beg the Court's indulgence very briefly, Your Honor.

DANNY WAYNE McDANIEL - REDIRECT

1 MR. GIPSON: That's all my questions.

2 THE COURT: Cross-examination, Mr. Pearson?

3 MR. PEARSON: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. PEARSON:

6 Q. Mr. McDaniel, you just testified that you visited this
7 location January 30th, 2009; is that right?

8 A. That's correct.

9 Q. At about 4:30?

10 A. About 4:30 in the afternoon; yes, sir.

11 Q. Could you tell this jury about when you visited the
12 location on November 9th, 2006?

13 A. I did not visit the facility on November 9th, 2006.

14 Q. Oh, okay. Well, let me ask you about your visit to
15 the location on November 10th of 2006.

16 A. I did not visit the facility on November 10th, 2006.

17 Q. Oh. No further questions then.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MR. GIPSON:

21 Q. When you visited this facility, it was not secured;
22 was it?

23 A. No, sir; it was not. It was unlocked. Both the
24 buildings were open and unoccupied. The building on the
25 left was where I guess they fix body work or whatever and

1 the mechanical shop on the right, another door, it was
2 open and there was nobody there. And the fence in the
3 back was actually unlocked and open. And there was nobody
4 there. So I just stood in the middle, you know, to --

5 Q. And you could have gained complete access if you had
6 chosen to?

7 A. Yes, sir. I actually walked in both the metal
8 buildings and inside the fence for a short distance and
9 back out, waiting for maybe somebody to come.

10 MR. GIPSON: That's all my questions, Your Honor.

11 THE COURT: You may step down.

12 THE WITNESS: Yes, sir.

13 THE COURT: You may call your next witness.

14 MR. GIPSON: May we approach one moment just for
15 scheduling purposes? And then may Mr. McDaniel be
16 released, Your Honor?

17 THE COURT: You're released. You're free to
18 leave, sir. Thank you for coming.

19 (Off-the-record discussion.)

20 THE COURT: Madam Forelady, ladies and gentlemen
21 of the jury, once again I'm going to ask you to retire to
22 the jury room. Thank you for your patience.

23 (Jury exits courtroom at 10:52 a.m.)

24 MR. GIPSON: May I step in the foyer to check and
25 see if Mr. Jackman is here?

1 THE COURT: You may.

2 MR. GIPSON: Thank you.

3 (Thereupon, there was a pause from 10:53 a.m.,
4 until 11:21 a.m.)

5 THE COURT: Ready for the jury.

6 (Jury enters the courtroom at 11:22 a.m.)

7 THE COURT: Madam Forelady, ladies and gentlemen
8 of the jury, the parties have agreed to allow you as a
9 jury to observe and look and inspect the car in person.
10 And it's parked out back. We're going to allow you to do
11 that.

12 One thing that I'm going to instruct you is there
13 is to be no discussion about it. Everybody is going to
14 have an opportunity to inspect the car. It's on a
15 rollback. You can look at it and observe it.

16 After that, I'm going to excuse you until one
17 o'clock and be back here. Do not discuss the case. Once
18 again, do not read the newspaper, listen to the radio,
19 speak amongst yourselves or with anyone else. Don't do
20 any independent investigation.

21 I'll ask that you follow the bailiff out the back
22 door and you'll have the opportunity to inspect the car.
23 Once again, do not -- don't comment on it or anything
24 else. Just observe and inspect it as you wish. And when
25 you have had an opportunity to observe the car, then

1 you're free to go to lunch. Be back at one o'clock
2 sharp. One o'clock sharp.

3 (Jury exits courtroom at 11:24 a.m., for visual
4 observation of vehicle, thereafter to be excused for
5 lunch.)

6 THE COURT: Counsel, you're free to go outside.

7 (Thereupon the luncheon recess was taken. The
8 trial resumed at 12:59 p.m.:)

9 THE COURT: Anything from the State before we
10 proceed?

11 MR. PEARSON: Nothing from the State.

12 THE COURT: Anything from the defense?

13 MR. GIPSON: Yes, sir. I'd like to call to the
14 stand Dr. Robert Bennett, Your Honor.

15 THE COURT: All right. He should be outside.
16 Want to snatch him up?

17 Let's do that. We'll go ahead and get the jury
18 in. We're ready for the jury.

19 (Jury enters courtroom at 1:01 p.m.)

20 MR. GIPSON: May we approach real quick, Your
21 Honor?

22 (Off-the-record discussion.)

23 THE COURT: Mr. Gipson, you're recognized.

24 MR. GIPSON: Yes, sir, Your Honor. I'd like to
25 call to the stand Dr. Robert Bennett.

ROBERT M. BENNETT - DIRECT

1 THE COURT: See if we can locate Dr. Robert
2 Bennett. Dr. Robert Bennett.

3 THE BAILIFF: Yes, sir. He's on his way.

4 THE COURT: Very good. Madam Forelady, y'all
5 look well fed and rested and ready to take some more
6 testimony. Bear with us just one moment.

7 ROBERT M. BENNETT, having been duly sworn, was
8 examined and testified as follows:

9 THE COURT: Pull up a chair. Pull up real close
10 to that microphone. Speak loudly, clearly and slowly.
11 Your full name?

12 THE WITNESS: Robert M. Bennett.

13 THE COURT: Ask that you back up a little bit
14 from the microphone. Speak loudly and we'll be in
15 business.

16 THE WITNESS: Robert Bennett.

17 THE COURT: Perfect. All right. Mr. Gipson,
18 you're recognized.

19 MR. GIPSON: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. GIPSON:

22 Q. Good afternoon, Dr. Bennett.

23 A. Good afternoon.

24 Q. Now where are you from, sir?

25 A. Charleston, South Carolina.

ROBERT M. BENNETT - DIRECT

1 Q. And will you tell us a little bit about yourself?

2 What kind of work do you do?

3 A. I'm a full-time practicing forensic scientist.

4 Q. As a forensic scientist, what kind of things do you
5 do?

6 A. We look at DNA analysis, DNA comparisons. We do drug
7 and alcohol testing, evaluations. We do all types of
8 forensic work that's needed for the legal community in
9 various courts.

10 Q. And that's your full-time profession?

11 A. Yes, it is.

12 Q. Now, will you tell us a little bit about your
13 education?

14 A. I have a -- I went to the College of Charleston
15 first, and from there transferred to the Medical
16 University of South Carolina where I obtained a pharmacy
17 degree. I went back to the Medical University of South
18 Carolina and obtained a medical Ph.D.

19 Q. And any schooling after you -- and what years did you
20 do that in, at that time?

21 A. The pharmacy degree was obtained in 1980 and the Ph.D.
22 degree was obtained in 1991.

23 Q. All right. And what schooling -- what, if any
24 schooling have you had since that time?

25 A. Various courses in continuing education, and just

ROBERT M. BENNETT - DIRECT

1 those types of continuing education courses throughout the
2 entire process, since graduation.

3 Q. And since 1980 what are some of the jobs -- well '91
4 since you did that Ph.D., what are some of the jobs that
5 you held?

6 A. I opened a drug testing laboratory facility soon after
7 graduation which is still in existence and operation
8 today, and have been in the, that field the entire time
9 since graduation.

10 Q. All right. Now, have you ever testified in courts
11 before?

12 A. Many times.

13 Q. Have you ever been qualified as an expert before?

14 A. Many times.

15 Q. Have you ever been qualified as an expert regarding
16 DNA?

17 A. Yes, I have.

18 Q. In the courts in South Carolina?

19 A. Yes.

20 Q. Have you ever been qualified as an expert in forensic
21 science?

22 A. Yes.

23 Q. In the courts in South Carolina?

24 A. Yes.

25 Q. At this point I'd like to tender Dr. Bennett as an

ROBERT M. BENNETT - DIRECT

1 expert in forensic science and DNA.

2 THE COURT: Any query with regard to his
3 qualifications?

4 MR. PEARSON: No, Your Honor.

5 THE COURT: Madam Forelady, ladies and gentlemen
6 of the jury, we've mentioned this issue before but this
7 witness qualifies as an expert witness in the areas of DNA
8 analysis and forensic science. And because of that he not
9 only is able to testify as to what he heard, saw, and
10 perceived, but he's able to render his opinion in his
11 field of study.

12 I will -- just by virtue of the fact that an
13 expert, a person qualifies as an expert doesn't mean that
14 you have to accept their opinions. You evaluate their
15 testimony like any other testimony.

16 And I'll charge you at the conclusion of the case
17 in more detail. Mr. Gipson.

18 MR. GIPSON: Thank you, Your Honor.

19 BY MR. GIPSON:

20 Q. Now, what is crime scene revaluation?

21 A. I'm sorry?

22 Q. What is crime scene revaluation?

23 A. That's when I take a look at the crime scene evidence,
24 photographs, notes, documentations that were prepared due
25 to a crime scene initial evaluation and reevaluate those

ROBERT M. BENNETT - DIRECT

1 facts from beginning to end and provide my opinion as to
2 the consequences and outcome of the initial evaluation.

3 Q. Did you do that in this case?

4 A. I did.

5 Q. What is forensic physics?

6 A. That is a field of study in which the physical nature
7 of occurrences, it can be evaluated for use in legal
8 purposes. It's looking at the laws of motion and various
9 other aspects of the physics of movement, motion and
10 action as it relates to a legal case.

11 Q. Okay. And you used some of your training in that
12 aspect as well in this case?

13 A. Correct.

14 Q. And what about forensic hair analysis?

15 A. That's a procedure in which hair is examined by
16 various methods, mainly microscopically, to look at the
17 morphological characteristics of the hair such as shape,
18 size, texture, coarseness and assign those attributes to
19 the type of hair that it is.

20 Q. And the morphological effect, if I can pronounce it,
21 that's easy for you to say, will you explain what that
22 means please?

23 A. That's looking at the physical characteristics of the
24 hair such as the hair shape, size, color, density,
25 coarseness, length. And those are the physical

ROBERT M. BENNETT - DIRECT

1 characteristics known as morphology.

2 Q. And you employed some of the techniques that you
3 learned using -- you use that as well as you evaluated
4 evidence in this case; correct?

5 A. Correct.

6 Q. Now, did you have an opportunity to view any evidence
7 in this case?

8 A. I did.

9 Q. Will you explain to the jury what you did?

10 A. I have examined the vehicle that is in reference to
11 this case. I have examined the underbody, the
12 undercarriage of the vehicle from one end to the other.

13 And upon my examination of that vehicle was able to locate
14 hair that was referenced in this case by photographs taken
15 by SLED and were able to obtain some of that hair and take
16 it back to my laboratory for microscopic evaluation.

17 Q. And so then you independently collected the hair;
18 correct?

19 A. Correct.

20 Q. And you tested it; correct?

21 A. I microscopically examined it; yes.

22 Q. You examined it. What was your opinion after
23 examining that hair?

24 A. First, my opinion is that the hair was inconsistent
25 with the hair of what I've seen from pictures of Ericka

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1 Bradley. Secondly, the evaluation of the hair that I
2 obtained is more consistent with animal hair, specifically
3 more consistent with the hair that is similar to what is
4 seen on a canine dog.

5 Q. And you did that by taking the time and the effort to
6 go down to the shop, the D&H Towing facility, the shop
7 right around the corner and investigate it; correct?

8 A. That is correct.

9 Q. All right. Now, what else did you do as it relates to
10 this case in your investigation as you looked under the
11 undercarriage of the car?

12 A. I also looked for physical damage to the car as well
13 as looking for stains to the car, both blood and tissue.
14 The stabilizing bar that was referenced in this case had
15 been removed from this vehicle at the time of my
16 inspection but it appeared that the remaining portion of
17 the car was still intact.

18 I did examine the entire underbody and did make my
19 observations of what bloodstain and patterns were there.

20 Q. Now I'm going to show you a few pictures that have
21 been moved into evidence already by the Attorney General's
22 Office. If I may I'm going to show you -- well, first of
23 all, I'll show you State's Exhibits Number Ten, State's
24 Exhibit Number Nine. Does that look familiar to you?

25 A. This is the vehicle that I examined.

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1 Q. Okay. I'd ask that the record reflect that
2 Dr. Bennett has referenced the car in question in this
3 case, Your Honor.

4 Now, I'm also going to hand you State's Exhibit Number
5 96. Does that look like something that you took a look
6 at?

7 A. This appears to be a portion of the stabilizing bar
8 that was removed from the vehicle that I did not get to
9 examine.

10 Q. Okay. And you didn't get to examine that because it
11 was in SLED's custody or somebody else's custody; correct?

12 A. Correct.

13 Q. All right. Now, again State's Exhibit Number Three is
14 that also a picture of the car that you --

15 A. It is.

16 Q. -- examined? Do you notice anything particular about
17 the right-hand side of that car?

18 A. The lower corner of the front bumper is indented.

19 Q. Were you able to develop an opinion on that based on
20 your forensic physics background?

21 A. That indentation was caused by an object of sufficient
22 size to cause that type of indentation. It could have
23 been from a variety of types of objects, something from an
24 animal all the way down to simply just a curb. The
25 location of the dent is such that there are numerous types

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1 of causes to result in that type of indentation.

2 Q. Were you provided information in this case that the
3 vehicle that we're speaking of was involved in an accident
4 with a dog?

5 A. Yes, I was.

6 Q. And is the damage that you've seen -- knowing that
7 information, is the damage that you see there and the
8 remains that you found underneath the car consistent with
9 an accident with a dog?

10 A. Yes.

11 Q. Okay. Why would you say that?

12 A. The physics of an impact with an animal as compared to
13 a human?

14 Q. Yes, sir.

15 A. If we might get into that area of discussion.

16 Q. Sure.

17 MR. PEARSON: Objection, Your Honor. He hasn't
18 been qualified as an expert in physics. I believe what
19 Mr. Gipson said was forensic science and DNA.

20 THE COURT: I'll overrule your objection. I
21 think it's relevant to the parameters of forensic
22 science. Your objection is overruled.

23 MR. GIPSON: Thank you.

24 THE COURT: Mr. Gipson?

25 THE WITNESS: In looking at the physics of the

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1 impact of a typical passenger vehicle with a variety of
2 objects, you have to examine what's called the center of
3 gravity of that object. The center of gravity is where
4 the bulk of the weight of the item is.

5 For a dog on four legs, the center of gravity is
6 the body of the dog which is about typically one to two
7 feet off the ground. In comparison to a human standing
8 upright, the center of gravity is the bulk of the torso
9 which is considerably higher, four or five feet off the
10 ground.

11 The point of impact of a standard passenger
12 vehicle is approximately one to two feet off the ground.

13 And the vehicle in question in this case, it is a standard
14 passenger vehicle in which the front bumper is relatively
15 close to the ground, within one to two feet of the ground.

16 If that point of impact is with an object that
17 has a center of gravity that is equal to the bumper or
18 below, then when that impact occurs then that will cause
19 that object to be drawn underneath the vehicle.

20 In comparison, if the front bumper of that
21 vehicle hits an object with a very high center of gravity,
22 then that center of gravity is going to cause that object
23 to go over the top of the vehicle rather than underneath.

24 So, with a human that's standing, if that person
25 is impacted with a front bumper of a vehicle, that person

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1 is going to go over the top of the vehicle, hitting the
2 top of the car and potentially the windshield as well.

3 But typically a person that is standing will not
4 be drug underneath a car. If that occurs it's due to a
5 two-step process in which the impact caused the person to
6 be knocked to the ground first. Therefore, their center
7 of gravity is now much lower, potentially equal to that of
8 the bumper. And that impact then could cause a person to
9 be drug underneath the car.

10 But an impact with a high center of gravity
11 object, such as person standing, will result in a person
12 going over top of the car and not underneath the car. The
13 only way that an impact, for that to occur when a person
14 is underneath the car, that person would have to be first
15 knocked to the ground to lower that impact -- lower that
16 center of gravity and then that person, the car would have
17 to continue moving forward and then that person
18 essentially be run over after that person was knocked to
19 the ground. It's a two-step process.

20 BY MR. GIPSON:

21 Q. Now if the scenario is the second step in the process
22 where a person as you're saying is already to the ground,
23 what would you expect to see on the vehicle in a situation
24 like that?

25 A. Well, a person who has a large body mass has a large

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1 volume of blood. If a person is pulled underneath the
2 car, the height of the undercarriage in relation to the
3 mass of the body would, typically -- it would have to be a
4 low-speed impact for the person to go underneath the car.
5 It would typically drag that person along.

6 In that situation there would be significant contact
7 with the road which is very abrasive, and a term that's
8 sometimes referred to as road rash. In that situation the
9 skin is torn off and a lot of bleeding would occur.
10 There's a significant amount of blood in the human body.
11 In that type of situation, you're going to get a lot of
12 skin damage and skin tearing, a lot of blood. And in that
13 situation, you're going to get a significant amount of
14 blood spatter in and around and underneath car.

15 Q. Now when you looked underneath the car, did you see
16 anything consistent with the second type of scenario that
17 you just talked about?

18 A. I did see blood spatter but it was not of the quantity
19 or locations where I would expect to see if a human was
20 drug underneath the car. I would have typically expected
21 to see significantly more blood spatter.

22 Q. Did you see clothing or anything of that nature?

23 A. None whatsoever.

24 Q. Isn't it true that after looking at the DNA results
25 that you reviewed with SLED, animal blood was found

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1 throughout that car -- the undercarriage of the car?

2 Excuse me.

3 A. The SLED testing showed that there was blood
4 underneath the car.

5 Q. Yes, sir.

6 A. The types of blood testing that was performed by
7 SLED --

8 Q. Uh-huh.

9 A. -- number one, phenolphthalein, number two, leuco
10 crystal repeat. Both of those tests do not distinguish
11 between animal and human blood. That was the information
12 provided from SLED was performed on-site at the crime
13 scene.

14 Q. Now, what test would have to be done in order to
15 determine if human blood was present?

16 A. There are specific tests that determine that if the
17 blood is human. But more specifically, DNA testing would
18 show that the blood was human if the DNA is present in
19 that blood.

20 Q. Now, is there such a thing as HemaTrace?

21 A. There is.

22 Q. What is that?

23 A. HemaTrace is a brand name of a system that is
24 manufactured as a device to determine the presence of
25 blood. And the advantage of HemaTrace is that it is more

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1 specific to human blood rather than just blood in general.

2 Q. Okay. So what are the downfalls of using a HemaTrace
3 test, if one was done?

4 A. There are limitations to most any type of device or
5 system or methodology. I have reviewed the manufacturer's
6 publications as well as publications of the studies of the
7 use of HemaTrace system.

8 And one limitation of that device that is stated by
9 the manufacturer is that it is a very, very sensitive test
10 and can detect hemoglobin in very small amounts, even
11 hemoglobin in trace amounts that is found in various body
12 fluids such as perspiration.

13 Q. So essentially this thing is so sensitive that sweat
14 could potentially skew that test?

15 A. Correct.

16 Q. Now, is there such a thing as mixed DNA?

17 A. Absolutely.

18 Q. Can you explain to the jury what mixed DNA is?

19 A. Mixed DNA is a situation in which more than one source
20 of DNA is present. Many times multiple sources of DNA
21 comes from multiple persons. It can come from multiple
22 species other than persons. DNA can technically be mixed
23 with animal DNA. DNA can be mixed with other person's
24 DNA.

25 Any time you have DNA that is more than one source,

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1 you have a mixture of DNA.

2 Q. And can you explain how that mixing takes place?

3 A. A very simple process. If the DNA is in combination
4 with each other, mixing will occur. It just has to be
5 close proximity, and the DNA will mix with each other.

6 Q. Can you give an example of that to the jury?

7 A. DNA can come from skin cells, for example. And DNA
8 can come from blood. If skin cells mix with blood, then
9 you're going to have a mixture of DNA from two sources.

10 Once the DNA is mixed and the DNA profile is obtained
11 from that source, it is undistinguishable whether the DNA
12 that was found was from the blood or from the skin or any
13 other source of DNA.

14 Q. So in essence if there is already animal blood
15 underneath a vehicle and skin cells of some sort are
16 underneath the vehicle, a test that's done by SLED or
17 another agency could show that there's blood evidence that
18 could come back as human. Is that a fair way of assessing
19 it?

20 A. The blood evidence if detected for or tested as human
21 blood could come back as positive, and also DNA could be
22 obtained from that blood as well. But, again, the --
23 whether the DNA is from the blood or from the skin or from
24 any other source is indistinguishable.

25 Q. And I guess putting it a little bit more simpler so I

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1 can understand if I'm stating my question right. If you
2 have a scenario where there's already animal blood under
3 the car and human skin cells come in contact with it, a
4 test similar to the one that was done by SLED would not --
5 if the test is taken it may not distinguish that the blood
6 is animal blood as opposed to human blood?

7 A. That's correct.

8 Q. And because the human skin cells have mixed with it,
9 it's going to come back as human blood or it may show as
10 human blood, although it's animal blood?

11 A. It would show as human DNA.

12 Q. Or human DNA?

13 A. Correct.

14 Q. All right.

15 A. It would show as human DNA mixed with animal blood.

16 Q. And is there a way for SLED to differentiate the test
17 that it did, to differentiate between whether or not
18 that's animal blood, whether or not that's mixed DNA,
19 meaning animal blood with human skin cells or if that's
20 human blood?

21 A. Once it's mixed, there's no way to distinguish the
22 source of the DNA.

23 Q. Okay. Now, were you able to physically see any muscle
24 tissue when you looked under the car?

25 A. No. The pictures that I reviewed showed the muscle

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1 tissue or some sort of tissue was on the stabilizing bar
2 and that bar was removed when I examined the vehicle.

3 Q. Do you remember reviewing DNA results from SLED
4 regarding a stabilizing bar?

5 A. Yes.

6 Q. Okay. What were the results of that?

7 A. The results of the DNA test to the stabilizing bar to
8 my recollection involved testing the blood from the
9 stabilizing bar as opposed to the tissue itself. So the
10 findings of the DNA results of SLED were from the blood
11 rather than the tissue.

12 Q. Okay. Now, let me ask you this: As it relates to
13 animal tissue, is there a way by just eye balling it, just
14 looking at it, to determine if animal tissue is that from
15 a dog or deer or some other type of animal and a human?
16 Is there a way to distinguish if it's just tissue that
17 you're looking at?

18 A. Well, the tissue itself consists of muscle tissue or
19 fat tissue or of organ tissue.

20 Q. So muscle tissue is specifically what I had asked.

21 A. It would in my opinion be impossible to distinguish
22 simply from a visual observation what type of tissue the
23 source was from a small sample.

24 For example, what's seen in the photographs of the
25 stabilizing bar, specific biological testing would need to

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1 be done such as DNA testing to determine if the tissue was
2 of human origin or of some other species. Simple
3 observation alone would be insufficient to make a
4 determination of the source of the tissue with the tissue
5 that I saw in the photographs of the stabilizing bar.

6 Q. Now, based on your years as an expert in the fields
7 that we've spoken about, are you able to determine whether
8 or not there was a vehicle impact that caused death in
9 this case to a human being?

10 A. There was insufficient evidence that I could find to
11 make that determination.

12 Q. Ask the Court's indulgence, Your Honor. (Pause.)

13 And you were able to base your opinion on the fact
14 that you physically reviewed the evidence and went through
15 and tested portions of the car and spent time doing those
16 things; correct?

17 A. Correct. As well as observing the photographs
18 provided by SLED which didn't include the stabilizing bar
19 on which the tissue on the stabilizing bar was imbedded
20 with hair that upon my observation of the hair was
21 inconsistent with African-American hair and more
22 consistent with a light-colored blood or tan type of
23 canine hair.

24 MR. GIPSON: Your Honor, that's all my questions.

25 THE COURT: Cross-examination, Mr. Pearson?

ROBERT M. BENNETT - CROSS

1 MR. PEARSON: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. PEARSON:

4 Q. Dr. Bennett, is DNA science reliable?

5 A. I'm sorry. What was that?

6 Q. Is DNA science reliable?

7 A. Yes, it is.

8 Q. And it's one of the ways you make your living; is it
9 not?

10 A. Correct.

11 Q. Now you testified just a few moments ago concerning
12 you being admitted as an expert. Have you ever been
13 admitted as an expert in general sessions?

14 A. Yes.

15 Q. Have you -- how many times have you testified on
16 behalf of the defense in general sessions?

17 A. Probably about 75 percent of the time.

18 Q. About 75 percent of the time. Now, you also made some
19 reference to some hairs that you collected. I'm sorry,
20 I'm not sure. What day did you collect those hairs?

21 A. Monday, this Monday.

22 Q. Monday of this week?

23 A. Correct.

24 Q. And you collected those hairs more than two years
25 after this incident took place; isn't that right?

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1 A. Correct.

2 Q. And they were still there?

3 A. Correct.

4 Q. Now I want to ask you about the blood evidence from
5 under the car that you tested in November of '06. You did
6 test some blood evidence from November '06; didn't you?

7 A. No.

8 Q. Oh, okay. I want to ask you about tissue, the tissue
9 samples that you tested in November of '06. You did test
10 some tissue samples in '06; didn't you?

11 A. No.

12 Q. Did you test some samples in 2007?

13 A. No.

14 Q. Did you test some samples in 2008?

15 A. Yes -- oh. Excuse me. No.

16 Q. Did you test some blood or tissue in 2009?

17 A. No.

18 Q. So you've never tested any blood or tissue in this
19 case?

20 A. Not in this case.

21 Q. So it would be inaccurate to say that you had?

22 A. Correct.

23 Q. You also testified that you were unable to examine
24 that stabilizing bar. When exactly did you make your
25 request to look at the stabilizer bar?

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1 A. I did not make a request.

2 Q. Oh, you didn't ask?

3 A. Did not have time.

4 Q. So that's a no, you didn't ask?

5 A. Correct.

6 Q. So you didn't need to see that?

7 A. I'm not saying I didn't need to see it. I'm saying I
8 didn't have time to see it.

9 Q. But you didn't ask?

10 A. Correct.

11 Q. Now you also testified a little bit about some
12 physics. And I have to write things down so I know
13 exactly what people said. But I believe what you said was
14 in order for, in order for a person to be drug under the
15 car they would have had to be first knocked to the ground;
16 is that right?

17 A. In my opinion, yes.

18 Q. Would they have to be knocked to the ground by a car?

19 A. Not necessarily.

20 Q. They could be knocked to the ground in some other way;
21 couldn't they?

22 A. Correct.

23 Q. And that, that would change their center of gravity;
24 wouldn't it?

25 A. That is correct.

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1 Q. All right. You also testified a little bit about
2 phenolphthalein and LCV. I'm sorry. I have to use the
3 letters --

4 A. Sure.

5 Q. -- because I can't ever get that quite out. Those two
6 particular tests, according to accepted science, do not
7 differentiate between human blood and animal blood; is
8 that correct?

9 A. Correct.

10 Q. However the HemaTrace test does?

11 A. The HemaTrace tests more conclusively detects human
12 blood than the other test. It's not specific -- entirely
13 specific to human blood. It can detect primate blood and
14 even ferret blood. Just by biological incidence, ferret
15 blood is similar enough to human and primates to be a
16 positive on this test.

17 Q. Do you know if ferrets are native species to Allendale
18 County?

19 A. They typically are not.

20 Q. What about other primates?

21 A. Primates. I do not see any chimpanzees or monkeys
22 around.

23 Q. Thank you. Do you use HemaTrace in your lab?

24 A. Yes.

25 Q. So you obviously think it's good enough to use for

ROBERT M. BENNETT - CROSS

1 your work?

2 A. Oh, yes.

3 Q. Now you talked about sweat being able to trigger a
4 positive from HemaTrace; is that accurate?

5 A. Correct.

6 Q. Are there any other bodily fluids that will do that?

7 A. Yes.

8 Q. Could you please tell us what they are?

9 A. Most any body fluid does contain a small amount of
10 hemoglobin, saliva, vaginal fluid, seminal fluid, any type
11 of biological fluid could contain trace amounts of
12 hemoglobin that would trace positive on the HemaTrace
13 test.

14 Q. I'm going to show you what has been -- what has been
15 marked into evidence as State's Exhibit Number 155. Do
16 you recognize that document?

17 A. Yes.

18 Q. Have you had a chance to review that document?

19 A. I have.

20 Q. Could you please tell me where in that document that
21 they got a result of mixed DNA?

22 A. This document does not mention any mixed DNA.

23 Q. All right. Do dogs not have DNA?

24 A. They do.

25 Q. So just the very nature of your statement, mixed DNA

ROBERT M. BENNETT - CROSS

1 would indicate two different kinds of DNA; right?

2 A. Two different sources.

3 Q. Two different sources?

4 A. Correct.

5 Q. Yes, but according to that there's only one source of
6 DNA?

7 A. No. That document only discusses one source of DNA.
8 It does not indicate that there was not another source of
9 DNA, it's just not discussed.

10 Q. It's just not discussed. Okay. Now, finally,
11 Dr. Bennett, you testified that based on your opinion you
12 can't say whether or not a human being was hit by this
13 car. Can you say that a human being was not? Is that
14 your testimony today?

15 A. I cannot say. I can say that a animal was hit by this
16 vehicle.

17 Q. But my question is: Can you say that a human was not?

18 A. I cannot.

19 MR. PEARSON: Beg the Court's indulgence.

20 (Pause.)

21 BY MR. PEARSON:

22 Q. One final question: You indicated that this DNA could
23 be put on by body fluids other than blood; is that
24 accurate?

25 A. Correct.

ROBERT M. BENNETT - CROSS

1 Q. Would that mean an individual would have to get under
2 the car and smear themselves around to put it there? I
3 mean, it would have to be placed there; correct?

4 A. Well, that's direct transfer and that's the most
5 likely scenario, but indirect transfer could occur.

6 For example, if someone else was underneath the car
7 and had come into direct physical contact with another
8 person, that DNA could be on their hands and then if they
9 touched the underneath of the car they could transfer that
10 person's DNA to the vehicle.

11 Q. They could?

12 A. That's a possibility.

13 Q. Can sweat fly under the car as you're walking by?
14 Could that happen?

15 A. I don't see that happening.

16 Q. Well, my question was: Could it happen? Because
17 we're talking about what could be with your testimony.
18 So, could that happen?

19 A. Well --

20 Q. Could I walk by this table and deposit some sweat DNA
21 under there?

22 A. Well, if it is a hot day and you are sweating and
23 sweat drips to the ground, it could potentially hit the
24 ground and then deflect back up to the underside of the
25 car.

ROBERT M. BENNETT - REDIRECT

1 Q. So -- thank you. So even that could happen?

2 A. That's possible, yes.

3 Q. Thank you.

4 THE COURT: Redirect?

5 MR. GIPSON: Yes, sir.

6 REDIRECT EXAMINATION

7 BY MR. GIPSON:

8 Q. Now, can you say that a human was hit by this car?

9 A. I cannot.

10 Q. So essentially that's not conclusive; correct?

11 A. Correct.

12 Q. Now Mr. Pearson spoke about sweat just magically
13 falling underneath the car. What is a logical scenario
14 where mixed DNA could occur?

15 A. Specific to this case?

16 Q. Yes, specific to this case.

17 A. If Ms. Bradley was underneath that car for any reason,
18 such as working on the car or assisting somebody working
19 on the car, and her DNA could be transferred to that car
20 even by direct contact with her skin or her sweat or any
21 other bodily fluid for that matter, or it could be there
22 through indirect transfer with another person or object
23 which could come in contact with that car.

24 Q. And those are the logical explanations, not as remote
25 as sweat just dripping and popping up; correct?

1 A. That's correct.

2 Q. Now the question you were asked if ferrets were
3 indigenous to South Carolina. What about skunks?

4 A. They are.

5 Q. And aren't close skunks cousins to ferrets?

6 A. They do have a similar genetic line.

7 Q. And similar genetic lines means that could be similar
8 DNA; correct?

9 A. Yes.

10 MR. GIPSON: That's all my questions, Your Honor.

11 THE COURT: You may step down. Might this
12 witness be excused?

13 MR. PEARSON: No objection.

14 MR. GIPSON: No objection.

15 THE COURT: You're free to leave. Thank you,
16 sir.

17 THE WITNESS: Thank you.

18 THE COURT: Mr. Gipson, you may call your next
19 witness.

20 MR. PEARSON: May we approach for a brief moment,
21 Your Honor?

22 THE COURT: Yes.

23 (Off-the-record discussion.)

24 MR. GIPSON: Your Honor, I call Derek Maner to
25 the stand.

DEREK LEBRAUN MANER - DIRECT

1 THE COURT: If you come forward.

2 DEREK LEBRAUN MANER, having been duly sworn, was
3 examined and testified as follows:

4 THE COURT: Mr. Maner, I'm going to ask, if you
5 could, pull up close to that microphone, speak loudly,
6 clearly and slowly. State your full name.

7 THE WITNESS: My name is Derek Lebraun Maner.

8 THE COURT: Mr. Gipson, you're recognized.

9 MR. GIPSON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. GIPSON:

12 Q. How old are you, Mr. Maner?

13 A. I'm currently 20 years old.

14 Q. And are you from Allendale?

15 A. Yes, born and raised.

16 Q. Born and raised. In fact, where do you live?

17 A. I live down the street, [REDACTED] Road.

18 Q. [REDACTED] Road?

19 A. Yes.

20 Q. How long have you lived at that address?

21 A. For 18 years, 19 years.

22 Q. All right. And did you go to school here in town?

23 A. Yes.

24 Q. Okay. Where did you go to school?

25 A. Went to Allendale Primary, Elementary, Middle School

DEREK LEBRAUN MANER - DIRECT

1 and High school and Allendale County Adult Education.

2 Q. At any point in time did you choose to further your
3 education?

4 A. Yes.

5 Q. Explain that to the Court, please.

6 A. Well, I went to pursue, you know, my career in
7 mathematics and computer science. So, you know, I went to
8 Benedict. And as in reference to going to Benedict, I was
9 obtained by Sergeant -- I mean, SLED Agent Johnson from
10 school and ever since then I haven't gone back.

11 Q. So you were a student at Benedict College when you
12 were arrested regarding this particular case?

13 A. Yes, sir.

14 Q. And before we go any further, let's just cut to the
15 chase. Did you murder Ericka Bradley?

16 A. No, I didn't.

17 Q. Did you hit her with a car?

18 A. No, I didn't.

19 Q. Did you beat her and run over her with a car?

20 A. No, I didn't.

21 Q. Did you attack her?

22 A. No.

23 Q. Did you assault her?

24 A. No, I didn't do nothing to her.

25 Q. Did you take her jewelry and try to hide it in a

DEREK LEBRAUN MANER - DIRECT

1 flower put someplace in Hampton County?

2 A. No, sir.

3 Q. Did you do anything criminal to Ericka Bradley?

4 A. I never done anything criminal to Ericka Bradley.

5 Q. Then why are we here today?

6 A. Honestly I, I don't know. We just here for a missing
7 person.

8 Q. We're here for, what? I'm sorry.

9 A. A missing person.

10 Q. A missing person?

11 A. Yes, sir.

12 Q. And what do you mean when you say that?

13 A. I didn't do anything to Ericka Bradley. I didn't
14 murder her. I didn't do anything to her. So we're not
15 here for a murder conviction because I didn't murder her.
16 I didn't do anything to her. Anything.

17 Q. When is the last time that you saw Ericka Bradley?

18 A. Last time I seen her, she got out of my car and she
19 was walking back towards Sammy's on the side of the road.

20 Q. When you say walking back towards Sammy's, we're
21 talking about what? Talking about Sammy's Store?

22 A. Yes. Sammy's Store on Highway 125.

23 Q. Okay. And although you're from here, you know all the
24 roads in the area?

25 A. Yes, I know, but it's a little -- take a little time

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1 for me. I know, I know, I know, you know, I can go to it
2 but as far as naming and on the spot, no.

3 Q. But you know different landmarks and areas in the
4 county; correct?

5 A. Yes.

6 Q. And Sammy's Store is the direction she was walking
7 towards when you saw her last?

8 A. Yes, sir.

9 Q. All right. Now, in November '06, were you dating
10 Ericka Bradley at that point in time?

11 A. Yes, I was.

12 Q. And explain to us your family situation in November of
13 '06.

14 A. Well, she was currently staying with me and my family
15 and I. And, you know, she just had [REDACTED] T.M., our son, and
16 me, May of that year, May 16th. So she was staying there
17 and she was allowed to stay there. She -- and it was her
18 choice to stay there. And, I mean, that was mainly it.

19 Q. And how old were you at that point in time?

20 A. I was 18 years old.

21 Q. All right. Now, what was your relation with Maggie
22 Aldrich?

23 A. We were friends. We're -- we were friends.

24 Q. Okay. Were you at any point in time dating Maggie
25 Aldrich?

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1 A. Not as far as dating, but...

2 Q. Did you have any kind of relationship, intimacy of any
3 sort?

4 A. Yes.

5 Q. So essentially you were cheating?

6 A. Yes.

7 Q. Why were you doing that?

8 A. I was wrong for it, but, it's not an explanation. I
9 was wrong for it. And I'm sorry for doing it. It's not
10 even an explanation. I was young. And I didn't know.
11 Really, I'm sorry for that.

12 Q. Now, let me ask you this: You saw Maggie come in here
13 and testify. She was pregnant; correct?

14 A. Yes, sir.

15 Q. Is that your child?

16 A. No, it isn't.

17 Q. When is the last time you and Maggie had any contact?

18 A. The last time me and Maggie spoke was approximately
19 two months before I went off, two months before the summer
20 of me going off to school, that summer.

21 Q. So sometime back in '07?

22 A. Yes, sir.

23 Q. Again, you're coming in here testifying under oath
24 that's not your child that she's carrying?

25 A. That's not my child.

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1 Q. Now, let's focus on the 6th of November of 2006. Did
2 you take Ericka to work that day?

3 A. Yes, I did.

4 Q. Okay. And what happened after you took her to work?

5 A. I took her, I mean, I took her to work. Excuse me. I
6 took her to work, and -- I took her to work and I went
7 later that day, I went to Maggie house.

8 Q. Okay. And at some point in time you ended up back in
9 Allendale; correct?

10 A. Yes.

11 Q. About what time was that, to the best of your
12 recollection?

13 A. Eleven o'clock, 11-something.

14 Q. Did you have an opportunity to see Maggie, excuse me,
15 Ericka at that point in time?

16 A. Yes.

17 Q. Explain what happened at that point in time.

18 A. Well, I was, I was riding back from, from Maggie house
19 from Appleton. And we was here in front of the
20 courthouse, and, you know, I was flagged.

21 Q. When you say we were in front of the courthouse --

22 A. I was in the front of the courthouse.

23 Q. So were you alone or with somebody?

24 A. No, I was by myself. I was saying we, me myself in my
25 own car and Ericka and Peter in Jessica Bradley's vehicle.

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1 Q. In her Blazer?

2 A. In Ericka -- I mean, Jessica.

3 Q. Ms. Jessica Bradley wasn't with her?

4 A. No, she wasn't. It was just Ericka and Peter. And
5 they was going this way. And I was coming towards the
6 courthouse. They flashed me down. They turned around and
7 flashed me down.

8 I stopped. And we started, he pull -- I stop at the
9 stop sign and he pulled right beside me. So, Ericka got
10 out of the car, out the truck and came to my, to my, on my
11 driver's door. And I opened it and she asked me to open
12 the trunk, the trunk.

13 So I did, you know, not expecting anything. I just
14 opened the trunk because she wanted something out of
15 there. She didn't look mad. She didn't -- nothing. So I
16 opened the trunk and she got a bat. She got my bat in my
17 trunk. And as I was getting out the car, she hit me with
18 it.

19 And so I got the bat from her and put it on the
20 ground, threw it on the ground. I put it -- threw it on
21 the ground and I hugged her. And I was trying to explain
22 to her, just calm down, everything will be okay, you
23 know. I didn't --

24 Q. Did you hit her?

25 A. No, I didn't do anything to her.

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1 Q. You didn't strike her?

2 A. I didn't hit her. I didn't, I didn't do anything
3 abusive to her. Nothing. Anything.

4 Q. And who was there while all of this was occurring?

5 A. Her cousin, Peter Carter.

6 Q. After or did the things continue to be escalated or
7 did they seem to calm down?

8 A. It was to a time heat, but I calmed it over by
9 speaking with her and telling her I loved her and just
10 hugging her.

11 Q. And Peter did what after some period of time?

12 A. He just sitting in the truck. He sat in the truck
13 most of the time. Just sit and watch, you know, make sure
14 nothing was going wrong. And but he left, he left us
15 talking.

16 Q. About how long did you all stand out there before
17 Peter left?

18 A. We was standing on the side, on the sidewalk for like
19 25, 30 minutes.

20 Q. Which sidewalk are we talking about?

21 A. Well, coming this way, the stop sign is right here.

22 Our cars was, our cars was this way. We was on the
23 sidewalk over here by, where the Health Department at.

24 And we was on the corner, inside sidewalk on the grass by
25 the tree talking.

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1 Q. So the cars were parked kind of on the side where
2 Mr. Gooding's office is; correct?

3 A. Yes, sir; yes.

4 Q. Y'all were talking under the tree?

5 A. Yes, sir.

6 Q. Did Peter stay there the entire time?

7 A. No. No.

8 Q. What happened?

9 A. He left. He originally left, left us talking outside
10 the car.

11 Q. Left y'all talking outside the courthouse?

12 A. Yes.

13 Q. How long did you talk after that?

14 A. Approximately five, ten minutes.

15 Q. Now at that point in time, what happened next?

16 A. Well, after I calmed her down, you know, in speaking
17 with her, we was en route to my house first, you know,
18 because we was, no reason to go anywhere else.

19 But, while they were up at my house right down the
20 road there while en route, she started getting agitated
21 again and getting mad again. So, you know, to calm that
22 down I told her, I said, well, if you think I'm cheating
23 on you, well, let's just go to the course. You know, I
24 was trying -- I'm sorry for it. I was trying to be slick.

25 Q. When you say slick, what do you mean?

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1 A. Meaning I was trying to stay ahead of the game, so I
2 wouldn't get caught up.

3 Q. You say caught up, what's that slang for?

4 A. I'm sorry. I mean, that I wouldn't get caught with
5 another female.

6 Q. You didn't think she was going to call your bluff
7 basically?

8 A. No.

9 Q. You thought that if you said, I want to move on and go
10 see Maggie she'd say that's okay?

11 A. Yes.

12 Q. So you headed out that way; correct?

13 A. Yes, sir..

14 Q. What happened next?

15 A. We headed this way. We headed -- well, we was en
16 route to my house. I circled around by the mill and came
17 back on the highway. And we went straight, the fastest
18 way, try to get to the, fastest way to Appleton.

19 So we left out at the courthouse, made a right at the
20 stoplight and we made the right at the stoplight, you
21 know, she start saying verbally, you know, cursing me and
22 everything at me. So, you know, I'm just sitting there.
23 I'm not going to get mad at her because, I mean, I know I
24 was wrong, period. I know I cheated on her. And I know I
25 was wrong. So I ain't had no, no business getting mad

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1 with her.

2 So, uh, she, she asked me a question. And she asked
3 me about Maggie, about if was I cheating on her with her.
4 I told her no. And so she hit me. She punched me, not a
5 baby hit. She punched me upside of my head.

6 And, you know, it ain't bother me because I'm a big
7 guy. You know, it didn't bother me. I know I was wrong.
8 She asked me another question and, you know, I wasn't
9 going to say, well, I'm cheating on you, I'm messing with
10 another girl. And so she hit me again.

11 So this was down, I'd say the highway's like 40 miles
12 per hour.

13 Q. I'm not sure but you tell us what you remember.

14 A. I'm not sure, it was like 40 miles per hour from the
15 stop sign at Sammy's. So we were on that highway. And I
16 was, we got to Sammy's and I told her, I was like, well,
17 what you want to do. I start slowing down because she
18 done hit me. You know, I'm like, what you want to do. Do
19 you want to walk or something, you know. You keep, you
20 know, I'm putting the bluff on her. I'm slowing down.
21 I'm slowing down, keep her off from hitting me.

22 And, you know, she looked at me after the second time
23 she said, fine. Let me out. I'll walk. So you know, I
24 said okay. All right.

25 And then she threw my car in park and she didn't jump

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1 out. The car stopped and then she got out.

2 Q. Now you said she threw your car in park?

3 A. Yes.

4 Q. And there is some issue about this. Do you have any
5 idea how fast you were going when she threw your car in
6 park?

7 A. Not exactly but I know I was slowing down. I started
8 slowing down at Sammy's Store. And, you know, I wasn't
9 even, I wasn't even driving fast at the beginning, you
10 know. Ain't nothing but 40 miles per hour. Wasn't
11 driving fast at the beginning.

12 I tried to get -- talk to her, you know, to get to the
13 point of her speaking to me, you know, versus her getting
14 to Maggie and fighting her. So I'm calming her down and
15 talking to her to let her know what we're about to do, you
16 know.

17 Q. You said at some point in time you stopped the car and
18 she got out of the car?

19 A. Yes, sir.

20 Q. Did you try to ask her to get back in the car?

21 A. After she got out of the car, I didn't leave her. I
22 turned the car around.

23 Q. Did you hit her with the car?

24 A. No, I did not hit her with the car.

25 Q. Did the car ever make contact with her?

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1 A. No, never.

2 Q. Did you get out of that car and hit her with anything?

3 A. No.

4 Q. A bat? Anything?

5 A. No, I didn't even get out the car.

6 Q. What happened next?

7 A. I turned the car around. And she was on the side of

8 the road going, going towards Sammy's. She was walking

9 towards Sammy's on the side that you drive, towards

10 Sammy's. She wasn't on the opposite side of the road.

11 So I remember when I was speaking to her I said, well,

12 can you get back in the car. You don't have to go back to

13 my house, you know. I'll take you home. Still no remark,

14 no remark. She just looked at me stupid and I know I'm

15 not saying she's stupid or anything, you know, just the

16 look on her face, she just looking at me, you know.

17 Q. Were you able to convince her to get back into the

18 car?

19 A. No, sir.

20 Q. Did you ever get out of the car and try to physically

21 place her in the car?

22 A. No, sir.

23 Q. What did you do?

24 A. I left. And I'm sorry for it, but I left her

25 walking. And I went to my house to call somebody who she

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1 would get back in the car with, Peter Tony Carter.

2 Q. Well, why didn't you just go five miles an hour and
3 follow her into town?

4 A. I think about that everyday.

5 Q. But --

6 A. That was -- it wasn't my thoughts. The only thing I
7 thought at that time was to go straight home and get
8 somebody who she's going to get in the car with. I called
9 somebody who she was going to get in the car with which
10 was Peter Tony Carter.

11 Q. And indeed you did make a phone call to Peter Tony
12 Carter?

13 A. Yes, I did.

14 Q. That was about 11:57; correct?

15 A. Yes.

16 Q. So explain to the jury what kind of time period we're
17 talking about between the time you left the courthouse and
18 the time that you returned to your house.

19 A. It was, I left the courthouse roughly 11:35, 11:30,
20 11:35, 11:40. We talked for 25, 30 minutes while Peter
21 was there. And we talked for, like, five minutes after he
22 left, you know, at the stop sign, five, ten minutes.

23 Q. These are things that you talked about with law
24 enforcement; correct?

25 A. Yes, sir.

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1 Q. When they came to see you or when you all talked on,
2 what, the 9th of November of 2006; correct?

3 A. Yes, sir.

4 Q. All right. So, you said, roughly -- I don't want to
5 put words back in your mouth. You said roughly, you all
6 talked roughly five or so more minutes and you left around
7 11:40 or so?

8 A. Yes, sir; 11:35, 11:40.

9 Q. So between that time and 11:57, the argument with you
10 and Maggie occurred -- excuse me -- you and Ericka
11 occurred. She got out of the car and you came back home
12 and called Peter?

13 A. It wasn't an argument. It was just her fussing at
14 me. I wasn't arguing with her, but I came back home and
15 called Peter.

16 Q. Did you hear from Peter any time else after that?

17 A. He, he called back. He called later on that night and
18 he said that, well, I looked around Flat Street and I
19 looked around Fleetwood, and I didn't see her.

20 And then that's when I told him exactly where she got
21 out. I said down by Sammy's. That was the last time I
22 heard from him. He didn't call back or anything.

23 Q. What was your thought process because he didn't call
24 back?

25 A. I thought everything was fine. I thought she was home

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1 at her -- with Ericka -- I mean, with Jessica and Jessica,
2 at the granddaddy trailer. I thought she was back at
3 granddaddy trailer with T.M.

4 Q. And you thought that, why?

5 A. Because, you know, Tony didn't call me back and said
6 otherwise.

7 Q. When was the next time that you heard or the first
8 time that you heard anything about Ericka not being around
9 or not coming home or not being seen by her family?

10 A. Wednesday night.

11 Q. And Wednesday night would be the 9th? Is that the
12 9th? Well, what would have happened Wednesday night?

13 A. No, Wednesday night was the 8th.

14 Q. I'm sorry. Wednesday night was the 8th?

15 A. Yes.

16 Q. Okay. Tell us about that.

17 A. Well, I was at Wal-mart's with, shopping with Maggie.
18 And I seen Jackie Bradley, Ericka's mother. And, you
19 know, the first thing that came to my mind was, oh man,
20 this is Ericka's mother, what should I do, you know, since
21 I been with another female. I'm wrong, you know, all
22 together. I'm with another female and I'm supposed to be
23 with her daughter, you know.

24 So my first -- she walking towards me -- I didn't see
25 her at first. She see me. She walk toward me and she

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1 asked me, she said -- well, no. I said to her first,
2 well, how is Ericka. I said, well how is Ericka.

3 And she told me, I didn't see Ericka since Monday
4 night, you know. The attitude. And I'm like shocked
5 because she was, you know -- peter had came and picked her
6 up but supposedly had went and picked her up. And that's
7 where she supposed to be at, Jessica's house, the
8 granddaddy trailer.

9 And once she told me that, I told Maggie to go ahead
10 and get -- well, I rushed out the store. She got all of
11 her stuff, and rang it up and I rushed her home. I
12 dropped her off home and I rushed back to my house and
13 that's when I found out Ericka was missing.

14 Q. At some point in time soon after that's when police
15 involvement began; correct?

16 A. Yes, sir.

17 Q. Somewhere around that period of time, that's when you
18 had an opportunity meet with Agent Johnson; correct?

19 A. Yes, sir.

20 Q. And you gave statements to him or to law enforcement
21 at that point in time; correct?

22 A. Yes. Voluntarily.

23 Q. What else did you do?

24 A. Well, I spoke with him versus just writing a
25 statement, I spoke with him, you know. And then after me

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1 speaking with him, I took him to -- I took him out. He
2 didn't take me. I took him to the spot where she got out
3 at, just to help him because I want to know where Ericka
4 Bradley was. I wanted to know. Not, nobody else. I
5 wanted to know.

6 Q. And you took him to, where?

7 A. I took him down from Sammy's where she got out at.

8 Q. And what happened from there?

9 A. Well, after I took him, well, first -- first, after --
10 after I wrote the statement and talked to him, you know,
11 it was, he was a totally different person.

12 Q. Uh-huh.

13 A. He was a totally different person. He was a nice guy
14 while I was talking to him. Oh, he was a nice guy before
15 the statement, but after, uh-huh. I mean, he turned
16 nasty. I couldn't -- it was nothing I could say.
17 Everything I said he turned it around.

18 Q. Uh-huh.

19 A. I took, I took him to the spot. I took him to where
20 she got out at and when she last -- where she was walking,
21 and he started -- he started patronizing. He started
22 just --

23 Q. When you say patronizing, you mean like teasing?

24 A. Yeah. Teasing me. Teasing all the way. I get back
25 to the department and I start talking to him, you know,

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1 just overlooking what he been doing, just overlooking it.

2 Q. Did you ever tell him that you had injured Ericka
3 Bradley in any way?

4 A. No, sir.

5 Q. Did you ever tell him that you had hugged her and put
6 her down on the road?

7 A. No, never.

8 Q. Did you ever tell him that you had clipped her with a
9 car by accident or anything along those lines?

10 A. No, sir.

11 Q. Did he record anything that you said to him with a
12 cassette recorder or anything along those lines?

13 A. No, sir.

14 Q. And did you at any time try to tear a statement up?

15 A. No, sir.

16 Q. What happened as you spoke with him and when did you
17 determine not to speak with him anymore?

18 A. Well, like I said, I volunteered doing thing, you
19 know, because I wanted to know. I wanted to find out what
20 was going on because I didn't have a, a clue.

21 And, you know, I talked to him. And then so after,
22 after we got back from, from him, from me showing him
23 where she got out at, he -- we got back to the department
24 and he just start saying things like you did it, like I
25 did this, he. Said you did this or you beat her up or you

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1 hit her with a car or you did this.

2 And I'm looking at -- I asked him, I said, well, why
3 are you doing this. Are you -- I looked him in his eyes,
4 I said, why are you doing this. I started crying.

5 Q. Why did you start crying?

6 A. Because it was hurtful. I mean, I just found out that
7 my son's mother, my first baby mother, my first son, only
8 son mother is gone and is missing. And just for him doing
9 that was eating me up inside so I cried.

10 And you know what he told me. He said, he asked me,
11 he said, well do Allendale, do Allendale-Fairfax High
12 School have a drama class. Just start teasing me. Thinks
13 it's a joke. Think this situation is funny. And it's far
14 from funny. This is very serious to me. And I'm sure
15 it's serious to my family and the Bradley family and to
16 everyone in Allendale County.

17 Q. Did you at any point after those statements to you
18 determine that you didn't want to speak with him anymore?

19 A. Yes, sir.

20 Q. Okay. And at some point in time you went home?

21 A. Yes, sir.

22 Q. Let's be clear. You weren't under arrest then, were
23 you?

24 A. No, but it felt like it.

25 Q. Now, after that point did the police ever come back to

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1 your house with search warrants or anything like that?

2 A. No.

3 Q. Did they confiscate your vehicle?

4 A. Yes.

5 Q. When did that happened?

6 A. It happened the night of me talking to them, the
7 agents.

8 Q. But after they took the vehicle, at any point in time
9 did they ever come back around with search warrants or
10 anything for your house?

11 A. No, sir.

12 Q. Now, months pass, time passes and you end up going to
13 Benedict College; correct?

14 A. Yes.

15 Q. And at some point in time you were arrested; correct?

16 A. Yes.

17 Q. After you were arrested you -- what happened? You
18 were placed in jail at some point; correct?

19 A. Yes, I was taken -- I was arrested and then brought
20 back down to Allendale County Jailhouse.

21 Q. Now while you were in jail, did you have an occasion
22 to make phone calls to people?

23 A. Yes. Mainly every day.

24 Q. You say mainly every day?

25 A. Yes.

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1 Q. Who were the people that you spoke with?

2 A. Madoree Pipkins and sometimes I call my mother and
3 sometimes I'll call my attorney, Byron Gipson.

4 Q. So that would be me?

5 A. Yes. You.

6 Q. And did you have an occasion to speak with Madoree
7 Pipkins about some jewelry?

8 A. Yes, I did.

9 Q. Explain to us that series of conversations.

10 A. Well, basically I just told her to go pick up some
11 jewelry that a person inside told me that I could have
12 it. Well, I fed him for it. And I told him I'd pick up
13 more money when I get up. I fed him for it.

14 Q. You said you fed him for him?

15 A. Yes.

16 Q. Tell me what you mean by that. That's terminology
17 that everybody may not know.

18 A. In general we have a commissary and you can buy
19 commissary, you buy a sheet and you buy commissary food
20 once a week.

21 Q. What kind of foods are on commissary?

22 A. Honeybuns, Oodles of Noodles. Everything that you
23 want. Everything from, like, Swanns, they have it.

24 Q. So essentially if you're in the county jail which you
25 were in pending trial for some period of time --

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1 A. Yes.

2 Q. -- after being arrested on this charge?

3 A. Yes.

4 Q. You have, they're going to feed you while you're
5 there; correct?

6 A. Yes. They're going to feed you.

7 Q. But if you want the kind of food that you want to eat
8 you got to buy it yourself?

9 A. Yes.

10 Q. So when you say you were feeding him, you mean you
11 were allowing him to have some of the food you bought with
12 your own money?

13 A. Yes. I was giving him food that my family bought me.

14 Q. And that was purchased through the commissary at the
15 jail; correct?

16 A. Yes.

17 Q. Now, you said that he promised you or he was going to
18 give you some jewelry?

19 A. Yes.

20 Q. Tell us about that.

21 A. Well, you know, while I was incarcerated I was just, I
22 mean, I knew my family was going to support me. I mean, I
23 knew this.

24 Q. Right,

25 A. But, you know, mainly the jewelry was for Madoree.

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1 She supported me. I mean, as soon as I got locked up at
2 the jail, she was the first one that called Mama and told
3 her everything that happened, you know.

4 Q. Hold on. When you say everything that happened, let's
5 be specific about that. We don't want any misconceptions
6 about that.

7 A. Meaning as far as Johnson, Special Agent Johnson and
8 other SLED, one -- two campus security, Special Agent
9 Johnson and I think another SLED agent, they burst in my
10 room. And, you know, I was moved up under my covers and
11 they said, Derek Maner. I said, yes. And he said, we
12 have a warrant for your arrest.

13 Q. And so and let me ask you this just to clarify. You
14 mean, when you're talking about specifics, specifics with
15 the arrest while you're at Benedict College; correct?

16 A. Yes, sir.

17 Q. So those are the details that you're talking about
18 when you say Madoree told your mother about details of
19 things?

20 A. Yes.

21 Q. Now, I'm going to ask you again: Did you do anything
22 to Ericka Bradley that's criminal?

23 A. No. Never. No.

24 Q. So when you started saying that you were talking
25 details, are you speaking about that in any way, shape or

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1 form? Are you speaking about doing anything to Ericka
2 Bradley, when you said you were talking about details?
3 When you said that Madoree spoke to your mother about
4 details.

5 A. Oh. No, sir. I was talking about details in
6 reference of me getting arrested.

7 Q. Did you ever tell Madoree Pipkins that you did
8 anything criminal to Ericka Bradley?

9 A. No, I didn't.

10 Q. Now, you said Madoree stuck by you. So as a result of
11 her sticking by you, what did you want to do?

12 A. I wanted to get her something nice. And while I was
13 in, I was introduced to something nice.

14 Q. And, by Dawan Doe?

15 A. By Dawan Doe.

16 Q. Now where is Dawan from?

17 A. I'm not exactly sure, but he's from Hampton County.

18 Q. Okay. Somewhere out by Lake Warren?

19 A. I'm not sure.

20 Q. If you don't know, that's fine.

21 A. I'm not sure.

22 Q. Have you ever been to Lake Warren?

23 A. No, I haven't.

24 Q. How is it that you were able to give Madoree
25 directions to that area?

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1 A. If I gave her directions she was with someone else. I
2 didn't give her directions. I just gave her what someone
3 told me, what Dawan told me, you know, the directions he
4 told me.

5 Q. And the jewelry that was there, was that Ericka
6 Bradley's jewelry?

7 A. No, sir. No.

8 Q. Why is that?

9 A. As far as I know, she didn't have any jewelry. You
10 know, the only jewelry she had was, that I know of is, she
11 had six gold, six gold teeth. The top, was called
12 fronts. That's the only jewelry I've ever known for her
13 to have.

14 Q. And fronts are teeth that are especially fitted for a
15 person?

16 A. Yes, especially fitted.

17 Q. You pull them in and out?

18 A. You go in, into wherever, when this particular
19 occasion we went to Aiken and you got to mold them.
20 They'll put a mold in, like, a little, like, a mouth
21 guard. And he'll tell you to put it in your mouth and
22 bite down on it. They have the imprints of your teeth.
23 And they send them off to fill it in with gold and the
24 gold will come back and fit specifically on your mouth.

25 Q. And as far as you know, that's the only jewelry that

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1 she had?

2 A. Yes.

3 Q. How did she get that jewelry?

4 A. Me and her went half on it.

5 Q. So y'all purchased it together?

6 A. Yes.

7 Q. Do you know where that jewelry is?

8 A. Yes.

9 Q. Where?

10 A. It's in my car.

11 Q. Okay.

12 A. It's me and my family car.

13 Q. All right. Now, so the jewelry that we're speaking
14 about did not belong to Ericka Bradley?

15 A. No, it didn't.

16 Q. Now, why would you be giving her directions to go get
17 something out of a -- off the side of the road?

18 A. We was off the side of the road, I was looking in
19 directions -- I was giving her directions for what I been
20 told.

21 Q. And to your knowledge, did she find anything when she
22 went out there?

23 A. No. No, sir.

24 Q. Now you had an occasion -- Court's indulgence for a
25 moment, Your Honor.

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1 We're going to change subjects for a brief moment.
2 I'm going to show you some of the State's exhibits that
3 have been marked, State's Exhibit Number Three and State's
4 Exhibit Number Four.

5 Can you take a look at those and identify them if
6 you're able to?

7 A. Yes. This is me and my family's Suzuki.

8 Q. That's you and your family's Suzuki?

9 A. Yes.

10 Q. Now, do you see anything particular about that Suzuki
11 that raises your attention?

12 A. Yes. It's a dent on the passenger front bumper.

13 Q. And what exhibit is that?

14 A. It's Court Exhibit -- State's Exhibit Three.

15 Q. So State's Exhibit Number Three that you're
16 referencing, there's a dent on the right front bumper;
17 correct?

18 A. Passenger.

19 Q. Passenger. Okay. So the passenger bumper?

20 A. Yes.

21 Q. Tell us about that dent.

22 A. Well that dent, that dent came from when my brother
23 was driving the car and he hit a dog. It was on a dirt
24 road and he hit a dog. And it hit the bottom of the car.

25 It warped the rim and we had to get two tires for the car,

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1 at least on the passenger side because the dog tore up
2 mainly everything.

3 Q. And that happened about when? Do you remember the
4 year that that happened?

5 A. It happened roughly at the end of '05.

6 Q. Now, I'm going to show you some paperwork. Well, let
7 me ask you this: What did you have to do as a result of
8 your brother hitting that dog and warping the rims to your
9 car?

10 A. As you -- I mean, you know, my mother and my father
11 mad.

12 Q. Why was that?

13 A. Because we just got -- it was a brand new car. We
14 just got it, you know. And she was, you know, we was
15 taking turns, back and forth, me and him driving it, you
16 know. He would drive it sometimes, I'd drive it sometimes
17 and then my mother would drive it to work sometimes.

18 So, after he did it up everyone was mad. So, my
19 father -- well, we, me and my father, we sit it on
20 blocks. And when we did we went to, to, I think it was
21 Pep Boys -- well, I know it's Pep Boys. It was Pep Boys
22 in Georgia and we, we got tires for the car.

23 Q. Let me ask you this: Why did you sit the car up on
24 blocks?

25 A. As I stated, my father and my mother was mad.

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1 Q. So if you put a car on blocks, can it be driven?

2 A. No.

3 Q. When you say blocks, tell me --

4 A. Meaning the big blocks with three holes in the middle.

5 Q. Cinder block?

6 A. Cinder block. Yeah. That's what I mean.

7 Q. So y'all put the car on blocks and at that point it
8 couldn't be driven. With the warped rim, could it be
9 driven anyway?

10 A. No, no, sir.

11 Q. So you said you went to Pep Boys in Georgia?

12 A. Yes.

13 Q. And did what?

14 A. Well, my father and mother they bought, they bought
15 two tires.

16 Q. Okay. And I'm just going to show you something. Do
17 you recognize that document? Just say yes or no, before
18 we do anything else.

19 A. Yes, I do.

20 Q. Okay.

21 MR. GIPSON: Your Honor, I'd like to enter
22 Exhibit Number Eight into evidence. Defendant's Exhibit
23 Eight.

24 MR. PEARSON: No objection.

25 THE COURT: Defendant's Exhibit Number Eight is

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1 in evidence without objection.

2 MR. GIPSON: Thank you, Your Honor.

3 (Thereupon, Pep Boys receipt, Defendant's Exhibit
4 No. 8, was marked and received into evidence.)

5 BY MR. GIPSON:

6 Q. Now tell the jury what that is.

7 A. This is a receipt from Pep Boys in Georgia from when
8 we bought the tires.

9 Q. Now, did y'all take the car down there when you went
10 to Pep Boys?

11 A. No, sir. Because it couldn't be driven.

12 Q. What did you do?

13 A. Well, me and my family, we drove our truck, F-150
14 truck.

15 Q. Okay. What did you put in the back of the truck?

16 A. Tires.

17 Q. All right. So you brought those tires that you bought
18 from Pep Boys back to Allendale?

19 A. Yes.

20 Q. And what happened as a result of you taking the tires
21 or bringing the tires back to Allendale?

22 A. Well, as I stated earlier, the rim was warped because
23 of the dog. The dog just bit the whole the front. Can I
24 show --

25 Q. If you need to stand up and show the jury, I'd ask

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1 Your Honor, can he refer to the jury and show that to
2 them?

3 THE COURT: Yes.

4 MR. GIPSON: Can he step down?

5 THE COURT: Yes.

6 THE WITNESS: The front --

7 MR. GIPSON: You're going to need to speak up so
8 that the court reporter can hear you.

9 THE WITNESS: All right.

10 MR. GIPSON: Just loud enough.

11 THE WITNESS: The front rim of the car, this,
12 everything was warped. You couldn't, you couldn't put
13 nothing on it. So we had to go to Orangeburg and buy, C&R
14 and buy a whole new rim for this car. And we had to get
15 somebody to put the tire on the car, but all of this is
16 warped, dirt. I mean, it was just a mess.

17 BY MR. GIPSON:

18 Q. And all of that damage was a result of hitting the
19 dog; correct?

20 A. Yes, sir.

21 Q. All right. Now, did you have an occasion to try to
22 put those tires back on the car?

23 A. Sir?

24 Q. Did you have a chance to put those tires on the car at
25 some point in time?

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1 A. Yes, sir. After it was put on the rim.

2 Q. Okay. After it was put on the rim?

3 A. Yes.

4 Q. Now tell us about putting those tires on the car.

5 A. The first, you know, since -- well, first if you don't
6 know, a Suzuki its drive is from the front. It don't, it
7 don't pull -- how can I put it. It don't drive from the
8 back.

9 Q. It's front-wheel drive?

10 A. It's front-wheel drive. So just two brand new tires,
11 we rotated the two brand new tires we put to the front.
12 So we rotated the tires. The two tires we left -- on the
13 driver's side we put on the back and the two new tires we
14 put on the front.

15 Q. And who all did this?

16 A. Mainly me and Ericka. My father was at work.

17 Q. So you and Ericka did work on that car?

18 A. Yes.

19 Q. You're telling us she was lifting tires and doing
20 things like that?

21 A. Mainly just holding it steady. Not as far as picking
22 it up and putting it over, you know, holding it steady and
23 giving me what I need. I needed to show her, because she
24 needed to know how to change tires.

25 Q. How long did it take to do that kind of work to the

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1 car?

2 A. I don't know. Just to put, just to rotate them?

3 Q. Yes, sir.

4 A. Thirty minutes to a hour.

5 Q. Okay. And once you did the rotating of the tires,
6 putting the tires back on, was that car -- well, what else
7 -- well, let me ask you this: Did you have to do anything
8 else to get the car in drivable condition?

9 A. Yes. I mean, like I stated earlier, we was on, not
10 we, my brother, when he got into the accident he was on a
11 dirt road, all up under the bumper, all up under is like,
12 it's like the bumper and --

13 Q. You can show them. May he step down and show the
14 jury, Your Honor?

15 THE COURT: Yeah.

16 BY MR. GIPSON:

17 Q. Okay.

18 A. Right here where it's, where it's -- right here on
19 this bumper. All up under the bumper. Can I get the
20 other picture for the side of the car? This one.

21 Q. What we need to do is you need to identify the number
22 on each exhibit. She's taking it down.

23 A. This is State Exhibit Three. All under the bumper.

24 All under here, sand. All under here, sand. Sand. Now,
25 let's see that. And State Exhibit Number Four, all under

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1 the front. Piles of sand, so.

2 THE COURT: Mr. Gipson, you might want to let him
3 show it to the other end of the jury.

4 THE DEFENDANT: I'm sorry. I'm sorry.

5 MR. GIPSON: Okay.

6 THE DEFENDANT: See. This is from the dog. And
7 all under, all under here and all up under this front is
8 full of dirt, all under. Behind here, full of the dirt.
9 And this is the tire that warped the rim. We had to
10 change this.

11 BY MR. GIPSON:

12 Q. In case this area of the jury didn't see before, point
13 us to the damage that was done to that car as a result of
14 hitting the dog.

15 A. This is the damage. It ripped the bottom of it and
16 put a dent on it. Under it is like, like somebody hacked
17 it with a knife. It was ripped. And it warped as much as
18 how -- the rim is round and it has a specific projection.
19 It warped it. So the rim's just straight and it was like
20 bent. So we had to get new rim, a new rim and everything
21 for the car.

22 Q. And that's what you got from Pep Boys; correct?

23 A. No. We got the tires from Pep Boys and the rim from
24 C&R in Orangeburg.

25 Q. All right.

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1 A. (Returns to the witness stand.)

2 Q. So after -- my question to you was: You said there
3 was dirt up underneath the bumper, that kind of stuff?

4 A. Yeah.

5 Q. What did you have to do from that?

6 A. Put it up -- me and Ericka put it up because mainly it
7 was me and her car. It was my family, too. It was my
8 family car.

9 Q. Right.

10 A. You know, but mainly, you know, see, my brother lost
11 his privilege. It was mainly me and her car. Me and her
12 drove it most of the time.

13 Q. So you essentially had to clean it up?

14 A. Yes. We had to clean it up.

15 Q. What else did you do to clean it up to get the sand
16 out of it or did you do anything else?

17 A. We washed it. We washed it. Me and her washed it
18 numbers of times.

19 Q. And you did all of those things in order to kind of
20 get the car back in a driving condition?

21 A. Yes, sir.

22 Q. Okay. Now -- court's indulgence very briefly?

23 THE COURT: Take your time.

24 BY MR. GIPSON:

25 Q. Now, we're going to fast forward again back to 2006.

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1 Before we do that, all of these things happened in 2005
2 with this car and the accident; correct?

3 A. Yes, sir.

4 Q. And if you will, point to, again, or if I can point
5 you to Defendant's Exhibit Number Eight. Is there a date
6 on there?

7 A. Yes. It, it says 11-27-2005.

8 MR. GIPSON: May I publish that to the jury, Your
9 Honor?

10 THE WITNESS: Both copies.

11 (Document exhibited to jury.)

12 BY MR. GIPSON:

13 Q. Now, back in 2006 you had an opportunity to speak to
14 police; correct?

15 A. Yes, I did.

16 Q. Did they ever come to you and try to discuss with you
17 the dent to the car?

18 A. No.

19 Q. O there is no question that those things occurred --
20 or, that dent occurred because of an accident, correct,
21 with a dog?

22 A. Yes.

23 Q. Now, is there any point in time since your initial
24 interview with Agent Johnson, and any other law
25 enforcement folks who were there, where you gave any

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1 statements contradicting what you've said, meaning saying
2 that you did anything to Maggie?

3 A. No, sir.

4 Q. Excuse me. I apologize. To Ericka?

5 A. No, sir.

6 Q. And today you are standing here under oath telling
7 this jury what happened?

8 A. Yes, I am.

9 Q. Are you being truthful with the jury?

10 A. Yes.

11 Q. What did you do wrong in this entire incident?

12 A. What I should have done and I'm sorry I didn't do it,
13 but I should have just rode up beside her. The wrong
14 thing I did was just to leave and to depend on someone
15 else to go pick her up. I should have stayed right there
16 beside her and drove three miles per hour.

17 Q. And, again, did you murder Ericka Bradley?

18 A. No, I didn't.

19 MR. GIPSON: That's all my questions, Your
20 Honor.

21 THE COURT: Madam forelady, ladies and gentlemen
22 of the jury, we're going to take a brief recess, about
23 five minutes. You may take the jury to the jury room.
24 And do not begin to discuss the case in any way, shape or
25 form.

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1 (Jury exits courtroom at 2:27 p.m. Afternoon
2 recess was taken from 2:27 p.m., until 2:39 p.m.)

3 THE COURT: We're ready for the jury.

4 MR. PEARSON: Your Honor, before we bring the
5 jury in, may we approach?

6 THE COURT: Just one second on the jury.

7 (Off-the-record discussion.)

8 (Jury enters courtroom at 2:42 p.m.)

9 THE COURT: Mr. Pearson, you're recognized.

10 MR. PEARSON: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. PEARSON:

13 Q. Mr. Maner, I do believe on direct examination from
14 Mr. Gipson, and correct me if I'm wrong, but you said
15 you're in school to be a computer engineer?

16 A. No.

17 Q. I'm sorry. What did you say?

18 A. My major is mathematics and computer science.

19 Q. I'm sorry. Computer science.

20 A. Yes.

21 Q. Mathematics?

22 A. And major in mathematics. I have to have a 2.5 to do
23 a double major.

24 Q. So, and you kind of talked about this a little bit.

25 You got to do a lot of math for the computer science part

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1 of it too; right?

2 A. Yes. As far as breaking down, I'm not an expert but
3 as far as, you have a thing for computers called binary
4 unit. What it is, that's what computers use is zero and
5 ones. And the computer process, I'm not an expert. I
6 just took one class about this, when a computer process it
7 processes, it has input, and processes output. So
8 input/output. And when it processes the inputs as
9 whatever it is, a word, it could be spit or harass it
10 inputs in that but when it outputs, it outputs it has zero
11 to one.

12 Q. Thank you. That's way more math than I can handle.
13 It goes over my hath. You must be a pretty a smart guy.

14 A. It's not math. It's just basically zero, zero one,
15 that's it. Zero and ones.

16 Q. But you got mathematics, too?

17 A. Yes.

18 Q. So you are pretty smart guy?

19 A. I can count money.

20 Q. Well, also when you were testifying on direct and I
21 write things down because I can't remember.

22 A. Yes, I understand that from earlier.

23 Q. You said, quote, I was trying to be slick. I was
24 trying to stay ahead of the game. You're still trying to
25 be slick; aren't you?

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1 A. No, sir.

2 Q. You're still trying to --

3 THE COURT: All right. All right. There will be
4 no reactions in the audience. If there is, I'm going to
5 ask the deputies to take you into custody. These are very
6 serious matters. If you can't contain yourself, I'm going
7 to ask you to leave the courtroom.

8 Mr. Pearson.

9 BY MR. PEARSON:

10 Q. You're still trying to stay ahead of the game, aren't
11 you?

12 A. No, sir.

13 Q. But that's what you said on direct.

14 A. Yes, as far as cheating.

15 Q. As far as cheating. Okay.

16 A. Yes, to Ericka.

17 Q. When you testified a little earlier you said the last
18 time you saw Ericka she was walking back towards Sammy's
19 Store; is that correct?

20 A. Yes, sir.

21 Q. And that was the last time you saw her?

22 A. Yes, sir.

23 Q. And which highway is Sammy's Store on? Which highway
24 is that on?

25 A. Highway 125.

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1 Q. 125?

2 A. Yes.

3 Q. And between Highway 125 and 278, those numbers
4 sometimes you get those confused?

5 A. As far as just getting any highway confused, it's
6 except for, you know, everyone knows 301 as far as 125,
7 Route 1, Highway 278, you know, it's just highway numbers.

8 Q. I'm sorry. Is that a yes, those are the two you get
9 confused sometimes?

10 A. Yes.

11 Q. But those are numbers?

12 A. Yes.

13 Q. And you're a math major?

14 A. Yes. I'm a math major. Mathematics.

15 Q. Now you testified that on the night of November 6,
16 2006, you were at Maggie Aldrich's house; is that correct?

17 A. Yes.

18 Q. And what time did you leave Maggie Aldrich's house?

19 A. Around eleven o'clock. It was 11.

20 Q. Okay. And sometime between 11 and sometime shortly
21 after that you ran into Peter Tony Carter and Ericka; is
22 that correct?

23 A. Yes, sir.

24 Q. And it was right out here, right here in front of the
25 courthouse?

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1 A. It wasn't right out here. It was the road, the road
2 right there in front of the courthouse about where the law
3 office is.

4 Q. Now you testified that when you first saw Ericka you
5 didn't know she was angry?

6 A. No, I didn't.

7 Q. And she asked would you open the trunk?

8 A. Yes.

9 Q. All right. Why did you think she flagged you down?

10 A. Because she was looking for me.

11 Q. Because she was looking for you. How did you know she
12 was looking for you?

13 A. Because she called Maggie house.

14 Q. But you didn't know she was angry?

15 A. No, I didn't know she was mad.

16 Q. And then you testified that she got a bat out of the
17 car and hit you with it; is that correct?

18 A. Yes, sir.

19 Q. Where exactly did she hit you?

20 A. Right here, on the top of my head, sir.

21 Q. Right on the side of your head?

22 A. Right here. Yes, sir.

23 Q. Hit you pretty hard?

24 A. As far as hitting hard, not to knock me out but to
25 have a knot, yes.

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1 Q. So you had a knot on the side of your head?

2 A. Yes, I did.

3 Q. And that didn't make you angry?

4 A. Why should it if I know I was wrong?

5 Q. So if somebody can come hit you upside the head with a
6 bat and you don't care?

7 A. No, not anyone, not anyone. She more important than
8 just a certain person to anybody.

9 Q. Oh. So she's more important. We'll get back to
10 that. So she's more important to you, right? Is that
11 your testimony right now?

12 A. Of course. She's my baby mother. I love her.

13 Q. We'll get to that in just a second.

14 A. Okay.

15 Q. But you say she hit you in the head with a bat, she
16 put a knot on your head but you didn't get upset?

17 A. No, sir.

18 Q. When she hit you with the bat, did she hit you hard
19 enough to break it?

20 A. It was already cracked.

21 Q. It was a wooden bat?

22 A. Yes.

23 Q. So you're saying now that she hit you with a bat that
24 was cracked so hard that it put a knot on your head; is
25 that right?

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1 A. Yes, sir.

2 Q. Okay. Then you testified that you were outside the
3 courthouse roughly 30 minutes; is that correct?

4 A. Yes, sir.

5 Q. At what point --

6 A. No. No, sir.

7 Q. No? How long?

8 A. I was outside the courthouse talking to her roughly
9 25, 30 minutes while Peter Tony Carter was in the truck.

10 Q. Okay. Were you here? I mean, were you at the
11 courthouse longer than that? Shorter than that?

12 A. Yes, I was. I was in front of the courthouse longer
13 than that.

14 Q. So about 35 minutes, 40 minutes?

15 A. Thirty-five, 40 minutes.

16 Q. And now, you say you were going home at that point; is
17 that correct?

18 A. Yes, sir.

19 Q. All right. And while you were going home your
20 testimony is Ericka asked you again about Maggie Aldrich;
21 is that right?

22 A. No, sir. I never said she asked me again about Maggie
23 Aldrich. The conversation that we had was about Maggie
24 but she didn't start referring to questions about Maggie
25 Aldrich until we was en route to her house.

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1 Q. I'm sorry. Did she refer to it as some girl, just not
2 by name?

3 A. No, sir. No, no.

4 Q. Was the conversation about Maggie Aldrich?

5 A. Yes, it was Maggie Aldrich.

6 Q. That's what I asked.

7 A. That's not what the question was.

8 Q. She didn't ask you any questions?

9 A. She didn't ask questions until we was on the way out
10 to my house.

11 Q. Was she telling you about Maggie Aldrich?

12 A. Yeah, basically.

13 Q. Okay. So she's telling you about Maggie Aldrich. Now
14 at this point, are you angry? Did you get angry?

15 A. No.

16 Q. All right. And this is the time where you said, and
17 correct me if I'm wrong, but you testified that you would
18 take her over to get to the bottom of it, take her over to
19 Maggie's house; is that correct?

20 A. Yes. I said I would take her over there.

21 Q. And at this point you turned the car around?

22 A. No. We just, you know, circle because my road is,
23 like, it's right here by the mill and it's a little place,
24 you just circle around and we came back on Highway two --

25 Q. You need some time to figure out which road you're

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1 going to tell us?

2 A. No. Highway 278. This road right here, the Barnwell
3 Highway. We came back down this way and we went back in
4 front of the courthouse and that's the route we took.

5 Q. Okay. And on the way then you testified that she hit
6 you in the side of the head again, pretty hard?

7 A. Yes.

8 Q. The same side you had a knot on?

9 A. No. She hit me on this side.

10 Q. So she hit you on both sides of the head?

11 A. Yes. She hit me with a bat and with a fist to the
12 right side.

13 Q. Did you get angry at this point?

14 A. No.

15 Q. So she done hit you with a bat. She done hit you on
16 the side of the head with her fist. And it's your
17 testimony right now that you didn't get angry?

18 A. I wasn't angry, mad, no. No, sir.

19 Q. And yet even though you weren't mad your response, and
20 I quote you, was, what you want to walk or something,
21 because that's what you said on direct; is that right?

22 A. I asked her if she wanted to.

23 Q. So you're not angry and yet you tell her, do you want
24 to walk and then you put her out of the car.

25 A. I didn't put her out of the car.

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1 Q. Did she remain in the car with you?

2 A. I didn't put her out of the car.

3 Q. Did she remain in the car with you?

4 A. You asked me did I put her out of the car and no she
5 didn't got out of the car.

6 Q. Did she remain in the car with you?

7 A. No, she didn't.

8 Q. So she's out of the car?

9 A. Yes.

10 Q. Are you in the car?

11 A. Yes.

12 Q. Are you driving?

13 A. Yes.

14 Q. Is she on the side of the road?

15 A. Yes, sir.

16 Q. She's out of the car?

17 A. Yes, but I didn't put her out of the car.

18 Q. At this point -- well, let's back up just a second.

19 Because before -- and I don't want to step on your
20 testimony. Before she got out of the car --

21 A. Uh-huh.

22 Q. -- it's your contention that you were driving. You
23 don't know how fast, then she put her hand on the gear
24 shift, put the car in park; is that right?

25 A. Yes, sir.

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1 Q. Are you sure that's what happened?

2 A. I'm positive.

3 Q. No problems with the transmission?

4 A. Just when she put it in park, well, this wasn't the
5 first time. When she put it into park it was a sort of a
6 a clicking, like if I may make a sound. It was like
7 (makes sounds).

8 Q. Okay.

9 A. It was a clicking, a loud clicking noise.

10 Q. And then the car just stopped?

11 A. No. I put my foot on the brakes. The car didn't stop
12 by itself.

13 Q. Leave any skid marks on the road?

14 A. I don't know.

15 Q. You don't know?

16 A. No. I didn't get out and observe the road. And the
17 car didn't smoke up.

18 Q. And then after -- I'm not stepping on your testimony,
19 she got out, then you went home; is that right?

20 A. Yes.

21 Q. And you called Peter Tony Carter to go pick her up?

22 A. Yes, I did.

23 Q. And then you got back on the phone with Maggie
24 Aldrich; is that correct?

25 A. No, sir.

DEREK LEBRAUN MANER - CROSS

1 Q. You never called Maggie Aldrich that night?

2 A. Yes. I called Maggie Aldrich but that's not what
3 happened. What happened was, I got home. I called Peter,
4 and I told Peter, you know, you know, I was little
5 agitated then. I called Peter and I said --

6 Q. You were agitated then, is that -- I'm sorry. I just
7 didn't hear what you said.

8 A. No, it just everything was just so fast, you know.
9 I -- what was in my mind, to go home and call her cousin,
10 Peter Tony. Let me go on home and call your cousin.

11 Called him and I told him that she got out of the car
12 and she threw it in park and that was it.

13 Q. And then you called Maggie Aldrich?

14 A. I'm not sure. If you show us a documents that I might
15 could --

16 Q. We're just talking about what you remember.

17 A. Oh I remember talking to Maggie that night. Yes.
18 Yes, sir.

19 Q. And how long did you talk to Maggie?

20 A. I'm not sure. Hour and a half, two hours.

21 Q. Hour and a half or two hours?

22 A. Yeah. I'm not sure. I'm not sure.

23 Q. Okay. So, let me get this straight. The mother of
24 your child, the one you care about --

25 A. Yes.

DEREK LEBRAUN MANER - CROSS

1 Q. -- you leave her on the side of the road to walk home,
2 you call Peter Tony Carter to go pick her up, then you
3 talked to Maggie Aldrich for an hour and a half to two
4 hours; is that correct?

5 A. No, sir. That's not correct.

6 Q. You didn't? She didn't? She's not the mother of your
7 child? I'm trying to figure out what --

8 A. She's the mother of my child.

9 Q. She's the mother of your child?

10 A. Yes.

11 Q. She was walking home?

12 A. Yes, she was walking.

13 Q. You went home?

14 A. I went home.

15 Q. You called Peter Tony Carter?

16 A. Yes.

17 Q. You talked to Maggie Aldrich for an hour and a half to
18 two hours?

19 A. No, that's not what happened.

20 Q. Your testimony, not 30 seconds ago was --

21 MR. GIPSON: Your Honor, can he have a chance to
22 answer the question?

23 THE COURT: Yes. If you give him an opportunity
24 to explain his answer.

25 BY MR. PEARSON:

DEREK LEBRAUN MANER - CROSS

1 Q. Please explain.

2 A. You asked me, did I talk to Maggie that night and how
3 long did I talk to her. I stated, yes, I did talk to
4 her. I talked to her for, like, an hour and a half, two
5 hours. You never did ask me -- that's what you asked me.

6 Q. You talked to Maggie Aldrich for an hour and a half to
7 two hours?

8 A. Yes.

9 Q. That's what you did?.

10 A. But that's still after the fact that Peter called me
11 back and asked me exactly where she was and I told him.
12 He never called back any more that night. After that then
13 I talked to Maggie.

14 Q. Okay. You talked to Peter?

15 A. Yes.

16 Q. Did you talk to Maggie Aldrich for an hour and a half
17 to two hours?

18 MR. GIPSON: He's answered the question.

19 MR. PEARSON: No, he hasn't.

20 THE COURT: I think he answered that at least
21 once.

22 BY MR. PEARSON:

23 Q. So you talked to Maggie Aldrich for an hour and a half
24 to two hours. It didn't cross your mind that Ericka might
25 return during that hour and a half to two hours?

DEREK LEBRAUN MANER - CROSS

1 A. No, sir.

2 Q. It didn't cross your mind because you knew she was
3 dead?

4 A. No, it didn't cross my mind because Peter didn't call
5 me back.

6 Q. Now, you did say that you didn't realize that Ericka
7 was missing for, until Wednesday?

8 A. Wednesday night.

9 Q. Wednesday night?

10 A. Yes, sir.

11 Q. So, Tuesday night, Wednesday night. That's two days;
12 is that right?

13 A. Yes, sir. Two days.

14 Q. Where was [REDACTED] T.M. during all of this period?

15 A. He was with me at home.

16 Q. Did you spend all those two days, that whole entire 48
17 hours with [REDACTED] T.M.?

18 A. I'm not -- no, sir, no.

19 Q. You didn't?

20 A. No, not -- I was -- no, sir.

21 Q. You didn't ask Ericka to watch him any during that
22 time; did you?

23 A. I didn't have to, sir.

24 Q. That's not what I asked you, sir. Did you?

25 A. No, sir.

DEREK LEBRAUN MANER - CROSS

1 Q. Did you ask her?

2 A. No, sir. No, sir.

3 Q. Did T.M. see -- to your knowledge, did T.M. see Ericka
4 to your knowledge during those two days?

5 A. No, sir.

6 Q. But she's the most important person to you; right?

7 A. Yes, she is.

8 Q. You didn't find it odd during those entire two days
9 that she didn't see T.M.?

10 A. No, sir.

11 Q. Then you testified that you went to Wal-Mart. And who
12 exactly did you see at Wal-Mart?

13 A. Jackie Bradley, Ericka's mother.

14 Q. Is it your testimony today that you never saw Jessica
15 Bradley at Wal-Mart?

16 A. Jessica Bradley was not in my sight.

17 Q. It's your testimony that you never had a conversation
18 with her at all that day?

19 A. I never had a conversation with Jessica not, not
20 Wednesday, not Wednesday or Wednesday night.

21 Q. And then you testified that after you left Wal-Mart
22 you went straight home; is that correct?

23 A. No, sir. I dropped Maggie off at her house and then I
24 went straight home.

25 Q. How long did you stay at Maggie Aldrich's house?

DEREK LEBRAUN MANER - CROSS

1 A. Not, not -- I spent a minute.

2 Q. And is it your testimony today that you did not see
3 any other members of the Bradley family that night?

4 A. Yes, I did.

5 Q. Who else did you see?

6 A. Well the, Bradleys came in front of my house and,
7 yeah, the Bradleys came in front of my house after I
8 returned home.

9 Q. Now you also testified under direct that this
10 situation is serious to you; is that correct?

11 A. Yes, it is.

12 Q. And it being serious, people should tell the truth
13 about everything; is that correct?

14 A. Yes, they should.

15 Q. Does that include you?

16 A. Yes, it does.

17 Q. You testified a little earlier that Ericka did not
18 have any jewelry, is that correct, outside of the fronts?

19 A. Not that I know of. Not that I know of.

20 Q. Not that you know of?

21 A. Yes.

22 Q. I'm going to show you what's been marked for
23 identification as State's Exhibit 160 and 161. Take a
24 look at those very quickly.

25 A. Thank you.

DEREK LEBRAUN MANER - CROSS

1 Okay. I have.

2 Q. Do you recognize the person in those photographs?

3 A. Yes. This is my baby mother, Ericka Bradley.

4 Q. Ericka Bradley?

5 A. Yes, sir.

6 Q. Do you recognize any jewelry in these pictures?

7 A. Yes. She has a necklace and long string earrings.

8 Q. Would a necklace and long string earrings be jewelry
9 to you?

10 A. Yes, it is, sir.

11 MR. PEARSON: Your Honor, at this time the State
12 would like to move State's Exhibit 160 and 161 into
13 evidence.

14 THE COURT: Any objection from the defense?

15 MR. GIPSON: May I see them?

16 MR. PEARSON: (Documents handed to Mr. Gipson.)

17 MR. GIPSON: Just with the prior stipulation that
18 we had, Your Honor. May we approach briefly?

19 (Off-the-record discussion.)

20 THE COURT: Those items, 160 and 161, are
21 introduced into evidence subject to the stipulation of
22 counsel.

23 (Thereupon, State's Exhibit No. 160, poster -
24 missing person and State's Exhibit No. 161 poster -
25 missing person, were received into evidence.)

DEREK LEBRAUN MANER - CROSS

1 BY MR. PEARSON:

2 Q. So when you just told this jury she didn't have any
3 jewelry, that wasn't accurate?

4 A. Yes, it was accurate.

5 Q. Did you see jewelry in these photos?

6 A. Yes, I did.

7 Q. So the statement, she didn't have any jewelry is not
8 accurate?

9 A. Yes, it is accurate. Jewelry that I know of.

10 Q. Oh. Jewelry that you knew of?

11 A. Yes, sir.

12 Q. All right. Not jewelry?

13 A. I never bought her jewelry of that nature right there.

14 Q. But she was the most important thing to you; right?

15 A. Yes, she was.

16 Q. Let's move onto this then. She's the most important
17 thing to you but you claim you're buying jewelry for
18 Madoree Pipkins?

19 A. Yes, sir.

20 Q. Never bought any for Ericka?

21 A. Yes. I went half on her real gold teeth.

22 Q. Is it or is it not true, that just ten seconds ago you
23 said you didn't buy any jewelry for Ericka?

24 A. No, sir. I stated to you earlier that I went half
25 with her on her gold teeth, on her six gold front teeth,

DEREK LEBRAUN MANER - CROSS

1 top of her mouth.

2 Q. But you did buy jewelry for Madoree Pipkins?

3 MR. GIPSON: Object to relevance, Your Honor.

4 THE COURT: I'll overrule the objection.

5 THE WITNESS: No, I did not.

6 BY MR. PEARSON:

7 Q. Let's talk about that.

8 A. Okay.

9 Q. Now you dated Madoree Pipkins; didn't you?

10 A. Yes.

11 Q. Do you remember when, what year you met?

12 A. 2007.

13 Q. Are you dating now?

14 A. No, sir.

15 Q. Do you have a good relationship with her?

16 A. She supportive.

17 Q. She's supportive?

18 A. She is supportive.

19 Q. Are you supportive?

20 A. Yes, I'm supportive.

21 Q. So do you have a good relationship?

22 A. Yes. We're friends.

23 Q. When's the last time you had a conversation with her?

24 A. I can't say.

25 Q. You can't say?

DEREK LEBRAUN MANER - CROSS

1 A. I can't recall.

2 Q. You can't recall?

3 A. No, sir.

4 Q. Now, let's talk a little bit about this dog accident.

5 I want to show you what's been marked as Defendant's

6 Exhibit Number Eight.

7 A. Yes.

8 Q. Do you recognize that?

9 A. Yes, sir.

10 Q. What is the date on this receipt?

11 A. 11-27-2005.

12 Q. 11-27-2005. Almost a year before Ericka went missing;

13 isn't that right?

14 A. Yes, sir.

15 Q. And it must have been sometime prior to that date that

16 this dog was hit; is that right?

17 A. Before that date, yes.

18 Q. Because you didn't buy the tires before the accident;

19 did you?

20 A. No, sir.

21 Q. So that dog was hit approximately at a minimum, a year

22 before Ericka went missing?

23 A. Yes.

24 Q. Finally, you testified that Ericka assisted you in

25 changing those tires; is that right?

DEREK LEBRAUN MANER - CROSS

1 A. Yes, sir.

2 Q. Now, and she -- did she change the tires herself? How
3 exactly did that work?

4 A. I never said she changed the tires herself, sir.

5 Q. Who changed them?

6 A. Me and Ericka.

7 Q. What was her role?

8 A. To assist me.

9 Q. How did she assist you?

10 A. Hands-on.

11 Q. Hands-on?

12 A. Yes.

13 Q. Did she put the tires on herself?

14 A. No, sir. I stated earlier that she didn't. As I
15 picked the tire up and put it on the axle, she helped me.

16 Q. Was she just standing there?

17 A. No, she wasn't just standing there.

18 Q. Now you made a statement in this particular case to
19 Special Agent Johnson; isn't that right?

20 A. Yes, sir.

21 Q. In that statement, did you say anything about Ericka
22 assisting you with the car? Ever? Did you ever tell
23 Special Agent Johnson about Ericka assisting you with that
24 car?

25 A. He never asked.

DEREK LEBRAUN MANER - CROSS

1 Q. That's not what I asked you. What I asked you --

2 A. Oh no, sir.

3 Q. -- did you ever tell him?

4 A. No, sir.

5 Q. You also testified at great length about sand that had
6 gotten in that car. Did you remove the sand?

7 A. Yes. Me and Ericka did.

8 Q. And you also testified that you and Ericka washed that
9 car numerous times?

10 A. Yes, sir; many times.

11 Q. Is it also your testimony that you've never been to
12 Lake Warren?

13 A. Yes. I've never been.

14 Q. And that the only directions you got was from Dawan
15 Doe?

16 A. Yes, sir.

17 Q. You also testified about being arrested at Benedict
18 College; is that right?

19 A. Yes, sir.

20 Q. You said you were in your room?

21 A. Yes. I was in my room.

22 Q. Were you in there by yourself?

23 A. No, sir.

24 Q. Who else was there with you?

25 A. Madoree.

DEREK LEBRAUN MANER - CROSS

1 Q. And, finally, you testified about the demeanor of
2 Special Agent Johnson. Prior to November 6th, 2006, had
3 you ever met Special Agent Johnson?

4 A. No, I have never seen him before.

5 Q. Are you aware of any animosity you have, you had
6 before November 6, 2006 to Agent Johnson?

7 A. No, I never dealt with any police officers before
8 November 6, 2006 -- before November 9th, 2006.

9 Q. Okay. Well, let's talk about November 9th. You said
10 you never had any dealings with law enforcement. Did you
11 owe Special Agent Johnson money?

12 A. Oh, no, sir.

13 Q. Did you all date the same girls?

14 A. I hope not.

15 Q. And yet you would have this jury believe that out of
16 the blue he carried some specific grudge for you; isn't
17 that right?

18 A. On the record.

19 Q. Yes. We are on the record.

20 A. Yes, sir. On the record, when Special Agent Johnson
21 was on the stand he stated that he, he split this case
22 into two cases, a missing person case and a criminal case
23 and as he came at me as a criminal and I was not a
24 criminal.

25 Q. But that didn't answer my question. Is your -- is

1 what you're saying here today, that despite the fact you
2 had no prior relationship with Special Agent Johnson, he
3 had a specific vendetta for you on November 9th, 2006 for
4 no reason?

5 A. Yes, sir.

6 Q. Thank you very much.

7 THE WITNESS: You're welcome.

8 THE COURT: Any redirect?

9 REDIRECT EXAMINATION

10 BY MR. GIPSON:

11 Q. Did you murder Ericka Bradley?

12 A. No, I didn't.

13 Q. Did you hit her with your car?

14 A. No, I didn't.

15 Q. Did you attack her?

16 A. No.

17 Q. Did you hit her with a bat?

18 A. No, sir.

19 Q. Did you do anything criminal to Ericka Bradley?

20 A. No, sir.

21 MR. GIPSON: That's all my questions, Your
22 Honor.

23 THE COURT: All right. You may step down.

24 THE WITNESS: Thank you.

25 THE COURT: Madam forelady, ladies and gentlemen

1 of the jury, I'm going to ask you to retire to the jury
2 room so we can take up matters of law. Thank you.

3 (Jury exits courtroom at 3:11 p.m.)

4 THE COURT: We have to entertain any motions at
5 this time?

6 MR. PEARSON: The State has no motions at this
7 time.

8 THE COURT: Any from the defense?

9 MR. GIPSON: Your Honor, I'd just like to renew
10 my motions for directed verdict at this time based on the
11 same grounds I mentioned at the close of the State's case.

12 THE COURT: Okay. Your motions are noted and
13 denied, but you're protected on the record. And you
14 previously indicated that's all the witnesses.

15 Do you have anything further in defense?

16 MR. GIPSON: If I could have the Court's
17 indulgence. I don't think so, but just out of the
18 abundance of caution.

19 THE COURT: Very good.

20 MR. GIPSON: Just one minute. (Conferring with
21 Defendant.)

22 We have nothing further, Your Honor. Defense
23 rests.

24 THE COURT: Are you ready to proceed forward with
25 closing argument?

1 MR. GIPSON: I am. I would need a few minutes
2 just to get some things organized, Your Honor,

3 THE COURT: We'll take about a ten-minute
4 recess.

5 (Thereupon, from 3:12 p.m., until 3:27 p.m., the
6 Court stood in recess.)

7 THE COURT: Madam court reporter, I understand we
8 have a juror who is reported that she's having chest pains
9 and needs to go to the hospital. And we're going to bring
10 her out and question her.

11 (Juror enters courtroom.)

12 THE COURT: Yes, ma'am. You can stand right
13 there. Your full name?

14 THE JUROR: Malinda Frazier.

15 THE COURT: I understand that you're having some
16 discomfort. Tell me about that.

17 THE JUROR: I have a sharp pain going down
18 through my arm.

19 THE COURT: Do you need us to get an ambulance
20 for you?

21 THE JUROR: No.

22 THE COURT: Are you sure?

23 THE JUROR: I'm sure.

24 THE COURT: All right. Are you in a position
25 where you can continue on jury service?

1 THE JUROR: No, sir. Huh-uh.

2 THE COURT: I will indeed excuse you at this
3 time. Any questions from the State?

4 MR. PEARSON: No, Your Honor.

5 THE COURT: Any questions from the defense?

6 MR. GIPSON: No, sir.

7 THE COURT: We're going to excuse you at this
8 time.

9 THE JUROR: Okay. Thank you.

10 THE COURT: I hope you feel better.

11 (Juror exits courtroom at 3:29 p.m.)

12 THE COURT: Madam clerk, if you can randomly
13 select two alternates. As far as activating the alternate
14 juror, it's my understanding we'll randomly select from
15 the two rather than calling the first alternate to be
16 selected.

17 Is that your understanding, Mr. Gipson?

18 MR. GIPSON: Yes, sir.

19 THE COURT: Do you have any objection?

20 MR. PEARSON: No objection, Your Honor.

21 THE COURT: We'll select them in that manner.

22 Everyone remain seated. I'm going to step out for just
23 one moment.

24 (Brief pause from 3:30 p.m., until 3:34 p.m.)

25 THE COURT: Ready for the jury?

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 MR. PEARSON: Yes, sir.

2 MR. GIPSON: Yes, sir, Your Honor.

3 THE COURT: Ms. Beth Harter. Yes, ma'am, you
4 have been activated to a regular member of the jury.
5 You're no longer an alternate and ask that you pay very
6 close attention as I know you already have.

7 Ladies and gentlemen of the jury, we have
8 completed the taking of testimony in this case. And, like
9 I explained at the very beginning of this trial, at this
10 time we'll hear closing arguments from counsel.

11 The defense will go first. What they say is not
12 evidence. However, it's very important for you to pay
13 very close attention to what they have to say to aid you
14 in your deliberation process.

15 These lawyers at this time will give point to
16 various items of evidence that supports their respective
17 theories. Pay very close attention. This is a very
18 important matter.

19 Mr. Gipson, you're recognized.

20 MR. GIPSON: Thank you, Your Honor. If it
21 pleases the Court.

22 CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

23 MR. GIPSON: Mr. Pearson, Ms. Armstrong. Madam
24 foreperson. Ladies and gentlemen of the jury.

25 First and foremost, we'd like to thank you for

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 your service as jurors in this case. Thank you for your
2 attention. I'm sure that a couple months ago when you
3 checked the mail and you saw a jury summons coming in the
4 mail you didn't jump up as if you won the lottery. I'm
5 sure that didn't happen.

6 To be quite honest with you, a lot of you were
7 probably hesitant, a lot of you were not too particularly
8 excited about doing this.

9 And I can understand why, because it's difficult
10 to sit in judgment of a citizen of your own county and to
11 listen to allegations of this nature. It's difficult when
12 you have to hear allegations when a family, a good family
13 as the Bradleys is in here, and a good family like the
14 Maners is here as well, and you have to make decisions
15 about evidence you hear in this courtroom. And that's
16 difficult.

17 But what we appreciate is the fact that you've
18 been attentive throughout this entire trial. We know that
19 you took that oath at the beginning of the case Tuesday
20 morning to well and truly try the facts of this case.
21 It's about to be your opportunity to listen to the facts
22 of this case.

23 Now jury duty has been called one of the most
24 patriotic services that a person, a citizen can do in
25 peacetimes. I tend to agree with that synopsis or that

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 summary of jury duty because in our system, in the
2 American Judicial System, although it's imperfect, there
3 are a lot of things that a lot of us would like to change
4 from time to time, it's one of the few systems where you
5 get to sit in judgment of your peers.

6 And a person is innocent until proven guilty. A
7 person has a right to a jury trial, unlike a lot of other
8 places where if an allegation comes up, they're tried
9 before anybody can have a chance to listen to the facts.

10 And in this system it requires that a person is
11 innocent until proven guilty. That's what's happened
12 here. Mr. Maner, as you know, pled not guilty. And as
13 the Court mentioned, he comes in this courtroom cloaked in
14 innocence. And that cloak cannot be removed unless all 12
15 of you determine that he's guilty beyond a reasonable
16 doubt. And it's our position that that hasn't happened.

17 Now I told you Tuesday morning that there are a
18 couple definitions of reasonable doubt. The first is the
19 amount of doubt that causes a reasonable person to
20 hesitate to act. The amount of doubt that causes a
21 reasonable person to hesitate to act.

22 So in essence as you've listened to the evidence
23 that came from the jury chair -- excuse me, from the
24 witness chair, as you listened to that, if you began to
25 hear things that made you hesitant to believe beyond a

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 reasonable doubt that Derek Maner murdered Ericka Bradley,
2 then your duty as a juror as you have sworn to well and
3 truly try the facts of this case, your duty is to come
4 back with a verdict of not guilty.

5 The second definition says that in order to find
6 a person guilty you have to be firmly convinced, firmly
7 convinced. So the question is not based on speculation or
8 what you thought, but after you've heard what you've heard
9 from this stand, with a lot of that inconsistent
10 testimony, especially some of the inconsistent scientific
11 testimony that the State's own scientists that they
12 brought in gave you, are you firmly convinced that Derek
13 Maner murdered Ericka Bradley or this is a missing
14 person's case? And it should just be handled as a missing
15 person's case.

16 That's a question that you all are going to have
17 to answer in a few minutes. Now I'm about to do something
18 that a lot of people say you shouldn't. In the Baptist
19 tradition, if some of you all are from that tradition, if
20 somebody says I'm going to be brief, you know that's about
21 two hours. I'm not going to make you that promise but I'm
22 going to try to be as efficient as I can.

23 One of the issues that I'm going to have to deal
24 with is I have to anticipate the questions that you have
25 about the evidence as I explain it to you. And so that

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 may make me go a little bit longer but I'll try to be as
2 efficient as possible.

3 And lastly before I even begin, if I've offended
4 anybody by the way that I've handled myself in this case,
5 if I've raised my voice or been inappropriate to any of
6 the witnesses or any of the Bradley's family, please put
7 that on me and my indiscretions and my inability to
8 communicate well. Please hold that on me and not my
9 client. I just ask that you do that.

10 Now, as you know, at this stage, I don't believe
11 that Mr. Pearson and Ms. Armstrong have proven this case
12 beyond a reasonable doubt. And I told you at that point
13 in time that an indictment is not evidence. I even tore
14 the indictment up, or my copy of the indictment.

15 It's not evidence. It's not proof. It's an
16 allegation. It's suspicion. It's somebody saying that
17 something happened. But it is not evidence and it doesn't
18 become evidence unless you, the jury, determine after this
19 stage that it is. And you'll have a chance to deliberate
20 about that.

21 And after all of the time that we've been in this
22 courtroom and listened to all of the witnesses, from what
23 I've heard from this witness chair, nothing has changed my
24 mind that they have not proven this case.

25 When I start to put cases in some type of

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 framework so that I can speak about them, I like to use
2 analogies or comparisons. I like to think of something to
3 compare it to so that I can wrap my mind around it a
4 little bit better.

5 One thing that I've talked about and I'm sure
6 that Mr. Pearson has heard me talk about it before, is
7 growing up, some of the things that I used to do. And
8 when I was younger we used to -- or my grandmother lived
9 in Augusta, Georgia. She was from Edgefield County. And
10 as a lot of people did in those days and still today,
11 moved from the smaller towns and went to the cities in
12 order to get better opportunities and better jobs. And
13 she did that back sometimes in the 40s.

14 A. But as I was coming up in the 70s we used to go to her
15 house in the summer, spend about two weeks. And my
16 brother and I would run out of things to do real fast.
17 That was back in the days before video games, before cable
18 TV, before Wi-Fi. That's when you had to get up and make
19 your own fun and that's what we would try to do.

20 So naturally at the beginning of the day we'd get
21 outside and start throwing football around. That would
22 get kind of dry, just two people throwing a football
23 around. So we'd try to come up with something else to
24 do. We'd race around the house and see who could catch
25 the other one. When we got tired of doing that, we'd go

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1 off to my grandfather's makeshift barbershop and listen to
2 old men playing checkers and listen to them cuss.

3 And then when they were inside we'd try to dip
4 from their snuff to see who could hold it in our mouth
5 longest without throwing up or without burning a whole in
6 your jaw. We'd do those things because that's what kids
7 do.

8 But at the end of the day we would end up on the
9 front porch. And on that front porch she had four rocking
10 chairs. And what we would do is we'd start playing what
11 we call rocking chair games. Y'all may have done this
12 before. We'd get those chairs and we'd be on the front
13 porch and we'd sit like this and start going back and
14 forth.

15 And the first thing is to see who could rock the
16 fastest. Then when that got old we'd see who could rock
17 the longest with no feet on the ground. Then at the end
18 of the day we'd finally get to a point to see who could
19 rock the highest without tipping the chair over. So we'd
20 try to stay on the chair as far as we could, going back
21 and forth without tipping it over.

22 One day my grandmother came outside and caught us
23 doing it and I was sure that we were about to get a
24 cutting. And some of y'all know what that that is, before
25 the days of the time outs. That's when they had

CLOSING ARGUMENTS ON BEHALF OF THE DEFENSE

1 knockouts.

2 And she came on the porch and she actually
3 laughed at what we were doing and that shocked me. And
4 then she said something that has always stuck to me to
5 this day. She said, the funny thing about rocking chairs
6 is that they'll keep you busy but in the end they don't
7 get you anywhere. The funny thing about rocking chairs is
8 that they'll keep you busy but in the end they don't get
9 you anywhere. That sticks with me to this day.

10 And it is especially important in a case like
11 this. The State has kept you busy for the last 26 months
12 with innuendo, with hints, with speculation, with rumors,
13 with a whole bunch of stuff that kept you busy thinking
14 that something tragic happened. They have made you
15 promises from the courthouse steps, promises from the
16 sheriff's department, promises everywhere about all of
17 things that you were going to hear about Derek Maner doing
18 something tragic.

19 They've kept you busy for the last 24 months.
20 And then after he was arrested they ratcheted it up and
21 continue to talk about it. Continue. They've kept you
22 busy, but in the end we've come to trial. They've rocked
23 back and forth, back and forth, but where have we really
24 gotten? Have they gotten you one step closer to believing
25 all of the heinous things that they've said that he did or

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1 have you just heard a whole bunch of speculation, a whole
2 bunch of rumors and people just trying to pin something on
3 somebody when it's truly a missing person's case.

4 Let's look at the witnesses so you can have a
5 better idea of why I believe that they haven't proven
6 their case, and why I believe that they're just rocking
7 you back and forth and not getting you anywhere closer to
8 proving this case.

9 I'm going to start here with number four.

10 The State's first witness was Peter Tony Carter.
11 And one of the first things I asked was: Are you
12 relations with Sheriff's Carter. And he hedged a little
13 bit and he said, yeah, I am.

14 And Peter was a cousin of Ericka Bradley and the
15 Bradley family. And what Peter mentioned is that, you
16 know, I was at the house. I was at Ericka's house because
17 that's where I was living at the time. And I was asked to
18 go pick up Ericka, which I did.

19 And he said he went and he picked her up. And at
20 some point in time they went back to the Maner's household
21 and they left and came in this direction towards the
22 courthouse.

23 And at that point they flagged Derek down because
24 they saw his car. And you all remember the testimony.
25 It's not been that long ago. The thing is Derek pulled

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1 up. Connected there. Derek's got the car. Derek got out
2 of the -- excuse me. Ericka got out of the car after
3 Derek popped the trunk. The trunk was popped, she got a
4 bat. She hit Derek, or swung at Derek with it. Derek
5 took the bat and hugged her.

6 That's Ericka's cousin, the Bradley's cousin, who
7 said those things. Derek hugged her. Not Derek hit her,
8 not Derek slapped her, not Derek did a whole lot of other
9 things. Derek hugged her.

10 One of the things I asked you all to do, as I
11 said, as you start to look at these witnesses is you look
12 at the different pieces of the puzzle. And you start to
13 put things together, what witnesses say so that you can
14 see the big picture. It's interesting that you have heard
15 that information from more than one person the same way.
16 So you can take that as a fact. I suggest that you can
17 take that as a fact.

18 And it was opportunity when he could do this,
19 that, any of those things, he hugged her. And it was to
20 the point where they talked outside here for at least 30
21 minutes. 30 or so minutes in the parking lot. And that
22 period of time was important.

23 Because the State has put together this time line
24 and said that all these things happened in a period of
25 time that is almost impossible. It's virtually

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1 impossible. And I suggest that it is impossible.

2 It's interesting because Peter said they talked
3 30 or so minutes. And I feel comfortable with that. And
4 so he left and he left in the car. They talked a few more
5 minutes and then went towards Derek's home and eventually
6 worked their way t the Appleton community and some type of
7 disagreement occurred at that point and Ericka ended up
8 getting out of the car.

9 What we know is a fact is that within a few
10 minutes of that getting out of the car, Derek was back on
11 phone with Peter asking him to go get her.

12 Peter called back and said, I couldn't find her.
13 Derek told her exactly where -- told Peter exactly where.
14 Peter went back out. No question about those things.
15 That's been corroborated by Derek and Peter.

16 But the question comes up, what happened after
17 that. There is no question that Peter never called Derek
18 back and said I can't find my cousin. Peter tries to say,
19 well, you know, I tried to talk to Jessica and tell
20 Jessica, who is our next witness, that I couldn't find
21 her.

22 And Jessica got on the stand and said, you know,
23 he may have said something but I don't quite remember.
24 But I suggest to you as Jessica testified she gave a
25 written statement to the police in February of 2007. And

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1 in that statement she said, I slept through the night.
2 Peter didn't say anything to me about Ericka. I slept
3 through the night. Peter didn't say anything to me about
4 Ericka.

5 And if you try to go back and through and think
6 about what all of the witnesses have said, there is no
7 doubt that the Bradleys love Ericka. There's no doubt
8 about that. They're a tight-knit family.

9 And I guarantee based on what I've heard and what
10 I've seen if they had thought that Ericka was missing that
11 night, all of the things that happened three days later
12 would have happened that night.

13 Think about it. You've seen, you've seen the
14 concern that they had, the love that they have. If those
15 things -- if they had been notified that she was missing
16 or Peter wasn't able to find her, they'd have been at
17 Sheriff Carter's office that day. They would have been at
18 the Maner's house that day. They would have been doing
19 everything they could right away.

20 But the fact that they weren't tells you one
21 thing; that they didn't know. And they didn't know
22 because Peter didn't say anything. And that leads to a
23 question if he didn't say anything, then maybe everything
24 was all right.

25 That's the thing that keeps sticking with me.

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1 They never asked Peter any other questions. Why? Why?
2 That's been sticking me. Peter's statement from the
3 beginning of this case was that at 11:45 I picked up
4 Ericka.

5 Now, folks, there's a things called daylight
6 savings time. It wasn't that week. And you mean to
7 suggest to me that for two days -- excuse me, for two
8 statements that you gave within three days you were an
9 hour off with all of your times.

10 And 16 months later when Agent Johnson comes on
11 the scene and speaks to him, and he catches a glance of
12 his notes that Agent Johnson didn't show him, but he
13 caught a glance of the notes, all of a sudden he
14 remembers, oh yeah, it was 10:45. That's when it was.

15 I submit to you that something isn't quite
16 right. Think about those things. Hesitate. Just
17 hesitate. Don't just jump on that band wagon and believe
18 that Derek Maner is guilty of murder.

19 It should make you hesitate a little bit. I'm
20 not quibbling just with times because that's important.
21 They know, they know that Derek Maner was in his house at
22 11:57 because he was on the phone with Peter, calling the
23 house. They know that.

24 So in essence they are claiming that Derek had to
25 have been in 15 minutes, left the courthouse, gone by the

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1 house, gone back down, gone up by Sammy's, got into an
2 argument, Ericka got out of the car, he according to them
3 he beat her up and ran her over or just outright ran her
4 over, came back home and got on the phone in about 12
5 minutes.

6 And you saw the car. If anybody in this jury or
7 in this courtroom has ever hit something, you know that
8 there's going to be some damage to the car. A dog made
9 that big dent that we all saw. Mr. Maner talked about
10 it. The agent talked about that being something that
11 wasn't even an issue because they knew he had hit a dog.
12 We had submitted records to you about all the damage it
13 did to the tires, all of those things. That damage,
14 warped rims, all of that kind of stuff. You all know how
15 hard it is once a rim is warped what to got to do to try
16 to get it back. He told you this stuff. That's from
17 hitting a dog.

18 And then to suggest that he hit a full grown
19 human being. You walked around that car. We watched you
20 walk around it. Is that damage consistent with that?
21 C'mon folks.

22 When you parked your car, you don't park your
23 common sense. You bring that with you. And that's one of
24 the reasons that you all are sitting here because you can
25 put the emotional aside. Like I mentioned, that's what

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1 the State wants you to do. They want you to get emotional
2 because it is a sad situation.

3 Regardless of your verdict, nobody is going to be
4 completely happy here because she's missing. But you've
5 got to put the emotional side aside and deal with the
6 logical and deal with the facts. And that's why it is
7 crucial, crucial, that you hold the State to its standard,
8 beyond a reasonable doubt.

9 That's why that standard is there. That's why.
10 You don't have any friends to reward or enemies to
11 punish. You are here to listen to the facts and to make a
12 decision based on the facts that came from that witness
13 chair.

14 One other thing that was mentioned by Mr. Carter,
15 Peter Tony Carter, is that after he heard from, after he
16 called Derek and heard -- or told Derek he couldn't find
17 her. He went back out there with his girlfriend, Alisha
18 Altman or something along those lines. Have you heard
19 from her? Have you heard from her?

20 The State has the burden of proof. One of the
21 things in these types of cases that you look for are the
22 things that you hear but also the things that you don't
23 hear.

24 That's important. Think about the witnesses that
25 you expected to hear from in this kind of case. All of

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1 the promises that have been made to you. Who did you hear
2 from? And if you haven't heard from them, then they don't
3 have any evidence. And they're trying to muddy the water,
4 cloud things up, make you mad, try to scare you. They're
5 trying to do those things so that you start forgetting
6 about the facts.

7 But just remember who never showed up to testify
8 in this case. And think about what you were promised all
9 of these months ago by the State, by the sheriff's
10 department, by the law enforcement agencies here. They
11 haven't kept their promise to you. They haven't. They
12 haven't.

13 One thing that Ms. Jessica Bradley mentioned is
14 that she at a later time saw Derek and had a discussion
15 with them over at Maggie's house and she pointed at a
16 flier and showed the flier. And again, I said, as active
17 as she was looking after and trying to figure out what was
18 going with her sister, the fliers, all of those things, as
19 active as she was. She said she went all around to
20 different areas and handed these fliers out. If she had
21 known, if Peter had told her anything, she'd have been
22 doing that the next day.

23 Think about it. But she said that Derek said,
24 I'm sorry. I'm sorry for what all, what all is going on.
25 And Derek said in his testimony, putting those pieces back

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1 together, you know, he was sorry for the fact that he
2 cheated.

3 And there's no excuse for that, you know.
4 There's no excuse. I'm not going to sit up here and make
5 excuses for what he's done. But if a person cheats, is
6 that something to make you think that he would murder
7 somebody? It's not. It's not. At least he has the
8 decency to tell you folks.

9 But you pointed to it and Derek told you he was
10 sorry for it. He said he cried and he cried because he
11 was hurt. He was worried. He didn't know she was missing
12 until that point in time. Nobody told him. It was news
13 to him.

14 But I want you to also think of something else.
15 We're sitting here and listening to these things and we're
16 probably processing it 37-year-olds and 42-year-olds and
17 50-year-olds and things of that nature. You're grown
18 folks. Derek was 17. 17. These are children, children
19 when this happened.

20 So maybe he made a childish choice to let her get
21 out of the car and walk. That's a childish choice.
22 Didn't follow her. Another childish choice. But is that
23 enough to say that he murdered her? State wants you to
24 think that it is. The State wants you to think that it
25 is.

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1 Maggie Aldrich testified as well. And it was
2 interesting to me because, number one, I felt we needed to
3 be clear on the fact that was not his child, so that sense
4 of rumor or hint of suggestion wasn't floating around this
5 courtroom because it's not.

6 But Maggie told you that Derek always told her
7 that he had never done anything wrong or criminal,
8 criminal, to Ericka. He always told her that. He's
9 maintained that. That's somebody else who was close in
10 the circle that's always maintained the same kind of
11 thing.

12 And as the State started to ask questions of her
13 and to get on her about certain things, she was clear
14 about it. She was very clear about it. And interestingly
15 enough, one thing that I did take issue with her about,
16 she claims that Derek told her he hit a deer. We know a
17 dog was hit at some point in time. We submit that he
18 didn't say that.

19 She was unclear, it seemed, on certain times and
20 things of that nature. I don't know if it was the
21 medication, the bed rest. She seemed unclear about some
22 things. But she was not unclear about the fact that Derek
23 had never said that he did anything to her. He's never
24 said that he did anything criminal in any way, shape or
25 form to Ericka Bradley.

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1 Maggie mentioned a bat that was in the car at
2 some point in time. The State has come in, again, and
3 started to try to insinuate well maybe he did something
4 with a bat and hit her with a bat and when she fell he ran
5 her over.

6 Folks, I'm going to put this out there again. It
7 always interests me when law enforcement comes in here and
8 talks about things that they didn't have or they start
9 throwing these suggestions out there, when they didn't
10 fully do the job that they should do.

11 You listened to Detective James Hutto come up
12 here on the stand. And he told you about getting search
13 warrants and all of the ways he can do things and all of
14 the time he's been a detective. They got a search warrant
15 and they got that car. Tell me when they ever got a
16 search warrant and went to the house.

17 Did they ever do that? Doesn't that seem
18 elementary to you? With all the X-Files, the CSI and 60
19 Minutes that you've seen, that's one of the first things
20 that you do. If they thought that there was something
21 going on, just go to the house. You can catch Judge Brown
22 and Judge Chaney seven days a week. There's always a
23 magistrate around. If there's something that you need --
24 basically if I need it, if I have it, and the word he used
25 was, reasonable suspicion. Reasonable suspicion. I can

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1 go to the magistrate and I can get a warrant.

2 He sat there. He sat there. He mentioned that
3 in relation to a car that they tried to suggest could have
4 been a part of something that belonged to the Maner
5 family.

6 Never got a warrant for 14 months on that car.
7 And never still to this day have they ever gotten a
8 warrant. And I submit to you that maybe if they got a
9 warrant and went and inventoried stuff, all of these
10 things that they're suggesting are gone or someplace like
11 that. Maybe they'd run right into it.

12 But that's basic police work. If they don't
13 bring those things to you today, how are you supposed to
14 make a decision? How are you supposed to sit here and
15 speculate? Because that's what it's going to require.
16 Speculate that, well, he may have hit her with a bat and
17 then hidden it some place.

18 How are you supposed to speculate on that if they
19 didn't do the basic work to try and find the stuff? How
20 are you supposed to speculate on it?

21 That's not what a jury is to do. You've got to
22 make your decisions on the facts and if they haven't
23 brought you something, that is meaning that they have
24 missed it.

25 They haven't brought their evidence in. They

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1 haven't done it. And if they haven't brought it to you,
2 they haven't proven their verdict beyond a reasonable
3 doubt.

4 Are those things making you hesitate just a
5 little bit? Are you firmly convinced of anything in this
6 case?

7 What was interesting to me is that as you talked
8 with Mr. Carter, Ms. Bradley, and you start to intermingle
9 some of the different testimony of the officers who had
10 some dealings with them, they started to talk to you about
11 areas that were searched and things that they saw and more
12 importantly, things that they didn't see.

13 And these officers who could have gotten
14 warrants, but didn't get warrants didn't even go to the
15 Bradley family and try to get blood samples from the
16 girls. And one of the things that you learned from
17 Jennifer Clayton, who my recollection says she was
18 qualified as a DNA expert although the medical examiner
19 from Greenville who's never been to Allendale to even look
20 at the car or any of the evidence in this case, he just
21 looks at the pictures and makes a decision, says that she
22 wasn't correct.

23 And isn't that interesting to you that these
24 witnesses that the State brought in here as experts can't
25 even agree on what they saw? If they can't agree on what

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1 they saw, how in the world are you as a jury supposed to
2 convict somebody?

3 They can't even get past reasonable doubt amongst
4 themselves. They can't do it. But yet still they put
5 this case in your lap and want you to do it without the
6 evidence that you need to do any of those things.

7 At some point in time the officers came in. I
8 put them in a group together. We talked about -- you can
9 see why I never became a teacher if you look at my
10 handwriting -- Captain Hutto, Jennifer Clayton, Agent
11 Richard Johnson, Sergeant Silvaggio. But starting with
12 Hutto and also Sheriff Carter. All of these collective
13 years they added up years of them being detectives and all
14 of the things that they have done, the many courses that
15 they've gone to, the expertise that they've gained as
16 investigators.

17 And what have they found in this case that
18 suggests that she, meaning Ericka Bradley, was murdered?
19 They had manned searches go all around this county. You
20 heard about those searches and I cataloged the hours.
21 Hours and hours of people searching. Hours. You had
22 scuba gear, scuba divers. People put on these scuba
23 suits, went and dove around and looked around in ponds.
24 Nothing. Cadaver dogs. These are dogs that are trained,
25 like hunting dogs, to go and look for remains of people.

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1 What did they come back with? Nothing.

2 They had a helicopter that went around
3 searching. Nothing. They had people in horse teams and
4 four-wheelers and things of that nature. What did they
5 find? Nothing. No thing that pointed to say that Derek
6 Maner did anything criminal. They had ground teams of
7 people, about 40 people going through and doing sweeps.
8 Y'all saw these things on the news and heard about what
9 was going on around here.

10 And the sheriff talked about it in the news every
11 other week. It was always in the news. In Augusta. In
12 the Allendale Star. It was always in there. Orangeburg,
13 Columbia, WIS. It was always on TV.

14 Lake Warren. There's this big suspicion going on
15 about Lake Warren. And what did you learn? Agent Johnson
16 went out there. What did he find? Nothing. No thing
17 that links Derek Maner to doing anything criminal.

18 And these are the law enforcement officers who
19 came in here and testified, who put their hands on the
20 Bible and promised to be truthful about what they found.
21 And they told you, they didn't find anything. And Sheriff
22 Carter was telling you that. He said, you know, I didn't
23 take a whole bunch of notes but I know they didn't find
24 anything. Y'all remember that?

25 And so if they didn't find anything, why are they

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1 trying to put it on you to make you find something that
2 they couldn't find? If they're trying to claim that Derek
3 disposed of the body, then how? Don't you think that you
4 deserve, the Bradleys deserve, if that's what the theory
5 is? Don't just leave it up there in the air. Tell us
6 what happened.

7 That's what they've been talking about for the
8 last 24 months. Someone disposed of the body. Where?
9 Have you heard anything in this courtroom? I haven't.
10 Have you heard anything?

11 All the suspicion that's been going on and have
12 you heard anything about disposal of the body? No. And
13 you know why you haven't heard it? Because there is no
14 evidence of it. And the officers told you that
15 themselves.

16 This is all suspicion. And suspicion is not
17 enough to convict a person. It should make you hesitate.
18 That should make you hesitate. You're going to hear
19 things about the law and we use these terms, corpus
20 delicti and all these things like that and how you can use
21 circumstantial evidence to potentially, you know, convict
22 if you think circumstances out there where something could
23 have happened. But, folks, I just ask you to inject a
24 little bit of common sense into all of those things.

25 They told you there was a body. And you ain't

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1 heard nothing, excuse my French, you ain't heard nothing
2 about no body in this court. I know I haven't.

3 Agent Johnson. Agent Richard Johnson, who had a
4 big part in this case. One of the things that I found
5 very telling in this case is the fact that he investigated
6 this case thoroughly, met with a whole lot of people about
7 a whole lot of things.

8 And again, nobody.

9 But one of the things that he did is he took, as
10 we call them in the business, copious notes, detailed
11 notes. Wrote things down and did all of these reports.
12 You saw that big old file he had in his hands. He wrote
13 everything down.

14 One of the things you do as a SLED agent is as
15 you do things you make these long reports. And as you
16 make these long reports you submit the reports to the
17 higher ups so that they know what you're doing.

18 And one of the beautiful parts about this legal
19 process that I love is that I have an opportunity to get a
20 hold of a lot of things that y'all don't get to see. And
21 in getting ahold of those things that y'all don't normally
22 get to see, I got to see some of these reports.

23 MR. PEARSON: Objection, Your Honor. Can we
24 approach?

25 (Off-the-record discussion.)

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1 MR. GIPSON: As I said, I got a chance to see
2 these reports. We entered one for ID purposes, just so we
3 could identify it and speak about it in general. And this
4 is a blown-up copy.

5 What we've done is taken it, because that's what
6 we have to do is we blacked out part of it because what's
7 said here is in not necessarily the important part. The
8 important part is that on November 6th, 2007 and Agent
9 Johnson answered this question. He did a report. I said,
10 do you remember file number 31060090. He said yes.
11 Special Agent Richard Johnson. I said, you know, you even
12 put your initials by it. Yes, I did that.

13 It says, regarding missing person. Derek Maner,
14 Ericka Bradley, County of Allendale. That was November
15 6th, 2007. Okay. That was before Derek was charged
16 because Derek wasn't charged until April of 2008. So I
17 don't understand. Derek was charged with murder, murder.
18 The unlawful killing of a human being with malice
19 aforethought.

20 So, let's turn around to July 31st, 2008. Months
21 after he was charged with murder, an addenda which is an
22 additional report which was done, an investigative
23 report. Told you he was still working. He said, we
24 investigated through the date of trial. Special Agent
25 Johnson file number 310009 (sic) and his initials, missing

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1 person. See that date? July 31st, 2008.

2 Derek was charged with murder in April. And
3 Agent Johnson still said to his superiors, this is a
4 missing person's case.

5 But that's not all. A couple weeks later after
6 more investigation, investigative report, August 18th,
7 2008 file number 31060090 from Special Agent Johnson
8 regarding missing person. August 18th, 2008, even more
9 months after Derek Maner was charged with murder.

10 And the irritating thing about this is that the
11 State wants you to find something that it didn't find.
12 They want you to come up here and they want you to call
13 Derek Maner a murderer, but indeed in all of their
14 investigations, this has been a missing person. And they
15 even said, a missing person.

16 So why should you be burdened with trying to call
17 this man a murderer? They can't even amongst themselves
18 get past that hesitation that you've got to get past to
19 convict somebody. They can't get past that.

20 They put it in their own writings. What more do
21 you need to believe? They don't even believe it's a
22 murder. They get up here and they bring you speculation.
23 Somebody saying that something's happened.

24 And the scientists don't even agree on the
25 evidence that was there or supposed to be there. And

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1 they're trying to get you to call him a murderer but back
2 in their rooms it's a missing person. Missing person.

3 There's an old saying from an eighteenth or
4 fourteenth century man his name was Omar Tyler. And it
5 says that the moving finger writes and having writ moves
6 on. Nor all your piety nor wit shall lure it back to
7 cancel half a lie, nor all your tears wash out the words.
8 The moving finger writes and having writ moves on.

9 I wrote it three times. Missing person. Nor all
10 your piety or wit. You can get up on this stand, you can
11 beat around the bush and say all the things that you want
12 to say but your piety, your wit, they can't cross out a
13 word of it. Your tears can't cry it away because you've
14 already put it down.

15 And that's what he did. That's what was done.
16 And that's what we know. The fact that they know it's a
17 missing person and the lack of evidence that you've heard,
18 that should make you hesitate.

19 You're going to have a chance to hear from the
20 State and they're going to start trying to say, well,
21 Derek, you know, looked like he did this and, you know, he
22 said that he was being slick and, you know, maybe he
23 was -- just, folks, you don't need all of that.

24 Missing person. You've heard the testimony and
25 you have not -- they haven't come to you. They haven't

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1 come to you and brought you the things you need.
2 essentially they wrote you a check and you went to deposit
3 the check and ain't no funds in the bank. Right now it's
4 time to cash that check and they haven't had the funds in
5 the bank to cash it.

6 Those funds should have been provided in this
7 courtroom and they never, they never were. And they want
8 you to go ahead and draft some money into the account to
9 cover the check now that they didn't cover because they
10 talked about it so much and put it out there but they
11 don't have the funds.

12 They want you to do their job for them and I
13 submit to you, that's not your job. Your job is to well
14 and truly try the facts of this case. To well and truly
15 try the facts of this case.

16 Agent Johnson putting together a time line. He
17 got up there and he told you, you know, these are
18 approximations. These are general times of things that
19 could have happened.

20 And again I ask you to look at those time lines
21 and just think, is this even plausible? Is it possible?
22 Have you ever cut your finger? Have you ever cut yourself
23 shaving? Skinned your knee? There's a decent amount of
24 blood that comes with that. So they're trying to suggest
25 to us that Ericka Bradley was hit by a car, potentially

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1 dragged and you got two spots of blood.

2 If you ever hit a deer, and driving back and
3 forth to Allendale all week everyday you see one on the
4 ground. Long stretches of blood which you'll see if you
5 go back in that jury room. The State even went and they
6 started swabbing areas on the concrete. Nothing. They
7 didn't bring anything in here because there was nothing to
8 bring to you.

9 Derek told you the last time he saw her she was
10 walking towards Allendale. Have they brought you any
11 proof that that's not what happened? Any proof?

12 You start looking at the DNA evidence. You had
13 Vicki Hallman who came in here and she testified. And
14 Ms. Hallman said she had gone out and collected the
15 evidence, and what I did was I just checked to see if
16 there was blood there. And we spray all of this stuff in
17 the car and if it comes back a certain color, there's
18 blood. She told you, I checked the trunk, I didn't find
19 anything. I went all through the car, didn't find
20 anything.

21 Now, the State wants you to believe or the next
22 theory that they have, well, maybe if that was involved.
23 All right. Maggie says there's a bat in the trunk. So if
24 you go with State's theory. If there was a bat that was
25 used to injure Ericka in some way, shape or form, put in

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1 the trunk, there would be blood in the trunk. Vicki
2 Hallman sprayed that thing and no blood was in the trunk.
3 Where are they going to go with that?

4 They want you to speculate about something else.
5 She said that the best way -- when she got there the car
6 was in a secure location. That's what she said. Where
7 was it beforehand, how did it get there, who brought it
8 in. She said, I'm not sure.

9 But if you look at it, they towed the car, it's
10 dragging the bumper all across the back. You can see it
11 in the pictures. You can even see where the chains are
12 holding the car up and it's biting into the frame. If you
13 really looked at that frame, you can see where the chains
14 bent the frame. Look at that.

15 That's how they treated the car. If you start
16 doing stuff where you're not careful with the evidence,
17 you can corrupt it. It can get skewed and things can
18 happen to it.

19 But I went ahead and took the evidence because
20 when I got there the car was secured.

21 I brought in Danny McDaniel, former trooper
22 that's been an investigator for several years. He said I
23 went over to the place and I walked all through it. And I
24 walked around for 15 minutes. I could have gone around to
25 the back but I didn't feel comfortable doing that because

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1 if something had come up missing, they'd try to blame me.
2 So I just waited. Fifteen minutes later somebody came
3 in.

4 And Mr. Pearson, what was interesting in his
5 cross-examination he said, well, did you go over there in
6 '06 he said, no, I didn't. Because he didn't. But,
7 that's suggests to you, and maybe there are other people
8 would know what the normal process is over at D&H if you
9 can walk through there all the time but it just suggests
10 to you that maybe it wasn't quite as secure as it should
11 have been.

12 They brought to you Jennifer Clayton who is a DNA
13 expert. And she explained to you different things that
14 she did. She said, I went up and down and I sprayed the
15 car and I put these things together. I'm sorry, she
16 didn't say that. Vicki said that.

17 She said that, I did these series of DNA
18 reports. And in these reports I outlined what I did. And
19 the type of test that I did and what I found. And what
20 she said is in 18 of those 20 she found nothing that was
21 identifiable or traceable back to anybody in this case.

22 And two of those, items two and four, she said
23 there was some blood evidence that could be consistent
24 with the biological offspring of Mr. and Mrs. Bradley.
25 That's what she said. I asked her the specific question:

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1 Well, have you heard of mixed DNA. That's not the
2 question I asked of Dr. Bennett before that but I asked,
3 have you heard of mixed DNA. She said yes. I said, well,
4 if there's blood underneath the car and human tissue
5 meaning skin from, just be rubbed across'd it if you're
6 doing something on the car, skin cells in there. You're
7 going to get a positive test for blood, aren't you.

8 She said yes. I said, you're also going to get
9 some human DNA. She said, yes. That doesn't necessarily
10 mean that somebody has been hit or run over by a car, does
11 it. And she said, no.

12 That's what she said. All that she can say is
13 that there was something underneath that car. The
14 question I ask you, the real question is: If Ericka
15 Bradley was run over with this car as the State is trying
16 to suggest, where is the blood? All of that stuff
17 underneath that car, those other spots, came back as
18 inconsequential meaning they couldn't find anything to
19 link it back to anybody. And they also said animal blood,
20 animal hair, animal tissue.

21 We know that a dog was hit with this car.

22 And I take you back to it again. If you run over
23 a dog and it does that kind of damage, what do you expect
24 from a person? Y'all saw the car. Y'all saw that car.
25 Is that what you'd expect when you see it?

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1 One of the most interesting witnesses to me was
2 Dr. Ward from Greenville. He came in here and stated to
3 you that it wasn't important for him to look at the car.
4 He's a medical examiner. I asked him, well, did you come
5 down to Allendale and go over the car. No, I didn't think
6 it was important.

7 He looked at some pictures. Y'all have looked at
8 pictures and then seen something in person. Oh, man. You
9 don't like anything like I thought you did.

10 He didn't even have the decency -- I'm not going
11 to use the word decency. He didn't think it was important
12 enough to the Bradleys and the Maners to come down here
13 and look at it before he started offering opinions that
14 those opinions would be reasonable or plausible is the
15 word he used.

16 And when I asked him, I said, well, you're trying
17 to suggest that she was run over by a car because there's
18 muscle tissue there but the DNA expert, Jennifer Clayton,
19 tested that tissue in item number 20 that you have back
20 there and it's not human. And he just skirted right past
21 that because he wanted to put his opinion out there.

22 And this isn't something that I'm making up.
23 Y'all can go back and you look at that. And he tried to
24 offer an opinion on muscle tissue that isn't human. When
25 we are clear on the fact that a dog was hit.

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1 And then he even got up there and had the
2 audacity to say that he's not a DNA expert but he knows
3 more about DNA than Jennifer Clayton in so many words.
4 And, again, those are the State's witnesses.

5 We introduced you to Dr. Bennett who came in
6 here, took a look at the car. He's gotten in this case
7 very recently and what has he done? Gone over there,
8 looked at car, even took samples from underneath the car.
9 Hair samples and tested some of them.

10 The State didn't didn't do that. But he tested
11 them. And what did they come back as? Dog hair. Dog
12 hair. Dog hair. And he told you that he could not come
13 up here and conclusively say that she, that Ericka either
14 was or was not hit by a car.

15 And he talked to you about mixed DNA and how that
16 happens and if somebody is working on a car or something
17 like that, you can transfer DNA back and forth. And if
18 you run your hand across this, there's a trace of me being
19 there. If your hand. If your skin is flaking just a
20 little bit, those are DNA samples that if you touch
21 something it can be left behind. He mentioned those
22 things. He mentioned those things.

23 He doesn't have any enemies to punish or friends
24 to reward. He put it out there and in cross-examination
25 he answered all of Mr. Pearson's questions. All of them.

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1 And he could not conclusively say that anything criminal
2 was done.

3 But on Dr. Ward who hadn't seen anything in
4 Allendale other than Highway 25. All the way down here
5 from Greenville. I'm sorry. He came from Orangeburg, so
6 Highway 301 South all the way down here and all the way
7 back. That's all he's seen, some pictures. And he was
8 willing to let that be his analysis.

9 That's the kind of thing that the State wants you
10 to do. They want you to make these decisions without
11 thinking them through, without thinking them through.

12 We called to the stand Derek Maner. And as you
13 know as you've heard, everyone has a fifth amendment right
14 not to testify. And Derek chose not to exercise that
15 right. He got up here and he testified.

16 And what he told you is that the same thing that
17 he said from day one. Ericka and I had a disagreement.
18 We were outside. She hit me with a bat. And he told you
19 he didn't do anything wrong.

20 There's a question about how fast were you
21 driving when the car was thrown into park. Folks, to be
22 honest with you, that doesn't really matter. The bottom
23 line is he has told you that he didn't do anything
24 criminal to Ericka and they haven't found that he's done
25 anything criminal to Ericka. And he told you that. He

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1 told you that.

2 Then they want to get on that thing about jewelry
3 in Lake Warren. Has anybody ever gotten up here and
4 testified that there's any missing jewelry from Ericka?
5 Maybe if they got the search warrant and went to the house
6 it would be sitting back there on the desk. But they want
7 you to speculate. Speculate. Speculate. And that is
8 entirely improper.

9 You know was it -- and you say, well, you know,
10 there's some jewelry in the flower pots it had to be
11 Ericka's. Think about this now. This conversation
12 happened after he was arrested. And he was arrested in
13 2008. Correct. Ericka has been missing since 2006. So
14 what the State wants you to believe, they want you to
15 leave your common sense outside remember.

16 The State wants you to believe that he had some
17 jewelry in a flower pot for two years and then has been at
18 Benedict College for all of these months. Gone there,
19 Orangeburg, different places, taken, you know, Madoree
20 other places, and all of a sudden he just has to get some
21 jewelry out of a flower pot while he's in jail that
22 belongs to Ericka. Jewelry that nobody would have known
23 about. He told you who the jewelry would have come from.
24 And again if they had a problem with it, they could have
25 called the man in here themselves and asked him. Put him

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1 on that witness stand.

2 He said I bought the stuff from Dawan Doe.
3 That's what he said. That's one of those names you were
4 asked about in the beginning of the case. But instead of
5 doing that they want you to speculate. And does it make
6 sense what they're trying to ask you to do? And that's
7 the bottom line here.

8 Folks, a not guilty verdict in this case doesn't
9 mean that you have it in for the Bradley family in any
10 way, shape or form.

11 Folks, I've been down here for four days. And I
12 have children, babies. They'll be two and four in April.
13 And I miss the routine. I miss the bathing. I miss the
14 fussing. I miss the, you know, reading to them and all
15 that. And that's just four days. I get a chance to speak
16 to them, but I could not imagine what Derek must feel.

17 I can't imagine that. And to be quite honest, I
18 don't want to imagine that. I can't imagine, but the
19 important thing here and that is very important, but the
20 important thing inside this courtroom is that you have to
21 listen to the factual scenarios that have been provided to
22 you and you've got to make your decisions on that.

23 And that means what came out of here, not the
24 other stuff that's going on out there. That's what I'm
25 suggesting to you. Those are the witnesses in this case.

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1 And, again, if you're not firmly convinced then that's --
2 that Derek Maner is a murderer, then that's reasonable
3 doubt.

4 And you don't have to like him. You don't have
5 to like the fact that he cheated on his girlfriend. You
6 don't have to like the fact that he allowed her to get out
7 of the car and didn't follow her home. But did he murder
8 her?

9 Have they proven that beyond a reasonable doubt?
10 Are you hesitating? Are you hesitating to act based on
11 the knowledge of it? Based on the speculation? That's
12 the question here.

13 If you think that he might be guilty, that's
14 reasonable doubt. That means you hesitated. If you say
15 no, he probably might be guilty of something. That's
16 reasonable doubt. That's not what we're talking about.

17 You have to get past all of that and you have to
18 believe what they have said. You've got to believe what
19 they have told you to make that step.

20 Folks, this is not going to be a pleasant or an
21 easy decision. It's not going to be. I'm not going to
22 sit up here and tell you that. It's difficult.

23 But the oath that you took requires you to do
24 those things. It requires you to do those things. It
25 requires you to do those things.

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1 There's a saying that Mark Twain had is that the
2 lad can travel the world around while the truth is home
3 putting on its shoes. Folks, it's time for the truth to
4 put on its shoes now. It's time for us to determine, once
5 and for all, did all of this rumor, speculation and these,
6 all this other stuff has to stop, and you've got to make
7 this case on what you heard past this bar, past that
8 partition, not what you heard out there. But what you
9 heard in here. Because this is the evidence. This is the
10 time to show for the proof and they haven't shown it and
11 they haven't proven it. And they have definitely not
12 shown you any of the things that they're required to show
13 you beyond a reasonable doubt.

14 I ask that you come back with a verdict of not
15 guilty because the State has not provided to you what it
16 needed. They have not lived up to what they promised.
17 They have not brought the cash in to cash the check that
18 they wrote to you a long time ago saying that the things
19 that they have are what they had.

20 Let's stop these lies, these innuendos and find a
21 verdict of not guilty. Thank you.

22 THE COURT: Thank you, Mr. Gipson.

23 MR. GIPSON: Yes, sir.

24 THE COURT: How is the jury? Are y'all fine or
25 do you need a break?

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1 MADAM FORELADY: Everybody okay? We're fine.

2 THE COURT: Mr. Pearson, you're recognized.

3 CLOSING ARGUMENT ON BEHALF OF THE STATE

4 MR. PEARSON: Yes, Your Honor.

5 I do want to thank you y'all for your attention.

6 This has been a very difficult trial. It's difficult for

7 everyone involved. It's difficult for the Bradley

8 family. It's difficult for the Maner family. And I know

9 it's difficult for you, the jury, because you are going to

10 have to make a decision on the facts in this case.

11 And that's really what this case is about.

12 Facts.

13 The defense has said that the State wants you to
14 get emotional in this case. Well, I submit to you, the

15 State is not looking for you to get emotional. In fact,

16 what we are seeking to do is to have you logically look at

17 the facts of this case, the evidence that has been

18 presented here in the courtroom, the testimony that has

19 been given by these witnesses and make a decision solely

20 on that.

21 The real question in this case is: Where is
22 Ericka Bradley's body.

23 Members of the jury, I would submit to you that
24 this is not a missing person's case. I would submit to

25 you that we have presented evidence of exactly where

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1 Ericka Bradley's body is. Ericka Bradley's body is under
2 the car of the Defendant, Derek Maner. It is here on the
3 stabilizer bar. It's here in the wheel well. It's here
4 on the undercoat.

5 That is where Ericka Bradley's body is. And that
6 is why this is not, no longer a missing person's case but
7 rather a murder.

8 Now I'm going to get right to the point. You've
9 heard a lot of evidence about the underside of Derek
10 Maner's car. You've heard witnesses testify about DNA and
11 blood and whether or not it's a dog or a human.

12 Well, members of the jury, there's one thing that
13 I would like to point out to you. Derek Maner did take
14 the stand and he said in 2005 his brother ran over a dog.
15 And what he would have you believe and I asked him this
16 question, that accident happened one year before November
17 6 of 2006. It was a whole year ago.

18 But to believe the Defendant's story, to believe
19 the defense, to believe their expert, you would have to
20 believe that all of this tissue under this car not only
21 remained after the dog was hit, not only remained after
22 the car was fixed, but remained through summer, through
23 spring, through fall, through winter, through rain,
24 through smog, through heat, through humidity, through an
25 entire year of driving around. And you heard lots of

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1 testimony that this particular vehicle was the main form
2 of transportation for Ericka Bradley and the Defendant.

3 To accept the Defendant's story, you would have
4 to believe that despite all of that that muscle tissue
5 stayed right there on the bottom of the car.

6 Now Mr. Gipson made a lot of reference when the
7 SLED agents were testifying, when the lab people were
8 testifying about how the car was handled in a three-day
9 period. Yet he doesn't want you to think that that entire
10 year, that entire year of driving around matters at all.
11 Three days might be able to change something, but a year
12 could not. That is what you would have to accept to
13 accept the Defendant's version of this, of what happened.

14 More with the car. The defense, the defense
15 calls an expert witness in. They called Dr. Bennett. And
16 Dr. Bennett testified about mixed DNA. Well, there's one
17 question that I asked him, and not just him but also SLED
18 DNA analyst, also Dr. Michael Ward: Is there anything
19 that can change dog DNA into human DNA. And each one of
20 them, including the Defendant's own witness, said no,
21 there's no way you can change dog DNA into human DNA.

22 And I submit to you, members of the jury, it is
23 offensive, it is offensive to say that a dog's blood would
24 come back as the offspring of Jackie and Henry Bradley.
25 But to accept the Defendant's story, that is what you

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1 would have to accept.

2 The Defendant testified that Ericka Bradley
3 assisted him fixing the car, and she held the tire in
4 place. And then they had an expert witness to say that
5 perhaps sweat could have been transferred from her to him
6 and maybe he deposited that under the car and maybe that's
7 how the DNA got there.

8 Well, I asked him one question about that. And
9 maybe it seemed kind of random at the time, but I asked
10 him: Did he ever wash the car. And his answer was, yeah,
11 me and Ericka both did.

12 Well, I submit to you, members of the jury, when
13 I have sweat on my body, I get into the shower and I wash
14 and the reason I do that is because when you wash you get
15 rid of that sweat. You take it off. Through this entire
16 year, all of this driving around, even if that wasn't
17 enough, even the Defendant admits he and Ericka washed
18 that car.

19 And when Dr. Bennett was on the stand he phrased
20 a lot of his testimony with, it's possible. If you'll
21 recall, I asked him if it was possible for me to deposit
22 some sweat DNA under the bottom of this table just by
23 walking by. And he said, yeah. And that's the same
24 possibility.

25 And we're going to talk a little bit about

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1 possibilities. I'm going to get right back to that. But
2 first, I want to go back to the evidence in this case, the
3 witnesses that were called. You'll remember the first
4 witness in this case was Peter Tony Carter. Now
5 Mr. Carter's statement, what he told you hasn't really
6 been challenged by anyone. He said he went to pick Ericka
7 up from Hardee's. Said they saw Derek Maner outside the
8 courthouse here. She got out. She tried to get a bat.
9 He testified that she tried to hit him and was
10 unsuccessful but she did get a bat out. They talked.
11 They talked outside the courthouse for 20, 30 minutes. He
12 left.

13 Now Mr. Gipson made lots of questions and
14 references to the time period. 11:45 versus 10:45. And
15 it's very interesting that he would use an analogy about
16 rocking chairs and how you could rock and rock and rock
17 for hours and not really get anywhere because that's
18 exactly what 10:45 versus 11:45 was.

19 You'll have a chance to take this evidence back
20 to the jury room. And when you do, you'll be able to see
21 that there's a time sheet, a very specific time sheet.
22 There's a very specific time sheet that says exactly when
23 Ericka Bradley left, 10:45. And we know that because we
24 called in Sarah Smith from Hardee's to testify.

25 Now Mr. Gipson asked lots of questions about

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1 cleaning up after the end of the day, after the end of the
2 shift, how long it takes. And then we find out that
3 Ericka was actually sent home that day for horseplay.

4 I submit to you, members of the jury, do you
5 really believe Ericka Bradley sat around Hardee's for an
6 hour cleaning up after she had to clock out and was told
7 to go home. No, because she didn't.

8 And we also know that she didn't because the
9 Defendant's own story backs up exactly what Peter Tony
10 Carter said. He left Maggie Aldrich's house around eleven
11 o'clock, drove here, saw them out in front of the
12 courthouse, stopped, talked to Ericka Bradley. At first I
13 thought for 25, 30 minutes. And he very strenuously
14 corrected me and said, no, it was even longer than that.

15 Well, I submit to you, it would be impossible for
16 Peter Tony Carter to have picked Ericka Bradley up at
17 11:45 and for Mr. Maner to have talked to her for the
18 length of time that he said he did and to be home to make
19 that phone call back to Peter Tony Carter. Just doesn't
20 make any sense. It's a lot of rocking and not getting
21 anywhere.

22 Then the State called Jessica Bradley. And
23 Jessica Bradley testified that she was pregnant at the
24 time. She got in the bed a little early. And she doesn't
25 really remember what Peter Tony Carter said to her when he

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1 came back. She doesn't remember.

2 Even Mr. Gipson, just like he told you in his
3 closing statement, had she known everything that happened
4 on November 9th of 2006 would have happened before but
5 unfortunately she didn't hear what Peter Tony Carter
6 said. And days pass.

7 Maggie Aldrich, God bless her. She came in and
8 testified. And she was very confused about dates, about
9 exactly when something happened. But if you paid
10 attention to her testimony, everything she said is backed
11 up and corroborated by the Defendant. Derek Maner came
12 over to her house a lot. And he was there on the night of
13 November 6. And we know he was there on November 6
14 because she received two phone calls from Ericka Bradley
15 telling Maggie that she needed to see Derek.

16 She got one phone call. She got another phone
17 call about three minutes later saying it's an emergency
18 What's that emergency? Well, she got sent home. She
19 needed a ride earlier than she normally would have. So we
20 know. We know through the testimony and evidence that
21 that's what happened.

22 Maggie Aldrich then testified about what happened
23 after Mr. Maner. She testified about the time that she
24 would go over to Derek Maner's house. And it was all
25 based around avoiding Ericka Bradley except for one

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1 specific time; the night of November 6, 2006.

2 There was an argument. And while the Defendant
3 will tell you he never got angry, it's fairly obvious that
4 Ericka Bradley was angry. And what she was angry about
5 was Maggie Aldrich. So angry that the Defendant will tell
6 you she got out of his car to walk home. And what did he
7 testify he did? He went home and started talking to
8 Maggie Aldrich on the phone for an hour and a half to two
9 hours.

10 And I submit to you, members of the jury, after
11 an argument like that, he would not have called Maggie
12 Aldrich to talk that long because if he did it would be
13 the exact same argument by the time Ericka finally hoofed
14 it all the way back to his house.

15 The reason he called Maggie Aldrich is because he
16 already knew Ericka was dead. And how do we know that?
17 Well, we know that because the Defendant got up there on
18 the stand. He told you; trying to be slick, I'm trying to
19 stay ahead of the game.

20 He's a smart guy. Obviously many young ladies
21 like him. He can speak well. Educated. He's trying to
22 stay ahead of the game. He's trying to be slick.

23 So he goes home and he makes phone calls. He
24 calls Peter Tony Carter, tells him a different road to go
25 because he knows Peter Tony Carter is not going to find

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1 Ericka Bradley. Why? Because he's ahead of the game.

2 Because he's slick.

3 He calls Maggie Aldrich because now he has
4 nothing to fear. He doesn't have to worry about Ericka
5 Bradley coming home because he knows she's dead.

6 The State also called Captain Hutto. And Captain
7 Hutto told you about an incident, an incident that
8 happened with the Defendant's brother approximately
9 January of 2008. And he told you from that witness stand,
10 he asked some questions and all of a sudden the
11 Defendant's brother got nervous. Said all of a sudden the
12 trunk of the car doesn't work. And then before going back
13 to court, he takes that car and he crushes it, shreds it,
14 sends it somewhere else, destroys it so it can never be
15 looked at. Mr. Gipson said, well, a long time has
16 passed.

17 Well, ladies and gentlemen of the jury, a long
18 time had passed and nobody had asked him about that car.
19 And as soon as somebody did, he took it, had it shredded
20 and crushed.

21 And we know one very important detail about that
22 car; that it was in good working order. And we know it
23 was in good working order because not only did this
24 incident result as a traffic stop, but the traffic stop
25 was because the car had Nevada plates. If that car had

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1 Nevada plates, it worked well enough for him to drive it
2 all the way from Nevada here to Allendale. And yet as
3 soon as there's suspicion, as soon as someone might want
4 to look in the car, shredded and crushed.

5 Special Agent Richard Johnson. We called him as
6 a witness. I'm going to use one of these exhibits, one of
7 these posters. Now the defense wants you to take special
8 consideration of the fact that this is listed as a missing
9 person. Well, I submit to you that a thorough
10 investigation leaves open all possibilities until you
11 eliminate -- everyone wanted this to be a missing person
12 because if it's a missing person there's a chance she will
13 come back.

14 And if Special Agent Johnson had characterized
15 this as a murder from day one, not only does that pull
16 back on hope, but it's also a rush to judgment. It's also
17 an incident where they didn't even look to see if she was
18 missing. They made up their mind before they even got
19 there and looked at the evidence.

20 To characterize his putting this as a missing
21 person, it's not that. It's an investigation.
22 Investigation that turned up evidence. Evidence that we
23 have presented to you, the jury.

24 Vicki Hallman from SLED came and testified about
25 the collection of evidence in this car. And one of the

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1 interesting things about this is that you, the jury, got a
2 chance to actually see that car. But in addition to
3 seeing that car you also got a chance to see the flatbed
4 truck. They did have to take that particular vehicle from
5 the Defendant's house to the garage.

6 And as we know, Ericka Bradley's DNA's all under
7 the car. So in order for -- in order for even this three-
8 day lapse in time to have relevance, you would have to
9 believe that somewhere between Derek Maner's house and the
10 garage, the tow truck towing the car ran over Ericka.
11 That is what he would have you believe, that at some point
12 between there and the garage that that's what happened.

13 We also called Paul Silvaggio from Greenville.
14 And the reason you heard Mr. Silvaggio was because he was
15 called in, not because he was friends with the sheriff or
16 because he has any special connection to Allendale
17 County. No. Detective Silvaggio was brought in because
18 he was the speaker at a conference about missing persons.

19 When the sheriff ran out of ideas, when the
20 sheriff was at his last wits' end about what to do, he
21 went to someone that he knew had experience in dealing
22 with these kinds of matters, Detective Silvaggio.

23 Detective Silvaggio came in, started the case
24 from scratch. Said he didn't look at it as a murder. He
25 came in and he said, we've got a missing person. We first

CLOSING ARGUMENTS ON BEHALF OF THE STATE

1 need to find out whether or not this is a runaway
2 situation or a person who has left of their own free
3 will.

4 And how did he do that? He started talking. He
5 talked to her family, her friends, her co-workers, went to
6 her school, found out she's a good student. She's a good
7 student. She's a dependable worker. She has a child, a
8 small child to take care of. And that there is nothing at
9 all in her history that would indicate that she would
10 disappear of her own free will. Nothing.

11 No thing that would indicate she would do that.

12 And once Detective Silvaggio got that far, then
13 he moved on and looked for more evidence. Went back to
14 the car. He looked at the stabilizing bar here. He went
15 through every step of the entire investigation and came to
16 the same conclusion; Derek Maner.

17 The State also called Jennifer Clayton and
18 Dr. Michael Ward. And the defense tried to make out that
19 they were at odds with one another, that Dr. Ward said
20 Jennifer Clayton didn't know what she was talking about.

21 Well, I ask you to actually remember and think
22 about the testimony because Jennifer Clayton said, no
23 friends to reward, no enemies to punish. She said she ran
24 all the tests on the blood and she can say with her degree
25 of certainty as the DNA analysis, that the blood under

CLOSING ARGUMENTS ON BEHALF OF THE STATE

1 that car belonged to the offspring of the Bradleys.

2 Dr. Ward came up and said he reviewed her
3 information as well as information from LabCorp and came
4 to that conclusion. Their testimony does not conflict
5 with one another. They came to the same conclusion. But
6 the evidence, the DNA evidence under the Defendant's car;
7 Ericka Bradley.

8 Finally the State called Madoree Pipkins.
9 Madoree Pipkins testified she was another one of the
10 girlfriends of the Defendant. She met him after November
11 6, 2006.

12 And that you heard from the Defendant that she
13 supports him, he supports her. And when she was on the
14 stand she said she received a call from the Defendant
15 while he was incarcerated, instructing her to go to
16 Hampton County to the lake, to look in, she says a flower
17 pot for some jewelry for herself. And that, quote, he
18 told her, take it, to wipe it down, take it to California,
19 and don't tell anybody where you got it from.

20 Members of the jury, I submit to you, if the
21 story is as Mr. Maner says, there would be no reason for
22 Madoree Pipkins to wipe down the jewelry. There would be
23 no reason for her to take it to California. There would
24 be no reason for her not to tell anyone where she got it
25 from. There would be no reason.

CLOSING ARGUMENTS ON BEHALF OF THE STATE

1 When this trial began, my co-counsel,
2 Ms. Armstrong, got up here and told you that this case was
3 going to be kind of like a puzzle, that there were going
4 to be numerous witnesses who are all going to have a
5 little piece of that puzzle and that we were going to put
6 it together for you, the jury.

7 And interestingly enough, Mr. Gipson then
8 followed that up and pointed out that he had puzzle piece
9 cuffs. I'm not quite as fashionable, but he had puzzle
10 link cufflinks too.

11 Well, members of the jury, I submit to you and I
12 freely say, we do not know where the remainder of Ericka
13 Bradley's body is. We do not know. That is a piece of
14 the puzzle that we do not have.

15 But just because you don't have a piece of the
16 puzzle doesn't mean you don't know what the puzzle shows
17 you. It doesn't mean you don't have -- that doesn't mean
18 that you can't see the puzzle for what it is.

19 Members of the jury, there's an old saying that
20 what is done in the dark will eventually come to light.
21 And that's where we are here today, in the light of the
22 courtroom. It was dark the night November 6th, 2006. It
23 was dark, and the Defendant thought nobody would ever see
24 what was done.

25 Until we came here. This is the light of this

JUDGE'S CHARGE TO THE JURY

1 courtroom. Now, it is true when the Defendant comes into
2 a courtroom, he is cloaked in a robe of innocence.
3 Cloaked. Covered. And members of the jury, I submit to
4 you that after the evidence the State has presented, the
5 Defendant stands before you naked and guilty. And we ask
6 you to find Derek Maner guilty of the murder of Ericka
7 Bradley. Thank you.

8 THE COURT: Thank you, Mr. Pearson.

9 Ladies and gentlemen, we're going to take about a
10 five-minute recess. When we come back we'll have the
11 charge on the law. Do not discuss the case. Everyone
12 remain seated as the jury exits the courtroom.

13 (Jury exits courtroom at 5:02 p.m.)

14 THE COURT: We're going to start the charge.
15 We'll have an opportunity to look at the exhibits. If
16 y'all want to carry them to your desk and work on them
17 while we're doing the charge, we can do that as well.

18 (Jury enters courtroom at 5:13 p.m.)

JURY CHARGE

19
20 THE COURT: Madam Forelady, ladies and gentlemen
21 of the jury, you each of you are --

22 FOREPERSON OF THE JURY: We have one more.

23 THE COURT: I'm sorry.

24 THE BAILIFF: Just one more. She's back in the
25 restroom.

JUDGE'S CHARGE TO THE JURY

1 THE COURT: Very well.

2 (Pause.)

3 Madam forelady, ladies and gentlemen of the jury,
4 y'all we have been going at this for about four days now.
5 I want to thank you for your time and attention. I
6 noticed that you paid very close attention to the
7 testimony. I watched you as the testimony was coming from
8 the witness stand and I want to thank you for that.

9 But you've taken a solemn oath to be the finders
10 of fact and listen to the evidence that comes from this
11 witness stand and apply it to the law. Of course you paid
12 attention, you're well equipped to be the final judges
13 with regard to the facts.

14 But you also have to apply it to the law and you
15 have to pay very close attention to the law as I charge it
16 to you.

17 Charging you the law, there's no easy way to do
18 it. It's almost like taking medicine. You're going to
19 have to pay attention. I know it's late in the evening,
20 it's about a quarter after five. I'm going to ask that
21 you perk up, sit on the edge of your chair and pay very
22 close attention.

23 There is not a subject matter or a type trial
24 that is more important than this. This is a very serious
25 matter. I want you to pay very close attention to the law

JUDGE'S CHARGE TO THE JURY

1 as I charge it to you.

2 Ladies and gentlemen of the jury, the indictment
3 charges the Defendant with murder. I remind you that the
4 fact that the Defendant was arrested, charged and indicted
5 is not evidence and cannot be considered by you as
6 evidence of guilt, nor does it create any presumption or
7 inference of guilt. This document simply is the formal
8 written instrument which contains the charge against the
9 Defendant. It is a formal document by which this case is
10 brought into this court.

11 Ladies and gentlemen of the jury, the Defendant
12 has pled not guilty to this indictment. That plea puts
13 the burden on the State to prove the Defendant guilty. A
14 person charged with committing a criminal offense in South
15 Carolina is never required to prove himself innocent. I
16 charge you that it is an important rule of the law that
17 the defendant in a criminal trial, no matter what the
18 seriousness of the charge may be, will always be presumed
19 to be innocent of the crimes for which the indictment was
20 issued unless guilt is proven by evidence satisfying you
21 of that guilt beyond a reasonable doubt.

22 This presumption of innocence does not end when
23 you begin your deliberations. It accompanies the
24 Defendant throughout the trial until you reach a verdict
25 of guilt based on evidence satisfying you of that guilt

JUDGE'S CHARGE TO THE JURY

1 beyond a reasonable doubt.

2 The presumption of innocence is like a robe of
3 righteousness placed about the shoulders of the Defendant
4 which remain with the Defendant until it has been stripped
5 from the Defendant by evidence satisfying you of the
6 Defendant's guilt beyond a reasonable doubt.

7 Presumption of innocence is not a mere legal
8 theory. It's not just a legal phrase. It's a substantial
9 right to which every defendant is entitled unless you, the
10 jury, are satisfied from the evidence of the Defendant's
11 guilt beyond a reasonable doubt.

12 Ladies and gentlemen of the jury, what is
13 reasonable doubt in the law? A reasonable doubt is the
14 kind of doubt that would cause a reasonable person to
15 hesitate to act. The State has the burden of proving the
16 Defendant guilty beyond a reasonable doubt.

17 Some of you may have served as jurors on civil
18 cases where you were told that it is only necessary to
19 prove that a fact is more likely true than not true, such
20 as by the greater weight or the preponderance of the
21 evidence.

22 In criminal cases, the State's proof must be more
23 powerful than that. It must be beyond a reasonable doubt.
24 Proof beyond a reasonable doubt is proof that leaves you
25 firmly convinced of the Defendant's guilt. There are very

JUDGE'S CHARGE TO THE JURY

1 few things in the world that we know with absolute
2 certainty.

3 In criminal cases the law does not require that
4 proof overcomes every possible doubt. If, based on your
5 consideration of the evidence, you are firmly convinced
6 that the Defendant is guilty of the crime charged, you
7 must find the Defendant guilty.

8 If, on the other hand, you think there's a real
9 possibility that the Defendant is not guilty, you must
10 give the Defendant the benefit of the doubt and find him
11 not guilty.

12 Ladies and gentlemen of the jury, I remind you
13 that during this trial you and I have certain duties to
14 perform. As a trial judge it is my responsibility to
15 preside over the trial of this case. And I also have the
16 duty to rule on the admissibility of evidence offered
17 during this trial.

18 You are to consider only the competent evidence
19 before you. There was an item of testimony ordered
20 stricken from the record in this case during this trial.
21 You must disregard that testimony.

22 You are to consider only the testimony which has
23 been presented from the witness stand and the exhibits
24 which have been made a part of the record in this case and
25 any stipulations of counsel.

JUDGE'S CHARGE TO THE JURY

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge, I am the
3 sole judge of the law in this case. And it is your duty
4 as jurors to accept and apply the law as I now state it to
5 you.

6 If you already have an idea as to what the law is
7 or what the law ought to be and it does not agree with
8 what I now tell you the law is, you must abandon this idea
9 because you were sworn to accept and apply the law exactly
10 as I state it to you.

11 In every case tried in this Court before a jury,
12 the jury becomes the sole and exclusive judge of the
13 facts. The trial judge cannot intimate, state, comment
14 on, or make any statement to a trial jury about the
15 facts. Since you, the jury, are the sole judge of the
16 facts in the case, you are not to infer from what I have
17 said during the progress of this trial, in ruling on the
18 admissibility of evidence or otherwise, or anything that I
19 say now during the course of this instruction to you, that
20 I have any opinion about the facts in this case. The law
21 simply does not allow me to have an opinion about the
22 facts.

23 This is a matter solely for you, the jury, to
24 determine. As jurors it is your duty to determine effect,
25 value, weight and truth of the evidence presented during

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1 this trial.

2 There are two types of evidence which are
3 generally presented during a trial, direct and
4 circumstantial evidence. Direct evidence is the testimony
5 of a person who claims to have actual knowledge of a fact
6 such as an eyewitness. It is evidence which immediately
7 establishes the main fact to be proved.

8 Circumstantial evidence is proof of a chain of
9 facts and circumstances indicating the existence of a
10 fact. It is evidence which immediately establishes
11 collateral facts from which the main fact may be
12 inferred. Circumstantial evidence is based on inference,
13 not on personal knowledge or observation.

14 The law makes absolutely no distinction between
15 the weight or value to be given to either direct or
16 circumstantial evidence, nor is a greater degree of
17 certainty required of circumstantial evidence than of
18 direct evidence.

19 You should weigh all of the evidence in this
20 case. After weighing all of the evidence if you are not
21 convinced of the guilt of the Defendant beyond a
22 reasonable doubt, you must find the Defendant not guilty.

23 Ladies and gentlemen of the jury, a murder case
24 consists of two elements. One, the death of a human
25 being, and, two, the criminal act of another in causing

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1 the death. Evidence of the victim's personal habits and
2 relationships allow circumstantial evidence from which an
3 inference can be drawn that the victim's sudden
4 disappearance was the result of death by a criminal act.

5 Ladies and gentlemen of the jury, necessarily you
6 must determine the credibility of witnesses who have
7 testified in this case. Credibility simply means
8 believability.

9 It becomes your duty as jurors to analyze and
10 evaluate the evidence and determine which evidence
11 convinces you of its truth.

12 In determining the believability of witnesses who
13 have testified in this case, you may believe one witness
14 over several witnesses or several witnesses over one
15 witness. You may believe a part of the testimony of a
16 witness and reject the remaining part of the testimony of
17 that same witness. You may believe the testimony of a
18 witness in its entirety or reject the testimony of a
19 witness in its entirety.

20 You may consider whether a witness has exhibited
21 to you any interest, bias, prejudice or other motive in
22 this case. You may also consider the appearance and
23 manner of a witness while on the witness stand, their
24 demeanor.

25 There's been evidence presented that witnesses

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1 have made prior statements which are not consistent with
2 the witness's present testimony. You may use this
3 evidence to decide whether to believe the witness. You
4 may also use evidence of earlier contradictory statements
5 to determine the truth of those statements. It is up to
6 you to decide whether to believe the earlier statement and
7 testimony given at trial.

8 If a witness has shown an ability to have
9 testified untruthfully concerning a material matter, you
10 may consider this in determining whether to trust the
11 witness's testimony as to other matters. You may reject
12 all the testimony of that witness, give all or part of the
13 testimony the weight you think it deserves.

14 Ladies and gentlemen of the jury, a statement
15 alleged to have been made by the Defendant has been
16 admitted into evidence in this case. While the Court has
17 determined the statement is admissible, I instruct you
18 that you make the ultimate decision of whether or not the
19 Defendant made the statement.

20 If the Defendant did make the statement, you must
21 determine whether the statement was made by the Defendant
22 voluntarily and of his own free will. This means that the
23 statement was not caused by pressure, force, fear, threat,
24 coercion or intimidation or by hope or promise of leniency
25 or a reward of any kind.

1 In determining whether the statement was
2 voluntary, you should consider both the characteristics of
3 the Defendant and the details of the questioning. Some of
4 the factors that you may consider are the age of the
5 Defendant, the Defendant's education or lack of education,
6 the Defendant's mental ability or capacity, the
7 Defendant's IQ or intelligence, the Defendant's background
8 and environment, place and length of detention, the nature
9 of the questioning, the advice or lack thereof to the
10 Defendant of his constitutional rights including but not
11 limited to the right to remain silent, that any statement
12 can be used against him in a court of law, the right to
13 have a lawyer present, that if he cannot afford a lawyer,
14 a lawyer would be appointed to represent him without cost,
15 and that he could stop making a statement at any time.
16 You must carefully consider all of the surrounding
17 circumstances before you give any weight to an alleged
18 statement.

19 The State has the burden of proving beyond a
20 reasonable doubt the alleged statement was voluntary. If
21 you determine it was, you may give the statement any
22 further consideration that you deem proper. You must
23 decide what weight, if any, should be given to the alleged
24 statement. If you determine the alleged statement was not
25 the free and voluntary statement of the Defendant, you

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1 should not consider the statement at all.

2 In order to establish criminal liability,
3 criminal intent is required. For example, mental state
4 required to be -- the mental state required to be proven
5 by the State for a particular crime must be purpose,
6 intent, knowledge, recklessness or criminal negligence.
7 Criminal intent must be proven by the State beyond a
8 reasonable doubt.

9 Criminal intent is always a matter that must be
10 determined by the jury from the circumstances surrounding
11 the situation. There is no way to prove intent to a
12 mathematical certainty. There is no way that medical
13 science can dissect a person's brain and determine what
14 the person had in mind. So the law says that criminal
15 intent may be inferred from the circumstances shown to
16 have existed.

17 This is how you make a determination of whether
18 or not the element requiring intent was present. It is
19 not necessary to establish intent by direct or positive
20 evidence. An intent may be established by inference in
21 the same way as any other fact, by taking into
22 consideration the acts of the parties and all of the facts
23 and circumstances of the case.

24 Criminal intent is a mental state, a conscious
25 wrongdoing. It is up to you to determine what the

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1 Defendant intended to do based on the circumstances shown
2 to have existed. Criminal intent can arise from actions
3 or failure to act. It may arise from negligence,
4 recklessness, indifference to duty or to consequences that
5 is considered by law to be the equivalent of criminal
6 intent.

7 Ladies and gentlemen of the jury, mere presence
8 at the scene is not sufficient to prove someone guilty of
9 a crime. The Defendant's presence where a crime is being
10 committed, mere association with the person who commits a
11 crime does not make a defendant an accomplice or an aider
12 or abettor of the person committing the crime.

13 The burden is on the State to prove every element
14 of the crime charged. If you find, after reviewing all of
15 the evidence, that the State has proven that the Defendant
16 was only present at the scene of the crime, that they have
17 not proved beyond a reasonable doubt any other
18 participation in the crime, then you must find the
19 Defendant not guilty. The law is that proof of one being
20 at the scene of a crime is not sufficient to find someone
21 guilty.

22 Ladies and gentlemen of the jury, I'm going to
23 charge you the substantive law concerning murder. The
24 Defendant is charged with murder. The State must prove
25 beyond a reasonable doubt that the Defendant killed

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1 another person with malice aforethought. Malice is
2 hatred, ill will, hostility towards another person. It is
3 the intentional doing of a wrongful act without just cause
4 or excuse and with an intent to inflict an injury or under
5 circumstances the law will infer, an evil intent.

6 Malice aforethought does not require that malice
7 exist for a particular period of time before the act is
8 committed, but malice must exist in the mind of the
9 Defendant just before and at the time the act is
10 committed.

11 Therefore, there must be a combination of the
12 previous evil intent and the act. Malice aforethought may
13 be expressed or inferred. The terms expressed or inferred
14 do not mean different kinds of malice but merely the
15 manner in which malice may be shown to exist. That is,
16 either by direct or by inference from the facts and
17 circumstances which are proved.

18 Express malice is shown when a person speaks
19 words which express hatred or ill will for another, or
20 when the person prepared beforehand to do the act which
21 was later accomplished. For example, lying in wait for a
22 person or any other acts of preparation going to show that
23 the deed was within the Defendant's mind would be express
24 malice.

25 Malice might be inferred from conduct showing a

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1 total disregard for human life. Inferred malice may also
2 arise when the deed is done with a deadly weapon. A
3 deadly weapon is any article, instrument or substance
4 which is likely to cause death or great bodily harm.
5 Whether an instrument has been used as a deadly weapon
6 depends on the facts and circumstances of each case.

7 Ladies and gentlemen of the jury, an issue in
8 this case is whether the Defendant was the person who
9 committed the alleged crime charged. The State has the
10 burden of proving that the Defendant and no one else
11 committed this alleged crime. I instruct you that the
12 burden of proof formed by the State extends to every
13 element of the crime charged and specifically that the
14 Defendant and no one else committed the crime.

15 If after examining the testimony you have a
16 reasonable doubt as to the identity of the person who
17 committed the alleged crime, you must find the Defendant
18 not guilty.

19 Ladies and gentlemen of the jury, I'm going to
20 share with you the verdict form. Madam Forelady, I'm
21 going to ask you to stand. Let me go over this form with
22 you.

23 As you see, it's a fairly simple form. It's
24 entitled, the State of South Carolina versus Derek Maner.
25 It's got that it's in the Court of General Sessions,

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1 Fourteenth Judicial Circuit, 2008-GS-03-135, verdict form.

2 It says, please check the appropriate verdict
3 below and follow the appropriate instructions. We only
4 have one charge that the Defendant, Mr. Maner, has been
5 charged with. He's been charged with murder.

6 And the verdict form is very simple. It says, we
7 the jury by unanimous consent find the Defendant, Derek
8 Maner, on the issue of murder; guilty of murder, and not
9 guilty. Those are the alternatives that you have. We'd
10 ask that you date it and put your signature here. And
11 when you completed your deliberations, I'm going to ask
12 that you knock on the door and notify the bailiff and we
13 will bring you back in.

14 I will mention to you that there's no
15 significance to be given with regard to the order of the
16 verdicts that I put in there. I mean, one has to come
17 first. Simply and just arbitrarily, one comes first. So
18 there's no significance to be drawn from that. I'm going
19 to ask if you could have a seat and I'm going to give you
20 a few more instructions. Have a seat there.

21 Madam Forelady, you're to preside over the
22 deliberations. That simply means that you're to ensure
23 that everybody's voice is heard. I'm going to ask that
24 the alternate remain with us here today. You've been
25 activated, and you're the remaining alternate; is that

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1 correct? I want you to stay with us here right now.

2 I'm going to point to the word on the verdict
3 form that says unanimous consent. That means everyone has
4 to agree. It has to be everybody's verdict. It can't be
5 ten to two, 11 to one or four to six. It can't be that
6 way. It can't be nine to three. It has to be, everyone
7 has to agree with regards to the verdict.

8 Ladies and gentlemen of the jury, you've paid
9 very close attention throughout the trial of the case.
10 Most importantly, you've paid attention to the evidence
11 that's come from the witness stand and the law as I've
12 charged it to you. You're equipped to make the
13 determination.

14 If there's a question about the law, I'll be in a
15 position to answer that. Of course, the most difficult
16 questions that you're going to be called upon to resolve
17 in your collective wisdom as the jury in this case are
18 factual issues. Those are things I can't help you with.
19 And that's something that y'all are going to have to
20 resolve as far as any factual disputes. As I charged you,
21 the law doesn't allow me to even have an opinion about the
22 facts of the case. That's going to be within your
23 parameters.

24 If there's a question that develops during the
25 trial, Madam Forelady, feel free to write it down, date

1 it, give it to the bailiff and I'll be happy to answer it
2 if it's the type of question I can answer. But I feel
3 confident that y'all paid attention to the facts and paid
4 attention to the law. I don't think that will be
5 necessary. If it is, let us know.

6 I'm going to ask that you retire to the jury room
7 and before you begin deliberations, I'm going to ask that
8 you wait in the jury room. Do not begin deliberations.
9 I'm going to ask these very fine lawyers if they have any
10 objection to any of the facts that -- I mean, any of the
11 law that I've charged to you. And I'm going to make sure
12 that we have all of the documentary evidence.

13 And in the event I don't need to call you back in
14 for an additional charge on the law, I will ask the
15 bailiff to gather together the documentary evidence,
16 they'll provide to you a blank piece of paper and a pencil
17 and tell you to begin deliberations, but until that time
18 do not begin deliberations.

19 I will mention one thing further. If anyone gets
20 up to use the restroom or leaves the jury room for
21 whatever reason, stop deliberation. Every one of you has
22 to participate in all the deliberation process. Ask that
23 you retire to the jury room at this time. Do not begin
24 deliberations. I ask that the alternate stay with us.

25 (Jury exits courtroom at 5:34 p.m.)

1 THE COURT: Mr. Alternate, I want to thank you
2 for your time and service. I know that you probably think
3 that you've been invited to a dance and didn't get to
4 dance. But as you will see, quite often during the trial,
5 particularly one that lasts more than one day, quite often
6 we have problems that develop with jurors. Sometimes a
7 conflict develops, sometimes people get ill, sometimes
8 there's a family illness and you'll see that we had to
9 activate one of the jurors here today.

10 THE JUROR: Yes, sir.

11 THE COURT: It's particularly important in a
12 criminal case that we have 12 jurors. It's a very
13 important part of our constitutional safeguards and you're
14 sort of like our insurance policy.

15 And I want to thank you for being here. You're
16 certainly welcome to stay and wait on the verdict,
17 however, if you'd like to leave, feel free to do so.

18 Do you have any questions?

19 THE JUROR: No, sir, but I would like to leave.

20 THE COURT: Thank you for your time and
21 consideration. You're free to leave at this time.

22 THE JUROR: Yes, sir. Thank you.

23 THE COURT: I've said throughout the trial of
24 case that you're not to discuss this case with anyone but
25 feel free to talk with anybody that you'd like to talk

1 with about it, but if you don't want to talk about it tell
2 them that. If they insist on talking to you, you get
3 their name and inform me and I will deal with them
4 accordingly. Is that fair enough?

5 THE JUROR: Yes, sir.

6 THE COURT: All right. You're free to leave.

7 THE JUROR: All right. Thank you, sir.

8 THE COURT: All right. I'm going to ask the
9 lawyers if they have been able to compile all of the
10 evidence, documentary evidence that's in evidence?

11 MR. PEARSON: We've done that, Your Honor.

12 MR. GIPSON: We have.

13 THE COURT: Is all of the evidence that's in
14 evidence in your hand there?

15 MR. PEARSON: These are the Court's exhibits. I
16 think Mr. Gipson has --

17 MR. GIPSON: The actual ones admitted.

18 THE COURT: Mr. Gipson, do you agree that what's
19 in your hand is all the evidence?

20 MR. GIPSON: I do. We do need to redact still a
21 couple of pieces, Your Honor.

22 THE COURT: All right. Are we in a position
23 where we can cut off the redact -- just redact by
24 cutting? Let's do that right now.

25 MR. PEARSON: Yes, Your Honor.

1 (Pause.)

2 THE COURT: Mr. Gipson.

3 MR. GIPSON: This one I think exhibit Five, the
4 whole bottom section was to come out and endangered also.

5 THE COURT: Right.

6 MR. PEARSON: We can cut across the bottom.

7 THE COURT: Let's pick up the pace. Let's do it.

8 MR. PEARSON: Yes, sir.

9 (Off-the-record discussion.)

10 MR. GIPSON: Your Honor, I believe that's it.

11 THE COURT: All right. Mr. Gipson, is everything
12 in your hand in evidence?

13 MR. GIPSON: Yes, sir.

14 THE COURT: Is there anything in that pile that's
15 not in evidence?

16 MR. GIPSON: No, sir.

17 THE COURT: All right. Mr. Pearson, do you agree
18 that that's all of the evidence, that's in Mr. Gipson's
19 hand.

20 MR. PEARSON: Yes. Yes, Your Honor.

21 THE COURT: Is there anything there that's not in
22 evidence?

23 MR. PEARSON: Yes. The forms, that's it. I'm
24 taking them out.

25 THE COURT: Very good.

1 MR. PEARSON: Everything that's in there.

2 THE COURT: Very good. We'll give that to the
3 bailiff at this time.

4 All right. Are there any objections or
5 exceptions or additions with regard to the jury charge,
6 Mr. Gipson?

7 MR. GIPSON: No, sir.

8 THE COURT: Anything from the State,
9 Mr. Pearson?

10 MR. PEARSON: No, sir.

11 THE COURT: All right. We can go ahead and give
12 that to them with a blank piece of paper, pencil and tell
13 them to begin deliberations.

14 THE BAILIFF: All right.

15 (Deliberations commence at 5:40 p.m.)

16 THE COURT: Ladies and gentlemen who are in
17 audience, we're going to ask that everyone exit the
18 courtroom. We're going to allow you to come back in here
19 momentarily. I'm going to ask you to exit the courtroom
20 very momentarily, then come back in.

21 I'm going to mention something to you right now
22 and something later when there's a verdict that's
23 reached. This is a very, very serious matter. And I know
24 there's -- it's an emotional matter for the victim's
25 family. I know it's an emotional matter for the

1 Defendant's family.

2 And my job is to make sure that the State gets a
3 fair trial and the Defendant gets a fair trial. I have an
4 obligation as a matter of law to maintain order in this
5 court and I intend to do so.

6 If there are any outbursts whatsoever from either
7 side, everybody needs to be forewarned that you'll be
8 taken into custody and we'll deal with you with regard to
9 contempt motions and contempt punishments at a later date
10 in time.

11 So there will be no outbursts. If you feel as
12 though for some reason you can't contain your emotions,
13 I'm going to ask that you stay out for any additional
14 proceedings in this trial.

15 Thank you very much. You may leave the courtroom
16 at this time.

17 (Thereupon, another matter was heard by the
18 Court. At 5:44 p.m., the following transpired:)

19 THE COURT: All right. There's a question. It
20 says: On the charge of murder, we do not fully understand
21 that there are degrees involved such as murder one, two
22 and three.

23 They've been watching TV but they need to accept
24 and apply the law as I charged it to them. I think that's
25 essentially what I need to tell them.

1 MR. PEARSON: I would agree. Yes, Your Honor.

2 MR. GIPSON: I agree.

3 THE COURT: All right. Very good. Let's bring
4 the jury out.

5 (Jury enters courtroom at 5:46 p.m.)

6 THE COURT: Madam Forelady, ladies and gentlemen
7 of the jury, I have in my hand a note that says: On the
8 charge of murder, we may not fully understand that there
9 are degrees involved such as murder one and murder two,
10 murder three.

11 Ladies and gentlemen of jury, as I charged you
12 the law, you must accept and apply the law just as I
13 charged it to you. You may return to the jury room.

14 FOREPERSON OF THE JURY: Thank you.

15 (Jury exits courtroom at 5:46 p.m.)

16 (Thereupon, note from jury was marked as Court's
17 Exhibit No. 5 and received into the record.)

18 (Thereafter, other matters were heard by the
19 Court. At 5:51 p.m., the trial resumed:)

20 THE COURT: All right. We have another question
21 from the juror. It states: One juror states family
22 emergency, permission to leave.

23 I would suggest that we bring the juror out.
24 Where is the alternate? Has the alternate already left?

25 UNIDENTIFIED SPEAKER: Yes, sir.

1 THE COURT: What we're going to do, we're going
2 to come back in. We're going to find out what her
3 emergency is. We're going render whatever assistance she
4 needs through the sheriff's department. I'm not inclined
5 to excuse her. Anything from the defense?

6 MR. GIPSON: No, sir.

7 THE COURT: Anything from the State?

8 MR. PEARSON: No, sir.

9 THE COURT: All right. Let's bring this juror
10 in.

11 (Juror enters courtroom at 5:52 p.m.)

12 THE COURT: Yes, ma'am?

13 THE JUROR: I didn't know --

14 THE COURT: I want you to state your full name,
15 please.

16 THE WITNESS: Oh. Patricia Elias. I didn't know
17 we was going to be here this late but when they had picked
18 me, I had told you that my grandkids, they live with me.
19 I'm raising them. My son was in a accident, a bad
20 accident Friday. She had surgery yesterday on her arm but
21 everybody that's been watching them for me while I came
22 here, but somehow she had busted some of the stitches and
23 stuff because she got screws and stuff in her arm and she
24 had to go back this afternoon but I don't have, I really
25 don't know who got the kids right now. I don't know if

1 they took them. I don't know if they're back. But I
2 still have to get one ready for school but then I got
3 people coming from Charleston to my house, supposed to be
4 here between seven and 7:30. I didn't know I was going to
5 be here and I need to go home.

6 THE COURT: Well, I know those do sound like very
7 pressing problems but one thing that you need to
8 understand is, probably in your lifetime you'll never be
9 called upon to do anything more important than this case.
10 This case involves very, very serious matters and you will
11 not be called upon to do anything more important than
12 that.

13 What I'm going to ask you to return to the jury
14 room, resume deliberations. I'm going to ask that the
15 sheriff's department do whatever is necessary to determine
16 that everybody is taken care of. Return to the jury room.

17 THE JUROR: Okay. But, what do I do about people
18 coming to my house? Ain't nobody there. Only me and the
19 kids live there. The car got wrecked so there's no way
20 for nobody, my son only one that got a key besides me to
21 my apartment.

22 THE COURT: Do you need to speak with your son?

23 THE JUROR: I don't know if they're back yet but
24 if they are back their car got totaled so he don't have a
25 way to get to my apartment.

1 THE COURT: Well, I'm going to ask that the
2 sheriff's department send a deputy to your home. What is
3 your address?

4 THE JUROR: Pinewood Apartment [REDACTED].

5 THE SHERIFF: [REDACTED].

6 THE COURT: Let's see if we can send a deputy
7 over to make sure that everybody is okay.

8 THE JUROR: No, I live there. My -- they live
9 at, on Fairdale 374. You can call them see if they back
10 or whatever.

11 THE COURT: That's what I just asked you.

12 THE JUROR: You said what's the address so they
13 can go see.

14 THE COURT: I asked you if you wanted us to call
15 someone, you didn't want to us do that.

16 THE JUROR: 2544, Cynthia or Darnell.

17 THE SHERIFF: Cynthia or Darnell.

18 THE JUROR: Could you ask them them to call
19 843-[REDACTED].

20 THE SHERIFF: [REDACTED].

21 THE JUROR: We don't know how long we're going to
22 be here because, asking could they find a way to go to my
23 apartment and sit there until they get there from
24 Charleston.

25 THE SHERIFF: I'll get them there.

JURY VERDICT

1 THE COURT: We'll take care of that. Resume
2 deliberations.

3 (Juror exits courtroom and deliberations resume
4 at 6:03 p.m.)

5 THE COURT: Just inform the juror who had a
6 family emergency that the sheriff's department has gone
7 and checked on everybody, that the children are taken care
8 of and they are going to go over to the house to wait on
9 the people that everything is taken care of she doesn't
10 need to worry about it everything is taken care of.

11 THE BAILIFF: Will do, sir.

12 THE COURT: All right.

13 (Thereupon, note from jury was marked as Court's
14 Exhibit No. 6.)

15 (Thereafter, at 6:03 p.m., the jury resumed
16 deliberations. Court stood in recess until 6:27 P.M.:)

17 THE COURT: I understand we have a verdict.
18 Anything from the State before we bring them out?

19 MR. PEARSON: No, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. GIPSON: No, sir.

22 THE COURT: We're ready for the jury. Once
23 again, we will not have any outbursts.

24 (Jury enters courtroom at 6:28 p.m.)

25 THE COURT: Madam Forelady, have you reached a

JURY VERDICT

1 verdict?

2 FOREPERSON OF THE JURY: Yes, we have.

3 THE COURT: Is it unanimous?

4 FOREPERSON OF THE JURY: Yes, it is.

5 THE COURT: I'm going to ask that you give the
6 verdict form to the clerk.

7 FOREPERSON OF THE JURY: (Complying.)

8 THE COURT: The verdict form seems to be in
9 order. You may publish the verdict.

10 THE CLERK: State of South Carolina, County of --
11 should be Allendale. In the Court of General Session of
12 the 14th Judicial Circuit, Indictment Number 2008-GS-03-
13 135. We, the jury, unanimous consent find the Defendant,
14 Derek Maner, guilty of murder.

15 Ladies and gentlemens of the jury, is this your
16 verdict? Is this still your verdict?

17 THE JURY: (Collectively) Yes.

18 THE COURT: Okay. Madam Forelady, ladies and
19 gentlemen of the jury, I want to thank you for your
20 service. I know this has been a very difficult and long
21 week for you.

22 Throughout my years practicing law and while I've
23 been on the bench I always thought it was kind of odd for
24 a judge to comment on the verdict itself because that's
25 something that's within your province to determine. I

JURY VERDICT

1 just want to thank you for your service.

2 I would venture to say that when you showed up on
3 Monday morning that it's something you really didn't want
4 to do. But I would also venture to say that there's
5 probably in your lifetime there won't be anything that's
6 been more important than what you've done here today. And
7 you've been able to do what nobody else in this courtroom
8 has been able to do.

9 You know, we're here in an election cycle and it
10 makes us keenly aware of the fact that we are living in a
11 democracy. And the way our governmental system works is
12 principally an indirect democracy. We elect people to
13 represent us in Columbia and Washington.

14 But here as you're serving on this jury you have
15 actually participated in the democratic process, a direct
16 democracy. I know it's been inconvenient but it's very,
17 very important.

18 And one thing that you need to realize is that,
19 you know, we're all just one breath away from being
20 charged with a crime or civil litigation.

21 And I think it's important for us to know that it
22 won't be a judge that determines our fate. It won't be a
23 bunch of bureaucrats. It will be a panel of judges, it
24 will be members of our community.

25 And I want to thank you for your time and your

JURY VERDICT

1 service.

2 And there's going to be another proceeding. One
3 of my duties as the trier of the law is to sentence
4 Mr. Maner. And your service here is complete. You're
5 free leave if you would like to do so.

6 However, this is public forum. If you would like
7 to stay and witness the sentencing, we'll be happy -- feel
8 free to do so. But at this time I want to thank you for
9 your service. You're earned a three-year exemption from
10 service on the jury.

11 And thank you once again. You're free to leave
12 at this time. Thank you very much.

13 MR. GIPSON: Your Honor.

14 THE COURT: Any motions with regard to polling?

15 MR. GIPSON: Yes, sir.

16 THE COURT: Very good. Madam clerk, if you can
17 call the roll. The defense made a motion with regard to
18 polling.

19 THE CLERK: Okay. Let me go back to my office
20 and get it.

21 THE COURT: Everyone just remain seated.

22 (Pause.)

23 THE COURT: Madam clerk, you may poll the jury.

24 THE CLERK: Ms. Shelby Clowers, would you please
25 stand. Is this your verdict?

JURY VERDICT

1 THE JUROR: Yes.

2 THE CLERK: Is it still your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Mr. Joseph Johnson?

5 THE JUROR: Yes.

6 THE CLERK: Is this your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Ms. Joyce Davis, is this your
11 verdict?

12 THE JUROR: Yes.

13 THE CLERK: And is it still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Mr. James Cave, is this your verdict
16 and still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Mr. Herlie Chess, is this your
19 verdict and still your verdict?

20 THE JUROR: Yes.

21 THE CLERK: Ms. Prudence Williams, is this your
22 verdict and still your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Ms. Malinda Frazier.

25 THE COURT REPORTER: She was excused.

JURY VERDICT

1 THE CLERK: Oh.

2 Mr. Donald Brisbon, is this your verdict and
3 still your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Ms. Patricia Elias?

6 THE JUROR: Elias.

7 THE CLERK: Is this your verdict and still your
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Mr. Gerard Floyd.

11 THE JUROR: Cherelle.

12 THE CLERK: I'm sorry. Cherelle Floyd, is this
13 your verdict and still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Ms. Erica Jones, is this your verdict
16 and still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Ms. Laquanda Harvey, is this your
19 verdict and still your verdict?

20 THE JUROR: Yes, ma'am.

21 THE CLERK: And Ms. Beth Harter, is this verdict
22 and still your verdict?

23 THE JUROR: Yes.

24 THE COURT: Ladies and gentlemen of the jury, I'm
25 going to ask everyone to remain seated. You're free to

1 leave at this time.

2 (Jury excused from the courtroom at 6:36 p.m.)

3 THE COURT: Madam clerk.

4 (Pause.)

5 THE COURT: Any motions from the defense at this
6 time?

7 MR. GIPSON: Yes, Your Honor. I'd ask that the
8 Court consider to exercise its ability to act as a thir --
9 well, as an additional juror in this situation.

10 And I'd request a new trial. And I understand
11 that there have been a lot of extenuating circumstances in
12 this case with coverage, pretrial and coverage afterwards,
13 during the trial, and afterwards, things of that nature.

14 And one of the questions we always had is how a
15 jury in Allendale could seat or could sit for, a jury pool
16 could sit and claim that it had not heard anything about
17 the press coverage as extensive as it was.

18 My recollection is only six people stood and
19 claimed to have heard or seen anything about it. I
20 understand that everybody gave correct answers which is to
21 be fair and impartial, but it seems that based on the
22 evidence that was presented which was completely
23 circumstantial, may be cumulative at best, there had to be
24 something acting other than the factual scenario
25 especially with a verdict that quickly.

SENTENCING

1 And to -- something additional had to be going
2 on, some prior deliberations or something of some sort
3 that entered into the jury's purview that should not have
4 been there that was proper.

5 I'd ask the Court to consider setting aside the
6 verdict and granting a new trial.

7 THE COURT: Mr. Pearson, you're recognized.

8 MR. PEARSON: Yes, Your Honor. First, the
9 defense motion is concerning the pretrial publicity is not
10 timely. He had the ability to bring this motion up prior
11 to or at jury selection although requisite questions were
12 asked of these particular jurors, they all indicated that
13 they could render a fair and impartial trial to both the
14 State and the defense.

15 And we would ask Your Honor to not grant the
16 defense motion.

17 THE COURT: Anything further?

18 MR. GIPSON: No, sir. Not regarding the new
19 trial motion. No, that's all.

20 THE COURT: Very well. All right. Do we have a
21 sentencing sheet?

22 MR. PEARSON: Yes, Your Honor.

23 THE COURT: Very good.

24 MR. PEARSON: It has not been signed by the
25 defense or the defense counsel. Should I have them sign

SENTENCING

1 it right now?

2 THE COURT: Yes.

3 (Pause.)

4 MR. GIPSON: Your Honor, may we approach for one
5 moment?

6 (off-the-record discussion.)

7 THE COURT: Mr. Gipson, if you could bring your
8 client around.

9 MR. GIPSON: (Complying.)

10 THE COURT: Mr. Pearson, do you have anything on
11 behalf of the State with regard to sentencing?

12 MR. PEARSON: Yes, Your Honor. Very briefly.

13 The facts of this case, Your Honor heard from the witness
14 stand. I'm not going belabor that point.

15 What I will point out to Your Honor is that the
16 remains of this victim has never been found. The
17 Defendant has never given the family the satisfaction of
18 giving their daughter, their sister, their cousin, a
19 proper burial.

20 Because of the heinous nature of this crime and
21 the fact that this family is still going to continue to
22 suffer from not knowing where their daughter, sister,
23 family member is, the State will request a life sentence
24 in this case.

25 In addition, Your Honor, there are four members

SENTENCING

1 of the victim's family who would like to be heard at the
2 appropriate time.

3 THE COURT: Glad to hear from them.

4 MR. PEARSON: Tonea Bostwick, Tearron Bradley,
5 Lashanta Bradley, Jessica Bradley.

6 THE COURT: Yes, ma'am. State your full name.

7 MS. J. BRADLEY: Jessica Bradley.

8 THE COURT: Glad to hear from you.

9 MS. J. BRADLEY: Yes, sir. I can't explain how
10 much pain that the disappearance of Ericka Bradley has
11 done to me and my family. Ericka was my younger sister.
12 Ericka was still a child even though she took on great
13 responsibility as a mother and a friend. I honestly
14 believe that for any reason no one should determine when a
15 life should end, but Derek Maner had other beliefs. We
16 are very clear of that because on November 6, 2006 he took
17 Ericka Bradley's life. In fact, he didn't just take her
18 life, he took a mother, a daughter, a granddaughter, a
19 sister, a cousin and a friend. As I sat here in this
20 courtroom I observed that this Court strongly agrees and
21 trusts the Bible. In the Bible it states, thou shall not
22 kill. And it also states, eye for an eye, tooth for a
23 tooth. With these words of the Bible recited to you, I
24 want you to take these words into great consideration.
25 Ericka's life ended November 6, 2006. We want Derek's

SENTENCING

1 life to end February 12th, 2009 behind bars for the rest
2 of his life.

3 THE COURT: Yes, ma'am. Thank you. Yes, ma'am.
4 Your full name?

5 MS. L. BRADLEY: Lashanta Bradley.

6 THE COURT: Be glad to hear from you.

7 MS. L. BRADLEY: Why you have to take Ericka
8 Bradley life from her family and friends. She was a good
9 person, mother and friend. Derek, if you didn't want her,
10 why did you lead her on. I myself as a sister I know how
11 hard it is to let one you love go but now it's hard for us
12 to not to see my sister's face. We as a family want to
13 know what happened and what happened on November 6, '06
14 and why. I look at Ericka's son **T.M.** and see her
15 personality in him all the way down to early childhood of
16 age. Now as he is getting older he will have to face the
17 truth of his father being his mother murderer. I pray and
18 hope that he be a better man in life than his father,
19 Derek Maner. He has grandmother and aunts who will teach
20 him the right and wrong. We love you dearly from your
21 family. Thank you.

22 THE COURT: Thank you. Yes, ma'am. Your full
23 name?

24 MS. BOSTWICK: Tonea Bostwick. First I would
25 like to say thanks for the end of this chapter but the

SENTENCING

1 story will not be complete until we know the details
2 surrounding my cousin's death and where her remains are.
3 I would like to say to the Maner family and everyone here
4 to know that during this whole tragedy, worse part was not
5 knowing. Going on search after search was more than
6 mentally and physically draining. It was life draining.

7 Every search took something away from everyone
8 involved. I would get so frustrated because I knew that
9 there was someone who knew what happened to my cousin and
10 that person was Derek.

11 I'm completely heartbroken by everything that
12 took place because now my little cousin has to grow up
13 with not only a missing mother but also his father.

14 Derek, I just want to let you know that I forgive
15 you and so does God. I just pray that one day you'll be
16 able -- I just pray that one day the truth will be able to
17 come out.

18 THE COURT: Very good. Yes, sir. Your full
19 name.

20 MR. BRADLEY: Henry Bradley, father. I only want
21 to know is -- only thing I want to say is, even though if
22 they don't feel or Derek does not feel that he want to
23 tell the truth to us, I feel he should tell the truth to
24 his son. Because as long as that young man live he's
25 going to wonder two things in his life; did my mother left

SENTENCING

1 and left me by myself, for what reason, or did you kill my
2 mother.

3 And that can grow hate in his life for the rest
4 of his life. And nothing no one in this family can ever
5 tell him because we do not know and only person that do
6 know is Derek.

7 THE COURT: Very good. Anything further from the
8 State?

9 MR. PEARSON: No, Your Honor. Nothing further
10 from the State.

11 THE COURT: Mr. Gipson, be glad to hear from you.

12 MR. GIPSON: If it please the Court, Your Honor.

13 In giving deference to the Bradley family, in my remarks
14 throughout the trial and even in closing, I suggested to
15 the Bradley family that this is a trial process. And I
16 understand the process. And we were not throwing stones
17 at them or casting dispersions against them in anything
18 that they've done because it's clear that they love their
19 daughter, Ericka, and they still want to know what the
20 position is and what's happened.

21 Your Honor, I respect the providence of the
22 jury. I truly respect that and I wouldn't be in this
23 profession if I did not.

24 I do at this stage come before you asking that
25 you consider the evidence as you heard it as well. I

SENTENCING

1 understand that this position you're at a point where you
2 have to consider the sentencing range and you are somewhat
3 -- you are absolutely bound by the law. And the law
4 requires a minimum of 30 years if a person is convicted of
5 murder.

6 In this case, the jury has seen fit to convict
7 Derek of murder. And the maximum is natural life, meaning
8 his life in jail. I'd ask that the Court consider after
9 hearing the evidence, the circumstantial nature of the
10 evidence, the disputes between the DNA issues that were
11 there, the tenuous links, at best, to some of the
12 suspicion that was that although the jury came back with a
13 verdict of guilty, I'd ask that the Court consider if it's
14 not willing to grant a new trial, to consider sentencing
15 30 years, Your Honor.

16 This has been a stressful case, I know, for the
17 Maner -- well for the Bradleys especially and I know the
18 Maners as well. They do, although there has been tension
19 as a result of this matter they do have common thread and
20 that thread is T.M.

21 And irrespective of the things that have happened
22 in this courtroom that, you know, their grandson needs
23 both sides of the family and needs love from both sides of
24 the family.

25 Your Honor, a sentence of 30 years in this

SENTENCING

1 situation I believe is a reasonable sentence and I'd ask
2 that you consider that. Derek has no history of criminal
3 issues, Your Honor. He was a student at Benedict College,
4 a sophomore, a mathematics major. He had a lot of things
5 going for him, Your Honor.

6 I know there's a question, a cloud over what
7 happened that evening. You know what our position is.
8 We've argued in some sense ad nauseam for the last three
9 or four days, but I'd ask that the Court consider in its
10 punishment, not sentencing him to his natural life in
11 jail.

12 THE DEFENDANT: Can I say something?

13 MR. GIPSON: Just one minute. I know that Derek
14 wants to speak to you. I'm not sure if his family would
15 as well, but I do know he wants to speak to you.

16 THE COURT: Mr. Maner.

17 THE DEFENDANT: Your Honor, may I please speak to
18 the Bradley family?

19 THE COURT: No, you may not. You need to direct
20 your comments directly to me.

21 THE DEFENDANT: Your Honor, I didn't mean to hurt
22 Ericka. I would never do anything to hurt Ericka. I
23 tried to prove my innocence and I ... I'm sorry. I never
24 meant to hurt anyone's feelings or anything.

25 I didn't do anything, you know, and the worst

SENTENCING

1 thing I did do was to just leave her walking. And I
2 apologize for that. And I tried my best, my family tried
3 the best just to prove my innocence. And still
4 didn't work.

5 I've been a good child my whole life and I've
6 been respectful to the Bradley family the whole, since I
7 first met them. Always show respect. Never disrespected
8 them or anything.

9 And I know a lot of things hurt. A lot of things
10 me during this. It hurt me. I just don't know what to
11 do. I don't -- I don't -- your Honor, well I guess the
12 only thing to do is just accept the verdict because I
13 can't do anything else. I tried as much as I could, you
14 know.

15 Although my son mother is missing, I tried my
16 best so I could pursue something to take care of my son.
17 I'm sorry to Henry Bradley. I'm sorry to Jackie Bradley
18 and the whole Bradley family. I'm just sorry as much as I
19 could.

20 I tried to spare -- as much things that could
21 have been said in this case, much things, much things that
22 could have been said in this case, just to make, you know,
23 people look bad but I didn't say it because, because it
24 wasn't, it's not -- this is a very sensitive matter. And
25 it's not to me to bring the badness of people to light.

SENTENCING

1 MR. GIPSON: Your Honor, I think in this
2 situation, I mean, it's clear that it's an emotional
3 situation. It's something that I know the Court knows.
4 I'd ask that you consider a 30-year sentence in this
5 situation.

6 I don't know if the Court would allow the family
7 members to speak.

8 THE COURT: Be glad to hear from anybody who
9 would like to speak on his behalf.

10 MR. GIPSON: This is his father, Donald Maner,
11 Your Honor.

12 THE COURT: Mr. Maner, state your full name.

13 THE FATHER: Donald L. Maner.

14 THE COURT: Mr. Maner, be glad to hear from you.

15 THE FATHER: My son come almost as he possibly
16 can. He told you he did not hurt Ericka Bradley. I
17 believe him. Where he, when he came home that night he
18 was in a white T-shirt. A white T-shirt. He didn't have
19 any blood or mud, anything, hair, unusual when he came
20 home that night.

21 He loved Ericka. He loved his baby. When the
22 Bradleys, they often came over to the house, the sisters.
23 Ms. Bradley came over. It was love the whole while. I
24 fed those kids. I love to cook. I cook outside. I fed
25 those kids. They can tell you that. I fed them. Not

1 daily, but I fed them.

2 I'm hoping that what they're saying is just they
3 miss their sister, not out of just hate because I know
4 they love us. And we have something in common. We have a
5 grandchild and they have a first cousin. So it's no hate
6 here.

7 MR. GIPSON: Thank you.

8 THE COURT: Anything further?

9 MR. GIPSON: No, sir.

10 THE COURT: Mr. Maner, ON INDICTMENT 2008-GS-
11 03-135, ON THE OFFENSE OF MURDER, THE SENTENCE OF THE
12 COURT IS THAT YOU BE COMMITTED TO THE STATE DEPARTMENT OF
13 CORRECTIONS FOR THE PERIOD OF YOUR NATURAL LIFE.

14 Good luck to you.

15 END OF PROCEEDINGS: 7:01 P.M.

16 * * * *

17 CERTIFICATE OF REPORTER

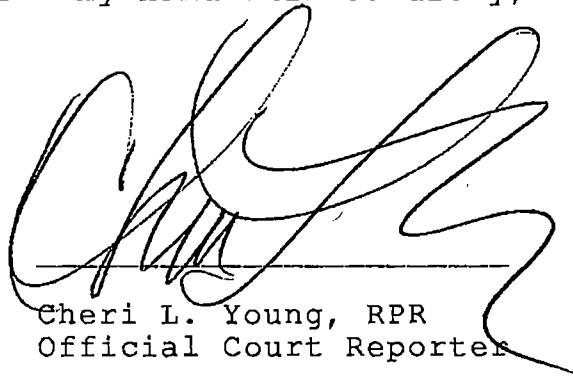
18 I, Cheri L. Young, Registered Professional Reporter,
19 and Official Court Reporter for the State of South
20 Carolina, do hereby certify that the foregoing transcript
21 of proceedings heard on Wednesday, February 11, 2009 and
22 Thursday, February 12, 2009, in Allendale, South Carolina,
23 was reported by me using machine shorthand and realtime
24 computer-aided translation and is a true, accurate and
25 complete transcript of the proceedings had and evidence

1 introduced in the hearing of the matter.

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

4 I have hereunto set my hand this Saturday, the 6th day
5 of June, 2009.

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Cheri L. Young, RPR
Official Court Reporter

DOCKET NO. 2008-GS-03-0135

The State of South Carolina

County of Allendale

COURT OF GENERAL SESSIONS

AUGUST Term 2008

THE STATE

vs.

Derek Laron Maner

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code: 0116

WITNESSES

acial Agent Richard Johnson

well ✓

arterv ✓

TEST WARRANT NUMBER

02249

le of Arrest:

TION OF GRAND JURY

True Bill
COPY
representative of Grand Jury
8.21.08

INDICT

representative of Petit Jury

le:

INDICT

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

INDICTMENT

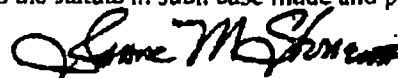
2008-GS-03-0135

At a Court of General Sessions, convened on August 21, 2008, the Grand Jurors of Allendale County present upon their oath:

Murder / Murder

That in Allendale County, on or about November 6, 2006, with malice aforethought, Derek Laron Maner did kill and murder Ericka Bradley by wilfully and feloniously beating her with his fists and/or running her over with a car, and/or by means or instrumentality unknown, and that Ericka Bradley did die in Allendale County as a proximate result thereof on or about November 6, 2006; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III
Solicitor

STATE OF SOUTH CAROLINA
COUNTY OF Allendale
STATE

IN THE COURT OF GENERAL SESSIONS

837.

Derek Laron Maner vs.

AKA:
Race: B Sex: M Age:
DOB: 88 SS#: Rd
Address:
City, State, Zip: Allendale SC
DL# SID#

INDICTMENT/CASE#: 2008-GS-03-135

AW#: D-702249

Date of Offense: 11-6-2006

S.C. Code §: 16-3-10; 16-3-20

CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder 16-3-20

in violation of 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

[Signature]
Solicitor AAG

Defendant

[Signature]
Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of *life* days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject

to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by

reference. ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Recipient:

*Fine: \$

§14-1-206 (Assessments 107.5%) \$

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$

§14-1-211(A)(2) (DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§35.13 (Public Def/Prob) \$500 \$

§73.3, 1B TP (Law Enforce. Funding) \$25 \$

§33.7, 1B TP (Drug Court Surcharge) \$100 \$

§50-21-114(BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$

§90.11 TP (SCCJA Surcharge) \$5 \$

TOTAL \$

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, §35.13 TP

☐ Requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Court Reporter:

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Derek Maner, Appellant.

Appellate Case No. 2009-117006

FILED FOR RECORD
2012 NOV -1 PM 2:26
ETHEL S. SAGE
CLERK OF COURT
ALLENDALE COUNTY, S.C.

Appeal From Allendale County
Michael G. Nettles, Circuit Court Judge

Unpublished Opinion No. 2012-UP-550
Heard September 10, 2012 – Filed October 10, 2012

AFFIRMED

Appellate Defender Susan Barber Hackett, of Columbia,
for Appellant,

Attorney General Alan McCrory Wilson; Chief Deputy
Attorney General John W. McIntosh; Assistant Deputy
Attorney Donald J. Zelenka; Senior Assistant Attorney
General Melody Jane Brown; all of Columbia; and
Solicitor Isaac McDuffie Stone, III, of Beaufort, for
Respondent.

PER CURIAM: Derek Maner appeals his conviction for murder, arguing the trial court erred in (1) allowing Investigator Silvaggio to testify as a lay witness regarding his opinion on Erika Bradley's disappearance and (2) failing to direct a verdict because the State presented no direct or substantial circumstantial evidence of corpus delicti. We affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities:

1. As to whether the trial court erred in allowing Investigator Silvaggio to testify based on his investigation: Rule 602, SCRE ("A witness may not testify to a matter unless evidence is introduced sufficient to support a finding the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony."); *State v. Williams*, 321 S.C. 455, 464, 469 S.E.2d 49, 54 (1996) ("A natural inference based on stated facts is not opinion evidence. Where the distinction between fact and opinion is blurred, it is often best to leave the matter to the discretion of the trial judge.").
2. As to whether the trial court erred in failing to direct a verdict: *State v. Weston*, 367 S.C. 279, 292-93, 625 S.E.2d 641, 648 (2006) (holding if there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury); *State v. Owens*, 293 S.C. 161, 168, 359 S.E.2d 275, 278 (1987) (finding circumstantial evidence surrounding the victim's sudden disappearance, considered with the unlikelihood of victim's voluntary departure as shown by personal habits and relationships, sufficiently established the corpus delicti of murder or that the victim is dead by the criminal act of another).

AFFIRMED.

SHORT, KONDUROS, and LOCKEMY, JJ., concur.

STATE OF SOUTH CAROLINA

2013 SEP 12 PM 12:46

IN THE COURT OF COMMON PLEAS

COUNTY OF Allendale

2013-CP-03-159

Derek Maner 333244

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee County Institution
2. Name and location of Court which imposed sentence Allendale Courthouse - Allendale County
3. Name(s) of co-defendant(s) (if any) Johnathon Capp
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) _____
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Feb. 12, 2009 ; Life Sentence
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. The Court of Appeals _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. They affirmed the ruling _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Filed Oct. 10 2012 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
 (b) _____
 (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failure to call alibi witness
 (b) _____
 (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. _____
 ii. _____
 iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

- (b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you: 130 Centre Street
P.O. Box 1825
 i. Byron Gibson - (Johnson, Tolst & Battista) Orangeburg, SC 29115
 ii. Robert M. Dadek - 1330 Lady St, Suite 401 - Columbia, SC 29201
 iii. _____
- (b) the proceedings at which each such attorney represented you:
 i. Arraignment, Trial and Sentencing
 ii. Direct Appeal
 iii. _____

19. State clearly the relief you seek in filing this application:

New Trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

County of

)
)
)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Derek Min

SWORN to and subscribed before me this 23
day of Aug, 2013.

Dena Sines

(L.S.)

Notary Public

My Commission Expires: 11-4-2015

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Derek M.

Applicant.

SWORN or affirmed to and subscribed before me this

23 day of May, 2013

Debra S. Smith

Notary Public

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE	)	
	)	
	)	2013-CP-03-0159
Derek Maner, #333244,	)	
	)	
Applicant.	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed September 12, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Allendale County Clerk of Court. The Applicant was indicted at the August 2008 term of the Allendale County Grand Jury for murder (2008-GS-03-0135). The Applicant was represented by Bryon Gipson, Esquire. The Applicant proceeded to trial and was convicted on February 12, 2009. The Applicant was sentenced by the Honorable Perry M. Buckner to confinement for life.

The Applicant filed a timely Notice of Appeal. His appeal was perfected by Susan Hackett, Esquire, of the Office of Appellate Defense. The Applicant's conviction and sentence were affirmed by the Court of Appeals. State v. Maner, No. 2012-UP-550 (S.C. Ct. App. October 10, 2012). The Remittitur was issued on October 28, 2012.

Attached herewith and incorporated herein are the records of the Allendale County Clerk of Court regarding the subject conviction and the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failure to call alibi witness.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was

deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signature on the following page.]

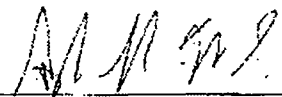
Respectfully submitted.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

August 20, 2014.

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS

2013-CP-03-0159

DEREK MANER, #333244

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

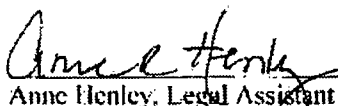
STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the abovecaptioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tristan M. Shaffer
 4701 Oleander Drive
 Myrtle Beach, SC 29577

DATED this 21th day of August, 2014


 Anne Henley, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

COURT OF COMMON PLEAS
2013-CP-03-0159

DEREK MANER,	)	
Applicant,	)	TRANSCRIPT OF RECORD
-vs-	)	June 9, 2017
	)	Beaufort, South Carolina
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	

B E F O R E:

The Honorable Diane Schafer Goodstein, Judge.

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

Deborah J. Butcher, Esquire
Attorney for the Applicant

Ruston W. Neely, Esquire
Attorney for the Respondent

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

E X A M I N A T I O N S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Derek Maner	4	6	12, 15	13
Byron Gipson	16	74	--	--
Annie Maner	87	90	--	--

E X H I B I T S

<u>COURT'S</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
1	Affidavit of Records Custodian	51	--
2	Lab Corps Analysis	69	--

1 (June 9, 2017.)

2 THE COURT: Next case is Derek Maner versus
3 South Carolina, 2013-CP-03-0158.

4 All right. Good morning. Okay. Mr. Neely?

5 MR. NEELY: Applicant is presently confined
6 to the South Carolina department corrections pursuant to
7 order submitted by Allendale County Clerk of Court. The
8 applicant was indicted during the August 2008 term by the
9 Allendale County grand jury for murder indictment
10 2008-GS-03-0135.

11 Applicant was represented by Byron Gipson at
12 trial. Applicant proceeded to trial and was convicted on
13 February 12, 2009, was sentenced by the Honorable Perry
14 Buckner to life imprisonment without parole. Applicant
15 did file a timely notice of appeal. The appeal was
16 perfected and was affirmed by the Court of Appeals.
17 Remittitur was issued on October 28, 2012, and applicant
18 has filed a PCR action which we will hear today.

19 THE COURT: All right. And Mr. Maner is
20 present with his counsel, Ms. Butcher, and are there any
21 preliminary matters?

22 MS. BUTCHER: Your Honor, one, if I may --

23 THE COURT: Okay.

24 MS. BUTCHER: -- hand up, these are just
25 additional grounds for the PCR.

1 THE COURT: Okay.

2 MS. BUTCHER: Counsel and I discussed them
3 and have written them up.

4 THE COURT: And is there any objection?

5 MR. NEELY: No objection, Your Honor.

6 THE COURT: All right. Very well. If you
7 will then call your first witness, please.

8 MS. BUTCHER: I'm sorry. If you'll give me
9 one second, please.

10 THE COURT: Sure.

11 MS. BUTCHER: Your Honor, I would call
12 Mr. Derek Maner.

13 THE COURT: Okay.

14 DEREK MANER,
15 having been first duly sworn,
16 was examined and testified as follows:

17 THE COURT: All right. Your witness.

18 MS. BUTCHER: Thank you, Your Honor. I
19 apologize.

20 DIRECT EXAMINATION

21 BY MS. BUTCHER:

22 Q. Mr. Maner, how are you?

23 A. Good, and yourself?

24 Q. Okay. The circumstances that surround this case
25 occurred on November 6, 2006, correct?

1 A. Yes.

2 Q. Okay. Do you recall when you were arrested?

3 A. Not exactly.

4 Q. A few years later?

5 A. Yes, in 2008.

6 Q. And where were you at that time?

7 A. I was going to college at Benedict.

8 Q. And this eventually came to trial in 2009?

9 A. Yes, ma'am.

10 Q. February? Okay. And you were found guilty of
11 murder, correct?

12 A. Yes, ma'am.

13 Q. You're here today because you felt like your
14 attorney didn't represent you as he should have?

15 A. Yes.

16 Q. Okay. One of the things that you're claiming is
17 that he did not call an alibi witness. Would that have
18 been your mother?

19 A. Yes.

20 Q. Okay. And had your mother had the opportunity to
21 talk to your attorney?

22 A. During the time of trial, before trial?

23 Q. Yes, before trial. I'm sorry.

24 A. Yes.

25 Q. Okay. I'm just going to show you, if I may, the

1 grounds that you're claiming the PCR is based on. Can
2 you look at those and just tell me, this is -- it's been
3 presented to the Court. I just want to make sure --
4 you've looked at this document before, correct?

5 A. Yes.

6 Q. Okay.

7 A. So you just want me to read what's on the paper?

8 Q. Just tell me if it's accurate. It's already with
9 the Court.

10 A. Yes, it's accurate.

11 Q. Is there anything that is not on there?

12 A. Not from my understanding, no.

13 Q. Okay.

14 MS. BUTCHER: And, Your Honor, I would just
15 like to present that he has stated the additional grounds
16 for PCR. I don't believe I need to read them into
17 evidence, do I?

18 THE COURT: I have them, and very well.

19 MS. BUTCHER: And that's all the questions I
20 have for you.

21 THE COURT: All right. Cross-examination.

22 MR. NEELY: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. NEELY:

25 Q. Mr. Maner?

1 A. Yes, sir.

2 Q. What was your explanation to your attorney about
3 why the victim's DNA or her sister's DNA was on the
4 underside of your car?

5 A. Ask one more time?

6 Q. All right. In your case, part of the State's case
7 is the victim or her sister's DNA was on the underside of
8 your car, correct?

9 A. Yes.

10 Q. What was your explanation to your attorney about
11 how it got there?

12 A. What was my explanation?

13 Q. Yes.

14 A. I didn't give him an explanation.

15 Q. Okay.

16 A. To apply an explanation, that would mean I would
17 have to know. I don't know.

18 Q. So you didn't give your attorney a reason why that
19 would be there?

20 A. No.

21 Q. Did you give your attorney a reason for the phone
22 call concerning the jewelry?

23 A. What are you referring to again?

24 Q. At your trial, part of the State's case was a
25 phone call concerning jewelry to your girlfriend and

1 asking her to go to the flower pot and take jewelry out
2 of it and then clean it and take it away, correct?

3 MS. BUTCHER: Your Honor, I would just
4 object. If it wasn't presented at trial, I don't believe
5 it's relevant.

6 MR. NEELY: Well, Your Honor, we would argue
7 that it was presented at trial.

8 THE COURT: Okay. All right. Can you
9 just --

10 MS. BUTCHER: And I do agree that there was
11 some things as far as the jewelry that were presented at
12 trial.

13 THE COURT: Okay.

14 MS. BUTCHER: I'm just not sure if whatever
15 conversation came into that trial that they're referring
16 to.

17 THE COURT: Okay.

18 MS. BUTCHER: And I know no explanation came
19 into trial as far as how any DNA got --

20 MR. NEELY: Your Honor, we're speaking about
21 Mr. Gipson's ability to put forward a defense on
22 Mr. Maner's behalf and did a competent job. I think it's
23 certainly within the realm of the PCR discussion whether
24 Mr. Gipson had valid reasons from his client to explain
25 away evidence and what happened during the trial.

DEREK MANER - CROSS-EXAMINATION

1 THE COURT: I understand. Very well.

2 Overruled.

3 MR. NEELY:

4 Q. Do you have a copy of the transcript?

5 A. Not on me, no, sir.

6 Q. Okay. At trial, you were presented as a witness,
7 correct?

8 A. Yes.

9 Q. And you testified?

10 A. Yes.

11 Q. I'll refer to page 307, line 25 and page 308, line
12 1, and this is just the solicitor's question to you.
13 Would you read that question?

14 A. The question states: Did you take her jewelry and
15 try to hide it in a flower pot someplace in Hampton
16 County?

17 Q. And your reply was what?

18 A. My reply was no, sir.

19 Q. But you didn't give any explanation to your
20 attorney, Mr. Gipson, about that State's evidence?

21 A. No. I told him I didn't put any jewelry anyplace.

22 Q. Part of your story to law enforcement was that the
23 victim threw your car into park when it was in drive. Do
24 you remember that?

25 A. Yes.

1 Q. I believe your testimony was you were driving
2 about 50 miles an hour whenever she threw it into park?

3 A. No.

4 Q. No?

5 A. No.

6 Q. To the best of your recollection, what was your
7 testimony in that regard?

8 A. Sir?

9 Q. To the best of your recollection, what was your
10 testimony to in that regard? How fast were you going?

11 A. When I was speaking to the -- I think it was the
12 SLED agent I was speaking to when he was asking me about
13 this that said it was 50, 55 miles per hour. I told him
14 I was slowing down, and it was around -- I'm not exactly
15 sure as far as the speed, like, miles per hour, like I
16 told him, he's the one who brought up 50, 55 miles per
17 hour, Richard Johnson, SLED agent Richard Johnson.

18 Q. But you did testify it was around 40 miles an
19 hour, correct?

20 A. No. Not to my recollection, no.

21 Q. All right.

22 MR. NEELY: Your Honor, I would just point
23 you to page number 317, line 10.

24 THE COURT: Okay. All right.

25 MR. NEELY: Where the defendant did testify

DEREK MANER - CROSS-EXAMINATION

1 that ain't nothing but 40 miles an hour in regard to the
2 victim throwing the car in park while it was in drive.

3 THE COURT: Okay. All right.

4 BY MR. NEELY:

5 Q. And the victim was staying with you at the time of
6 this incident, correct?

7 A. Yes.

8 Q. Well, there was some hesitation there. Was she
9 not staying with you or was she staying with you?

10 A. Off and on. It wasn't like an indefinite move.
11 It was off and on. Some nights she would be there; some
12 nights she won't be there.

13 Q. Okay. But the night of this incident, she was
14 coming back to your house, correct?

15 A. Coming back to my house in what manner?

16 Q. She went to your house first before coming and
17 finding you while you were driving? Is that correct?

18 A. Yes. From what the statements -- from what Peter
19 Tony Carter had put in, they went -- they went to my
20 house.

21 Q. Well, you talked to her that night, didn't you?

22 A. I mean, of course I did.

23 Q. Okay.

24 A. But as far as knowing whereabouts before meeting,
25 no, only from the statement that Peter Tony Carter put

1 forth and from the phone record I seen that she made a
2 phone call.

3 Q. But she found you that night, correct?

4 A. Yes..

5 Q. And she was with her cousin?

6 A. With Peter Tony Carter, yes.

7 Q. And after that she left with you in your car?

8 A. Yes.

9 Q. And it's your testimony that she threw the car in
10 park and then left?

11 A. Yes.

12 Q. And you never saw her again?

13 A. And got out. Got out.

14 Q. She got out?

15 A. Yes.

16 Q. And you never saw her again?

17 A. No, sir.

18 MR. NEELY: That's all the questions I have,
19 Your Honor.

20 THE COURT: Okay. Redirect?

21 REDIRECT EXAMINATION

22 BY MS. BUTCHER:

23 Q. During the trial, speaking about the jury, did the
24 State ever present any evidence that this jewelry had any
25 connection whatsoever to the victim?

DEREK MANER - RECROSS-EXAMINATION

1 A. Okay. Can you ask me it one more time.

2 Q. If I may, if remember -- I know it's been a long
3 time. If you don't remember, that's okay to say you
4 don't remember.

5 In your recollection, do you recall, when the jury
6 was brought up during the trial, that there was any
7 connection that was made to this jewelry someone was
8 supposed to go look for a few years later to the actual
9 victim in this case?

10 A. If I'm understanding you right, no, there was
11 no -- that didn't play a major part in this trial.

12 Q. Okay.

13 A. The jury.

14 MS. BUTCHER: No further questions.

15 THE COURT: Okay. Very well. Any recross?

16 MR. NEELY: Just briefly, Your Honor.

17 THE COURT: All right.

18 RECROSS-EXAMINATION

19 BY MR. NEELY:

20 Q. In regard to the jewelry, you admitted on direct
21 that you spoke with Madoree Pipkins about the jewelry;
22 isn't that correct?

23 A. Yes.

24 Q. And your explanation for that series of
25 conversations was that some -- another inmate in the jail

1 owed you for feeding him; is that correct?

2 A. Not as much as owed me for feeding him, but
3 yeah -- I'm not exactly sure what you're asking me.

4 Q. There was jewelry that you directed Ms. Pipkins to
5 go get, correct?

6 A. Yes.

7 Q. And you directed her to clean the jewelry off,
8 correct?

9 A. Yes.

10 Q. And you directed her that it was, the jewelry, was
11 for her. She could take it, correct?

12 A. Yes.

13 Q. And your explanation for that conversation to
14 Ms. Pipkins was that inmate's -- it was another inmate's,
15 and he owed you for that, correct?

16 A. It wasn't mine, if you're asking me. The jewelry
17 wasn't mine, and the jewelry was another person's who I
18 was in jail with, yes. It was someone else's that I got
19 from them.

20 Q. All right.

21 A. And he explained to me everything.

22 Q. And what inmate was that?

23 A. Sir?

24 Q. What was the inmate's name?

25 A. Dwan Doe.

DEREK MANER - FURTHER DIRECT EXAMINATION

1 Q. Dwan Doe?

2 A. Yes.

3 Q. You just wanted to get this jewelry to your
4 girlfriend?

5 A. She was my girlfriend, of course, and I was going
6 through things, of course, and she stuck beside me, so
7 yes.

8 Q. And your directions that she should take it and
9 clean it off and never talk about it?

10 A. My understanding, it was in dirt, so of course I
11 want her to clean it off.

12 Q. And that she should never talk about it?

13 A. I don't recollect anything about her saying
14 anything -- or me saying anything about her not talking
15 about any jewelry or anything like that.

16 Q. Okay.

17 MR. NEELY: That's all the questions I have,
18 Your Honor.

19 THE COURT: All right. Very well. You can
20 come back down.

21 MS. BUTCHER: Your Honor, may I --

22 THE COURT: Sure, absolutely.

23 FURTHER REDIRECT EXAMINATION

24 BY MS. BUTCHER:

25 Q. This jewelry didn't belong to you, correct?

DEREK MANER - FURTHER DIRECT EXAMINATION

1 A. Yes. It didn't belong to me.

2 Q. You were purchasing it for your girlfriend?

3 A. Yes.

4 Q. Were you purchasing it from an inmate?

5 A. Yes, who was --

6 Q. Did you have any knowledge where that jewelry came
7 from?

8 A. No.

9 Q. Okay. Was there any concern in your mind whether
10 that was stolen or illegal or anything like that?

11 A. No.

12 Q. You didn't have a concern or didn't know?

13 A. Only thing that was in my mind was coming home and
14 being thankful for the people that was supporting me.

15 MS. BUTCHER: No further questions.

16 THE COURT: Okay. You can come back down to
17 your table, sir.

18 THE APPLICANT: All right. Thank you.

19 THE COURT: Call your next witness, please.

20 MS. BUTCHER: Your Honor, I would call
21 attorney Byron Gipson.

22 BYRON GIPSON,

23 having been first duly sworn,

24 was examined and testified as follows:

25 DIRECT EXAMINATION

BYRON GIPSON - DIRECT EXAMINATION

1 BY MS. BUTCHER:

2 Q. Good morning, Mr. Gipson. Good to see you again.
3 How long did you have this case prior to the trial?

4 A. Over a year. My recollection is that after
5 Mr. Maner was initially contacted by law enforcement very
6 early in the process, his mother came and met with me in
7 my Orangeburg office several months before he was
8 actually arrested for the allegation of murder.

9 Q. Okay.

10 A. And then they retained me some time soon after he
11 was arrested.

12 Q. And you turned in discovery requests, correct?

13 A. Absolutely.

14 Q. And you received discovery from SLED?

15 A. I did.

16 Q. Where else did you receive discovery from?

17 A. I received all the discovery that the solicitor's
18 office had, so that included SLED and any other agencies
19 that they worked with with the case.

20 Q. Okay. And that would have been the Allendale
21 police department?

22 A. Either police or sheriff's department and they
23 farmed out, as they often do, a lot of the logistics, so
24 there were different entities that Allendale contacted.
25 I think Sheriff Carter, as a matter of fact, contacted

1 different agent entities, so we had contact from each of
2 those entities that participated in that investigation.

3 Q. Did you do anything else as far as gathering
4 information on your own or evidence or anything?

5 A. I went around, met with witnesses. We hired an
6 investigator named Danny McDaniel who did some work for
7 us. Eventually we hired Dr. Robert Bennett out of the
8 Charleston area to take a look at some of the DNA and
9 muscle tissue findings that the State put forth.

10 Q. Okay. He did an excellent job in that. So you
11 got the discovery from SLED.

12 A. Yes.

13 Q. Spoke with witnesses.

14 A. Yes.

15 Q. And hired some people.

16 A. And also met with Mr. Maner and his family more
17 times than I can count in the preparation, which is what
18 we always do.

19 Q. And while we're on the jewelry, the -- that was
20 the State's witness, correct? Do you remember Madoree
21 Pipkins?

22 A. Pipkins, yes. That was Mr. Maner's girlfriend
23 from college, yes.

24 Q. And that person became his girlfriend --

25 A. After.

BYRON GIPSON - DIRECT EXAMINATION

1 Q. -- a couple years after this incident.

2 A. She had no -- there was no spillover in terms of
3 Ms. Bradley, who was the victim in this case, or the
4 decedent in this case, and Mr. Maner met her after he
5 went to Benedict College, which was at least two years
6 later.

7 Q. Okay. Where was the connection with any jewelry
8 that Mr. Maner asked her to go look for and Ericka
9 Bradley?

10 A. There was a picture of the victim that Mr. --
11 well, the State was using during its case that showed, I
12 think, Mr. Maner, their newborn child, and Ms. Bradley
13 together, and in that picture, there was a good bit of
14 jewelry that she was wearing.

15 Q. Do you have that picture with you?

16 A. I do not. It was one presented at trial, so it
17 would be in the court file.

18 Q. Where is there any testimony at all that she was
19 wearing any jewelry that night?

20 A. I don't have any recollection of whether or not
21 there was testimony of her wearing it that particular
22 night. My recollection is that there was a long
23 conversation later after Mr. Maner was incarcerated.
24 There was a long conversation that was taped at the jail.
25 It was probably when he was in housing at the Hampton

1 County detention center wherein he spoke about going out
2 to Lake Warren and finding some jewelry and cleaning
3 jewelry off and getting it back to her. It was extremely
4 clandestine and an ill-advised conversation that he had.

5 Q. And in this conversation, it never mentioned the
6 victim, Ericka Bradley, at all, did it?

7 A. My recollection is it doesn't.

8 Q. Okay.

9 A. It would have been -- obviously, the State used it
10 as circumstantial evidence to try to put together its
11 theory of the case, and it tried -- the State tried to
12 weave the fact that this jewelry was -- the manner in
13 which he spoke about it was -- it was a 20-minute
14 conversation, extremely clandestine and was not good for
15 our case. He tried to weave that into the fact that this
16 jewelry had never been found, and he tried -- he, meaning
17 the State, Mr. Pearson -- tried to weave that into this,
18 the jewelry, it was missing, has never been found, and
19 she's missing and all this.

20 Q. And Mr. Pearson being the solicitor?

21 A. Mr. Pearson being the prosecutor.

22 Q. So no body was found?

23 A. That's correct.

24 Q. No jewelry was found?

25 A. That's correct.

BYRON GIPSON - DIRECT EXAMINATION

1 Q. No testimony that she was even wearing jewelry
2 that night?

3 A. Correct.

4 Q. And, of course, her clothes weren't found?

5 A. Correct.

6 Q. Anything else that, you know, she would have had.
7 So where was the connection to this jewelry, several
8 years later, that my client even testified to, that an
9 inmate said, Hey, I've got some I hid. You know, you can
10 buy it from me if you give me your commissary money.
11 Where is the connection that the State made before that
12 came into testimony?

13 A. That's not something -- I think the argument was
14 made, and the jury listened to those arguments coupled
15 with the additional testimony and made its decisions
16 based on what it chose to believe out of the testimony.

17 Q. And you made no objection to that coming in,
18 correct?

19 A. I don't recollect whether or not I did. I think I
20 objected generally to the conversation, but I don't
21 recollect. I would have to yield to the record. It's
22 been years. It's been years.

23 Q. Okay.

24 A. I would yield to the record on that.

25 Q. So if I tell you you made no objection to that

1 coming into evidence --

2 THE COURT: Well, can you tell me where this
3 section is?

4 MS. BUTCHER: That's what I'm looking for,
5 Your Honor. I'm sorry.

6 THE WITNESS: And if I could say, I would
7 yield to the record there, and I would also say that the
8 jewelry in itself, in my estimation, is not something
9 that was going to be a major factor, that in conjunction
10 with other matters, I think that caused the issues with
11 the jury.

12 MS. BUTCHER: And, Your Honor, Ms. Madoree
13 Pipkins, her testimony is from page 238 --

14 THE COURT: Okay.

15 MS. BUTCHER: -- to 262. Which day are you
16 on, Your Honor?

17 THE COURT: I am on -- I'm here at 2 --

18 MS. BUTCHER: And, Your Honor, here, if I may
19 just pass this up. This is it right here, if that makes
20 it easier.

21 THE COURT: Well, let's see. Wait a minute.

22 THE WITNESS: Can you look at my transcript
23 as well?

24 THE COURT: Absolutely. I've got the direct
25 beginning on page 238.

BYRON GIPSON - DIRECT EXAMINATION

1 MS. BUTCHER: Yes, that's where -- okay.

2 Would you like the short version?

3 MR. NEELY: Are you talking about the
4 objection on page 246?

5 BY MS. BUTCHER:

6 Q. Have you had a chance to review?

7 A. I've reviewed a portion, and as I look at it, I do
8 have a copy.

9 Q. Do you agree you made no objection to her
10 testimony coming in?

11 A. I do, I do, and if I can explain why.

12 Q. You didn't have it proffered.

13 A. I did not.

14 Q. Okay. Yes.

15 A. And, again, part of the reason is, as you
16 mentioned before, there was never a body that was found
17 in this case, and there are other things, that our theory
18 is there was a sloppy investigation, and my estimation is
19 if you are going, you know, in -- if you're going to go
20 as far to reach out and say here is some jewelry that was
21 found or possibly found or could have existed somewhere
22 in Lake Warren somewhere in Hampton County and you're
23 putting all these different pieces together, it was
24 obvious they were grasping at straws, in my mind, and it
25 spoke to the weakness of the case because the things that

1 needed to be there weren't there, and so strategically, I
2 didn't think there was something that needed to be
3 objected to.

4 Q. Did it not go through your thought process that
5 the State was then able to put in the jury's mind that
6 the idea that he had actually -- that Mr. Maner actually
7 had murdered the victim and kept her jewelry and hid it,
8 even though they couldn't find the body?

9 A. I think strategically, based on the other
10 information that I had and learned through the
11 investigation of the case over a period of a year plus
12 that I didn't think that was something I needed to object
13 to.

14 Q. Do you agree with me that had an effort been made
15 to keep this testimony out on the grounds of a lack of
16 foundation may have been granted, or at least been
17 proffered?

18 A. You know, it --

19 MR. NEELY: Your Honor, I'm going to object.
20 It calls for speculation.

21 MS. BUTCHER: It does..

22 THE COURT: I'll allow it. It began.

23 BY MS. BUTCHER:

24 Q. You were aware of that, correct? You would have
25 had grounds to keep this testimony out, subject to the

BYRON GIPSON - DIRECT EXAMINATION

1 judge's ruling?

2 A. Subject to a judge's ruling, always. There are
3 many objections that I made. Some were --

4 Q. And had the judge gotten it wrong, there would
5 have been grounds for an appeal had you preserved it,
6 correct?

7 A. Had I objected, there are other matters too that
8 are out there, if there is an objection. I didn't
9 strategically see a reason to object.

10 THE COURT: I just want to be clear. Through
11 the record, I think -- I want to call your attention to
12 page 246 at line 10.

13 MS. BUTCHER: Yes, Your Honor. I noticed
14 that. That was his objection to the one statement that
15 could have been by the defendant which would have been
16 admissible as a statement by the party. Let's see.

17 THE COURT: Okay.

18 BY MS. BUTCHER:

19 Q. Now, do you recall the testimony of Officer
20 Johnson?

21 A. I do.

22 Q. And his testimony is found, pages 17 through 79, I
23 believe on the 9th, it was. Looking at page 38, lines 4
24 through 25, he began speaking -- well, one, I believe
25 Derrick Maner had made a statement that Erica Bradley,

1 the victim in this case, as they were driving along had
2 thrown the car in park while they were driving, correct?

3 A. He did.

4 Q. Okay. And Richard Johnson made the statement that
5 they were asking him where the skid marks were in the
6 roadway, and he was allowed to testify. He says, I mean,
7 if you're driving about 50 miles per hour, it felt like
8 there should be something in the roadway.

9 And you asked him why would there be skid marks?
10 So he was allowed to answer that. At 50 miles an hour,
11 if you put the car in park, there was going to be a
12 sudden stop. You know, everything stops up. Inertia
13 pushes the car, so there should have been some sort of
14 skid marks.

15 Now, one, that would take an expert to get that
16 testimony in, but, frankly -- even I know you, if you put
17 a car in park, driving is not going to stop.

18 MR. NEELY: Your Honor, Ms. Butcher is
19 testifying. She's not asking a question.

20 BY MS. BUTCHER:

21 Q. Did you feel that needed an expert or something if
22 it was speculation?

23 A. I objected, actually, line 18, just a little bit
24 further down.

25 Q. Yes, you did, but you objected after the testimony

BYRON GIPSON - DIRECT EXAMINATION

1 had come in. The jury had already heard that, correct?

2 A. I objected. After you said those things I object.

3 Q. So you would agree with me that the jury had
4 already heard it, correct?

5 A. I agree that I objected at line 18, page 28, after
6 he said those things.

7 Q. And you -- he actually sustained your objection,
8 correct?

9 A. He did.

10 Q. And you did not ask for any curative instruction
11 or anything?

12 A. No. Sometimes I do; sometimes I don't.
13 Sometimes -- there's an old saying you can't unring the
14 bell. When you start asking for curative instructions,
15 you keep pointing the jury to specific pieces of things.
16 If you just let it ride after they objected, it ends, and
17 my choice at that point was not to ask for a curative
18 instruction because it just would have brought more
19 attention to it.

20 Q. Okay. And, like you said, there are certain
21 things you can unring the bell so it is important, would
22 you agree, to timely object?

23 A. I do.

24 Q. On page 38, 8 through 13, Richard Johnson stated,
25 well, again, she was missing, and the fact that he said

1 that he hoped someone hadn't run over her, we began to
2 theorize that that could have actually been what
3 happened, he ran over her, so the question was who? And
4 our work confirmed Derek Maner.

5 There was no objection to that, was there?

6 A. No. That was his testimony, and I would have a
7 chance to cross-examine later and cross-examine other
8 witnesses to determine his credibility.

9 Q. Okay.

10 A. He was the investigator from SLED appointed to
11 this case who did the investigation, met with Mr. Maner
12 multiple times, met with other witnesses multiple times,
13 and, obviously, that was his opinion of the case. That
14 was his thought of why we were there, and that's
15 something he would have to prove.

16 Sometimes you give people enough rope to hang
17 themselves. You let them testify and say things so that
18 you can come back in closing after the evidence has come
19 out that he has not proven those things and show that was
20 not true, and that was my strategic way of handling that.

21 Q. Do you agree with me that his statement was
22 basically answering the multiple question? It was
23 answering what the jury was there to answer?

24 A. No.

25 Q. You don't?

BYRON GIPSON - DIRECT EXAMINATION

1 A. No.

2 Q. Why is that?

3 A. No.

4 Q. Why is that?

5 A. You're asking me if I agree with your
6 characterization of it? I don't agree with it.

7 Q. But isn't it the jury's duty to determine whether
8 or not there were confirmed that Derek Maner had, in
9 fact, committed this crime?

10 A. It's the jury's decision at that point in the
11 case.

12 Q. So with him bringing that in, that's his
13 speculation on that, correct? He's not supposed to --
14 he's supposed to present the evidence, not state the
15 outcome, correct?

16 A. I didn't object because I did not object. I
17 didn't feel like there was a reason for me to object at
18 that point.

19 Q. Okay. Did you ever get a copy of a statement from
20 Hardee's, the manager at Hardee's? Was that ever turned
21 over to you?

22 A. I met with them personally. I don't recall
23 whether I got a statement from them.

24 Q. Did you ever -- if you met with her personally,
25 was there any discussion at all about a statement that a

1 manager from Hardee's had written?

2 A. You would have to refresh my recollection. I
3 don't remember.

4 THE COURT: If you could show him the
5 document to refresh his recollection, and you could move
6 along because it's been eight years and he may not
7 remember.

8 MS. BUTCHER: I understand.

9 BY MS. BUTCHER:

10 Q. Now, this officer, on page 78, lines 5 through 11,
11 he also testified that --

12 A. I'm sorry. Which officer?

13 Q. Same one, Richard Johnson.

14 A. Okay.

15 Q. That when he was interviewing Derek Maner that
16 Derek Maner took his statement and balled it up and tried
17 to tear it up, correct?

18 A. He did. I testified to that.

19 Q. And did you ever ask -- since they were testifying
20 to that, they were using that to demonstrate that --
21 because they had accused Mr. Maner of lying in his first
22 statement, correct? Did you ever ask to see that balled
23 up statement that law enforcement said they kept?

24 A. I'm sure I did at some point.

25 Q. Did they turn it over to you?

BYRON GIPSON - DIRECT EXAMINATION

1 A. I don't have any recollection. I saw multiple
2 statements, just -- again, at this point, I don't
3 remember if I saw that particular piece or not, but I saw
4 and I met with Mr. Maner and those things, and after
5 meeting with him, I was satisfied with whatever answers I
6 was given, but I don't remember specifically, you know,
7 eight years ago, nine years ago, I guess, and that
8 particular piece of paper.

9 Q. If law enforcement was going to talk about it, do
10 you think it may have been important for them to bring it
11 into evidence?

12 A. I'm not going to say I didn't see it. I know that
13 Mr. Maner and I discussed it and discussed the contents
14 of any statements that he gave.

15 Q. I guess what I'm getting at is at trial, law
16 enforcement talked about him balling that up and trying
17 to rip it up, okay? But he didn't produce anything, a
18 statement, that he had tried to ball up and --

19 A. You're saying they didn't produce it. I'm saying
20 I don't know whether they produced it or not. I
21 understand your theory and where you're going with it,
22 but I can't answer that specifically.

23 Q. Would you agree that there was no spoliation
24 motion made on that?

25 A. I did not make a spoliation motion in this

1 particular -- I did not, nor did I see a need to.

2 Q. And you didn't even bring it up that, you know,
3 where is it or anything?

4 A. I would have to view the transcript on that.

5 Q. That would have been in what I said, 17 through --

6 A. If it's not there, then I didn't bring it up.

7 Q. Okay. Do you remember an investigator named
8 Mr. James Hutto?

9 A. I do.

10 Q. Okay. Do you recall what he testified about?

11 A. I saw a couple lines in the transcript, but I
12 suppose that's all he said.

13 Q. Okay. He was with the Allendale police
14 department; do you recall that?

15 A. One of the agencies in Allendale. He was part of
16 the case. He was part of the State's case. He's now an
17 investigator for the solicitor's office, so he was with
18 them in some capacity.

19 Q. Okay. And -- I apologize. I thought I printed
20 that out.

21 THE COURT: If you can correct -- I'm going
22 to use my transcript, so if you just can --

23 MS. BUTCHER: I am, Your Honor. I thought I
24 printed out -- I believe that's page 254. I want to make
25 sure I have this right because there are two sets.

BYRON GIPSON - DIRECT EXAMINATION

1 THE COURT: 254? 254?

2 MS. BUTCHER: I may be looking at the wrong
3 date, Your Honor. The wrong set, rather.

4 THE COURT: Okay.

5 MS. BUTCHER: This would be on the 9th, Your
6 Honor.

7 THE COURT: Okay.

8 BY MS. BUTCHER:

9 Q. Page -- I think it's 254, 19 through 28 -- wait.
10 Lines -- let's see. Do you recall that there was some
11 discussion about Mr. Hutto stopping a car a couple years
12 after the incident?

13 A. I do vaguely, but the transcript I have with
14 Mr. Hutto's testimony is only about a page.

15 THE COURT: Yeah. It's on the 10th, February
16 10th.

17 THE WITNESS: I don't think I have that
18 transcript.

19 THE COURT: Let me hand it to you. Here you
20 go. I handed him February 10th. The direct examination
21 of Hutto is on that page 254. The 9th of February, the
22 transcript I have, is very, very, short.

23 MS. BUTCHER: I think I was calling --

24 THE COURT: 70 pages.

25 MS. BUTCHER: The 10th and the 11th, mixing

1 those up.

2 THE COURT: No problem.

3 THE WITNESS: This is my first time seeing
4 this since the trial, so I would have to --

5 THE COURT: Just take your time, and if you
6 need that one back, I have that.

7 THE WITNESS: And -- I'm sorry. Your
8 question?

9 BY MS. BUTCHER:

10 Q. I was asking, one, whether you recall that part of
11 testimony at trial where Mr. Hutto had stopped someone
12 and who he claims was the brother to Derek Maner in
13 reference to driving his own car, the brother, you know,
14 had his car. It was a traffic stop.

15 MR. NEELY: Your Honor, I'm not sure what the
16 question was there.

17 THE COURT: Uh-huh. I know. Let me be
18 sure -- so the question -- there were a lot of pronouns
19 and three guys. There is the detective or the officer
20 who's testifying; there's the applicant, Mr. Maner; and
21 then a brother. Now, who's driving?

22 MS. BUTCHER: Mr. Maner is not in the picture
23 of this. The officer made a traffic stop.

24 THE COURT: Hutto makes a traffic stop.

25 MS. BUTCHER: Yes.

BYRON GIPSON - DIRECT EXAMINATION

1 THE COURT: On Mr. Maner's brother, somebody
2 claiming to be his brother, some two years later driving
3 Mr. Maner's car.

4 MS. BUTCHER: Driving his own car.

5 THE COURT: Brother is driving his own car.
6 Brother is driving brother's car. Got it. Got it.

7 Now, what's the question?

8 MS. BUTCHER: Oh, my question was if he
9 recalled that.

10 THE COURT: Do you recall that? No? Yes?
11 Maybe?

12 THE WITNESS: All of the above.

13 THE COURT: Okay. Got it.

14 THE WITNESS: Not trying to be funny, but no,
15 yes, maybe --

16 BY MS. BUTCHER:

17 Q. And this is what I was getting at. I just wanted
18 to make sure you recall what I was actually talking
19 about.

20 There was a lot of testimony from the officer
21 about this person driving this car, correct? The officer
22 made a lot of statements about what that individual said,
23 correct?

24 A. Well, if I could have a moment, if you're going to
25 ask me a line of questions, I'm going to have to read the

1 whole thing because I don't want to start answering
2 questions and not have a valid basis for answering those
3 questions.

4 Q. If you want, I can ask you first and lay it out
5 for you.

6 A. I'm going to look at this because it's Mr. Maner's
7 day in court, and I want to make sure I read through this
8 before you ask me questions.

9 Q. All right.

10 A. If I could have the Court's indulgence.

11 THE COURT: Of course.

12 MR. NEELY: Just to provide a little bit of
13 clarity, I think on page 257, line 23, prosecutors asked
14 the witness to make sure he didn't say anything that the
15 drive told him specifically, only what he did based on
16 the conversations.

17 MS. BUTCHER: And Your Honor, just along
18 those lines, I believe at that point he was testifying,
19 or I think he had made some statements before the
20 solicitor corrected him.

21 THE COURT: Okay. Okay.

22 BY MS. BUTCHER:

23 Q. Okay. There was a lot of testimony from the
24 officer that his brother -- this was, what, two years
25 after the accident, roughly?

BYRON GIPSON - DIRECT EXAMINATION

1 A. About a year-and-a-half.

2 Q. A lot of testimony from the officer that he
3 stopped Mr. Maner's brother in a vehicle and he wasn't
4 allowed to look in the trunk, correct?

5 A. No, I would not agree with that characterization.
6 I just read it. There's a question about not being able
7 to look in the trunk, but I understand there was a lot of
8 stuff about looking in the trunk, but there is a long
9 cross-examination where I think that dealt with --

10 Q. I'm not talking about cross-examination. I think
11 you did a good job on your cross-examinations. Okay?
12 I'm not going there.

13 What I'm saying is, with this testimony, it all
14 came in for the jury to hear that he stopped his brother
15 with that car and he searched the inside of the vehicle,
16 but he did not look into the trunk. You didn't make any
17 objection to hearsay or relevance until all of this
18 information had come in.

19 When you did object, the judge sustained your
20 objection on the grounds of relevance and hearsay,
21 correct? And I'm looking at --

22 A. You said a whole lot of stuff. I'm not just going
23 to give you a blanket correct.

24 Q. You allowed this information to come in prior to
25 finally making an objection to hearsay and relevance,

1 correct?

2 A. Yes, and I specifically dealt with every piece of
3 that on cross-examination strategically to show that
4 there was nothing that they had other than their little
5 gut feelings they had, and nothing came to fruition
6 through their investigation.

7 We talked about search warrants and the fact they
8 never got a search warrant. They never asked where the
9 back seat was, which, incidentally, was in the Maners'
10 yard. My understanding through my investigation of the
11 case was his brother was transporting a dog at some point
12 in time, was a pit pull. The dog had started chewing up
13 part of the back seat so the back seat was no longer
14 functional, so they took the back seat out and had it in
15 the yard, so if they had done a valid investigation it
16 would have come up, but they could have gone to the yard
17 and seen the back seat.

18 Q. After all of this information came in, you did not
19 bring someone in to testify as to why there was not a
20 back seat, did you?

21 A. Yes, that's correct, I did not, and the reason
22 being is because when you put a witness up to answer one
23 question, they're susceptible to many other questions,
24 and I didn't think that would be a wise thing to do in
25 this case.

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1 Q. The officer was also able to testify that this car
2 was taken and crushed?

3 A. Correct.

4 Q. Shortly after he was stopped, correct?

5 A. Correct..

6 Q. Would you agree with me that the purpose of that
7 was for the State to get into the jury's mind that there
8 was evidence there so they took it to be crushed to get
9 rid of the evidence?

10 A. I would agree that they tried to make a point, and
11 I would also tender to you that in the cross-examination,
12 we were very clear about the fact that they had ample
13 time to get search warrants to search for anything they
14 wanted to do. They didn't do it because they didn't have
15 probable cause. I went so far to ask him what probable
16 cause meant, and he explained it and explained that he
17 didn't have any probable cause to seek a warrant or
18 anything for any evidence, and I think that was more
19 important.

20 Again, my strategy and your strategy may be
21 different but in this county where I try many cases, I
22 think there can be some times when there is police
23 mistrust and when a jury can start to see that a police
24 officer or law enforcement are singling people out and
25 trying to do things to people without evidence that

1 substantiates it, then that can cause the jury to begin
2 to understand the theory of our case a lot better because
3 they've experienced that.

4 So we try cases a little bit differently, but, in
5 my mind, the way I tried it, I think, was effective in
6 the sense that all of these things that Mr. Pearson was
7 trying to put out there to prove, we could show that with
8 a simple trip down to go see Judge Brown, who was one of
9 the magistrates at the time, they could have cured it by
10 getting a search warrant, which they did multiple times
11 in this case, and they never did regarding this vehicle,
12 and this vehicle was around for a long time after this
13 traffic stop.

14 Q. And for those very reasons, there was no
15 foundation that this vehicle had any connection with the
16 murder of Ericka Bradley, correct?

17 A. That's correct, and that just tells you, again,
18 the lengths they were trying to go to try to put
19 something together. And, again, in a jury's mind, the
20 way I try cases, I think that's effective for the jury to
21 see how -- they'll just come and start bringing amorphus
22 things -- they, meaning the State -- sometimes brings in
23 amorphus things that have nothing to do with the
24 situation in order to try to do something to cast doubt.

25 Q. But Mr. Maner was found guilty of this, correct?

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1 A. He was found guilty.

2 Q. And that was something that you could have
3 objected to coming in, correct?

4 A. About him being found guilty?

5 Q. No, I'm sorry. The car. The judge --

6 A. I could have, but strategically --

7 Q. I understand.

8 A. I had preplanned in all of my questioning to deal
9 with that. I had already preplanned that.

10 Q. So it's your strategy to let a lot of evidence in
11 that is not really --

12 MR. NEELY: Your Honor, I'm going to object.
13 If she's going to say a lot of evidence, I want her to be
14 more specific about a lot of evidence in.

15 MS. BUTCHER: Your Honor, I'm just going by
16 what his method of trying a case is. That's just based
17 on what he's telling me.

18 THE COURT: Let me hear the question in its
19 entirety.

20 BY MS. BUTCHER:

21 Q. And I'll take out the a lot of, but your method of
22 trying the case is to allow in inadmissible evidence and
23 then just counter it on the back end?

24 THE COURT: Now, is there an objection?

25 MR. NEELY: Is she specifically talking about

BYRON GIPSON - DIRECT EXAMINATION

1 the car in this incident? That would be fine.

2 THE COURT: It's your method of trying a
3 case?

4 MS. BUTCHER: Uh-huh.

5 THE COURT: I don't care about a case. I
6 care about this case, so is it -- is your question to him
7 was it your method in trying this case to let in a lot of
8 evidence? Is that --

9 MS. BUTCHER: I'll rephrase, Your Honor, on
10 those terms.

11 BY MS. BUTCHER:

12 Q. So far we've talked about Ms. Pipkins's jewelry,
13 that there was no foundation, and also now we've talked
14 about this vehicle, which there was no foundation, and so
15 what you're telling me is that your method of trying this
16 case was to allow inadmissible evidence in for you to
17 counter it on the back end on your cross-examination?

18 MR. NEELY: Your Honor, I'm going to object
19 to that question. I don't think it's been laid out at
20 all. There was no foundation for Ms. Pipkins's testimony
21 to come in. I think all the conversations she testified
22 to were direct statements in conversations with a party
23 opponent that were the jailhouse phone call. He has no
24 privacy rights, obviously, and it's a statement by a
25 party opponent.

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1 I don't think there is any way you could
2 object to that, and, in fact, he did object to that and
3 the objection was overruled based on the fact it was a
4 statement by a party opponent.

5 MS. BUTCHER: And, Your Honor, the foundation
6 I'm referring to is the foundation for the jewelry itself
7 to come in. Just as this car coming in, there's no
8 connection to the crime. That's what I'm saying needed
9 to be laid out first before this evidence should have
10 come in for the jury to hear, because it was highly
11 prejudicial.

12 MR. NEELY: It's certainly circumstantial
13 evidence, Your Honor.

14 MS. BUTCHER: Yeah. I believe it should have
15 been before the judge, whether the -- well, if there's
16 any relevance at all, but it was certainly highly
17 prejudicial, Your Honor.

18 THE COURT: So -- let me ask you to do this
19 for me for the record. You have talked to Mr. Gipson
20 about the jewelry. You have talked to Mr. Gipson about
21 the car stop and the applicant's brother and what
22 ultimately occurred with that car. You talked to this
23 specifically.

24 Now, if you want to ask him -- rather than
25 going back and characterizing that testimony that I've

1 heard, or the transcript, with those items that I have
2 read, if you want to ask him about his theory, I think
3 that would be -- I think that would be a way of eliciting
4 what it is you want to have from him without going back
5 and characterizing those matters that you've already
6 questioned him about that I've heard about and read
7 about. I think that would be a way to proceed.

8 MS. BUTCHER: And I'll do that, Your Honor.

9 THE COURT: Okay. Thank you.

10 MS. BUTCHER: Your Honor, I apologize. I'm
11 not sure how to do it any differently.

12 THE COURT: No problem at all.

13 BY MS. BUTCHER:

14 Q. So I believe you are claiming in this case your
15 methodology in trying this case was to allow the State's
16 witnesses to testify about the car, even though it may
17 have been prejudicial and inadmissible evidence, because
18 you did finally make an objection about the relevance,
19 but your theory of trying this case was to let all that
20 come in in an effort to show that they were reaching for
21 straws, even though the jury -- it would plant the seed
22 in the jury's mind that maybe there was -- that body had
23 been transported in the trunk of that car?

24 MR. NEELY: Your Honor, again, the questions
25 are so long they're questions within questions, and I

BYRON GIPSON - DIRECT EXAMINATION

1 don't know how he's expected to answer these questions
2 whenever she won't ask a direct question. She asks these
3 questions and then assumes evidence in the question
4 itself.

5 THE COURT: Sustained.

6 MS. BUTCHER: Okay.

7 BY MS. BUTCHER:

8 Q. Can you explain to me one more time what your
9 methodology was in allowing the testimony in with that
10 car?

11 A. I think I objected the testimony. Once the judge
12 allowed it in, I dealt with it in the cross-examination.
13 That's my methodology.

14 Q. Would you not agree your objection did not come in
15 until after the testimony was in? Not before.

16 A. I objected to the testimony, and when the judge
17 said that it was -- he allowed the things in that were
18 allowed in, I dealt with it on cross-examination, which I
19 was already prepared to do. That's my answer.

20 Q. Okay. But can you tell me exactly where you
21 objected before the information about the car came in?

22 A. There's an objection on page 257, line 4. There's
23 a subsequent objection on page 258, and there is a
24 discussion about relevance and hearsay.

25 Q. Wouldn't you agree with me that both of those

1 objections were sustained, weren't they?

2 A. It certainly seems that way.

3 Q. But not -- those objections were made after
4 evidence came in. The one on page 257, it was sustained,
5 and then he continued down -- the officer continued down
6 basically the same path of this car.

7 I guess what I'm getting at, you did make some
8 objections throughout the officer's testimony. Each one
9 was sustained, but you never made an objection to any of
10 this coming in at all, correct?

11 A. You're correct. And, again, when I make objection
12 after objection after objection, some are sustained; some
13 are not. There also becomes a piece where the jury
14 begins to -- where it becomes problematic with your
15 credibility with the jury. I think we adequately dealt
16 with those matters on cross-examination to show he didn't
17 have any basis for those allegations.

18 Q. You recall the officer that came down from
19 Greenville, I believe it was on Mr. -- I'm probably not
20 pronouncing this correctly -- Silvaggio?

21 A. I recall an officer that come down, I do.

22 Q. Okay. And what I'm looking at are pages -- 160
23 through 171.

24 A. Do you know which day?

25 Q. This would have been, I believe, the second day,

1 on the 11th.

2 Now, he was not qualified as an expert, was he?
3 And I will direct you to page 162, pretty much, when he
4 starts talking about victimology?

5 A. Okay. No, he wasn't qualified.

6 Q. And victimology is not actually accepted. You
7 don't have an expert in victimology; is that correct?

8 A. I wouldn't have to be qualified, is that what
9 you're saying?

10 Q. Correct, but he was able to, you know, talk it up,
11 so to speak, that he was a victimology and what not do
12 with victimology, going into backgrounds and things of
13 that nature, correct, what it is? He explained what it
14 was to the jury, correct?

15 A. He can explain what it is. He's not an expert.

16 Q. Correct. He can't.

17 A. That's what officers who do this kind of thing do.

18 Q. And, additionally, he testified what he did with
19 regards to Ms. Bradley, correct?

20 A. He did.

21 Q. What he ultimately characterized as -- and let me
22 back up a little bit. He said that based on his work as
23 a victimologist, he found no evidence that the she left
24 of her own accord, correct?

25 A. I mean, you're characterizing his testimony --

1 it's here. I mean, it's here.

2 Q. Page 171, line 215, through 22. Question to him
3 was could you tell the jury what type of a student she
4 was? He states that she was a good student, committed.
5 All indications having a baby. She kept her grades up.
6 She missed an assignment, she would complete her
7 assignment. She was college bound. In the opinion of
8 her educational staff, she was suitable for college.

9 Then you object. And your objection was
10 sustained. You objected to the opinion portion of his
11 testimony, and your objection was sustained; is that
12 correct?

13 A. Its right here, yes.

14 Q. There again, your objection was after the jury had
15 heard the information, correct?

16 A. The objection was after the jury the heard
17 information; however --

18 Q. Uh-huh.

19 A. Again, you had another witness who came in and
20 talked, the manager of Hardee's, that spoke about some of
21 these exact issues with her about being confrontational,
22 starting some type of a fight the night that she left
23 Hardee's, the night that she was last seen, and so those
24 things are there, so you have witnesses that the State
25 called saying completely opposite things.

BYRON GIPSON - DIRECT EXAMINATION

1 Q. So he was the victimology expert, correct?

2 A. He wasn't an expert. I just said he wasn't an
3 expert.

4 Q. He was an investigator. And at what point did you
5 go over the school records with him to show him where she
6 was not a good student?

7 A. I don't know.

8 Q. What school records did you have, ones from
9 discovery, correct?

10 A. I have whatever was presented in discovery. I
11 can't tell you today, you know, after eight, nine years
12 what specifically was given. I did not go through those
13 school records with him, nor did I feel like I needed to,
14 nor I did want to.

15 Q. You didn't want to?

16 A. Not in this case no, I did not.

17 Q. Would that have been because these school records
18 did show -- that you got from SLED did show that she had
19 good grades for the first quarter of a semester?

20 A. I don't remember what her grades were.

21 Q. Did you ever subpoena the complete school records?

22 A. I don't know that that was a dispositive issue in
23 this case, what her grades were at the time of this and I
24 didn't think that I felt that it was a relevant need.

25 Q. Okay.

1 A. You know, there is a theory that you can operate
2 on when you read transcripts and you go back and look at
3 something, but until you, you know, handle cases in that
4 area, one of the worst things that you would want to do
5 is to go in and start throwing -- in that situation to
6 start trying to say that she was a bad person when the
7 State is alleging she's missing. That's not something
8 that I felt strategically needed to happen in this case
9 in that county, in Allendale County, in a small county.
10 I did not think that was a wise thing to do.

11 MS. BUTCHER: And, Your Honor, I had spoken
12 with counsel before. This is the affidavit of the
13 records custodian of allowing the school records in.

14 THE COURT: All right.

15 MS. BUTCHER: And I'll hand that up to the
16 Court.

17 THE COURT: I think if you refer to that
18 exhibit, then that exhibit, a page, if you will,
19 specifically -- let's mark that, like, A, B, C, or
20 whatever, just for the record. It will just make it
21 easier to find that particular page you were referring
22 to. So if you refer to a particular page within the
23 document, that's marked -- and we'll start with A and go
24 forward with A.

25 MS. BUTCHER: And I'll put that in as 1-A.

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1 (Court's Exhibit 1-A marked for
2 identification.)

3 BY MS. BUTCHER:

4 Q. Now, you wouldn't recognize this, would you?

5 A. No.

6 Q. That's the scores for her ACT.

7 A. I do not.

8 Q. Would you agree with me that her composite or
9 average score is a 16 percentile?

10 A. I would say her composite core is 16, whatever
11 that means.

12 Q. And you don't know what that actually means, do
13 you?

14 A. In the scheme of this case?

15 Q. In the scheme of her grades, someone's grades, the
16 16th percentile?

17 A. When I came through, SAT is what we took, so I do
18 not have a good grasp on what the ACT scores or and how
19 they're construed by colleges and universities in South
20 Carolina.

21 Q. Is it something you should have looked at,
22 perhaps?

23 A. I don't think so.

24 Q. Okay. How about her absences from school? Would
25 you be surprised to learn that during 2006, prior to her

1 going missing, she had 44 absences, 16 of which were
2 unexcused?

3 A. I can't say I'm surprised or not. It may have
4 been information I had at that point, but -- I don't know
5 what your question is. Can I say I'm surprised? I can't
6 say I'm surprised or not.

7 Q. So at the time of the testimony of the
8 victimologist, she had also 14 tardies. Do you think
9 that would have been important for the jury to know or
10 for you to counter the victimologist's testimony?

11 A. No.

12 Q. You don't think that would have been important?

13 A. I didn't do it.

14 Q. Do you think you should have?

15 A. I didn't.

16 Q. Okay. Additionally, the victimologist spoke that
17 she was college bound, yet had you had the school
18 records --

19 MR. NEELY: Your Honor, I'm just going to
20 object at this point. She keeps referring to him as a
21 victimologist. He never once refers to himself as a
22 victimologist. He refers to victimology one time, I
23 believe, and that is just concerning a class he took as
24 an investigator, and I think it's just inappropriate
25 characterizing him as a victimologist whenever he wasn't

BYRON GIPSON - DIRECT EXAMINATION

1 characterized as an expert, didn't purport to be.

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

3 MS. BUTCHER: To that, I know we don't have a
4 jury here or anything, but he actually says that he --
5 victimology is the method he used in doing this. He
6 described how they go out, they talk to family, talk to
7 school, get the credit report and all this other stuff
8 and come up with this idea of what this person's likely
9 to do and not likely to do and whether or not she is
10 likely to disappear of her own accord.

11 THE COURT: Yes, ma'am?

12 MS. BUTCHER: And which -- you know, my
13 argument is that never should have been allowed in
14 anyway, but he, the officer, testified that victimology,
15 that's how he did this.

16 THE COURT: Right. I understand. I gather
17 the concern at this point is not to throw an issue into
18 the application and into the evidence at this point that,
19 in fact, this was an expert who was qualified as a
20 victimologist. That's typically what happens. Somebody
21 is qualified as an expert in the field of forensic
22 psychology, or, you know, forensic -- any number of
23 things, and so I think what the concern is, is that our
24 record is clear that this person was not qualified as an
25 expert; however, this person was an investigator on this

1 case, and some of the considerations as part of the
2 investigation -- and I gather part of the gathering of
3 evidence in this matter was done for the purpose of
4 ascertaining whether or not the investigating department
5 believed that this person had been victimized or was it
6 likely based on history based on information that they
7 had received that this person simply left for whatever
8 reason.

9 I gather that was the purpose of the
10 testimony, as I understand it, but I think our record
11 should be clear that this person, while they certainly
12 were an investigator, as I understand it, and y'all
13 correct me if I'm incorrect, and used some methodology
14 called what you alluded to, I think just to clarify our
15 record, so that, if need be, if it goes up on appeal,
16 that we don't throw in this question about whether or not
17 this person was qualified as an expert or not. Maybe
18 just call him by his name. What is this person's name.

19 MS. BUTCHER: I have trouble pronouncing
20 that. I'll call him Investigator Silvaggio.

21 THE COURT: Got it. Investigator Silvaggio.

22 BY MS. BUTCHER:

23 Q. And going back to that, would you agree with me
24 that he was not qualified as an expert, yet he pretty
25 much testified as one?

BYRON GIPSON - DIRECT EXAMINATION

1 A. No.

2 Q. Back to the school records, if the school records
3 reflect that her grades were actually lower the prior
4 semesters than what you actually had, that would have
5 been important, correct?

6 A. The theory in the case, it would have been very
7 important.

8 Q. Would it also be important to get these school
9 records to show that she had disciplinary issues at
10 school? Would that have been an important reason?

11 A. In your mind or his?

12 Q. Huh?

13 A. In your mind, it's extremely important.

14 Q. Okay.

15 A. And I believe I've answered the question. I did
16 not go into these school records at trial.

17 Q. Why not?

18 A. Because I did not believe that that was necessary
19 in this trial. I did not think that it was necessary.
20 My strategic belief was that to go and try to smear
21 somebody because of their grades who has been alleged to
22 be missing at a point is something that you don't want to
23 do in this town in a trial like this.

24 Q. Okay. And would it -- do you think maybe since
25 the prosecution falsely built her up it would have been

1 nice to have had these to counter that with?

2 A. I think that some of those things were countered
3 in the additional testimony of witnesses they brought up
4 and the questions that were asked.

5 Q. Okay. Her mother actually testified that she
6 never had any trouble with her, correct? Do you recall
7 that?

8 A. I don't.

9 Q. I'll get back to that in a minute. Let me just --

10 A. You want me to give the same answer about the
11 grades?

12 Q. No, these aren't grades. These are just
13 disciplinary actions. I just wanted you to see they were
14 in here. Do you feel if you had subpoenaed these records
15 you would have known about, been able to use on cross, if
16 you did allow that in, that she did have some
17 disciplinary actions at school?

18 A. So you're asking me to answer the question if the
19 judge allowed it in what would have happened? Because
20 you said --

21 Q. I'm sorry, for you to use on cross, would it have
22 been important to get the school records?

23 A. I think you're suggesting that I didn't know some
24 of these things.

25 Q. Yeah.

BYRON GIPSON - DIRECT EXAMINATION

1 A. You're presupposing, and I'm not going to answer
2 unless the judge directs me to. I don't think I should
3 presuppose.

4 Q. Okay. Let me ask you this: Do these reflect
5 there were disciplinary actions with Ericka Bradley at
6 school?

7 A. Yes.

8 Q. And she was suspended for using profanity,
9 correct?

10 A. That's what it says, and a weapon of some sort.

11 Q. Refused to obey? ID violation? She got detention
12 for leaving class?

13 MR. NEELY: Your Honor, these are asked and
14 answered. He's already testified his strategy for not
15 attacking the victim's grades and disciplinary records.

16 THE COURT: And the rules are very specific
17 when you can do that with regard to a victim's character.

18 MR. NEELY: Certainly.

19 THE COURT: And so, you know, I don't quite
20 know what to do with that. I don't believe under the
21 rules you can attack a witness's character in a murder
22 case on a disciplinary record at school for whatever --
23 and for tardiness and missing school. I don't think so.

24 MS. BUTCHER: Your Honor --

25 THE COURT: Yes?

BYRON GIPSON - DIRECT EXAMINATION

1 MS. BUTCHER: What you would be attacking is
2 that someone was able to get in without objection --

3 THE COURT: Yes.

4 MS. BUTCHER: -- that the victim had good
5 grades, kept her grades up, and was suitable for college.

6 THE COURT: In other words, your point would
7 be is that he could have cross-examined this particular
8 witness for the purpose of impeaching that testimony
9 rather than for the purpose and then the Court could rule
10 on that, and I think you've asked and answered, and I
11 think I have the point.

12 MS. BUTCHER: Okay.

13 THE COURT: Okay.

14 MS. BUTCHER: And I would just like to put
15 these in as one big --

16 THE COURT: I think they're already in,
17 aren't they?

18 MS. BUTCHER: Not the school records, that
19 was the records custodian. These are in, the actual
20 school records.

21 BY MS. BUTCHER:

22 Q. And sticking with the school records for just a
23 minute, there was also testimony from Jackie Bradley, the
24 victim's mother, which would have been page 213 to 214,
25 without objection, Ms. Bradley testified that she had

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1 pretty good grades and she was a very good student. I
2 never had any problem with her school. There was no
3 objection to that. Had you subpoenaed those school
4 records, do you believe you would have been able to
5 impeach Ms. Bradley on that statement?

6 MR. NEELY: Your Honor, it's the same --
7 asked and answered. It's the same question; it's the
8 same line of argument.

9 MS. BUTCHER: And, Your Honor, my point is to
10 show that how often evidence came into this trial that
11 built up Ms. Bradley where it could have been impeached
12 had he subpoenaed the school records.

13 THE COURT: This is a different witness.
14 I'll allow him to answer. So why didn't you
15 cross-examination Ms. Bradley with regards to the school
16 records?

17 THE WITNESS: Could I ask if I understand her
18 question?

19 THE COURT: Sure.

20 THE WITNESS: You're asking me why I didn't
21 ask the grieving mother of somebody who believes that her
22 daughter is dead whether or not I asked about her grades,
23 if she was a good student?

24 THE COURT: Yes, for impeachment purposes,
25 yes.

1 THE WITNESS: No. I didn't ask her that
2 question.

3 BY MS. BUTCHER:

4 Q. Okay. And Henry Bradley, do you recall Henry
5 Bradley?

6 A. I suspect that was the father.

7 Q. That was the grandfather.

8 A. Okay.

9 Q. He was asked do you know what type of a student
10 your daughter -- granddaughter Ericka was. She said she
11 was a -- to me, she was a very good student. I know she
12 was doing good, and she kept telling me she was doing
13 good, and that was page 240 to 241. There again, just
14 like with Mrs. Bradley, had you those school records, you
15 would have been able to impeach him on that statement,
16 correct?

17 A. I disagree with your characterization. Again,
18 you're presupposing that I didn't know about the records.
19 You're presupposing that, number one; and, two, I didn't
20 ask the questions. I didn't think I needed to ask that
21 question.

22 Q. I'm not presupposing. I asked you very
23 specifically what records you had and if you had
24 subpoenaed the records.

25 A. And I told you I didn't have them.

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1 Q. And you said you did not send out subpoenas?

2 A. I said I didn't recollect whether I sent out a
3 subpoena to that school.

4 Q. Would you like to check your file?

5 A. Is that a dispositive issue in this case?

6 Q. I'm just asking if you wanted to look through your
7 file.

8 A. I don't, not for that issue, no. I think I've
9 answered that question, multiple times.

10 Q. The State also called a Mr. Michael Ward. Do you
11 recall?

12 A. I do.

13 Q. Now, he was an expert as -- came in as an expert
14 as a forensic pathologist, correct?

15 A. Correct.

16 Q. Why wasn't -- you did not ask to proffer his
17 testimony at all, did you?

18 A. I didn't. I believe I met with him prior to
19 Court, with Dr. Bennett present as well.

20 Q. Okay. And -- Court's indulgence.

21 Do you recall exactly what he testified to?

22 A. Not after all these years. I would have to look
23 at the records.

24 Q. Now, there was a Lab Corps DNA analysis done,
25 correct?

1 A. There was.

2 Q. And that was done by Mr. Ward?

3 A. It was done by -- it was done by the State.

4 Q. Okay.

5 A. For the State's case it was done.

6 Q. Well --

7 A. If it's got his name on it, it was done by
8 Mr. Ward. I'm not going to dispute if it was done by
9 Mr. Ward if his name is on it.

10 Q. At any rate, he had looked at this and referenced
11 it, correct?

12 A. Correct.

13 Q. Now, did what this Lab Corps report -- they didn't
14 have a body for Ericka Bradley, correct, the victim?

15 A. That's correct.

16 Q. So he took the DNA from her mother, correct, and
17 DNA from her father; is that correct?

18 A. Maybe the child that -- of the two, possibly? I
19 believe that's correct.

20 Q. And what they were able to determine was that
21 based on the DNA from Ericka's mother and Ericka's
22 father -- because there was a little bit of DNA found up
23 under the car, correct?

24 A. Correct.

25 Q. They were able to determine that the DNA under the

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1 car was from -- was a female offspring of Jackie and
2 Henry Bradley, the parents of Ericka Bradley, correct?

3 A. Yes.

4 Q. But there were, like, four sisters, correct?

5 A. Correct.

6 Q. So that didn't tell anybody which sister it was,
7 just that it was a female offspring, correct?

8 A. Yeah. I think that's correct.

9 Q. And then the DNA from Ericka's child was tested in
10 that too, correct?

11 A. At some point, yes.

12 Q. And you objected to there being no chain of
13 custody to test that child's DNA, that there's no chain
14 of custody with that, correct?

15 A. Yes.

16 Q. Okay. And you objected to that early on, on
17 February the 9th. I believe that's page 29 and 30. Do
18 you follow that, before the trial began? I think it was
19 a pretrial motion.

20 A. Okay.

21 Q. And the judge ruled it would not be admitted
22 unless the chain could be established at trial. I could
23 not find anywhere in the transcript that that was
24 addressed again. Do you recall if that was ever
25 addressed again?

1 A. I don't recall. I would have to review the
2 transcript. There was an appeal afterwards.

3 Q. The appeal did not encompass chain of custody with
4 that, did it?

5 A. I can't tell you. I didn't handle the appeal.

6 Q. And throughout the transcript, I didn't see where
7 there was a ruling on that. It seems like it was just
8 sort of lost in the wayside after you brought it up in
9 pretrial motions. Do you recall if it was ever --

10 A. I don't. I don't recall.

11 Q. Okay.

12 MR. NEELY: What was that page number for
13 that pretrial objection?

14 BY MS. BUTCHER:

15 Q. So the State brought in a forensic pathologist, a
16 Dr. Michael Ward, and those are pages 179 through 194,
17 and he stated, page 180, that he's American Board of
18 Pathology certified forensic pathologist, and he
19 testified that pathologists, they look at injury patterns
20 to interpret how people die, correct?

21 A. That's what he says.

22 Q. How does a forensic pathologist come in and
23 testify when there's no body to look at?

24 A. The judge knew it was appropriate when it comes
25 in.

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1 Q. You didn't make an objection to it, did you?

2 A. I objected to -- well, if there is not an
3 objection to it, I didn't make an objection to it.

4 Q. And the judge is the gatekeeper of experts. He
5 could have look -- this could have been proffered
6 testimony. He could have looked at it beforehand. You
7 did not request that at all, did you?

8 A. If it's not in the transcript, it's not in there.

9 Q. And Dr. Ward -- I'm sure he is an expert in
10 forensic pathology, and he was admitted as an expert in
11 forensic pathology. He also stated he was not an expert
12 in DNA analysis at all, didn't he?

13 A. He did.

14 Q. He also was brought some tissue by the same
15 investigator from Greenville, Silvaggio, that -- that
16 investigator brought it, the one that claimed -- or, you
17 know, looked at this as the victimology aspects of the
18 case, same investigator, correct?

19 A. It was.

20 Q. Okay. Brought him some tissues, and Dr. Ward
21 looked at those tissues underneath the microscope, and on
22 page 184, 1 through -- I'm sorry, 1 through 6 he was able
23 to, you know, say it was the skeletal tissue or nerve
24 tissue -- or he couldn't say which one it was, and then
25 he was asked you can't, can you, whether it was from an

1 animal or a human?

2 And he said it would be either -- from either a
3 mammal that has similar skeletal muscles as humans or
4 from a human, so he wasn't able to look at the tissue
5 that was brought to him and tell if it was animal or
6 human, specifically, correct? And certainly not -- I'm
7 sorry.

8 A. He said either or.

9 Q. Right, either or, and certainly not tie it to
10 Ericka Bradley, correct?

11 A. That's correct.

12 Q. Okay. Didn't have a body to look at, and he's
13 testified to Lab Corps DNA analysis 186. He testified
14 that the blood found under the car -- and earlier I
15 believe he said he didn't know if it was blood or not,
16 but it sort of transformed from blood to DNA and then
17 back to blood -- belonged to a child of Jackie and Henry
18 Bradley, okay?

19 And then on page 187, line 5, he makes a leap to
20 say it would be in my opinion that the person who's DNA
21 and tissue this is, in this case, Ericka Bradley, was
22 deposited there by being run over by this vehicle.

23 MR. NEELY: Your Honor, I'm waiting for a
24 question.

25 MS. BUTCHER: And I'm about to ask it.

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1 BY MS. BUTCHER:

2 Q. How did this tie in to his expertise as a forensic
3 pathologist?

4 A. Which portion?

5 Q. Well, I led you what he found. He looked under a
6 microscope at the tissue that he couldn't determine
7 whether it was animal or human, certainly not Ericka
8 Bradley, and he looked at this Lab Corps DNA analysis,
9 and he said he's not a DNA expert.

10 Nowhere on here does it say Ericka Bradley, and
11 never looked at a body, though he's a forensic
12 pathologist, that's the expertise he was qualified in --
13 I'm trying to ask you, how did this tie in to his
14 expertise that he made the leap to say Ericka Bradley was
15 run over by a car?

16 A. It ties into a question with an expert. As you
17 know, an expert is allowed to give an opinion.

18 Q. Uh-huh.

19 A. And it's up to the jury at that point, after the
20 judge instructs them, that they can waive that opinion.
21 They can choose to believe the credibility or
22 believability based on that and other evidence at trial
23 or even looking at other experts and comparing that
24 testimony to their own. That's a weight issue, so what
25 weight do you give that testimony? And that's the

1 question. So that's a question that goes to weight since
2 he was qualified as an expert.

3 Q. And I'm asking what expertise was used of his in
4 this analysis he came up with?

5 A. I think Dr. Bennett spoke about those things.

6 Q. I have no problem -- Dr. Bennett did an excellent
7 job, but you also have -- you also have another expert
8 that testified outside of his expertise and, I didn't
9 think, give an explanation how he came to his analysis
10 and so that's why my question to you was how did that tie
11 into his expertise?

12 A. You're mixing questions. You're talking about
13 another expert.

14 Q. Let me just get back to this.

15 A. All right.

16 Q. There again, you didn't have his testimony
17 proffered to the judge, did you?

18 A. I did not.

19 Q. And you didn't make any objections to him reaching
20 his analysis, that Ericka Bradley had been run over and
21 hit by a car?

22 A. There was an objection that I made, but it's in
23 the record. Those things that I objected to are in the
24 record.

25 Q. Okay. And you allowed -- you did not object to

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1 the Lab Corps analysis coming in that included the child
2 without a chain of custody, correct?

3 A. I'll yield to the record there, his final
4 analysis. I yield to the record there.

5 MS. BUTCHER: And I'll just submit the Lab
6 Corps in as Exhibit 2.

7 MR. NEELY: No objection to 2.

8 (Court's Exhibit No. 2 was marked for
9 identification.)

10 BY MS. BUTCHER:

11 Q. Now, there was not any determination as to who
12 that offspring was, whose DNA was under the car, correct?
13 There was no scientific analysis of DNA to determine
14 exactly whose DNA -- with the offspring of Jackie and
15 Henry Bradley whose DNA that was under the car, correct?

16 A. You mean narrowing it down between the siblings.

17 Q. Yes.

18 A. There was not an additional -- although there was
19 some testimony of some sort that the other siblings
20 suggested they had never been underneath the car.

21 Q. Was there testimony or did you just stipulate?

22 A. I made a stipulation after we learned about those,
23 and the stipulation -- and I'll let you say that because
24 I did not see the need to put two more sisters up on the
25 stand who would belabor, you know, their feelings about

1 their sister and not having seen her in years and their
2 belief of what happened, so there was a stipulation
3 there, yes, because it was going to be cumulative what
4 they would have testified to.

5 Q. Okay. And you would agree with me that by
6 stipulating that those other three sisters had never been
7 under the car it basically left it that it had to have
8 been Ericka Bradley's DNA?

9 A. Well, what Mr. Maner told me is that at some point
10 in time he thought they had put the car up on blocks and
11 they were changing tires and she was underneath the car
12 doing some stuff, changing tires with him and changing
13 oil and stuff with him on the car.

14 Q. And that came in?

15 A. So he suggested she had been underneath the car.

16 Q. And I recall that in there.

17 A. Okay.

18 Q. And I believe this is my last point. You had
19 spoken with Derrick Maner's mother, correct?

20 A. Correct.

21 Q. And you understood from your conversation with her
22 that she had actually seen Derrick Maner when he came
23 back home after Ericka Bradley supposedly got out of the
24 car, correct?

25 A. Yes.

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1 Q. Did you ask her anything about Derrick Maner's
2 appearance when he came back into the house?

3 A. I'm sure we talked generally, but my recollection
4 is he was on the phone that night for some period of time
5 at the house so he was at the house at some point that
6 night.

7 The ultimate question is why didn't I call her as
8 an alibi witness. My answer to that is after consulting
9 with her, she told me specifically she did not want to be
10 a part of the case in the sense that if something went
11 wrong, she may blame herself or may feel as a mother
12 that, you know, that something that she did caused him to
13 be found, you know, guilty, and she was uncomfortable
14 testifying.

15 Also, when I finish cases in terms of when
16 we're about to close our case before we rest, my last
17 question to my client, it's been that for almost 20
18 years, is there any other witness that we need to put up?
19 Is there any other witness that we need to put up at this
20 time? And that was answered negatively. We did not need
21 to put up any other witnesses.

22 Q. Okay. And I can understand that question, but you
23 are the attorney, correct?

24 A. And I'm also obligated to do whatever my client
25 asks me to do as long as it's ethical, and that's what I

1 did.

2 Q. And did you not owe your client an obligation that
3 you felt like Ms. Maner's testimony would have been of
4 value from your client in this case in proving that he
5 indeed was not guilty? Is your client your first
6 priority?

7 A. What are you suggesting the testimony would have
8 been? Because it wouldn't have been an alibi witness,
9 technically.

10 Q. No, but would she have been able to describe to
11 you what he -- how he looked when he came back home that
12 night?

13 MR. NEELY: Your Honor, I think that calls
14 for speculation.

15 BY MS. BUTCHER:

16 Q. You had conversation?

17 A. We had conversation; absolutely we did.

18 Q. Did you ever talk to her about his appearance when
19 Mr. Maner came home that night?

20 A. I'm sure I did. If I dig through my notes, it
21 make take a while, I'm sure I could find specifics as to
22 what we talked about, but there is no question about
23 ultimately where we left it in the sense that she was
24 uncomfortable getting on that stand in a murder case
25 where her son was alleged of doing some things, and after

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1 speaking to her and speaking to Mr. Maner about that, we
2 did not call her to the stand.

3 Q. Okay. Let me just ask you this: Would -- from
4 talking to her, would she have been able to testify that
5 Derrick Maner had no blood on his clothes when he came
6 back in?

7 A. I don't have any recollection about that, but I
8 don't remember her ever saying that he did, and I'm not
9 going to suggest she ever said that. Nobody -- and I
10 want to be very clear about that, because, you know, just
11 the tone of the question could lead to some speculation,
12 and I will look at the family when I say this: Nobody in
13 the Maner family has ever said anything about Derek doing
14 anything illegal or doing anything to Ms. Bradley. I
15 will say that.

16 They have been nothing but stand up through this
17 entire -- you know, this entire ordeal, as I call it.
18 They've been nothing but that. They've been a wonderful
19 family, so I cannot say they have said anything that
20 would have hurt him or his chances, specifically at
21 trial. I can't say that. They've never -- or never done
22 anything cross or had a cross word with me in any way,
23 shape, or form.

24 Q. And I guess what I'm asking is if she would have
25 been able to testify that Derek Maner came back home that

1 night, after -- when he entered the house, he had no
2 blood on him or anything of that nature, do you think
3 that would have been important?

4 A. It's speculating, but it wouldn't have hurt him.

5 Q. Was there any reason other than she -- you said
6 she didn't care to testify that you would have not put
7 her up?

8 A. I didn't have any -- my recollection is I didn't
9 know any specific character issues in any way, shape, or
10 form that would have impacted her. I didn't know
11 anything negative, nor do I now, so, again, that was a
12 decision for her not to testify that we talked about and
13 that the ultimate decision was not to put her on the
14 hand.

15 Q. Okay.

16 A. And, again, I just want to make sure there was
17 nothing negative implied by anybody in his family ever,
18 you know, in my investigation of this case, nor is it
19 now.

20 Q. Okay. And --

21 MS. BUTCHER: Court's indulgence one moment.
22 No further questions of this witness.

23 THE COURT: All right. Cross-examination?

24 MR. NEELY: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. NEELY:

2 Q. I'm going to walk you back through some of this.
3 Are experts allowed to use other experts' opinions in
4 making a final opinion?

5 A. If it's information that they have in their level
6 of expertise, they can do that, yes, they can.

7 Q. And Dr. Ward used the Lab Corps DNA opinion in his
8 ultimate finding?

9 A. He did.

10 Q. And that -- I believe it's the Lab Corps opinion
11 that dealt with the chain of custody issue; is that
12 right?

13 A. Yes, that's right.

14 Q. And on page 117 of, I believe, the February 12th
15 date, starting on page -- or on line 23 and going all the
16 way up to your page 119, there was a lengthy objection
17 you made to Dr. Ward using that testimony from the Lab
18 Corps opinion.

19 A. Yeah, thank you. You just refreshed my
20 recollection -- yes, yes.

21 Q. Is that correct?

22 A. It is, yes, sir.

23 Q. And the Court held on page 119, line 5, that
24 expert witnesses can use hearsay testimony in forming
25 their own opinion; is that correct?

1 A. Yes, that's correct.

2 Q. And without that Lab Corps testimony, Dr. Ward
3 would -- was unable to say whether it was human muscle
4 tissue or not; is that correct?

5 A. That's correct.

6 Q. But with that Lab Corps testimony that the judge
7 allowed in he was able to say it was human skeletal
8 muscle tissue, correct?

9 A. Yes, sir.

10 Q. And the only sister that was underneath the car,
11 according to Mr. Maner's testimony, was the victim in
12 this case, correct?

13 A. That's correct.

14 Q. And Dr. Ward testified that based on the type of
15 tissue he found he believe it indicated a serious bodily
16 injury, or a death, underneath the car; is that correct?

17 A. That's correct.

18 Q. Did you speak to your own expert forensic
19 pathologist in this case?

20 A. I did.

21 Q. And who was that?

22 A. That was Dr. Robert Bennett.

23 Q. And what was his testimony concerning the case or
24 what would the testimony have been concerning the case?

25 A. His testimony was -- well, I'll say two people I

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1 actually spoke with, one presented at trial, and, I mean,
2 Dr. Bennett talked about -- one of the things I had
3 talked about was points of impact and whether a person, a
4 human, was standing then what you would expect for that
5 person to have -- you know, if they're hit by a vehicle,
6 how they would have gone over a car and would you have
7 expected to find blood. He also testified about a person
8 who was lying down and run over or if they were at a
9 lower level of -- I don't know how you state -- if
10 they're lower, maybe on their knees or on the ground of
11 some sort, then the point of impact would be different,
12 and you would find blood in different places.

13 I also had an opportunity to meet with Don
14 Guerndt, who was a SLED investigator for years, and he's
15 qualified in different areas. We did not use him as an
16 expert, but I spoke with him early in the case about
17 points of impact, blood spatter, things of that nature,
18 and his synopsis was very similar, is the best I can tell
19 you, about -- but the thing that they said talked about
20 blood spatter and where you would find it under a car if
21 a person had been hit or run over.

22 Q. I see. So the expert you talked to, Don Guerndt,
23 his testimony would have been the same, basically, as the
24 State's?

25 A. It would not have been favorable to us.

1 Q. Okay. And so it wasn't favorable, you didn't use
2 it?

3 A. Correct.

4 Q. And moving to, just very quickly, on the school
5 grades and disciplinary records, why wouldn't you attempt
6 to attack the grades and disciplinary actions of a
7 missing person?

8 A. Because that's not the ultimate issue -- I mean, I
9 just don't believe in -- unless you have to do it, there
10 are some things you have to do, and in this county --
11 it's a small county. Many people know one another. They
12 know families, and to go in and throw dirt on somebody
13 just because you're in a position where you can or to
14 disrespect a family or an older person in a situation
15 where you don't have to do that, that didn't need to be
16 done in order to do what we needed to do in this case.

17 I didn't see a need to talk about her grades, her
18 attitude at school. It wasn't necessary. You talk about
19 enrollment in colleges. There are colleges all
20 throughout the state that have open enrollment so I
21 didn't see that as an issue that we needed to address.
22 We did address her -- some belligerence and some things
23 that happened at work, and the manager at Hardee's that
24 night talked about those things at trial. It's in the
25 transcript, and it talked about her attitude and things

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1 of that nature, and, to me, that was enough. That's what
2 we needed so that you had some direct evidence, not
3 somebody who read some records, but somebody who knew
4 her, who talked about her, you know, some issues and why
5 she was sent home that particular evening, and that
6 undercut the things that -- I guess that was Silvaggio or
7 Ward, whichever one of those testified about her records.
8 We had direct evidence of some things that she had done.

9 Q. Was it ever your strategy to show the victim
10 wasn't missing?

11 A. That was -- I mean, it was -- it's one that kind
12 of evolved, to be honest with you, strategy-wise. The
13 obvious thing is, number one, she wasn't missing, she was
14 elsewhere because she chose to be elsewhere; that, you
15 know, there was no proof that she was, you know, deceased
16 or that she was deceased by the hand of Mr. Maner.

17 It was kind of multi-faceted in that sense, so it
18 wasn't just this is my strategy and this is all we're
19 doing. There was several areas of question there, and as
20 I looked at the information, even now I'm going back and
21 looking at it, do I believe the case was proved beyond a
22 reasonable doubt? My mind, I don't, because I think
23 there was doubt there.

24 Q. And then moving back further, did they find the
25 victim's jewelry that was in that picture?

1 A. Not that I'm aware of. I was never made aware of
2 any jewelry that was found. If I can say this, there was
3 a grill that Mr. Maner talked about. Both of them had, I
4 guess, insertable fronts of some sort that were in the
5 car, but that wasn't the crux of what we were talking
6 about with the jewelry. That wasn't the jewelry they
7 were referencing.

8 Q. And the jewelry conversations that Ms. Pipkins had
9 were all related to conversations she had with Mr. Maner?

10 A. Correct.

11 Q. And the State had that tape available via a
12 jailhouse phone call?

13 A. Yes.

14 Q. I think you characterized the testimony, that
15 conversation, as ill-advised?

16 A. Yes.

17 Q. Why would you say that the jailhouse phone call
18 from Mr. Maner to Ms. Pipkins was ill-advised?

19 A. Just -- I advise all of my clients that no matter
20 what jail you're in, all of your phone calls are
21 susceptible to being taped -- or subject, excuse me, to
22 being taped, and, you know, it's hard when you're away
23 from family and loved ones, especially if that has never
24 happened before, but you do not want to discuss anything
25 regarding your case witnesses, things of that nature.

1 You can talk about the price of tea in China,
2 football, anything else, but when you start talking about
3 issues with the case, that's problematic. And, also,
4 just the clandestine nature of the tape. It was -- it
5 opened a lot of doors for the prosecution to look at some
6 things, and it did not look favorably on Mr. Maner.

7 Q. And Mr. Maner testified from the stand earlier
8 that there was no testimony that he not tell her where
9 she got the jewelry from or to take it away with her? On
10 page 247, lines 15 through 19, I believe that's on the
11 February 12th day.

12 A. Yes, sir.

13 Q. Does the testimony indicate that that is what
14 Mr. Maner told Ms. Pipkins?

15 A. I mean, it is. I mean, she mentioned that he told
16 her to wipe the jewelry off and take it with her. What
17 you don't see in the transcript is the tape that was
18 played that we were provided, I mean, that was not
19 transcribed here, so you just have the questions that
20 were asked after the tape was played, but it was -- it
21 was played in court.

22 Q. Okay. And regarding the questioning about the
23 brother's car --

24 A. Yes, sir.

25 Q. -- we have I think two motions for you on page

1 257 -- sorry.

2 MS. BUTCHER: Are you referring to the one on
3 the 11th?

4 MR. NEELY: Yes.

5 MS. BUTCHER: 257?

6 MR. NEELY: Correct. It's 258.

7 BY MR. NEELY:

8 Q. We have an objection by you on page 258, line 15
9 and then line 24, so two different objections to
10 relevancy; is that correct?

11 A. Yes, sir.

12 Q. And then after those objections to relevancy, it
13 looks like y'all had a bench conference on page 259. Do
14 you recall the substance of that bench conference?

15 A. I don't, but something that has not been mentioned
16 in here, and I suspect as we look at this, there was an
17 allegation there was another person who at one point was
18 looked at as a codefendant. His last name was Cap.

19 There was an allegation that the body had been
20 taken at some point to the lumber company. I think it's
21 Collum Lumber Company in Allendale, and possibly burned
22 at the lumber company, so there was some allusions to
23 those things, and I think, as you mention that, I was
24 being very careful not to open the door to something that
25 could come in with that because at that point, I think

1 Chris Wilson was representing Mr. Cap, and there were
2 some issues that just could open the door with, so we
3 just had to be very careful, so that is probably what
4 would have led me to ask for us to approach. I'm glad
5 you asked that because that just brought all that back,
6 that additional piece that was kind of overarching in
7 this trial, is you had a potential codefendant out there.

8 Q. After that bench conference, the remainder of his
9 testimony was very short on direct, correct?

10 A. Yes, sir.

11 Q. I know it's been a long time, but we've had kind
12 of bits and pieces of evidence against your client, or
13 your former client, brought into light, but would you
14 mind giving a general summary of what you believe the
15 State's case against your client was? Just put it
16 together.

17 A. Their belief was that Ms. Bradley, Ericka, was
18 working at Hardee's that particular evening, was unable
19 to get a ride home, or some altercation took place at
20 work, and she needed to get a ride home. She wasn't able
21 to reach Mr. Maner, so she called a family member, and
22 two family members went to pick her up, or a family
23 member and a friend went to pick up Ms. Bradley.

24 They picked her up, and on the way back home, they
25 evidently passed Mr. Bradley right in front of the

1 courthouse, Allendale County Courthouse, got out of the
2 car. Ms. Bradley and Mr. Maner had some words.
3 Mr. Maner never laid hands on her, and then she hit him
4 with a bat and she fussed at him, all kinds of things,
5 and it went for a pretty long time, but it ultimately
6 ended with them seeing to reconcile.

7 The driver of the vehicle who picked her up
8 took -- you know, went back home, and Mr. Maner and she
9 and Ms. Bradley got in the car and started going toward
10 Appleton. I believe there was a -- there was a thought
11 from Ms. Bradley that Mr. Maner had been messing with
12 another female, so evidently the thought was they were
13 going to the Appleton area of their community to confront
14 her. Somewhere along the line -- well, not to confront
15 her, but for Ms. Bradley to have some conversation with
16 her.

17 Somewhere along the line, the way there, it's
18 alleged that, you know, she tried to throw the car in
19 park while he was driving. She got out of the car. They
20 had more words, and at some point in time he left her
21 there. The investigators seemed to believe -- or they
22 say Mr. Maner at some point in time made comments like, I
23 hope that nobody hit her and took her away, and just
24 things that would lead them -- you know, some
25 suspicious-type things.

1 That's what the investigators said, and that's
2 what got the whole investigation going, in their minds,
3 when he said things along the lines of I hope nobody did
4 something to her and hit her or moved the body or
5 something like that, and the investigation started some
6 time after that.

7 Q. And during that investigation, they found blood
8 spatter and DNA on the undercarriage of Mr. Maner's car?

9 A. That's correct.

10 Q. And the DNA came back to one of the children of
11 these two parents?

12 A. Correct.

13 Q. A female child of two parents?

14 A. Correct.

15 Q. And there were three children or four children?

16 A. There were, I think, three girls. I don't want
17 you to quote me on that one, but Ericka had sisters. I
18 can tell you that much.

19 Q. But it was never alleged that they were underneath
20 the car and would have had reason to have their blood on
21 the underneath of Mr. Maner's car?

22 A. That's correct.

23 Q. And Mr. Maner's story was that he had changed a
24 tire, and she might have bumped her head or something
25 like that. That's how her DNA and blood got on the

1 undercarriage of the car?

2 A. That's mostly correct, yes, sir.

3 Q. Okay. And I believe there is also testimony that
4 there was a dent in the front of Mr. Maner's car?

5 A. Yes, sir. The dent was -- Mr. Maner and also
6 family talked about, I think, the brother was driving
7 sometime months before this allegation and hit a dog, and
8 so there was actually canine hair underneath the car as
9 well, and I think that's something Dr. Bennett talked
10 about, mixed DNA, but there was canine blood underneath
11 the car and other types of matter under the car.

12 Q. And that testimony came out at trial?

13 A. It did, yes.

14 MR. NEELY: I believe that's all the
15 questions I have.

16 THE COURT: All right. Redirect?

17 MS. BUTCHER: No redirect, Your Honor.

18 THE COURT: All right. Very well. All
19 right. You may come down. Call your next witness,
20 please.

21 MS. BUTCHER: Ms. Annie Maner.

22 THE COURT: Is this witness free to leave?

23 MS. BUTCHER: Yes.

24 ANNIE MANER,
25 having been first duly sworn,

ANNIE MANER - CROSS-EXAMINATION

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MS. BUTCHER:

4 Q. Ms. Maner, you had the opportunity to speak with
5 your son Derek Maner's attorney, Mr. Gipson, prior to the
6 trial and everything, correct?

7 A. Yes.

8 Q. In your conversations with him, was he aware that
9 you were home when Derek Maner returned home that night?

10 A. Yes.

11 Q. And were you awake?

12 A. Yes. I had the baby we were sitting up, uh-huh.

13 Q. Did you actually see Derek Maner when he came in?

14 A. Yeah. He walked straight through the backdoor,
15 and he came walking right here, and I had the baby, and
16 the first thing I asked him, where is Ericka?

17 Q. Why did you ask him that?

18 A. Because sometime, you see, he picks her up, you
19 know, picks her up from work, you know.

20 Q. Do you recall about what time this was?

21 A. I'm assuming -- I'm thinking it was probably
22 around almost midnight or somewhere close to that.

23 Q. Okay. And did you tell Mr. Gipson all of that?

24 A. Yes.

25 Q. Did he ask you about these things?

1 A. Yes. He asked me -- I told him what he had on,
2 yellow and white.

3 Q. Okay. So he asked you what Derek Maner was
4 wearing?

5 A. Yes. I told him what he was wearing and where his
6 clothes were.

7 Q. Did Mr. Gipson ask you if there was any blood on
8 your son?

9 A. I don't remember him asking me that, but his
10 clothes were clean. He had a white T-shirt and a white
11 and green -- like, a little jogging pants thing, and he
12 was clean. He -- because he's always clean. He was
13 clean and everything. He was clean.

14 Q. Okay. Did you notice any blood or anything on
15 your son that looked like it could have been blood?

16 A. No, ma'am. He came -- he was clean. He didn't
17 look like nothing was wrong, and the only thing I asked
18 him was that, and he told me -- I said, well, I need to
19 go, and he said -- I wasn't aware of what happened. We
20 didn't talk about that.

21 He said her cousin picked her up from work, and
22 I'm calling him right now to go pick her up. So I was
23 happy with that, you know, because he was calling. He
24 did got on the phone, and then after that, I gave him the
25 baby, because I had to go to work the next day. I gave

1 him the baby for them to go to bed, and he went in the
2 room and I heard him talking on the phone, and, you know,
3 Ericka used to come back and forth, back and forth. I
4 heard him on the phone. I just assumed he was on the
5 phone with her. I just assumed he was on the phone with
6 her, as usual.

7 Q. Okay. Mr. Gipson, did he ask you to testify at
8 your son's trial?

9 A. Yes, he did.

10 Q. And what was your response?

11 A. I told him I've never been on trial before for
12 nothing and that I was very nervous and that -- but if I
13 had to do it, I would, and I stood outside the whole
14 court time. I was not in the trial at all. I stood out
15 there and waited for him to call me, but -- because that
16 decision was his. If I had to get on trial, I would, and
17 he left me out there all during court, and I -- sometime
18 during, I reckon, the last, they must have decided not to
19 use me.

20 Q. So you never told him you would not testify?

21 A. No, ma'am. I never was in the courtroom.

22 Q. Okay.

23 A. I never stayed in the court during the whole
24 trial. I had to sit out.

25 Q. And let me ask you this, and if you don't know,

ANNIE MANER - CROSS-EXAMINATION

1 you don't know, but was the reason you were not in the
2 courtroom, would it have been because you were
3 sequestered because you were a potential witness?

4 A. Yes, because he told me I couldn't come in. I had
5 to stay out because he was going to put whatever he
6 decided, whether he was going to use me or not.

7 Q. Okay.

8 MS. BUTCHER: No further questions.

9 THE COURT: Okay. Very well. Any
10 cross-examination?

11 MR. NEELY: Just very briefly.

12 CROSS-EXAMINATION

13 BY MR. NEELY:

14 Q. Ms. Maner, just making sure I understand, he told
15 you you couldn't come into the courtroom because he
16 wasn't sure if he was going to use you or not?

17 A. Yes. He told me I had to stay out because I was
18 going be a witness or whatever, so I had to stay out the
19 whole time.

20 Q. But he wasn't sure whether he was going to use you
21 or not, is what he said?

22 A. Well, he said he was going to up until, I'm
23 assuming, that last point because I never come in. He
24 never told me he wasn't going to use me until the court
25 was almost all over.

1 Q. Okay.

2 MR. NEELY: No further questions.

3 THE COURT: Okay. Very well. Any redirect?

4 MS. BUTCHER: No, Your Honor.

5 THE COURT: Thank you, ma'am. You may come
6 down. Call your next witness, please.

7 MS. BUTCHER: That's my case, Your Honor.

8 THE COURT: Very well. Thank you.

9 Yes, sir. Any witnesses?

10 MR. NEELY: State has no witnesses, Your
11 Honor.

12 THE COURT: All right. Thank you all so
13 much.

14 All right. I think what I'll do is ask for
15 proposed orders. I'll ask for 30 -- or ask for them
16 within 30 days. If you have difficulty getting them
17 within 30 days, just get together and ask for an
18 extension from each other, and you send an email to me
19 and my administrative assistant and my law clerk.

20 He may be leaving. If you just send it to me
21 and my administrative assistant, that would be wonderful.
22 If you need an extension, that's fine, and I'll look to
23 receive the proposed orders from you with the
24 self-addressed stamped envelope so that if I can use it,
25 I can return it to you. Thank you so much.

1 MS. BUTCHER: Your Honor, I forgot. In my
2 additional reasons for the PCR, I think I actually put
3 father instead of mother on the last line.

4 THE COURT: Yes. No problem.

5 MS. BUTCHER: I think that is actually a
6 statement in the transcript.

7 THE COURT: Got it. I will make a note in
8 here as an exhibit, and y'all will leave it with me.
9 Thank you.

10 - - -

11 (Whereupon, the proceedings were concluded.)

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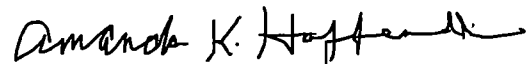
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25

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Allendale County, South Carolina, on the 9th of June 2017.

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

May 15, 2019



Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

AFFIDAVIT OF
RECORDS CUSTODIAN

PERSONALLY appeared before me, Coby Brandyburg, who
(Print Name of Records Custodian)

being duly sworn, deposes and says:

1. I am the Records Custodian for Allendale Allendale-Fairfax Highschool, located at:
3581 Allendale-Fairfax Hwy, Fairfax, SC 29827_
2. I have reviewed the school records for Ericka Monique Bradley, DOB: 7-13-1989, SS#
248-79-8352.
3. The attached records are the entire contents of the school file for Ericka Monique
Bradley, DOB: 7-13-1989, SS# 248-79-8352..
4. All of the attached records are copies of records kept in the ordinary course of business
by this office.

Further, Affiant sayeth not.

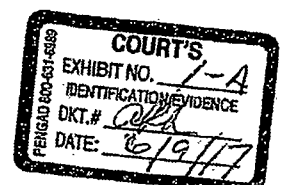
Coby Brandyburg
Records Custodian for Allendale-Fairfax Highschool

SWORN to and subscribed before me this
6th day of June, 2017.

Lillie J. Young
NOTARY PUBLIC OF SOUTH CAROLINA

My commission expires December 13, 2021

Please apply seal:



May 25, 2007 6:00PM

LABCORP FORENSIC ID



No. 0941 P. 2

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May 25, 2007

Greenville County Sheriff's Office
Homicide Unit
4 McGee Street
Greenville, SC 29601
Attn: Inv. Paul A. Silvaggio

Agency #: SLED #: L06-15784
Subjects(s): Jackie Bradley
Henry Bradley
Ty-Dairuis Laron Maner

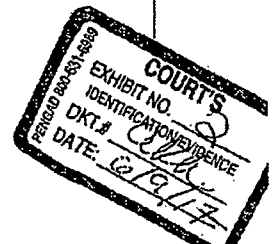
FS Lab #: F07-7255

Dear Inv. Silvaggio:

Pursuant to your request to consult on the above referenced case, please find the results of the parentage and maternity calculations we performed based on the information provided in the chart listed below¹:

System/Chrom.	15-Jackie B.	16-Henry B.	19-T. Maner	2-Side Frame	4-Stabilizer Bar
D8S1179/8	15	11, 12	15	12, 15	12, 15
D21S11/21	28, 32.2	27, 33.2	27, 30	27, 28	27, 28
D7S820/7	10, 11	8, 11	10, 11	11	11
CSF/5	10, 12	8, 12	10	10, 12	10, 12
D3S1358/3	14, 17	15, 16	14	14, 15	14, 15
TH01/11	6, 7	7, 9.3	7	6, 7	6, 7
D13S317/13	12, 13	8, 11	8, 13	8, 12	8, 12
D16S539/16	9	9, 11	9, 11	9, 11	9, 11
D2S1338/2	21, 24	22, 24	21, 22	21, 22	21, 22
D19S433/19	13, 16.2	13, 13.2	13, 15	13	13
VWA/12	15, 17	17, 19	17, 18	15, 17	15, 17
TPOX/2	8	9, 11	8, 11	8, 11	8, 11
D18S51/18	15, 16	15, 17	15, 19	15, 16	15, 16
D5S818/5	8, 11	11	8, 12	8, 11	8, 11
FGA/4	23, 24	23	21, 23	23	23
Amelogenin	X	XY	XY	X	X

Page 1 of 2



FILED FOR RECORD

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE) THE FOURTEENTH JUDICIAL CIRCUIT

Derek Maner, #333244

ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

Case no. 2013-CP-03-0159

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

Applicant filed an application for post-conviction relief (PCR) on September 12, 2013. This Court convened an evidentiary hearing into the matter on June 9, 2017, at the Beaufort County Courthouse. Applicant was present at the hearing and represented by Deborah Butcher, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant's trial counsel, Byron E. Gipson (Counsel), Esquire, and Applicant were present and testified. This Court had the opportunity to listen to their testimony and rule on their credibility. This Court also had before it a copy of the trial transcript, the records of the Allendale County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the direct appeal records, and the pleadings in this matter. This Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Allendale County Clerk of Court. Applicant was indicted at the August 2008 term of the Allendale County Grand Jury for murder (2008-GS-03-0135).

Applicant proceeded to trial and was found guilty on February 12, 2009. Applicant was sentenced by the Honorable Perry M. Buckner to confinement for life.

Applicant filed a timely Notice of Appeal. His appeal was perfected by Susan Hackett, Esquire, of the Office of Appellate Defense. Applicant's conviction and sentence were affirmed by the Court of Appeals. State v. Maner, 2012-UP-550 (S.C. Ct. App. filed October 10, 2012). The Remittitur was issued on October 28, 2012.

II. ALLEGATIONS

Applicant alleged the following grounds in his application:

1. Ineffective Assistance of Trial Counsel
 - a. Failure to object to testimony the victim was a good student, had no problems at school, and was suitable for college;
 - b. Failure to object to Investigator Silvaggio's testimony on the basis it was victimology;
 - c. Failure to object to Deputy Johnson's claim there would have been skid marks if car was put in park while traveling 50 mph;
 - d. Failure to object to testimony concerning Derek Maner's brother's car by James Hutton;
 - e. Failure to object to chain of custody for DNA reports on grounds State did not produce the chain in a timely manner;
 - f. Failure to object to testimony regarding Jessica Bradley's conversation with Tony Carter on the basis of hearsay;
 - g. Failure to have expert testimony of Dr. Michael Ward held in camera and failure to object to his testimony which was outside his area of expertise;
 - h. Failure to object to testimony of Madoree Pipkins regarding jewelry on the basis of relevancy;
 - i. Failure to call Applicant's mother as a witness.

III. SUMMARY OF FACTS

Ericka Bradley (the victim) was last seen on November 6, 2006. ROA. 78, 80, 83, 87, 88, 90, 311. She clocked-out of work the night of November 6, 2006, at 10:45 p.m. She was sent home as a result of horseplay with another employee. ROA. 545, 467, 468. Victim's cousin, Peter Tony Carter, picked her up from work to take her to Applicant's home where she lived. ROA. 20-21, 24, 25. Applicant was her boyfriend and the father of her then six-month-old son.

ROA. 79-80. Applicant was not at home when they arrived. The victim and Carter returned to his vehicle to ride around town. Seeing Applicant in his car, Carter and victim "flagged" him and pulled up beside Applicant at a stop sign. ROA. 26, 545-546. Applicant admitted at trial he was cheating on victim with another woman at the time. The victim apparently suspected this and confronted Applicant after finding him. ROA. 548. The victim first requested Applicant open the back of his car. She then took out a baseball bat and attacked him. Applicant did not become violent at that time. After approximately thirty minutes of talking, the situation cooled, and the victim asked Carter to leave her with Applicant. ROA. 26-28, 546-548.

Applicant testified he and the victim were on the way to his home when she "started getting agitated again and getting mad again." ROA. 548. Applicant suggested they go see the other woman – by his admission "trying to be slick" or "bluff" his way through the confrontation. ROA. 548-550. According to Applicant, victim began to cuss and hit him. ROA. 549-550. He maintained the victim "threw [his moving] car in park" and when the car stopped, she left. ROA. 550-551. Again, according to Applicant, he tried to get the victim to get back into the car. She refused and he left. ROA. 552. Cell phone records confirmed Applicant placed a call to Carter that night at 11:57 p.m. ROA. 316. Carter testified Applicant told Carter "she wouldn't get back in the car" and he left her near a local store. Applicant asked Carter to go get her. ROA. 299. However, Carter could not find the victim. ROA. 299-300. The victim was not heard from or seen by her family again, nor did she show up at school or work, or collect her paychecks. ROA. 98, 132, 135, 195, 196, 204, 208, 414-415, 463, 466. The only portions of the victim's body recovered were blood and tissue – more specifically, "pieces of skeletal muscle and peripheral nerve"– from the undercarriage of Applicant's vehicle. The DNA testing confirmed the tissue was consistent with a "child of Jackie and Henry Bradley," victim's parents. ROA.

383-385, 426-427, 430. Dr. Michael Eugene Ward, a forensic pathologist and Chief Medical Examiner for Greenville County, testified his opinion was "the body who was run over by this vehicle would likely receive significant bodily injury which would cause great bodily harm or possibly death." ROA. 431.

Madoree Pipkins' testified concerning a phone call Applicant made to her from jail. Tr. 259, Vol. III. The phone call was also played for the jury. Tr. 259. Applicant told her to go and retrieve jewelry that was hidden in a flower pot. Tr. 259. He told her to clean the jewelry off and take it to California with her and never tell anyone about it. Tr. 259. Pipkins went to the described location, but claimed she was never able to find the jewelry. When she was unable to find the jewelry she told Applicant and Applicant told her to go back and try again. Tr. 246, Vol. III. The State argued this testimony was evidence Applicant was disposing of jewelry the victim was wearing.

Deputy James Hutto testified he stopped Applicant's brother on a routine traffic stop. Tr. 256, Vol. II. He testified Applicant's brother was nervous and the backseat of his vehicle was missing. Tr. 257. Several days before the brother's court appearance for the traffic ticket, he had the still-functional vehicle destroyed in a car compacter. Tr. 258. The State argued this testimony was circumstantial evidence indicating suspicious activity of Applicant and Applicant's brother involving the disposal of potential evidence.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that Applicant has failed to satisfy his burden to prove Counsel was deficient or that he was prejudiced by Counsels' alleged deficiencies. Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief,

Applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668. The proper measure of performance is whether Counsel provided representation within the range of competence required in criminal cases. Id.

This Court finds Applicant has failed to satisfy his burden to prove Counsel’s actions were deficient. Applicant also failed to prove he was prejudiced by Counsel’s alleged deficiencies. This Court finds Applicant’s testimony lacked credibility and Counsel’s testimony was credible. This Court finds Counsel properly prepared for Applicant’s trial. This Court finds Counsel elucidated valid trial strategies in defending Applicant and preparing for trial. This Court finds Counsel rendered adequate assistance and exercised professional judgment in his decisions at trial. This Court dismisses Applicant’s application for the reasons set out below:

A. Ineffective Assistance of Counsel

In evaluating allegations of ineffective assistance of counsel, the court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove counsel’s performance was deficient. Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 1989. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, Counsels’ deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional

errors, the result of the proceeding would have been different.” *Id.*, at 117-18, 386 S.E.2d at 625. “[E]very effort be made to eliminate the distorting effects of hindsight” and to evaluate counsel’s decisions at the time they were made. *Strickland*, 466 U.S. at 689. Accordingly, courts must be wary of second-guessing counsel’s tactics. *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

1. Failure to object to testimony the victim was a good student, had no problems at school, and was suitable for college.

Counsel was not deficient for not cross-examining the victim’s mother or Investigator Paul Silvaggio on the victim’s school record. Silvaggio testified he was tasked with determining whether the victim was missing or had voluntarily moved somewhere else. Tr. 170, Vol. II. During his investigation, he spoke with teachers at the victim’s school and determined she was a good student, who consistently went to class, and was “college bound.” Tr. 171, Vol. II. The victim’s mother, Jackie Bradley, also testified she was a good student. Tr. 212, Vol. II. This Court finds Bradley’s and Silvaggio’s testimony were appropriate and not objectionable. “[A]n out of court statement is not hearsay if it is offered for the limited purpose of explaining why a government investigation was undertaken.” *State v. Brown*, 317 S.C. 55, 63, 451 S.E.2d 888, 894 (1994). The testimony concerning the victim’s school attendance was purely to establish why the Sheriff’s office began a homicide investigation.

Applicant’s assertion Counsel should have attacked the victim’s school record and her lack of suitability for college is without merit. Counsel testified he believed the best trial strategy was not to personally attack the deceased victim at trial. This Court finds Counsel’s trial strategy imminently reasonable. “Where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992). Counsel testified attacking a deceased victim’s character, when it

was merely used to explain why the Sheriff's Office began a missing person investigation, would certainly have been viewed poorly by a jury. This Court finds Counsel's decision not to attack the victim's school record was sound trial strategy. Therefore, this Court finds Counsel was not deficient for not attacking the victim's school record.

This Court also finds Applicant failed to prove he was prejudiced by the testimony concerning the victim's school record such that there was a reasonable probability the result of the trial would have been different. Silvaggio's and Bradley's testimony concerning the victim's school grades was not material to Applicant's guilt or innocence. The testimony merely served to set the scene for the investigation and show the victim was missing.

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for not objecting to the testimony concerning the victim's school record. This Court also finds Applicant failed to prove Counsel's decision not to cross-examine witnesses concerning the victim's school record prejudiced Applicant such that there was a reasonable probability the result of the trial would have been different. Accordingly, this Court denies and dismisses this allegation.

2. Failure to object to Investigator Silvaggio's testimony on the basis it was victimology.

Applicant asserts Silvaggio's testimony regarding the victim's grades, attendance, and college eligibility was inappropriate victimology. This claim is without merit. Silvaggio was not qualified as an expert witness in the field of victimology nor did he testify as a victimologist. Silvaggio's testimony concerning 'victimology' was only to show the reasoning behind law enforcement's decision on whether to begin a homicide investigation or a missing person investigation. In a reversed opinion, the Court of Appeals found the expert field of victimology was not a scientific area of expertise. "[C]rime scene analysis and victimology are nonscientific areas of expertise." State v. Tapp, 387 S.C. 159, 167, 691 S.E.2d 165, 169 (Ct. App. 2010)

(reversed on other grounds). However, Silvaggio was not qualified as nor purported to be an expert in victimology. Silvaggio's testimony, concerning his investigation into the victim's habits and background, merely served to set the scene for the investigation. The testimony showed why law enforcement believed the victim was dead or under duress instead of missing of her own accord. "I then devised, with law enforcement, a plan as to how to further approach the investigation and further determine whether Ericka Bradley was missing on her own accord or missing under distress or if something had tragically happened to Ericka Bradley." Tr. 162.

Silvaggio's testimony was not expert testimony. Silvaggio's testimony was entirely to explain why the homicide investigation was undertaken by the Sheriff's office. "[A]n out of court statement is not hearsay if it is offered for the limited purpose of explaining why a government investigation was undertaken." State v. Brown, 317 S.C. 55, 63, 451 S.E.2d 888, 894 (1994). This Court finds Silvaggio's testimony concerning his missing persons investigation was appropriate and not objectionable. Therefore, this Court finds Counsel was not deficient for failing to object to Silvaggio's testimony on the basis that it was victimology.

Applicant failed to prove he was prejudiced by the testimony concerning the victim's school record. Silvaggio's testimony concerning the victim's background and school record merely served to set the scene for the investigation and show the victim was missing involuntarily. This Court finds it unreasonable to conclude the jury would have found Applicant not guilty if the victim's school record had been objected to or attacked via cross-examination.

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for not objecting to Silvaggio's testimony on the basis of victimology. This Court also finds Applicant failed to prove Counsel's decision not to object prejudiced Applicant under the Strickland standard. Accordingly, this Court denies and dismisses this allegation.

3. Failure to object to Deputy Johnson's claim there would have been skid marks if car was put in park while travelling 50 mph.

Counsel objected to Deputy Richard Johnson's testimony, concerning potential damage that could have been done to Applicant's car, on the basis that the question called for speculation. Tr. 28, Vol. III. The trial court sustained Counsel's objection. Tr. 28, Vol. III. Before Counsel objected, Johnson opined he would expect skid marks on the road if a car was put into park while travelling 50 mph. Tr. 28, Vol. III. Applicant contends Johnson's opinion he would expect skid marks if a car was put into park while traveling 50 mph was improper and prejudiced Applicant.

Johnson's opinion did not require special knowledge, but rather is common sense. See Estate of Thompson v. Kawasaki Heavy Indus., Ltd., 933 F. Supp. 2d 1111 (N.D. Iowa 2013) (holding a police officer could give lay testimony regarding skid marks on road). "Lay witnesses are permitted to offer opinion testimony when such testimony is rationally related to the witness's perception, does not require special knowledge, and may assist the jury's understanding of the witness's testimony." State v. Blurton, 342 S.C. 500, 509, 537 S.E.2d 291, 296 (Ct. App. 2000) (reversed on other grounds). The Court of Appeal's opinion addressed Silvaggio's testimony on Applicant's direct appeal. No. 2012-UP-550. The Court of Appeals affirmed Applicant's conviction and cited State v. Williams, 321 S.C. 455, 464, 469 S.E.2d 49, 54 (1996) ("A natural inference based on stated facts is not opinion evidence. Where the distinction between fact and opinion is blurred, it is often best to leave the matter to the discretion of the trial judge."). Applicant raised this issue in his direct appeal. This issue was addressed on its merits and affirmed by the Court of Appeals. "Errors in a petitioner's trial which could have been reviewed on appeal may not be asserted for the first time, or reasserted, in post-conviction proceedings." Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975). "Issues that

could have been raised at trial or on direct appeal cannot be asserted in an application for post-conviction relief absent a claim of ineffective assistance of counsel.” Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993). This Court finds this issue was addressed on direct appeal and, therefore, is inappropriate for PCR. This Court also finds Johnson’s testimony was not opinion evidence and was proper lay testimony.

Further, Johnson made the allegedly improper statement while testifying concerning questions he asked Applicant. Tr. 28, Vol. III. Johnson was not testifying for the truth of the matter asserted. Counsel properly objected when Johnson attempted to explain the reasons behind his questions. At the evidentiary hearing, Counsel testified he objected when he believed the officer’s testimony was going too far. Counsel also testified he did not think it necessary to object to every objectionable issue and he believed a jury would view constant objections with disfavor.

This Court finds Applicant also failed to prove Johnson’s testimony was prejudicial. The evidence on which the State’s case rested was the victim’s DNA on the undercarriage of Applicant’s vehicle. Tr. 385-388. The identification of the skeletal and nerve tissue DNA as the victim’s was damning to Applicant’s assertion of innocence. Applicant’s assertion he dropped the victim off and never saw her again was belied by the blood on the undercarriage of his vehicle. The assertion the blood came from his brother running over a dog was debunked by the DNA evidence. This Court finds it unreasonable to conclude the jury would have found Applicant not guilty if Johnson’s question to Applicant concerning skid marks had been objected to and excluded.

Accordingly, this Court finds this issue was addressed on direct appeal and, therefore, is inappropriate for PCR. This Court also finds Applicant failed to prove Counsel was deficient for

not objecting to Johnson's testimony concerning the lack of skid marks. This Court also finds Applicant failed to prove Johnson's testimony concerning the lack of skid marks was so prejudicial that there was a reasonable probability the result of the trial would have been different had it been curtailed. Accordingly, this Court denies and dismisses this allegation.

4. Failure to object to James Hutto's testimony concerning Applicant's brother's car.

Deputy James Hutto's testimony was relevant and appropriate circumstantial evidence in the State's case. Applicant alleges Counsel should have objected to Hutto's testimony on the basis it was not relevant. Hutto testified he stopped Applicant's brother on a routine traffic stop. He testified Applicant's brother was nervous and the backseat of his vehicle was missing. Several days before the brother's court appearance for the traffic ticket, he had the still-functional vehicle destroyed in a car compacter. Counsel objected to Hutto's testimony on multiple occasions when he attempted to testify concerning hearsay statements of Applicant's brother. Tr. 257-258, Vol II. The State presented Hutto's testimony concerning his personal experiences and observations. The State used that circumstantial evidence to present a factual theory of how the victim's body was disposed to the jury. Tr. 420-421, Vol. III. This Court finds the evidence was relevant and proper for the jury's consideration. Counsel properly argued the jury should give it very little weight and consideration. This Court finds any objection by Counsel would have been overruled. Therefore, this Court finds Counsel was not deficient for failing to object.

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for failing to object. This Court also finds Applicant failed to prove he was prejudiced by Hutto's testimony such that there was a reasonable probability the result of the trial would have been different. Accordingly, this Court denies and dismisses this allegation.

5. Failure to object to the chain of custody based on the lack of timeliness by which the State produced it.

The State produced a certified SLED chain of custody to Counsel. Tr. 30, Vol. I. Counsel made a pre-trial motion to suppress the DNA evidence based on the chain of custody. Tr. 28-29, Vol. I. Counsel also extensively objected to the SLED reports, based on the chain of custody. Tr. 117, 120, 165-166, Vol. III. This Court finds Counsel appropriately objected to the chain of custody where he had a valid reason to do so. This Court finds Counsel adequately objected and defended his client where he thought there were weaknesses in the chain of custody. Counsel's arguments against the chain of custody were cogent and specific. Tr. 30-31, Vol. I.

This Court also finds Counsel had sufficient time to review the chain of custody after the State produced the document. Counsel testified he had enough time to review the document and felt prepared. The testimony elicited by a witness for a chain of custody witness is uncomplicated. "[W]e have consistently held that the chain of custody need be established only as far as practicable, and we reiterate that every person handling the evidence need not be identified in all cases... The ultimate goal of chain of custody requirements is simply to ensure that the item is what it is purported to be." State v. Hatcher, 392 S.C. 86, 95, 708 S.E.2d 750, 755 (2011). "Although it is the obligation of the prosecution to establish the chain of custody, this does not mean that everyone who laid hands on the evidence must be called. Indeed, gaps in the chain of custody normally go to the weight of the evidence rather than its admissibility." State v. Brockmeyer, 406 S.C. 324, 341, 751 S.E.2d 645, 654 (2013) (internal cites omitted).

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for failing to object to the chain of custody on the basis of timeliness. Accordingly, this Court denies and dismisses this allegation.

6. Failure to object to testimony regarding Jessica Bradley's conversation with Tony Parker on the basis of hearsay.

Counsel objected to Jessica Bradley's conversation with Tony Parker on the basis that it was hearsay. Tr. 154, Vol. III. Therefore, Applicant's allegation Counsel should have objected on the basis of hearsay is without merit. The trial court overruled Counsel's objection and stated the statements were not hearsay because they did not allege the truth of the matter asserted. Tr. 154, Vol. III. Therefore, Applicant could have raised this issue on direct appeal. "Issues that could have been raised at trial or on direct appeal cannot be asserted in an application for post-conviction relief absent a claim of ineffective assistance of counsel." Drayton v. Evatt, 312 S.C. at 9, 430 S.E.2d at 520. This Court finds Counsel properly objected and, therefore, Applicant could have raised this ground on direct appeal. Therefore, this issue is not proper for PCR review.

Counsel properly objected. Therefore, Counsel's actions were not deficient. After the trial court overruled Counsel's objection, Counsel thoroughly cross-examined Bradley concerning the statements. Tr. 156-159, Vol. III. This Court finds further objections by Counsel would have been futile because the trial court had already ruled on the issue. After objecting, he appropriately cross-examined Bradley on the conversation and called her credibility into question. Tr. 156-159.

Further, Applicant failed to prove he was prejudiced by the conversation between Bradley and Parker. The conversation was merely one piece of additional circumstantial evidence. This Court finds it unreasonable to conclude the jury would have found Applicant not guilty if the conversation between Bradley and Parker had been suppressed. Therefore, this Court finds Applicant has failed to show how the conversation prejudiced him under the Strickland standard.

This Court finds Counsel properly objected and preserved this issue for direct appeal. Accordingly, this issue is not appropriate for PCR and must be dismissed. Further, Applicant failed to prove Counsel was deficient. This Court also finds Applicant failed to prove he was prejudiced by the conversation such that there was a reasonable probability the result of the trial would have been different. Accordingly, this Court denies and dismisses this allegation.

7. Failure to have the testimony of Dr. Michael Ward held in camera and failure to object to his testimony, which was outside his area of expertise.

This Court finds Dr. Michael Ward's testimony was proper and within the bounds of his qualification as an expert in forensic pathology. Tr. 181, Vol. III. This allegation is without merit. This Court also finds Dr. Ward's reliance on the documents of other experts was proper in forming his own opinions. Tr. 191, Vol. III. Applicant alleges Counsel should have objected to Dr. Ward's testimony as outside his area of expertise. "[A]n expert witness may state an opinion based on facts not within his firsthand knowledge.... He may base his opinion on information, whether or not admissible, made available to him before the hearing if the information is of the type reasonably relied upon in the field to make opinions." Dawkins v. Fields, 354 S.C. 58, 64-65, 580 S.E.2d 433, 436 (2003). Further, Counsel extensively cross-examined Dr. Ward and attempted to discredit his knowledge of Applicant's case. Tr. 187-195, Vol. III. Dr. Ward testified he had been qualified as an expert witness in forensic pathology well over a hundred times. Tr. 181, Vol. III. Therefore, this Court finds Applicant failed to prove Counsel's decision not to object to Dr. Ward's testimony was unreasonable under professional norms.

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for failing to object to Dr. Ward's testimony. Accordingly, this Court denies and dismisses this allegation.

8. Failure to object to Madoree Pipkins' testimony regarding the jewelry on the basis of relevancy.

It was properly the jury's providence to determine the weight of the jewelry as evidence of Applicant's guilt. "[I]f the evidence is admissible under Rule 702, SCRE, the trial judge should determine if its probative value is outweighed by its prejudicial effect. Rule 403, SCRE. Once the evidence is admitted under these standards, the jury may give it such weight as it deems appropriate." State v. Council, 335 S.C. 1, 20-21, 515 S.E.2d 508, 518 (1999).

Madoree Pipkins' testified concerning conversations she had with Applicant while he was in jail. Tr. 259, Vol. III. Applicant told her to go and retrieve jewelry that was hidden in a flower pot. Tr. 259, Vol. III. He told her to clean the jewelry off and take it to California with her and never tell anyone about it. Tr. 259, Vol. III. Pipkins went to the described location, but claimed she was never able to find the jewelry. Tr. 246, Vol. III. When she was unable to find the jewelry she told Applicant and Applicant told her to go back and try again. Tr. 246, Vol. III. The State used the jewelry to present a factual theory that Applicant actively attempted to conceal evidence. Tr. 424, Vol. III. The State introduced pictures of victim wearing jewelry. Tr. 361, Vol. III. The State made arguments regarding the evidential value of the jewelry, as circumstantial evidence. Counsel argued the evidentiary weight of the jewelry was minimal because the State's link between the jewelry and the victim was tenuous. Tr. 408, Vol. III. Further, Applicant testified at trial and explained his version of where the jewelry originated. Tr. 361-363, Vol. III. At the evidentiary hearing, Counsel testified he told Applicant not to speak with anyone, other than Counsel, on the phone. Counsel testified the phone calls sounded very suspicious, but he believed the jail calls were admissible. This Court agrees with Counsel's assessment the jail calls were admissible.

Per the introduced audiotape, Applicant was fully aware his jail calls were being recorded and could be used against him. Tr. 259, Vol. III. This Court agrees the jail calls were statements against Applicant's own interest under Rule 804(b)(3). This Court finds the State's presentation of the jewelry as circumstantial evidence was not more prejudicial than probative under a Rule 403 analysis. Therefore, this Court finds Counsel was not deficient for failing to object to the admissible conversations between himself and Pipkins.

Applicant failed to prove he was prejudiced by Pipkins' testimony. Pipkins' testimony was merely one piece of additional circumstantial evidence. Further, Applicant provided an explanation for the jewelry during his testimony. Tr. 361-363, Vol. III. This Court finds it unreasonable to conclude the jury would not have found Applicant guilty without Pipkins' testimony. Therefore, this Court finds Applicant has failed to show how the introduction of Pipkins' conversation prejudiced Applicant under the Strickland standard.

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for not objecting to Pipkins testimony as a witness. This Court also finds Applicant failed to prove he was prejudiced by Pipkins' testimony such that there was a reasonable probability the result of the trial would have been different. Accordingly, this Court denies and dismisses this allegation.

9. Failure to call Applicant's parents as witnesses.

Applicant asserts Counsel should have called his parents as witnesses to testify Applicant did not have blood on his clothes when he arrived home. At the evidentiary hearing, Applicant's mother testified he came home around 1 a.m. the night the murder took place. She also testified she did not see blood on his clothing. She testified she was willing to testify at trial if Counsel thought he needed her. Applicant's mother's testimony did not account for Applicant's whereabouts at the time of the murder. Therefore, she was unable to provide Applicant with an

alibi. Applicant's father did not testify at the evidentiary hearing. "The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." State v. Glover, 318 S.C. 496, 498–499, 458 S.E.2d 538, 540. Therefore, this Court finds any prejudice derived from Counsel's failure to call Applicant's father as a witness is purely speculative.

Counsel testified he spoke with Applicant and his mother extensively about whether she should testify. Counsel testified Applicant did not want his mother called to testify and his mother did not wish to testify. This Court finds Applicant's mother's testimony that Applicant did not have blood on his clothes the night of the murder would have been insignificant. Exculpatory testimony from a defendant's own mother lacks credibility. Further, the State asserted Applicant ran the victim over with a car, which would not have caused Applicant's clothes to become bloodied. Therefore, Counsel was not deficient for choosing not to call Applicant's mother where neither he nor his mother wished for her to testify and her testimony was not pivotal to Applicant's case. Applicant has also failed to prove his mother's testimony could have reasonably changed the result of the trial.

Accordingly, this Court finds Applicant failed to prove Counsel was deficient for failing to call Applicant's mother as a witness. This Court also finds Applicant failed to prove he was prejudiced by her failure to testify under the Strickland standard. Accordingly, this Court denies and dismisses this allegation.

VI. CONCLUSION

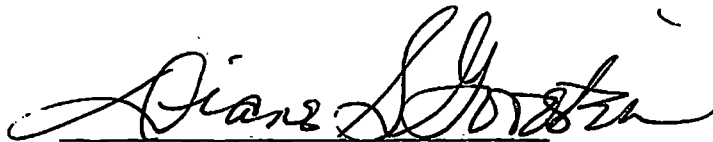
Based on the foregoing, this Court finds and concludes Applicant, Derek Maner, has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty 30 days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 1991, Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1g, SCRCR, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 25 day of September, 2017.



DIANE S. GOODSTEIN
Presiding Judge
14th Judicial Circuit

St. George, South Carolina

FORM 5

STATE OF SOUTH CAROLINA)

County of Allendale)Derek Maner #333244)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2018-CP-03-165

APPLICATION FOR

POST-CONVICTION RELIEF

ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

2018 AUG 27 AM 9:15

FILED FOR RECORD

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional, South Carolina
2. Name and location of Court which imposed sentence Allendale County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) _____
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) February 12, 2009 Life Sentence
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Ruling was affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. October 10, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Appeal - 2013-CP-03-0159
- ii. PCR Order of Dismissal - 2013-CP-03-0159
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) My attorney failed to timely appeal the
 (b) order of dismissal from my PCR
 (c) hearing dated October 26th 2017
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) My PCR hearing was held on 6-9-2017
 (b) An Order of Dismissal was signed on 10-26-17
 (c) My attorney failed to Appeal.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
 (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. An Appeal from my original conviction
 ii. A PCR for my original conviction
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. Court of Appeals; Appeal from Allendale County
 ii. Court of Common Pleas; County of Allendale
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. Denied
- ii. Dismissal
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. October 10, 2012
- ii. October 26, 2017
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. 2013-CP-03-0159
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Attorney for Defendant failed to file a timely Appeal after
 (b) my PCR was Dismissed.
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Byron Gibson : 130 Centre Street, Orangeburg SC 29115
 ii. Robert M. Dardick : 1330 Lady street Suite 401, Columbia
S.C. 29201
 iii. Deborah Butcher : 509 Walnut street, Camden
S.C. 29020
 (b) the proceedings at which each such attorney represented you:
 i. Arraignment, trial, sentencing
 ii. Appeal
 iii. PCR

19. State clearly the relief you seek in filing this application:

I wish to file an Appeal for the Dismissal
of my Post Conviction Relief hearing case #
out of time due to my attorney's failure to

20. Are you now under sentence from any other court that you have not challenged? timely do so.
NO

STATE OF SOUTH CAROLINA)

County of Allendale)

VERIFICATION

I, Derek Laron Mamer, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Derek Mamer

SWORN to and subscribed before me this 30th
 day of May, 2018.

[Signature] (L.S.)
 Notary Public

My Commission Expires: 6-16-20

EXHIBIT

2

FILED FOR RECORD

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

JUN 22 AM 10:04

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Derek Maner, #333244,

ELAINE SAYS
CLERK OF COURT
ALLENDALE COUNTY, S.C.

2018-CP-03-0165

Applicant,

v.

State of South Carolina,

Respondent.

CONSENT ORDER
GRANTING BELATED
REVIEW PURSUANT TO
AUSTIN V. STATE¹

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 27, 2018. Applicant is represented by Deborah J. Butcher, Esquire. Respondent is represented by Assistant Attorney General Christian Saville of the South Carolina Attorney General's Office.

#1
PMB

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Allendale County Clerk of Court. Applicant was indicted at the August 2008 term of the Allendale County Grand Jury for murder (2008-GS-03-0135). Applicant proceeded to trial before the Honorable Michael G. Nettles and was found guilty on February 12, 2009. Byron E. Gipson, Esquire, represented Applicant. Judge Nettles sentenced Applicant to life imprisonment for murder.

Applicant filed a timely notice of appeal. His appeal was perfected by Susan Hackett, Esquire, of the Office of Appellate Defense. Applicant's conviction and sentence were affirmed

¹ Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

by the Court of Appeals. State v. Maner, 2012-UP-550 (Ct. App. filed October 10, 2012). The remittitur was issued on October 28, 2012.

2013-CP-03-0159

Applicant filed his first application for post-conviction relief on September 12, 2013, in which he alleged the following grounds for relief:

1. Ineffective Assistance of Trial Counsel

- a. Failure to object to testimony the victim was a good student, had no problems at school, and was suitable for college;
- b. Failure to object to Investigator Silvaggio's testimony on the basis it was victimology;
- c. Failure to object to Deputy Johnson's claim there would have been skid marks if car was put in park while traveling 50 mph;
- d. Failure to object to testimony concerning Derek Maner's brother's car by James Hutton;
- e. Failure to object to chain of custody for DNA reports on grounds State did not produce the chain in a timely manner;
- f. Failure to object to testimony regarding Jessica Bradley's conversation with Tony Carter on the basis of hearsay;
- g. Failure to have expert testimony of Dr. Michael Ward held in camera and failure to object to his testimony which was outside his area of expertise;
- h. Failure to object to testimony of Madoree Pipkins regarding jewelry on the basis of relevancy;
- i. Failure to call Applicant's mother as a witness.

#2
P.B.

An evidentiary hearing into the matter was convened on June 9, 2017, at the Beaufort County Courthouse before the Honorable Diane Schafer Goodstein. Applicant was present at the hearing and represented by Deborah J. Butcher, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent. Judge Goodstein denied and dismissed Applicant's application with prejudice by an order filed on October 11, 2017. As evidenced by the attached affidavit from Ms. Butcher, Ms. Butcher's office received the order on October 31, 2017, but the order was not placed before Ms. Butcher. On December 6, 2017, Ms. Butcher received an email from Tristan Shaffer, Esquire, who was previously relieved, about the order of dismissal. Ms. Butcher called the Court and was informed Ms. Shaffer was actually still

the attorney of record and Ms. Butcher could not file an appeal on behalf of the Applicant. According to Ms. Butcher's affidavit, she assured the Applicant they would file an appeal from his PCR dismissal and he did not waive his right to do so.

II. ALLEGATIONS

In his second and current PCR application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "My attorney failed to timely appeal the order of dismissal from my PCR hearing dated October 26, 2017."

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

#3
Rmb
Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application because his prior PCR counsel, Deborah J. Butcher, Esquire, did not timely file his appeal. This allegation is corroborated by the attached affidavits from Ms. Butcher and Mr. Shaffer explaining the failure to timely appeal from the order of dismissal. Pursuant to Austin v. State, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of his prior application.

Respondent consents to allow Applicant a belated review of the denial of his PCR application (2013-CP-03-0159). In light of the information provided to this court and the attached affidavit, this Court finds that Applicant did not knowingly and voluntarily waive his right to appeal his first PCR application. Accordingly, this Court grants Applicant a belated review of the denial of post-conviction relief pursuant to Austin v. State, in which he may raise on appeal any issues that were raised and ruled upon in his prior application. In order to secure this review, however, Applicant must appeal from this Order.

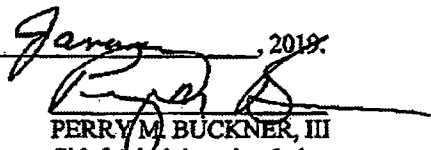
IV. CONCLUSION

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992) and Rule 243 of the South Carolina Appellate Court Rules for the appropriate procedures for filing a belated appeal.

IT IS THEREFORE ORDERED:

1. That Applicant be granted an appeal of case 2013-CP-03-0159 pursuant to Austin v. State;
2. That all other PCR allegations are waived and dismissed with prejudice;
3. That Applicant remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 15th day of January, 2019.


PERRY M. BUCKNER, III
Chief Administrative Judge
Fourteenth Judicial Circuit

Walterboro, South Carolina

FILED FOR RECORD

STATE OF SOUTH CAROLINA JAN 22 AM 10:04 ON THE COURT OF COMMON PLEAS
 COUNTY OF ALLENDALE FOURTEENTH JUDICIAL CIRCUIT

Derek Maner, #333244,

CLERK OF COURT
 ALLENDALE COUNTY, SC.

2018-CP-03-0165

Applicant,

v.

State of South Carolina,

Respondent.

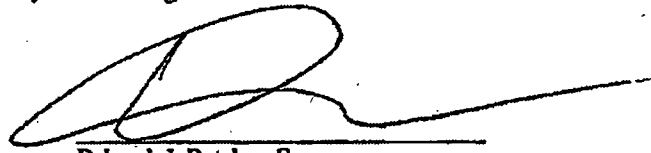
SIGNATURE PAGE OF
 CONSENT ORDER
 GRANTING BELATED
 REVIEW PURSUANT TO
AUSTIN V. STATE¹

The consent of both parties to the grant of belated review pursuant to Austin v. State, 305

S.C. 453, 409 S.E.2d 395 (1991) is confirmed by the below signatures:



Christian Saville, Esq.
 Counsel for Respondent



Deborah J. Butcher, Esq.
 Counsel for Applicant

¹ Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).