

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

RICKY ANTHONY SHORT,

APPELLANT

APPELLATE CASE NO 2018-000782

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Court of Appeals

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THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

PRE-TRIAL HEARING EXHIBIT'S:

**COURT'S EXHIBIT NO. 1 (CD), COURT'S EXHIBIT NO. 2 (CD), STATE'S EXHIBIT
NO. 2 (CD)**

TRIAL EXHIBIT'S:

**STATE'S EXHIBIT NO. 13 (CD), DEFENSE EXHIBIT NO. 13 (CD), STATE'S EXHIBIT
NOS. 1-21 (PHOTOS), STATE'S EXHIBIT NOS. 23-28 (PHOTOS), STATE'S EXHIBIT
NOS. 32-48 (PHOTOS), STATE'S EXHIBIT NOS. 50-57 (PHOTOS), STATE'S EXHIBIT
NOS. 72-76 (PHOTOS), STATE'S EXHIBIT NO. 30 (DISK OF STATEMENT)**

1 MR. SHAHID: Thank you, that's all I have on
2 cross.

3 THE COURT: Any redirect?

4 MR. WETMORE: Yes, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. WETMORE:

7 Q Detective Riedel, I want to go through a couple of
8 things about that Mr. Shahid had asked you about. You
9 told us that you over time came to believe that the
10 Defendant was more of a suspect?

11 A Correct.

12 Q But you did not advise him that you were starting
13 to consider him to be a suspect?

14 A I did not.

15 Q You read him all of his Miranda rights?

16 A Yes.

17 Q And was the setting in the room pretty intense at
18 that point?

19 A The setting really hadn't changed much from the
20 way it was before that, no.

21 Q But he understood he's -- he was receiving his
22 Miranda rights?

23 A Yes, he did.

24 Q But you did not advise him that he was becoming a
25 suspect in your mind?

1 A I did not.

2 Q Okay. Are you required to do that?

3 A I am not.

4 Q In fact, isn't it true that detectives often use
5 deception?

6 A Yes. It is one tactic of interviewing,
7 successfully interviewing.

8 Q And you're not bound to always be completely
9 forthright with a suspect; are you?

10 A No, we're not.

11 Q In fact, would it jeopardize your investigation if
12 you gave him all the background where you were in your
13 investigation?

14 MR. SHAHID: Objection.

15 THE COURT: Basis?

16 MR. SHAHID: Leading, Your Honor.

17 THE COURT: Sustained. Rephrase.

18 Q Would it jeopardize your investigation if he knew
19 everything that you had in your head?

20 A Yes.

21 Q So it's common that detectives use deception in
22 dealing with suspects of a violent crime?

23 A It's common practice amongst police work for
24 deception to be used in interviews and interrogation.

25 Q Whether you like it or not, it's common; is that

1 correct?

2 A Yes.

3 Q Also, sometimes detectives get loud; is that
4 correct?

5 MR. SHAHID: Objection. Leading.

6 THE COURT: Basis? Please rephrase. Sustained.

7 Q Sometimes in these interviews do the detectives
8 get loud with the suspects?

9 A Yes. Our delivery or method of speaking with
10 someone may change to see if -- elicit a response.

11 Q And knowing you and hearing from you today, you're
12 a pretty soft-spoken guy?

13 A Most days.

14 Q If you raised your voice, or when you raised your
15 voice with the Defendant, were you trying to get some
16 information from him?

17 A I was.

18 MR. SHAHID: Leading, Your Honor.

19 THE COURT: Please rephrase. Sustained.

20 Q You stated it's common to sometimes raise your
21 voice in an interview with a suspect of a violent
22 crime. Did you do that in this case?

23 A I did.

24 Q Why did you do that?

25 A I was trying to elicit a response or deliver the

1 importance of my message at that point.

2 Q You didn't advise him that you were coming to
3 believe he was a suspect, you didn't share that with
4 him?

5 A I did not.

6 Q And you don't have to; do you?

7 A I am not required to.

8 Q Okay. He wasn't actually being arrested and
9 charged at that time; was he?

10 A He was not.

11 MR. SHAHID: Leading, Your Honor.

12 THE COURT: Sustained, leading.

13 Q Was he being arrested and charged at that time?

14 A No.

15 Q All right. Falling along with the line of
16 questioning from Mr. Shahid, you met with an Hispanic
17 witness, and that shaped your investigation for what
18 description?

19 A For a black male with a black jacket.

20 Q A black male, black jacket. Did you jump to
21 conclusions and say it's got to be Ricky short?

22 A I did not.

23 Q Did you give, in fact, Mr. Short the benefit of
24 the doubt initially?

25 MR. SHAHID: Objection. Leading, Your Honor.

1 THE COURT: Sustained, leading. Rephrase.

2 Q Did you give Mr. Short the benefit of the doubt
3 initially and treat him as a witness and not as a
4 suspect?

5 A I did.

6 Q And Mr. Shahid asked you about the length of time
7 that Defendant was in the interview room. Was he
8 questioned the whole time, or was he given frequent
9 breaks?

10 A There were several periods of downtime ranging
11 from a few minutes to maybe 30 minutes or greater.

12 Q And you've listed today basically two sets of his
13 statements, one made at 4:30 and one made at 6:30?

14 A Yes.

15 Q And at 4:30, did you ask him about his abrasions
16 on his face?

17 A He was asked about those at 4:30, yes.

18 Q And at 4:30, did you ask him about the cuts on his
19 hand?

20 A I did.

21 Q And we've heard your -- we've heard his statement.
22 And then, at about 6:30, did he give you a more
23 detailed account of what happened leading up to the
24 incident?

25 A Yes. There was more detail than previous.

1 Q And it was at 6:30, when he told you about giving
2 the jacket to a homeless person?

3 A Correct.

4 Q Black Old Navy jacket?

5 A Yes.

6 Q All this information, all these statements are
7 coming from the Defendant?

8 A From the Defendant, yes.

9 Q And you didn't know, obviously, didn't know what
10 happened; did you?

11 A I did not know. I was not there. I was trying to
12 get the most complete picture that I could.

13 Q And these statements are all coming from him?

14 A Yes.

15 Q Correct?

16 MR. WETMORE: Court's indulgence.

17 THE COURT: Yes, sir.

18 Q Detective, you indicated that you did not fully
19 believe the Defendant's statements; is that correct?

20 A That is correct.

21 Q And did that play a role in the length of time it
22 took to question him?

23 A It did. Drawing out more details or information
24 generally takes a while to perform correctly.

25 Q So is it common that it takes a while to get

1 information?

2 A Yes.

3 MR. SHAHID: Objection, leading, Your Honor.

4 THE COURT: Sustained, leading.

5 Q Do interviews often take time to get the
6 information?

7 A They often last an extensive period, yes.

8 MR. WETMORE: Thank you. Nothing further.

9 THE COURT: Any objection to the witness being
10 excused from the State?

11 MR. WETMORE: No, Your Honor.

12 THE COURT: From the Defense?

13 MR. SHAHID: No, Your Honor.

14 THE COURT: Sir, you're excused.

15 THE WITNESS: Thank you, ma'am.

16 THE COURT: You're welcome.

17 (Witness excused.)

18 THE COURT: Madam Forelady and ladies and
19 gentlemen, your lunch has arrived. We're going to
20 break for lunch. We're going to break for an hour. I
21 have 1:02, so I hate to split a hair, but we'll resume
22 at 2:02.

23 We'll follow the same procedure that we did on
24 yesterday. You're free to eat your lunch and walk
25 around if you'd like, just promptly return to your jury

1 2:16 p.m.)

2 THE COURT: Is the State ready to proceed?

3 MR. WETMORE: Yes, Your Honor.

4 THE COURT: Defense ready?

5 MR. SHAHID: Yes, Your Honor.

6 THE COURT: Who is your next witness?

7 MR. WETMORE: Angela Johnson.

8 (WHEREUPON, the jury came into open court at
9 approximately 2:17 p.m.)

10 THE BAILIFF: All present, Your Honor.

11 THE COURT: Thank you, ladies and gentlemen, you
12 may be seated. I hope you had a good lunch. We're now
13 going to resume testimony.

14 Mr. Wetmore, you may proceed.

15 MR. WETMORE: Thank you, judge.

16 THE COURT: You're welcome.

17 MR. WETMORE: The State calls Captain Angela
18 Johnson.

19 THE COURT: The witness will come forward to be
20 sworn.

21 ANGELA JOHNSON, after being duly sworn, testified
22 as follows:

23 THE CLERK: Please have a seat and state your full
24 name and spell your last.

25 THE WITNESS: Angela Johnson, J-O-H-N-S-O-N.

1 THE COURT: You may proceed.

2 MR. WETMORE: Thank you.

3 DIRECT EXAMINATION

4 BY MR. WETMORE:

5 Q Captain Johnson, how long you been with North
6 Charleston?

7 A 22 years.

8 Q And back in 2015, what were your duties and
9 responsibilities?

10 A I was a lieutenant over the detective bureau.

11 Q So you're the supervisor; correct?

12 A Yes, sir.

13 Q Briefly your training and experience for the jury,
14 please.

15 A I've worked at North Charleston for my entire law
16 enforcement career. I have different training in
17 investigation, internal investigations, internal
18 affairs investigations, and I've been assigned to
19 detective as a sergeant as white collar -- in white
20 collar and a lieutenant over the investigations.

21 Q Okay. And were you on duty in a supervisory
22 capacity on late October 10th, 2015?

23 A I was the call-out supervisor on that date.

24 Q Okay. And did you become involved in the case
25 against the Defendant?

1 A Yes, sir, I did.

2 Q How did that take place?

3 A I received a call and advised that we had had an
4 incident in the area of Railroad Avenue. And I
5 responded to that area from my home.

6 Q Okay. What were your additional observations at
7 the crime scene?

8 A There was lots of blood that went from one corner
9 of Railroad down the street into what I believe was the
10 driveway.

11 Q Okay. If you would, just hop up real quick and
12 show the jury what you're talking about on this,
13 State's No. 2. This would be Railroad and...

14 A We have Emden Street.

15 Q This is Emden right here (indicating).

16 A Okay. Yes. I believe that it started at the
17 corner and went down, and then like, I mean, went down
18 Railroad.

19 Q This is Railroad Avenue right here (indicating).
20 So where did you see the --

21 A Oh, this is Railroad, okay.

22 Q Yes, ma'am.

23 A This is Emden (indicating)?

24 Q That's correct.

25 A And went from Emden down Railroad.

1 Q Okay. And where -- was the victim still there
2 when you arrived?

3 A No. No, sir.

4 Q She had already been transported --

5 A Yes, sir.

6 Q -- EMS? Is there anything else that you want to
7 show the jury on the map about your observations of the
8 crime scene that sticks out to you? What did you do
9 when you got to the crime scene?

10 A I stayed there until crime scene and the rest of
11 the police officers had cleared the scene.

12 Q Okay.

13 A And afterwards we started to search --

14 Q Okay.

15 A -- the area.

16 Q Show them what area, then, that you searched.
17 Again, that's Railroad. And this is over here and down
18 here (indicating).

19 A The area I particularly searched, I believe it was
20 like this area right in here (indicating).

21 Q Okay.

22 A So there was like an abandoned trailer, I believe.
23 Like when you walked through the yard, there may have
24 been another abandoned trailer in there. And that's
25 the area that I particularly searched.

1 Q Okay. And that night it was still dark out?

2 A Yes, sir.

3 Q All right. Please sit down, I'm sorry.

4 A Okay.

5 Q Did you have any contact with the Defendant, Ricky
6 Short?

7 A I had contact with him on later in the morning of
8 October 11th, around 6:30.

9 Q Okay. But no other contact at the scene?

10 A No, sir.

11 Q Okay. It's your understanding the Defendant was
12 taken -- was he taken to the police station?

13 A Yes, he was taken.

14 Q And was he put in an interview room?

15 A Yes, sir.

16 Q Okay. Did you enter the room with the Defendant
17 about 6:30 in the morning?

18 A Yes, sir.

19 Q Who were you with?

20 A I was with Detective Riedel.

21 Q Riedel. And did you or Detective Riedel offer the
22 Defendant any kind of food, drink, any sort of comforts
23 like that?

24 A Yes, sir. Immediately when I walked in the room,
25 I asked him if he needed anything to drink or eat.

1 Q Okay. And can you describe what you recall of his
2 appearance, what did he look like, what was his dress?

3 A He only had on pants, he didn't have on a shirt.

4 Q Did you notice anything else about him, anything
5 that stood out to you?

6 A He didn't seem upset. Knowing what had took place
7 and what had happened, he didn't seem upset to me.

8 Q And when you go there 6:30, has he already been
9 given his constitutional rights pursuant to Miranda?

10 A Yes, sir. I was advised by the previous
11 detectives that he had been given his constitutional
12 rights.

13 Q Okay. And did he waive those rights and speak
14 with you about 6:30 in the morning?

15 A Yes, sir.

16 Q Describe to me in as much detail as you can what
17 he said to you, Detective Riedel, about 6:30 that
18 morning.

19 A Well, it was the first time that I had interviewed
20 him, so I requested that he start from the beginning
21 and asked him what he had done all day. He said that
22 himself and Malakia had, I believe, went to Park
23 Circle, and they were intimate in the car. And after
24 they left Park Circle, they went to Wal-Mart and then
25 back to his house. And they realized that they didn't

1 have some medication.

2 So they left the house and got their son's
3 medication, came back, and they sat in the car. And in
4 the car they got into a heated argument where she was
5 cursing him back and forth. And he began to curse her.
6 So at that point in time she got out of the car, and
7 she walked down the street.

8 Q Okay. Now, any idea, did he tell you what this
9 argument was about?

10 A He said that she had seen a number on his phone,
11 and I asked if someone had called him at that point in
12 time. He said no. It was earlier in the day that she
13 saw the number and started to question him about it.
14 And I was asking him to tell me step by step what
15 transpired in the car. He said that it was just
16 yelling at each other, and they were cursing and
17 calling each other names.

18 Q Okay. And you mentioned that she left. Did she
19 leave on foot or?

20 A Yes. She got out of the car and walked from
21 his -- from where they were parked down to Railroad
22 Avenue.

23 Q Okay. And do you know where Defendant's house,
24 residence, at the time was?

25 A Yes. It was on Harper Street.

1 Q Okay. If I can just get you to -- well, we'll get
2 back to that in just a second. So she left on foot; is
3 that what you were told?

4 A Yes, sir.

5 Q Okay. What did he tell you he did at that point?

6 A He said that he went back into his residence. And
7 then when he came back outside, she was -- she was back
8 outside. And then the argument continued.

9 Q So he said she left on foot?

10 A Um-hum.

11 Q He told you that he went inside the house?

12 A Right.

13 Q Then did he tell you he came back out, and she was
14 already there?

15 A Right, she was back outside.

16 Q What did he tell you happened this time?

17 A The argument continued. She got upset again and
18 she walked off again. At some point in time he decided
19 that he was going to follow her. And as he approached
20 the stop sign at Railroad he heard a scream. So he
21 started running down the street because he saw
22 someone -- some people around someone on the ground.

23 Q So in this second round of the argument, did he
24 mention any sort of physical contact, physical
25 altercation with the victim?

1 A At this point in the interview, he didn't mention
2 any physical altercation with the victim. Later on he
3 had said while we were interviewing that she had struck
4 him with some keys.

5 Q Okay.

6 A And that's when I pointed out the fact that I
7 asked him, you know, I asked you to tell me exactly
8 what happened in the car, you said it was just cursing.
9 But when I pointed out that he had a -- you know, what
10 happened to his face, he said that she had struck him
11 with some keys while they were in the car earlier.

12 Q So he explained the abrasions on his face?

13 A Right.

14 Q He got struck by keys. And that happened when she
15 had come back to the car?

16 A Yes.

17 Q All right. And so he told you that she left on
18 foot again?

19 A Yes, sir.

20 Q Okay. Show us on here exactly what he said, if
21 you don't mind, please. Show us exactly what the
22 Defendant told you happened after this second round of
23 the argument. Is this where his home is?

24 A Yes.

25 Q Okay.

1 A On Harper Street.

2 Q What did he say?

3 A He said as he approached the corner of Harper and
4 Railroad, that is where he heard the scream. So he
5 started running down Railroad and observed a group of
6 people around someone on the ground.

7 Q Okay. And so did he tell you which way the victim
8 left on foot?

9 A Yes, sir. He said that she went down Railroad
10 towards the store on Myers (phonetic).

11 Q Okay. Did he say that he followed her?

12 A Not immediately. He didn't follow her
13 immediately.

14 Q Okay. What did he say he did when she left on
15 foot?

16 A He said he waited, and then he decided that he was
17 going to go get her. So when he approached the corner,
18 that's when he heard the scream.

19 Q So he told you that he waited, and then he went to
20 go get her. And he heard someone else attack her?

21 A Right. He said he saw someone, people around her
22 on the ground. And later in the interview he told us
23 that he saw someone run away from the scene.

24 Q Please, detective, sit back down.

25 A Okay.

1 Q Now, so that's pretty much exactly what he told
2 you, what the Defendant told you?

3 A Right.

4 Q And as an investigator, did you believe that?

5 A No. My question to him was if he hears her scream
6 and the minute he sees a lot of people around her on
7 the ground, if it was -- I told him that if it was my
8 loved one, if it was my boyfriend or my husband, the
9 first thing I would say was, what happened.

10 And then I would ask the people around, did you do
11 this, did you do this. He never asked -- he never said
12 he asked what happened. He said that he wanted to find
13 the address so he could get an ambulance to her and
14 just talk to her. And I'm like, to me it doesn't make
15 sense. The cuts on your hands don't make sense, the
16 fact that you didn't care about what happened --

17 MR. SHAHID: Objection, Your Honor.

18 THE COURT: Basis?

19 MR. SHAHID: It's irrelevant.

20 THE COURT: Please approach.

21 (WHEREUPON, the following was held in the presence
22 of the jury but out of the hearing of the jury:

23 THE COURT: For what purpose is this testimony
24 being offered?

25 MR. WETMORE: Judge, I don't know what she's

1 getting ready to say, to be honest with you. She's
2 kind of taken off.

3 MR. SHAHID: Yeah, me too. You know, but this is
4 not --

5 THE COURT: So maybe you need to move on to the
6 next question.

7 MR. WETMORE: That's fine.

8 THE COURT: Do you want to withdraw the question,
9 or you just want to...

10 MR. WETMORE: Let's just have her stop right
11 there.

12 THE COURT: Okay.

13 (End of bench conference.)

14 THE COURT: Ask your next question.

15 MR. WETMORE: Okay.

16 Q All right. Now, I want to go back to clothing or
17 lack of clothing that the Defendant was wearing. Was
18 he dressed appropriately for the day and time and all
19 that?

20 A No, sir. And that's when I noticed that, you
21 know, I thought about the day. I had worked 12 hours
22 off duty, and during that time it had rained. I mean,
23 it poured down raining, had drizzled. It was somewhat
24 cold.

25 Q Okay.

1 A And I felt -- I was like, where is your clothes?
2 He's like, well, I changed them when she left because
3 my shoes hurt my feet, so I went in the house and I
4 changed my shoes.

5 And then I asked him, I said, well, what kind of
6 shirt did you have on. He said, I had on a white
7 shirt. I asked him if it was short sleeve or long
8 sleeve. And he said, it was short sleeve. And I was
9 like, what happened to it. He told me that he had
10 placed it under her head.

11 And I asked him, okay, what about a jacket, you
12 didn't have a jacket. He's like, well, I own a first
13 down jacket. I said, well, a first down jacket is a
14 little too big for this -- you know, this type of
15 weather. So I asked him if he owned a lighter jacket.
16 He said he did. And I asked him what he meant by what
17 he did.

18 And he stated that he had given his jacket to a
19 homeless guy like two weeks or a few weeks before, a
20 guy that he had met at the bus stop who asked for \$5,
21 and said that he -- for some coffee because he was
22 cold. So he said that he just gave the guy his jacket.

23 And I was like, well, can you describe the jacket
24 to me. He's said -- he said, it was a black Old Navy
25 jacket that he gave to the Defendant. It didn't cost

1 much so he just -- I mean, gave to the homeless guy.

2 It didn't cost much, so he just gave it to him.

3 Q Okay. So he was able to specifically describe the
4 jacket as black?

5 A Yes, sir.

6 Q And it's the Old Navy brand?

7 A Yes, sir.

8 Q What about this homeless person, was he able to
9 describe who this was?

10 A He described -- he couldn't tell me the person's
11 name. He described him as being a -- I believe a black
12 male on a bicycle that -- like in his fifties, maybe
13 shorter than him, but a little heavier than what he
14 was.

15 Q But he didn't have any detailed information about
16 this homeless person?

17 A No, sir.

18 Q Detective, as you were investigating this case,
19 did you believe that story?

20 A I did not. I felt like I knew at that point what
21 exactly we were looking for. From what the witnesses
22 said that the suspect had on and what he said, it just
23 didn't make any sense to me.

24 Q When did he tell you that he gave his black Old
25 Navy jacket to a homeless person, what time of day did

1 he say it was?

2 A I believe 6 o'clock he was getting off work and
3 met him at the bus stop.

4 Q No, no, I'm talking about what time of the
5 interview, about what time of day did he tell you that
6 he gave his black leather jacket to the homeless guy?

7 A It had to be after 6:30 when I had entered the
8 room, so it was early morning on the 11th.

9 Q Do you know when the black Old Navy jacket was
10 actually found on the scene, do you know what time that
11 was --

12 A A couple of hours later, I believe.

13 Q So the Defendant is telling you about this black
14 Old Navy jacket before it's actually found?

15 A Right. What I did was somewhere in the interview
16 I left out the room, and I sent out an e-mail to our
17 day shift supervisor requesting that because it was
18 dark when we searched the area, if they could be a
19 fresh set of eyes during the day and try to locate
20 clothing, item of clothing, and a knife.

21 Q Okay. And were they able to actually find them?

22 A Yes, sir, they did.

23 Q What was the Defendant's demeanor when he was
24 talking with you at 6:30 that morning; was he upset or
25 was he sad or mad or anything like that?

1 A He was, I would say, upset. But it didn't seem to
2 me like what happened had really bothered him. I know
3 that people grieve differently, but he just wasn't
4 reacting like a person who had just lost a loved one
5 would.

6 Q And at that point did he know that Malakia had
7 died?

8 A Yes, sir, he did.

9 Q And at that point the status of the child that
10 they shared, the baby?

11 A She was in critical condition.

12 Q All right. So you mentioned that you asked the
13 other officers to search for specifically the black
14 jacket?

15 A Yes, sir.

16 Q Did you do -- do you remember exactly what you
17 said in the request?

18 A I believe that I asked him to search the 1900
19 block of Emden, Fuller, Graham, Parker Street, up in
20 that area, because from what we were figuring that he
21 did the act and made a big circle. So he couldn't have
22 gone too far because he was right back by the time the
23 witness had gotten there.

24 Q And so were you made aware when they had found the
25 black jacket and white shirt in the night?

1 A Yes, sir. And I responded to the scene.

2 Q You responded to the scene?

3 A Yes, sir.

4 Q Okay. And was the jacket they found the one that
5 the Defendant had described to you?

6 A Yes, sir, it was.

7 Q And was it black?

8 A It was black.

9 Q Was it Old Navy?

10 A It was Old Navy.

11 Q While you were out away from the interview room,
12 did you also speak with the Defendant's mother?

13 A Yes, I did.

14 Q Did you confront her with the evidence that was
15 found?

16 A Yes, sir. I asked her that what he was wearing
17 that night. And she told me --

18 MR. SHAHID: Objection, Your Honor.

19 THE COURT: Basis?

20 MR. SHAHID: It's hearsay.

21 THE COURT: Please approach.

22 (WHEREUPON, the following was held in the presence
23 of the jury but out of the hearing of the jury:

24 THE COURT: For what purpose are you eliciting
25 testimony, and is there an exception?

1 MR. WETMORE: I am going to ask her how the
2 conversation with the mother shaped their
3 investigation.

4 THE COURT: You can ask her what she did as a
5 result of the conversations with his mother.

6 MR. WETMORE: Okay.

7 (End of bench conference.)

8 THE COURT: Sustained, hearsay.

9 Q So you did -- did you say that you did or did not
10 confront the mother with the evidence that you found?

11 A I did.

12 Q Okay. So you actually showed her the jacket and
13 the knife?

14 A Yes, sir, I did.

15 Q As a result of that interaction with the
16 Defendant's own mother, how did that shape your
17 investigation, what did you do next?

18 A I advised the detectives that they needed to sign
19 warrants for the Defendant.

20 Q Sign warrants for the Defendant?

21 A To get warrants for the Defendant.

22 Q He needed to be arrested?

23 A He needed to be arrested.

24 Q Based on your conversation with his own mother?

25 A Yes. For murder and attempted murder at that

1 time.

2 Q All right. So did you ever come back and meet
3 with the Defendant again in the interview room?

4 A Yes, sir. I believe it was around 11:30.

5 Q Okay. And who was in the interview room at that
6 time?

7 A It was just myself and the Defendant.

8 Q And did you confront the Defendant with the
9 evidence that y'all had found?

10 A Yes, sir. I asked him if the detectives had told
11 him what we found. He said that they did. I explained
12 to him that he was going to be charged with murder and
13 attempted murder. And he said he understood that. I
14 asked him, you know -- I told him that he never -- it
15 didn't appear that he was even sorry for what had taken
16 place. And at that time he said that he doesn't -- he
17 didn't remember exactly what happened.

18 But it was the only time that he ever really said
19 that he was sorry. And he said that he was sorry for
20 what had transpired that night, and he was sorry for
21 Malakia ever getting involved with him. And I asked
22 him, you know, what could I tell Ms. Patricia, you
23 know, he said that it didn't really matter. And I
24 said, but she asked why, she wanted to know why. And
25 he said that he couldn't tell her why but just that he

1 was sorry for what had happened the night before.

2 Q And Ms. Patricia is who?

3 A Malakia's mother.

4 Q Malakia's mother, the victim's mother?

5 A Yes.

6 Q So did the Defendant make comments to you that
7 caused you to believe that he was, in fact, the one
8 that had stabbed Malakia?

9 A Yes, sir. He didn't seem that he was shocked that
10 he was being charged with the charges.

11 Q Um-hum.

12 A And he just kept saying that he was sorry, he
13 couldn't remember, you know. But then I pointed out
14 that you can remember that Malakia said this, that, but
15 you can't remember, you know, how this happened, how he
16 ended up on top of her. And he said that he couldn't
17 remember.

18 Q Were there any other comments that you can
19 remember that he said that caused you to become
20 confident that he's the one that did it, any more
21 comments of his that you can remember?

22 A Not at this time.

23 Q Okay.

24 A Not...

25 Q But this interaction was recorded; correct?

1 A Yes, sir.

2 Q All right. I got to ask you a few questions to
3 make sure that the jury can tell that these statements
4 were made voluntarily by Defendant. And this goes to
5 all of the encounters that you had with him that day,
6 6:30 in the morning and 11 in the morning. All of
7 those statements took place at the interview room?

8 A Yes, sir.

9 Q And was he under the influence of alcohol or
10 drugs?

11 A No, sir.

12 Q Any mental, physical disability that would keep
13 him from making a voluntary statement?

14 A No, sir.

15 Q Now, was he given ample opportunity for food and
16 water and bathroom?

17 A Yes, sir. I believe every transaction I --
18 interaction I had with him, I asked him before and
19 after whether or not he needed something to drink or
20 something to eat.

21 Q Sure. And did you threaten him at all?

22 A No, sir.

23 Q Did you give him any kind of promises in exchange
24 for his statement?

25 A No, sir.

1 Q You mentioned that he was -- already had been read
2 his Miranda rights?

3 A Yes.

4 Q And did his questions -- I'm sorry, did your
5 questions, were they met with reasonable answers from
6 him, not that you necessarily agreed with them, but did
7 he appear to be having a meaningful conversation?

8 A Yes.

9 Q Was he so emotional that he wasn't able to make a
10 voluntary statement?

11 A No, sir.

12 MR. SHAHID: Objection, leading, Your Honor.

13 THE COURT: Sustained, leading. Rephrase.

14 Q Was he too emotional to give a statement to you?

15 A No, sir.

16 Q And to the best of your knowledge, did the
17 Defendant give you a set of free and voluntary
18 statements?

19 A Yes, sir.

20 Q You said it was recorded; correct?

21 A Yes, sir.

22 MR. WETMORE: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 Q This is showing you State's No. 30. Can you

1 identify this?

2 A It's Ricky Short interview clip four, and my
3 initial is in the right side of the disc.

4 Q Okay. And have you taken a look at that clip?

5 A Yes, sir, I have.

6 Q And does it fairly and accurately portray the last
7 conversation you had with the Defendant?

8 A Yes, sir.

9 MR. WETMORE: Your Honor, I would like to admit
10 State's No. 30 and publish it in the screen.

11 THE COURT: Proceed. I believe 30 has already
12 been admitted. It's already been admitted without
13 objection.

14 MR. WETMORE: It has, okay. Thank you, judge.

15 Q Now, this is about a 30-minute conversation,
16 detective?

17 A Yes, sir.

18 Q Okay.

19 MR. WETMORE: Judge, do you want to change the
20 lighting at all, or just keep going?

21 THE COURT: We'll judge that based on the
22 proceeding.

23 MR. WETMORE: All right.

24 (WHEREUPON, the video was played at approximately
25 2:46 p.m.)

1 Q Detective Johnson, there is a brief portion that's
2 muted, okay. Then it picks back up.

3 A Okay.

4 (WHEREUPON, the video was played at approximately
5 3:11 p.m.)

6 Q Detective Johnson, I know it's hard, you couldn't
7 hear every word. It actually sounds a little bit
8 better with simpler speakers than this complicated
9 stereo. Did he say he didn't remember what happened?

10 A Yes, sir.

11 Q Did he say he was sorry for what had happened?

12 A Yes, sir.

13 Q Did he say he was sorry that the victim ever got
14 involved with him?

15 A Yes, sir.

16 MR. SHAHID: Your Honor, he is leading.

17 THE COURT: Sustained. Leading.

18 Q You talked to him about forgiveness; what did he
19 say about that?

20 A He said that, you know, sorry wouldn't really make
21 a difference. I can't take it back, he said that.
22 When I asked him if it was -- if he felt like tonight's
23 events -- tonight's events was his fault, he said that
24 he was pretty sure that it was his fault, that it was
25 all his fault. I believe that's what he said.

1 Q Okay. I thought I heard something about
2 forgiveness; did you remember anything about that? If
3 you don't, that's fine.

4 A I remember when I told him that, you know, the
5 only thing that he could do is ask God and his family
6 and Malakia's family to forgive him for what happened.

7 Q Did you talk to him about mistakes?

8 A I said that everyone makes mistakes. And what he
9 did was a mistake, he can't take it back. He can ask
10 God for forgiveness, but you couldn't change it. It
11 was already done.

12 Q Did he mention anything about an argument they
13 were involved in?

14 A Said the argument was stupid, it was senseless.
15 He didn't know why. It was petty. He didn't know why
16 things happened the way they did.

17 Q Did he indicate that it was his fault?

18 A Yes, sir. He said that it was his fault. Well,
19 he was pretty sure that everything that had happened at
20 tonight's events was his fault, all his fault.

21 Q Did he advise that the victim stormed off?

22 A Yes, sir.

23 Q And did he say he followed her?

24 A He said he followed her, but he can't remember
25 anything that -- he couldn't remember anything after .

1 that, after he -- he was just walking down the street.

2 Q Did you ask him about being on top of the victim?

3 A Yes.

4 Q What did he say to that?

5 A He said he didn't know, he didn't remember how he
6 got on top of the victim.

7 Q Did he indicate that he was struck by the victim
8 with the keys?

9 A Yes, sir. He said that that happened earlier that
10 night when they were in the car.

11 Q What did he have for -- what did he have in
12 response to your question, what should I tell the
13 victim's mother?

14 A He said, tell Ms. Patricia I'm sorry, I don't know
15 why she got involved with someone like me. He was
16 sorry for both of their families. But he doesn't know
17 why it happened.

18 Q Did it seem to bother him that he had no
19 explanation for what happened?

20 MR. SHAHID: Objection to what Mr. --

21 THE COURT: You can stand and address the Court.
22 I didn't hear the basis of your objection.

23 MR. SHAHID: Mr. Wetmore is testifying --

24 THE COURT: Please approach.

25 (WHEREUPON, the following was held in the presence

1 of the jury but out of the hearing of the jury:

2 THE COURT: The video speaks for itself.

3 MR. WETMORE: Yes, ma'am.

4 THE COURT: It's poor quality, that's on them.

5 But she doesn't get to go back and annotate everything
6 that was said; okay?

7 MR. WETMORE: Okay.

8 (End of bench conference.)

9 THE COURT: The objection is sustained. Proceed.

10 Q Captain Johnson, I'm sorry you can't hear every
11 single word. But hopefully they can listen to it in
12 the jury room.

13 MR. WETMORE: Thank you. I have no further
14 questions.

15 THE COURT: Any questions for the witness?

16 MR. SHAHID: Yes, ma'am.

17 THE COURT: You may proceed. Before we start,
18 Mr. Shahid, you all have been sitting over an hour;
19 does anyone need a restroom break? If so, raise your
20 hand for me. Y'all want to just stand up right quick,
21 get your blood moving. I'm going to do it with you.

22 (Discussion off the record.)

23 THE COURT: When you're ready, you can sit down.
24 And then you can proceed with your cross-examination,
25 Mr. Shahid.

1 MR. SHAHID: Thank you, judge.

2 CROSS-EXAMINATION

3 BY MR. SHAHID:

4 Q Captain Johnson, you were a lieutenant back then
5 at the time of this interview; is that correct?

6 A Yes, sir.

7 Q And you were the lead or the most highest ranking
8 officer at this time on the investigation?

9 A Yes, sir.

10 Q Okay. And before what we saw on that videotape,
11 you had also been in the room with another detective --

12 A Right.

13 Q -- around about two hours before this; is that
14 correct?

15 A It was more like four hours before, four or five
16 hours before, around 6:30.

17 Q 6:30, I'm sorry. More around 6:30?

18 A Yes, sir.

19 Q So when you saw Mr. Short around 6:30 that early
20 morning, during that conversation he was wearing blue
21 jeans and no shirt; is that correct?

22 A Yes, sir.

23 Q I want to hand you Exhibit No. 11 and ask you if
24 this is what he was wearing at the time of your
25 interview at 6:30.

1 A Yes, sir.

2 Q This is Exhibit No. 11, detective?

3 A Yes, sir.

4 Q Okay. And the shoes he has on, would you describe
5 the shoes he has on, please.

6 A They are like, I guess, what you would call duck
7 boots, kind of.

8 Q Okay. And that's what he had on at the time of
9 your initial interview with him around 6:30 that
10 morning?

11 A Yes, sir.

12 Q And were you aware, detective, that those boots
13 were taken into evidence?

14 A Yes, sir.

15 Q I want to hand you, see if you can identify
16 Defendant's Exhibits No. 2 and No. 3. Do those look
17 like the same boots he had on reflected in Exhibit
18 No. 11?

19 A Yes, sir.

20 MR. SHAHID: Move two and three into evidence,
21 judge.

22 THE COURT: Any objection?

23 MR. WETMORE: Can I see them real quick? No
24 objection, Your Honor.

25 THE COURT: Marked and admitted without objection,

1 Defendant's-2 and 3.

2 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were
3 admitted in evidence.)

4 Q Detective, looking at Exhibit No. 2, do you see
5 any blood on the sole of Exhibit No. 2?

6 A I couldn't tell you whether there is blood. I
7 mean, there's darker spots on the shoes, but I couldn't
8 say whether or not it's blood or not.

9 Q On the sole of his shoes?

10 A Well, like there is a darker spot down here. I
11 don't know exactly what that could be.

12 Q Could be dirt?

13 A Could be anything in the picture.

14 Q And the same for Exhibit No. 3?

15 A Yes, sir.

16 Q Now, those shoes were not sent off to be examined;
17 were they?

18 A I am not sure, sir.

19 Q Detective, the tape we just saw and heard, that
20 was made contemporaneous with the interview?

21 A Yes, sir.

22 Q In other words, while you were in the room with
23 him, that recording, wherever the camera is located, is
24 picking up the sites and sounds of that interview?

25 A Yes, sir.

1 Q Okay. And there is not a transcript of that
2 interview; is there?

3 A Not that I know of.

4 Q Okay. You didn't do anything to cause a
5 transcript to be made of that interview; did you?

6 A No, sir.

7 Q And you would agree with me, won't you, detective,
8 that what is heard on that, what the recording reflects
9 is more accurate than your memory?

10 A Yes, sir.

11 Q And at the time that you are -- have interviewed
12 him for the last time, which started around
13 11:30-ish --

14 A Yes, sir.

15 Q -- that morning, Mr. Short had been in the custody
16 or control of North Charleston Police Department for at
17 that point almost 12 hours?

18 A Yes, sir.

19 Q Okay. This was the end of almost a 12-hour
20 process?

21 A Yes, sir.

22 Q You did not -- you did a report about this, your
23 investigation. And that report was done three months
24 after the investigation was over; is that right?

25 A I don't agree with that.

1 Q Ma'am?

2 A I don't agree with that.

3 Q Three months after back in January of 2016?

4 A The initial report was done by me probably that
5 night, and I may have made supplements to it. If it
6 wasn't added into the system, it was at least done on
7 Word and cut and pasted later. But I did not start the
8 initial report three months prior [sic].

9 Q Do you recognize this as your report, detective,
10 dated 1/11/2016?

11 A Yes, sir. And our system sometimes overwrites the
12 original date and time.

13 Q But that is -- according to your system, that is
14 showing as January 11, 2016, three months --

15 A Yes, sir.

16 Q -- three months after the incident?

17 A Yes, sir.

18 Q Three months after that interview?

19 A Yes, sir.

20 Q Okay. And as the supervising officer, you did not
21 require Officer Riedel to prepare a written report?

22 A Yes, he does.

23 Q He was required to do one?

24 A He should have done a supplemental report to the
25 incident.

1 Q Okay. You had an opportunity, as I remember,
2 detective, that Mrs. Frazier's automobile -- if you
3 want to come down, I'm sorry. On Exhibit No. --
4 State's Exhibit No. 2, there is a pin here that shows
5 Mr. Short's residence at Harper Street; is that
6 correct?

7 A Um-hum.

8 Q And across the street was an automobile that
9 Ms. Frazier had; is that correct?

10 A Yes, sir.

11 Q And that was parked across the street right here
12 (indicating)?

13 A Yes, sir.

14 Q And so you had an opportunity, as I understand,
15 detective, to go check out that car; is that correct?

16 A Yes, sir.

17 Q All right. And as far as you know, that car
18 operated properly?

19 A As far as I know, it operated properly.

20 Q Okay.

21 THE COURT: Y'all might want to switch places.
22 It's easier for the -- yeah, so she talks toward the
23 court reporter.

24 MR. SHAHID: Okay.

25 THE COURT: Thank you.

1 Q So, and there was nothing unusual about the car
2 when you went in there?

3 A No, sir.

4 Q Okay. Did you also go to the Short residence and
5 go inside the residence?

6 A I didn't go inside the residence.

7 Q All right. Did you do any measurements,
8 detective, from this location to the corner of Railroad
9 and Harper Street?

10 A I did not.

11 Q Did you do any measurements from the Shorts'
12 residence to the corner of Emden and Railroad Street?

13 A No, sir.

14 Q Did you do any measurements from the location at
15 [REDACTED] Railroad to the Short residence?

16 A No, sir.

17 Q Or from [REDACTED] to [REDACTED] Railroad?

18 A No, sir.

19 Q Do you know if anybody else did?

20 A I don't know if anyone else did.

21 Q I'm sorry?

22 A I don't know if anyone else did.

23 Q Thank you, ma'am. Thank you. When -- and I can't
24 remember at what point, either in the -- I'm going to
25 call it the first and second interview -- in the first

1 or second interview, Mr. Short told you that after the
2 second argument that Ms. Frazier got out of the car and
3 walked off; is that correct?

4 A Um-hum.

5 Q Okay.

6 THE COURT: If you could say yes or no.

7 THE WITNESS: Yes, sir. I'm sorry.

8 THE COURT: Thank you. That's okay.

9 Q Then at a point in time, he decided to go in the
10 same direction she had left; is that correct?

11 A Yes, sir.

12 Q Okay. And he mentioned to you that at the corner
13 of -- at a corner of Railroad and Harper is where he
14 heard --

15 A A scream or yelling.

16 Q -- a scream or something?

17 A Yes.

18 Q That drew his attention?

19 A Yes.

20 Q Okay. And that happened several minutes after she
21 left?

22 A According to him.

23 Q Okay. And he didn't give a specific timeframe, it
24 could have been 10, 15 or 20 minutes after she left?

25 A It wouldn't make sense for it to be ten minutes if

1 she's walking right down the street.

2 Q You don't know exactly how long after she left
3 that he walked to that corner and heard that scream or
4 that noise?

5 A I don't.

6 Q At some point in time, Mr. Short told you that he
7 and Ms. Frazier had gone to Wal-Mart?

8 A Yes, sir.

9 Q Okay. And did the police obtain a video of
10 Mr. Short and Ms. Frazier at Wal-Mart?

11 A Yes, sir, I believe they did.

12 Q Did you review those?

13 A I didn't review the video.

14 Q Do you know at any point in time reviewing if
15 there was any indication that Mr. Short was wearing a
16 dark or a black or a blue Old Navy jacket in those
17 videos?

18 A I didn't view the videos.

19 Q Okay. And another question asked by Mr. Wetmore.
20 You said that when he got to the area where Ms. Frazier
21 was on the ground, he wanted to call the ambulance, he
22 wanted an address to call the ambulance?

23 A Yes, sir, that's what he said.

24 MR. SHAHID: Excuse me just one second, judge.

25 THE COURT: Um-hum.

1 Q Detective, have you seen a person in shock?

2 A Yes, sir.

3 Q Okay. And their demeanor changes when they're in
4 shock; doesn't it?

5 A From person to person it can.

6 Q So everybody handles trauma news differently?

7 A Yes, sir.

8 Q Okay. Now, prior to October the 10th, October
9 the 11th, you had not interacted with Mr. Short before;
10 had you?

11 A Not directly, no, sir.

12 Q Okay. And so you do not know what kind of
13 demeanor he had under any kind of circumstance; did
14 you?

15 A I don't.

16 MR. SHAHID: Thank you, detective. That's all the
17 questions I have.

18 THE COURT: Any redirect?

19 MR. WETMORE: Just a couple, judge.

20 THE COURT: You may proceed.

21 MR. WETMORE: Thank you.

22 THE COURT: You're welcome.

23 REDIRECT EXAMINATION

24 BY MR. WETMORE:

25 Q Captain Johnson, Mr. Shahid asked you about a long

1 time that Defendant was detained. Was he given
2 frequent breaks?

3 A Yes, sir. He was -- there was quite a few times
4 where a detective would leave the room for long periods
5 of time.

6 Q So it wasn't all interrogation?

7 A No, sir.

8 Q Were you at all concerned that Defendant had just
9 been worn down into the ground?

10 MR. SHAHID: I'm sorry, I can't hear the question.

11 THE COURT: We couldn't hear your question, Mr.
12 Wetmore, would you repeat it.

13 Q Were you at all concerned that this Defendant had
14 just been worn down due to the length of time?

15 A No, sir. We had been out for the same amount of
16 time. In fact, I worked that day prior for 12 hours,
17 and as soon as I got home and got relaxed I got called
18 out. So I was out for 24 hours.

19 Q So you had been up every bit as long as the
20 Defendant had and not longer?

21 A Yes, sir.

22 MR. SHAHID: Objection, Your Honor.

23 THE COURT: Basis?

24 MR. SHAHID: He does not know how long the
25 Defendant had been up.

1 THE COURT: Avoid the characterization, ask a
2 direct question, thank you. The objection is
3 sustained.

4 Q All right. So detective, Mr. Shahid questioned
5 the promptness of your report writing. When did you
6 first create the report in this case?

7 A I remember doing a report that night. Sometimes I
8 cut and past it from one place to another, but I
9 remember doing a report that night. The initial -- I
10 may have added something to it months later, but the
11 initial report was done that night, from what I can
12 remember.

13 Q And if you add something, does it change the time
14 stamp on the top?

15 A Yes, sir.

16 Q So based on your report, when is the last time
17 that you updated this report?

18 A January 11th, I believe it was, 2016.

19 Q But it was begun when this happened?

20 A I initially wrote it on October the 11th, I
21 believe it would be.

22 Q Also, the Defendant told you after the second
23 round of the argument that the victim struck him with
24 the keys; is that right?

25 A Yes, sir.

1 Q Okay. And did he tell you that she left on foot?

2 A Yes, sir.

3 Q Did he give you any indication of how long he
4 waited before following her?

5 A To me it seemed like just a few seconds. It made
6 sense that it's no longer than a minute because she had
7 reached Emden Street, which is just four blocks away.

8 Q So it's your understanding of the statement that
9 he followed behind her promptly?

10 A Shortly after she had left.

11 MR. WETMORE: I have nothing further. Thank you.

12 THE COURT: Any objection to the witness being
13 excused from the State?

14 MR. WETMORE: No, Your Honor.

15 THE COURT: From the Defense?

16 MR. SHAHID: No, ma'am.

17 THE COURT: Ma'am, you're excused.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 THE COURT: Does anyone need a break before we
21 resume the next witness? Call your next witness.

22 MR. WETMORE: State calls Ruben Serrudo.

23 (Discussion off the record.)

24 RUBEN SERRUDO, after being duly sworn, testified
25 as follows:

1 THE CLERK: Have a seat and state your name
2 spelling your last name.

3 THE WITNESS: My name is Ruben Serrudo,
4 S-E-R-R-U-D-O.

5 THE COURT: You may proceed.

6 MR. WETMORE: Thank you, judge.

7 THE COURT: You're welcome.

8 DIRECT EXAMINATION

9 BY MR. WETMORE:

10 Q Mr. Serrudo, now, you're no longer with the
11 Charleston Police Department; are you?

12 A No, sir.

13 Q I might call you Detective Serrudo because I'm
14 used to doing that. But what do you do now?

15 A I am in construction.

16 Q Okay. And how long did you work in law
17 enforcement before construction?

18 A About six years.

19 Q And was that whole time working in Charleston?

20 A Yes, sir.

21 Q Back in October of 2015, what were your job
22 duties?

23 A I was an investigator with the police department.

24 Q Okay. And did you become involved in this case
25 against Ricky Short?

1 A Yes, sir, I was.

2 Q Did you respond to the crime scene?

3 A Yes, sir, I did.

4 Q Okay. Did you later respond to MUSC?

5 A Yes, sir, I did.

6 Q Why did do you that?

7 A I was actually -- I initially responded to MUSC, I
8 was asked to by my sergeant at the time.

9 Q Okay. So first you went to MUSC?

10 A Yes, sir.

11 Q All right. And so why were you there?

12 A In reference to a stabbing.

13 Q Okay. What information were you looking for?

14 A I was trying to make contact with the victim at
15 the time and any family members that were possibly on
16 the scene.

17 Q Okay. At the arrival did you learn the status of
18 the victim, Malakia Frazier?

19 A Yes, sir. I was advised that she had deceased --
20 she was deceased.

21 Q And at your arrival, what did you learn about her
22 child?

23 A That she was removed in emergency operation, and
24 she was taken to the intensive care unit.

25 Q At the time you arrived, that child was still

1 hanging on for life?

2 A Yes, sir.

3 Q At MUSC were you able to meet with the victim's
4 family members?

5 A Yes, sir.

6 Q How did that meeting direct your investigation?

7 A It was a little rough to gather information since
8 everybody was so distraught.

9 Q Sure.

10 A But I was notified of some boyfriends that the
11 victim had had. And I was given those names and
12 advised to make contact with them further.

13 Q Okay. And were you able to clear them from
14 anything to do with this?

15 MR. SHAHID: Objection, Your Honor.

16 THE WITNESS: Yes, sir.

17 THE COURT: Basis?

18 MR. SHAHID: Relevancy.

19 THE COURT: Please approach.

20 (WHEREUPON, the following was held off the record
21 in the presence of the jury but out of the hearing
22 of the jury:

23 THE COURT: If it is your theory that someone else
24 did it and your client didn't, they can anticipate your
25 defense because they can do that in their direct

1 examination. So if it is your posture that somebody
2 else did it, they can elicit testimony from other folk
3 that they're investigating and they're able to clear.
4 They don't have to wait for you to bring it up, they
5 can anticipate what you're going to do and address it.

6 MR. SHAHID: Okay.

7 THE COURT: And I assume that's why you did that?

8 MR. WETMORE: Yes, ma'am. Judge, he just cleared
9 it, another boyfriend, and that's it.

10 MR. SHAHID: We haven't raised that at all.

11 THE COURT: But you said some -- you're implying
12 someone else did it. And the natural suspects --

13 MR. SHAHID: Maybe in --

14 THE COURT: Well, natural suspects you'd look at
15 would be another man she was involved with who could
16 possibly have been jealous. I mean, it's within the
17 realm of possibility. I don't have a problem with the
18 line of testimony.

19 MR. WETMORE: Okay.

20 (End of bench conference.)

21 THE COURT: Objection is overruled.

22 Q Mr. Serrudo, were you able to clear this other
23 individual who had nothing to do with this incident?

24 A Correct. I was initially given information that
25 he had made contact with the victim. And turned out it

1 was a misunderstanding as far as him having contact at
2 all.

3 Q And was the family aware that the Defendant was in
4 custody?

5 A I couldn't tell you at the time. I don't believe
6 so just because they never responded to the hospital.
7 But I couldn't tell you.

8 Q After MUSC, did you return to the police station?

9 A I'm not sure if I went there directly. I was
10 pulled around a couple places between the police
11 station and the scene. Don't know if I went directly
12 back to the station.

13 Q Okay. Well, at some point did you make it back to
14 the station?

15 A Yes, sir.

16 Q And did you have contact with Detective Bailey who
17 was the lead detective in this case?

18 A Yes, sir.

19 Q Did you assist him in working on this case?

20 A Yes, sir, I did.

21 Q Did you work with Detective Bailey and other
22 detectives to create a search warrant to collect the
23 Defendant's DNA?

24 A Yes, sir.

25 Q Where did you get the information to put into that

1 search warrant?

2 A From some direct knowledge from Detective Bailey
3 and some other officers that briefed me on what they
4 were doing.

5 Q Anything in the search warrant was from your
6 personal knowledge?

7 A Yes, sir.

8 Q Okay. And did you compile this information into
9 the search warrant?

10 A Yes, sir.

11 MR. WETMORE: Your Honor, may I approach?

12 THE COURT: You may.

13 Q Detective, do you have a copy of the search
14 warrant?

15 A Sir?

16 Q Do you have a copy of that, sir?

17 A No, no, sir.

18 Q Would it help your memory to see a copy of the
19 search warrant?

20 A Yes, sir.

21 Q Would you take a look at that and see if that
22 helps with your testimony.

23 A Yes, sir.

24 Q All right. So in the search warrant did you
25 specifically describe what evidence you were looking to

1 find?

2 A Yes, sir, I did.

3 Q And what were you looking to find?

4 A As I described, it would probably be collected as
5 a buccal swab from the inside of suspect Ricky Anthony
6 Short's mouth. And I also describe him as being a
7 black man, date of birth of [REDACTED], and his
8 height of approximately 5 feet, 10 inches. We're
9 looking for a DNA comparison using a buccal swab.

10 Q Okay. So you're looking to collect a buccal swab?

11 A Yes, sir.

12 Q And it was to be collected from the Defendant?

13 A Correct.

14 Q And the purpose was for comparison?

15 A Correct.

16 Q And in that search warrant, do you specifically
17 state your probable cause or your rationale for the
18 search?

19 A Yes, sir.

20 Q And that is a compilation of everyone that worked
21 on this case?

22 A Correct.

23 COURT REPORTER: Excuse me, judge.

24 (Discussion off the record.)

25 THE COURT: Thank you very much. Ladies and

1 gentlemen, as you can tell, we have a few technical
2 issues. We're going to take advantage of that and take
3 a brief comfort break. During the break please do not
4 discuss the case, and please leave your notepads in
5 your seats. We'll resume as soon as we get this worked
6 out.

7 (WHEREUPON, the jury exited the courtroom at
8 3:51 p.m.)

9 (WHEREUPON, a brief recess was taken at
10 approximately 3:51 p.m.)

11 THE COURT: You may be seated. All right, State
12 ready to proceed?

13 MR. WETMORE: Yes, Your Honor.

14 THE COURT: Defense ready to proceed?

15 MR. SHAHID: Yes, ma'am.

16 THE COURT: Madam court reporter, you good?

17 COURT REPORTER: Yes, judge. Thank you.

18 THE COURT: All right. Jurors should be right
19 behind you.

20 BAILIFF: Ready?

21 THE COURT: Yes, sir, go ahead.

22 (WHEREUPON, the jury came into open court at
23 approximately 4:04 p.m.)

24 THE COURT: Ladies and gentlemen, if you would
25 give us your attention, Mr. Wetmore, you may proceed.

1 MR. WETMORE: Thank you.

2 THE COURT: You're welcome. I need to have order,
3 please, there's too much noise. Thank you. You may
4 proceed.

5 Q So, Mr. Serrudo, did you put your probable cause,
6 your rationale for the search in the search warrant?

7 A Yes, sir.

8 Q And that was a compilation of everybody?

9 A Correct.

10 Q At the police department. And what did you intend
11 to do, how did you intend to collect the buccal swab?

12 A I'm sorry?

13 Q How did you intend to collect the buccal swab?

14 A Oh, the buccal swab, it's a sterile Q-Tip that we
15 use. And we swabbed it inside the cheek of the
16 Defendant.

17 Q Okay. And is there any other way to collect that
18 evidence that's less intrusive?

19 A Less intrusive, no, sir.

20 Q Did you believe that important evidence would be
21 found by collecting DNA?

22 A Yes, sir, I did.

23 Q And does the seriousness of the case play into the
24 decision to take a sample?

25 A Absolutely.

1 Q All right. So, did you take that search warrant
2 to a judge and ask for permission to do this swab to
3 collect this defense DNA?

4 A Yes, sir, I did.

5 Q Okay. Do you remember which judge you went to?

6 A Judge Kelly Young.

7 Q Okay. And she was nearby?

8 A Correct.

9 Q Where was she; do you remember?

10 A She was -- I believe it was bond court on Leeds
11 Avenue.

12 Q Okay. And after you presented your search
13 warrant, did she authorize you to do the search?

14 A Yes, sir, she did.

15 Q She authorized you to do the swab in his mouth?

16 A Correct.

17 Q Did she sign off on the search warrant authorizing
18 it?

19 A Yes, sir, she did.

20 Q Okay. And exactly what day and time did she
21 authorize you to search the swab?

22 A October 11th, 2015 at 11:43 a.m.

23 Q 11:43 a.m.?

24 A Yes, sir.

25 Q Okay. And did you immediately go and do the swab

1 or the collection?

2 A Yes, sir.

3 Q Where did you do it?

4 A At North Charleston City Hall in the interview
5 room.

6 Q Right there in the interview room --

7 A Correct.

8 Q -- that we just saw?

9 A Correct.

10 Q And exactly what did you do to the Defendant?

11 A When I walked into the room with the search
12 warrant, presented him with the search warrant, I then
13 opened the package with the sterile swab and I -- with
14 my latex gloves on, I swabbed the inside cheeks of his
15 cheek, excuse me. And I then put the swab back in its
16 container, and that was that.

17 Q Okay. Exactly what day and time did you do it?

18 A This was at 1 p.m. on the 11th, 2015, October.

19 Q So just over an hour after you got --

20 A Correct.

21 Q -- authorization? Was his health, safety,
22 anything at all compromised?

23 A Not at all.

24 Q Was the intrusion as minimal as you could be?

25 A Yes, it was.

1 MR. WETMORE: If I may approach, Your Honor?

2 THE COURT: You may.

3 Q I want to show you what's been marked as State's
4 No. 31. Can you identify this piece of evidence.

5 A Yes, sir. This is the packaging containing the
6 buccal swab that I swabbed from the Defendant.

7 Q Okay.

8 MR. WETMORE: At this point judge, I would like to
9 admit No. 31.

10 THE COURT: Any exception --

11 MR. SHAHID: May I just see it for a second,
12 please?

13 THE COURT: Please show it to counsel. You can
14 approach the witness to look at it, Mr. Shahid.

15 MR. SHAHID: Okay, no objection.

16 THE COURT: Any objection?

17 MR. SHAHID: No, ma'am.

18 THE COURT: Marked and admitted without objection.
19 (WHEREUPON, State's Exhibit No. 31 was admitted in
20 evidence.)

21 Q So in that packaging, is that the actual swab that
22 you took from inside of the Defendant's mouth?

23 A Yes, sir.

24 Q And what did you do with that evidence after you
25 collected it?

1 A It was transferred over to the crime scene officer
2 on.

3 Q Did you take any further steps of any significance
4 into investigating this case?

5 A None that I could think of.

6 MR. WETMORE: Nothing further.

7 THE COURT: Any questions for the witness?

8 MR. SHAHID: Yes, ma'am.

9 THE COURT: You may proceed.

10 MR. SHAHID: Thank you.

11 THE COURT: You're welcome.

12 CROSS-EXAMINATION

13 BY MR. SHAHID:

14 Q Mr. Serrudo?

15 A Yes.

16 Q Did I mispronounce your name, pronounce it right?

17 A It's Serrudo.

18 Q So you had a encounter with an individual at the
19 University of South Carolina; is that correct?

20 A Yes, sir.

21 Q How long did that encounter last?

22 A I actually do not recall.

23 Q A minute?

24 A Long enough probably to determine whether it was
25 of any use.

1 Q Okay. But it wasn't -- you met the person and
2 that was the end of it, you had a brief conversation,
3 that was it?

4 A Yes, sir.

5 Q No other further investigation of that person
6 beyond your conversation with her?

7 A Correct.

8 Q Okay. No other follow up along those lines?

9 A Correct.

10 Q And that is the only person that you had followed
11 up on?

12 A At that location?

13 Q Or any other location as anybody else who may have
14 been involved in this.

15 A Correct.

16 Q Okay. Now, you did other work as well concerning
17 this investigation; didn't you, detective?

18 A Yes, sir.

19 Q I want to call you detective, too, because you
20 were a detective back at the time?

21 A Yes, sir.

22 Q Okay. You also went to Ms. Kelly's residence,
23 Mona Kelly's residence?

24 A Yes, sir.

25 Q Okay. The residence where Mr. Short lives?

1 A Yes, sir.

2 Q And you did a consent search of that residence?

3 A Yes, sir.

4 Q Nothing came out of that residence; right?

5 A Correct.

6 Q Okay. Were you -- and you were present when they
7 found -- or shortly thereafter when they found a knife
8 and some clothes; is that correct?

9 A Correct.

10 MR. SHAHID: Excuse me one second, judge.

11 THE COURT: Yes, sir.

12 Q You're familiar with the item shown in State's
13 Exhibit No. 50 and 51?

14 A It's been a while, but it appears to be the knife
15 located.

16 Q Yes. Does that appear to be the knife that was
17 located around Fuller Street?

18 A Yes, sir.

19 Q Okay. And you were present when those items were
20 found?

21 A Not when they were found, when they were
22 collected.

23 Q When they were collected?

24 A Yes, sir.

25 Q And they were collected at that location?

1 A Correct.

2 Q And you were present at the location when they
3 were recovered?

4 A Correct.

5 Q And you observed that happening?

6 A Correct.

7 Q Okay. This is Exhibit No. 50. That's Exhibit
8 No. 50; correct, detective?

9 A Correct.

10 Q Okay. Were you standing around and saw that knife
11 be obtained?

12 A I believe so.

13 Q Okay. And Exhibit No. 51 is just a close-up of
14 that knife; is that correct?

15 A Yes, sir.

16 Q All right. So when you went to Ms. Mona Kelly's
17 house, were you looking for something similar to that?

18 A I would imagine so.

19 Q Okay.

20 A Anything of interest.

21 Q And there was nothing of interest found in that
22 residence?

23 A Not as far as I recall, no, sir.

24 Q Okay. Also, sir, you were dispatched to other
25 locations, if I'm correct, to look for some

1 surveillance videos; is that right?

2 A Yes, sir.

3 Q One at the Rivers Avenue market?

4 A Correct.

5 Q And where was the Rivers Avenue market located; do
6 you recall?

7 A I don't recall off the top of my head.

8 Q Was it in close proximity to Railroad Avenue?

9 A It was, yes, sir. It was, I guess, considered
10 within the neighborhood.

11 Q Within the neighborhood of what we've been talking
12 about that was reflected on State's Exhibit No. --
13 let's see, maybe this one is better. On State's
14 Exhibit No. 1, this general area that we have -- we're
15 looking at through this trial. And because Rivers
16 Avenue is further down this way where my pen is located
17 away from the crime scene?

18 A Right.

19 Q Okay. And nothing of any substance came out of
20 that experience?

21 A No, sir.

22 Q And there was another place, I think, you went to
23 on Edmund Street as well?

24 A Yes, sir.

25 Q To look for surveillance footage, video?

1 A Yes, sir.

2 Q And nothing came of that as well?

3 A No, sir.

4 Q You had the opportunity, sir, as you were talking
5 about getting a search warrant to take this swab of
6 Mr. Short's mouth; is that correct?

7 A Yes, sir.

8 Q All right. So you also had the opportunity
9 necessarily if you wanted to do a swab of Mr. Short's
10 fingers or hands if that was requested of you?

11 A Yes, sir.

12 Q And that was not done?

13 A No.

14 MR. SHAHID: Thank you. That's all the questions
15 I have, Your Honor.

16 THE COURT: Thank you. Any redirect of the
17 witness, sir?

18 MR. WETMORE: Just very quickly.

19 REDIRECT EXAMINATION

20 BY MR. WETMORE:

21 Q Mr. Serrudo, Mr. Shahid asked you about tracking
22 down some surveillance video to locations. Were you
23 able to find any video that showed anything regarding
24 this?

25 A No, sir.

1 Q So you tried, but there was nothing there?

2 A Correct. And we try to collect a video from any
3 location close by, since a lot of times after a while
4 that video does delete itself. So as a precaution we
5 do collect the video.

6 MR. WETMORE: Nothing further.

7 THE COURT: Any objection to the witness being
8 excused from the State?

9 MR. WETMORE: No, Your Honor.

10 THE COURT: From the Defense?

11 MR. SHAHID: No, ma'am.

12 THE COURT: Sir, you're excused.

13 (Witness excused.)

14 THE COURT: Call your next witness.

15 MR. WETMORE: The State calls Jacquelyn Ong.

16 JACQUELINE ONG, after being duly sworn, testified
17 as follows:

18 THE CLERK: Please have a seat. State your full
19 name spelling your last name, please.

20 THE WITNESS: My name is Jacquelyn Ong, O-N-G.

21 THE COURT: You may proceed.

22 MR. WETMORE: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 DIRECT EXAMINATION

25 BY MR. WETMORE:

1 Q Officer Ong, how long you been with North
2 Charleston?

3 A About four years.

4 Q Okay. And back in October of 2015, what were your
5 duties and responsibilities?

6 A I was assigned to the crime scene unit as a
7 technician.

8 Q Is that where you still are now?

9 A Yes.

10 Q Any specialized crime scene training?

11 A My assigned subspecialty is the IBIS or more the
12 ballistics, I analyze bullets.

13 Q Okay. Any just general crime scene education that
14 helps you do your job back in 2015?

15 A I've had just your basic crime scene classes and
16 photography classes.

17 Q And were you on duty October the 10th, 2015?

18 A Yes.

19 Q Okay. Did you create a report in this case?

20 A Yes.

21 Q Okay. Do you have that report with you?

22 A I do.

23 Q Okay. Like I said, you can surely use it to
24 refresh your memory because it's been a while.

25 A Yes.

1 Q Did you become involved in the case against this
2 Defendant, Ricky Short?

3 A I did.

4 Q How did you come to be involved in it?

5 A I was the on-call crime scene person for that
6 weekend, and dispatch called and notified that I had a
7 call out.

8 Q Okay. And so you were -- did you respond to the
9 initial crime scene?

10 A I did.

11 Q Okay. And what did you learn immediately when you
12 arrived, what did you do, what did you learn first?

13 A That there was a stabbing victim that had been
14 transported to the hospital in category one conditions
15 and that the scene extended. They showed me the area
16 that the scene was in.

17 Q Okay. So in this case, what did you do as your
18 first action, what was your first step?

19 A After listening to the officers turning over what
20 they've seen, I walked through the scene to get my own
21 overall impression of what I have to work with.

22 Q Okay. Did you take any photographs?

23 A Yes. Then I began with overall photographs of the
24 scene.

25 Q And tell me exactly what you did with the

1 photography part of it.

2 A First, I start with overall photographs, so that's
3 obtaining wide, fully encompassing photos throughout
4 the whole scene from different angles. And then after
5 that I'll start focussing in, do mid range and close-up
6 photos. So you start wide and go in.

7 Q Okay. At any point did you ever use markers to
8 mark for different pieces of evidence that were found?

9 A Yes. So after I finished my overall photographs,
10 then I apply numerical -- we have scaled numerical
11 placards. So they're basically the plastic little
12 tents that have a number, but they also have a ruler on
13 it. And I will apply those two items of evidence and
14 then rephotograph with those markers in place.

15 Q Okay. So photography and then re-photography with
16 the markers?

17 A Yes.

18 Q What I would like you to do is to use this map,
19 State's No. -- let's use two to kind of show the jury
20 on this map exactly what you found, exactly where you
21 found it, if that's okay. Can you do that, officer?

22 A Yes.

23 Q Bring your notes, whatever you need to. Just
24 point as best you can on this map that we've been
25 using, and show what you found and where you found it.

1 Let me get out of the way. Okay, can you stand over
2 there (indicating).

3 THE COURT: Yes, have her talk towards the court
4 reporter.

5 Q Yes, so she can hear you as well. And like I
6 said, this is -- Rivers is going to be over this side
7 to the west, this is Railroad (indicating). And then
8 down here south (indicating), just so your oriented to
9 that.

10 A Thank you. So what I applied is placard number
11 one or the beginning, I always work -- try to work best
12 in numerical order, just kind of the natural flow.
13 Began at the corner of Emden and Railroad. So here I
14 had placard one (indicating), which marked an area of
15 just dirt ground, so you could see dirt kicked out and
16 kind of grass kicked up.

17 Very close to that about right here (indicating),
18 was a white tank top and a right sandal or flip flop.
19 And then as I progressed up the road kind of zig-zaggy
20 up the road, there was a blood trail. So throughout
21 the blood trail I applied placards, so four through
22 nine.

23 Roughly halfway through or a smidge past halfway
24 up the road there was a small pooling of blood, so that
25 obtained its own placard. I dubbed that number ten.

1 Slightly past that, again, working up Railroad
2 towards -- so probably roughly here (indicating), was
3 the left sandal which matched the one at the origin or
4 the beginning.

5 And then placards 12, 13, 14 and 15 were a
6 continuation of the blood trail, again, kind of
7 zig-zagging through the road. And then as it got to
8 placard 16, 16 was a bloody white T-shirt, 17 was a
9 cell phone and 18 were house keys, the last three items
10 that I placarded. And those were all found right here
11 where it was reported to me that where the body was.

12 Q And so, where would be your opinion the start of
13 this crime?

14 A Basically the corner of Railroad and Emden.

15 Q And at the start of the crime what items of
16 evidence did you find?

17 A The disturbed ground, the white tank top and
18 sandal, and then roughly the beginning of a blood
19 trail.

20 Q Okay. And so four through nine are all spots of
21 blood that weave going north on Railroad?

22 A Yes.

23 Q Show me again where spot ten is. I know it's not
24 exactly, but approximately where blood pooling is on
25 spot ten.

1 A Roughly halfway between start and finish.

2 Q So the start of the crime, a blood trail, in the
3 middle there is blood pooling?

4 A Yes.

5 Q What causes blood pooling?

6 A The contributing source of the blood. So the
7 person, if they're bleeding, to cause a pooling or a
8 larger area of blood, they'd have to be stationery for
9 some point in time to cause the amount to build up to
10 be considered pooling versus just little drops.

11 Q And at that spot in the middle where you saw a
12 large amount of blood, is that where you saw that other
13 sandal?

14 A I don't remember specifically, but it's very near.
15 I mean, it's the next item I placarded, so I don't
16 remember distance exactly.

17 Q And obviously, that sandal matched the first
18 sandal at the beginning of the crime scene?

19 A Yes.

20 Q And then there was additional blood trail that you
21 mentioned weaved. Where would you -- where did you
22 find to be the end of the crime where Ms. Frazier died?

23 A It appeared to be a driveway, it was off the road
24 on kind of like a dirt driveway, here (indicating).

25 Q And at that spot, I think you called that the

1 terminal spot?

2 A Yes.

3 Q Is that where you found the bloody white T-shirt,
4 phone and the keys?

5 A Yes.

6 Q And those were all items that you marked with
7 markers?

8 A Yes.

9 Q Okay, I appreciate that. I'm going to show you a
10 couple pictures. You can sit down if you want to, that
11 would be great. I appreciate you pointing these things
12 out for us. If you want to point anything out, you're
13 certainly welcome. I just want to show you some
14 suspects now.

15 All right, let me show you a group of photographs
16 that have been admitted into evidence, and try to keep
17 them in order if you can for me. Trying to stay
18 organized. Are those the photos that you took of the
19 crime scene?

20 A Yes, I took these.

21 Q Okay. And they've already been admitted into
22 evidence.

23 MR. WETMORE: I'd like to publish them to the
24 jury, Your Honor.

25 THE COURT: Proceed. Just let him know which

1 ones.

2 (Discussion off the record.)

3 THE COURT: Just let Mr. Shahid know which ones
4 you're referring to.

5 MR. WETMORE: So now as I go --

6 THE COURT: Just let him know which ones.

7 MR. WETMORE: 32 through 48. They've already been
8 admitted.

9 THE COURT: Yeah. But I wanted him to know which
10 ones we were referring to. You may proceed.

11 Q Show you first State's No. 32. What's the
12 significance of this picture?

13 A It showed the intersection that I began working
14 at.

15 Q And is this where you believe the crime started?

16 A To the best of my knowledge, yes.

17 Q I'll show you what's marked as State's-33. Tell
18 us what we're seeing there.

19 A An overall photograph showing placarded items one,
20 two and three and their relation to each other.

21 Q And, again, is this at the beginning of the crime
22 scene?

23 A Yes.

24 Q And what are those items, what is one, what is
25 two, what is three?

1 A Number one is the disturbed ground, two is the
2 white tank top and three is the right sandal.

3 Q 34 is a view of the same thing; is that correct?

4 A Yes.

5 Q That's, again, at the beginning of the crime
6 scene. All right. No. 35, is that the same three
7 pieces of evidence from different perspective?

8 A Yes.

9 Q Okay. Point out, if you can, where number one,
10 the disturbed ground is.

11 A Can I just touch the screen?

12 Q I think you can draw on the screen, yeah.

13 A Okay. The placard is turned, so that's why it's
14 not obviously showing up wonderfully on the camera.
15 That's the placard, and that would be the disturbed
16 ground.

17 Q And you took that photograph, documented it, kind
18 of a possible struggle?

19 A Yes.

20 Q Now, I want to show you 36 is another version of
21 these -- another view of these same items. Again, show
22 us where the disturbed ground is so we can see it.

23 A (Indicating.)

24 Q All right. And then State's-37 has placard one;
25 what is that?

1 A A more close-up view of exactly what placard one
2 is. So it shows the disturbed areas.

3 Q All right. State's No. 38 is item two. What's
4 that?

5 A White tank top.

6 Q State's-39 appears to be a closer view of that.
7 Number two, that's also the white tank top?

8 A Yes.

9 Q And State's-40, what is that? I'm sorry,
10 State's-40, placard three, what is that?

11 A Right sandal.

12 Q All of these things that we've been looking at,
13 these all started at the beginning of the crime scene?

14 A Yes.

15 Q Now, I'm going to show you State's No. 41; what do
16 these placards show?

17 A Those are showing the general flow of the blood
18 trail up the road.

19 Q So proceeding numerically, these are all spots of
20 blood on the road?

21 A Yes.

22 Q And it's not a straight line path; is it?

23 A No.

24 Q Certainly weaves up the road?

25 A Appears to, yes.

1 Q Show you State's No. 42. What is placard four?

2 A Showing a closer area around four depict --
3 showing possible blood.

4 Q Okay. And at that spot, placard four, would that
5 be the first of the blood trail that you picked up?

6 A No. I took a sample.

7 Q Okay. But that's the first sign of the blood
8 trail?

9 A Yes.

10 Q Okay. Did you take a sample at that first spot in
11 the blood trail?

12 A At number four, yes.

13 Q Okay. Did you take a -- collect that blood in any
14 fashion?

15 A Say it again.

16 Q Did you collect the blood at placard four at the
17 beginning of the blood trail; did you collect that in
18 any fashion?

19 A Yes.

20 Q How did you do that?

21 A I took a pack of sterile cotton tip swabs,
22 glorified Q-tips, and swabbed the blood.

23 Q Okay. I'm going to show you what's been marked as
24 State's-49.

25 THE COURT: Any objection?

1 MR. SHAHID: No objection.

2 THE COURT: 49 marked and admitted without
3 objection.

4 (WHEREUPON, State's Exhibit No. 49 was admitted in
5 evidence.)

6 Q Can you identify number 49. It's probably
7 packaged a little different than when you first saw it.

8 A That's my swab.

9 MR. SHAHID: I'm sorry?

10 THE WITNESS: That's my swab.

11 Q Okay. So in that package right there is the swab
12 you took from placard four?

13 A One of them, yes, one in here.

14 Q Okay. And that's what -- that's what's pictured
15 there and that's what you swabbed right there in your
16 hands; right?

17 A Yes.

18 Q I'm going to show you now State's-43. What is
19 your item 11?

20 A The left sandal.

21 Q Okay. And obviously that matches the first one
22 you saw?

23 A Yes.

24 Q That was in the middle of the trail; is that
25 correct?

1 A Generally.

2 Q Again, this is just a closer up view of it; is
3 that correct?

4 A Yes.

5 Q All right. Now, I'm showing you State's-45. What
6 are these items?

7 A That's 16, 17 and 18. A bloody white T-shirt is
8 16, 17 is a black cell phone and 18 are house key --
9 car keys.

10 Q And those are?

11 A And EMS debris is around there.

12 Q And those are at the end of the crime scene?

13 A Yes.

14 Q 18 is -- looks like it's kind of got some
15 makeshift work on it. Is that what I'm seeing, is
16 that --

17 A Yes. My original placard 18 was broken. And so I
18 had to create a 19 -- or excuse me, an 18 out of a 19.

19 Q Okay. These are all at the end of the crime
20 scene; correct?

21 A Yes.

22 Q State's-46, what is that?

23 A A bloody white T-shirt.

24 Q State's-47, what's that item?

25 A A black cell phone.

1 Q State's-48, what's that item?

2 A Keys.

3 Q And those were all collected at the end of the
4 crime scene?

5 A Yes.

6 Q That's where you were told that the victim
7 collapsed?

8 A Yes.

9 Q All right. All those evidence -- all those pieces
10 of evidence that were marked with the placards, did you
11 collect all that evidence, take it with you?

12 A Most all evidence. There were a few of the
13 placarded blood areas that I didn't swab. But I took
14 samples throughout the trail.

15 Q And that --

16 A But all the physical items were collected.

17 Q Okay. And that placard four was swabbed for
18 blood; is that correct?

19 A Yes.

20 Q And what did you do with all of this evidence
21 after you collected it?

22 A I brought it back to the forensic unit in North
23 Charleston. I dried what was saturated, what was wet,
24 and then further packaged and secured evidence and
25 turned it in to the evidence unit.

1 Q So you secured it --

2 A For secured safe keeping.

3 Q In a secured safety area?

4 A Storage.

5 Q Also, we just heard from Detective Serrudo. He

6 indicated he took a buccal swab from the Defendant.

7 Did he turn that over to you too?

8 A Yes.

9 Q Did you put that into evidence as well?

10 A Yes.

11 Q All right. All this took place the night or early

12 morning hours of the 11th?

13 A From what I recall, yes.

14 MR. SHAHID: I'm sorry. I can't hear.

15 THE WITNESS: Sorry. From what I recall, yes.

16 Q Like I said, you can certainly look at your report

17 if you need to. Did you get called back out in this

18 case?

19 A Yes.

20 Q What time did that happen?

21 A The following day. I don't recall what time of

22 day, but it -- oh, excuse me, roughly 10:45 in the

23 morning.

24 Q 10:45 in the morning. Why did you get called out?

25 A Patrol had located suspect clothing and bloody

1 clothing and a knife near the scene of the crime.

2 Q And they believe it to be part of the same case?

3 A Yes.

4 Q And so you get called back out because you were
5 still on call?

6 A Yes.

7 Q Did you respond to that location, [REDACTED] Graham
8 Street?

9 A Yes.

10 Q Okay. What did you do when you got there?

11 A I spoke with the officers on scene. They advised
12 me what they found, and then I began with my overall
13 photographs.

14 Q Okay. And you took photos in this instance, but
15 you didn't mark anything in this instance; right?

16 A No.

17 Q Okay. And when you arrived, had the patrol
18 officer already picked all this stuff up?

19 A Not to my knowledge, no. They said they hadn't
20 touched it.

21 Q So they hadn't touched it?

22 A That's what they said.

23 Q And it was your responsibility to document and
24 collect it?

25 A Yes.

1 Q Okay. All right, I'm going to show you what's
2 been admitted as State's-50 through 57. Just make sure
3 it looks like something you can identify, please.

4 A They are my photos.

5 Q Okay. These have already been admitted.

6 MR. WETMORE: Mr. Shahid, you want to take a look
7 at them, we all good?

8 MR. SHAHID: I'm good. Thank you.

9 Q I show you State's No. 50. Tell me about that.

10 A Here, you can see what appears to be a knife under
11 foliage.

12 Q And State's-51?

13 A The same area. I pulled some of the plants out of
14 the view so you can see the whole item.

15 Q Okay. So that's your hand there?

16 A Yes.

17 Q And, actually, I don't want to jump the gun before
18 you start the collecting. But this, just take a look
19 at State's No. 10, this is a series of photographs.
20 Does this accurately depict the evidence that you
21 arrived to see?

22 A Yes.

23 Q You can step down if you want to. This is the
24 black jacket that you saw when you got there?

25 A Yes.

1 Q And the white shirt?

2 A Yes.

3 Q Okay. Show us kind of where the knife would be;
4 is it up in here anywhere (indicating)?

5 A Here (indicating).

6 Q And then this zooms in a little bit farther.
7 Still the black jacket and white shirt. Is that the
8 knife?

9 A Yes.

10 Q Okay. And this is all the way zoomed in. Still
11 see the black jacket and then the knife; is that
12 correct?

13 A Yes.

14 Q Okay. So that's how it looked when you first got
15 there?

16 A Yes.

17 Q The patrol officers had not touched it, to your
18 knowledge?

19 A To my knowledge, no.

20 Q All right. So then State's-51, then, is you
21 actually starting to move the stuff around and collect
22 it; right?

23 A Yes.

24 Q That's the knife right as it lay?

25 A Yes.

1 Q All right. So State's-52, what's that?

2 A The jacket that was shown previously on the
3 ground, I laid it over the fence to photograph.

4 Q And State's-53, that's the same thing?

5 A Yes.

6 Q Does that jacket have a spec of blood on it?

7 A Suspected blood, yes.

8 Q Is that what we're seeing on the fabric there?

9 A Say again.

10 Q Is that what we're seeing on the fabric there?

11 A Yes.

12 Q And then 54, what is the significance of that
13 picture?

14 A A close-up image showing the brand and size of the
15 jacket on -- with the inside of the collar.

16 Q So this is an Old Navy brand jacket?

17 A Yes.

18 Q Is that correct? All right. Number 55, is that
19 still the black jacket? Where do you have it now?

20 A This image is of the same jacket back at our
21 forensic lab hanging to dry.

22 Q It's hanging to dry?

23 A Yes.

24 Q Was the jacket, when you picked it up, was it
25 damp?

1 A Yes.

2 Q Was it damp with blood or with moisture; do you
3 know?

4 A I don't know specifically what all it was wet
5 with, but it -- there was some wet suspected blood,
6 amongst other fluids, that I don't know what they are.
7 So I just need it to be dry.

8 Q But the jacket was damp?

9 A Yes.

10 Q All right. And No. 56, what is that?

11 A A closer image of the white shirt that has
12 suspected blood on it.

13 Q That was found with the black jacket right there?

14 A Yes.

15 Q Then finally 57, where have you got the shirt now?

16 A Back at our crime scene unit hanging to dry.

17 Q Was that white shirt also damp?

18 A Yes.

19 Q And you had to dry it?

20 A Yes.

21 Q Before you could package it?

22 A Yes.

23 Q Same as the jacket?

24 A Yes.

25 Q And so, did you collect all of these items, the

1 knife, jacket and the white shirt?

2 A Yes.

3 Q Can you just briefly describe how you collected
4 that evidence, what process, the steps you took to
5 collect it and package it up.

6 A After I photographed with gloved hand, I would
7 gently pick it up and I placed it in -- the clothing
8 was in paper bags and the knife was placed in the
9 cardboard box designed to carry sharp objects.

10 Q All right. I show you what's been marked as
11 State's No. 58. Is that the knife you recovered?

12 A Yes.

13 Q How can you be sure that's the knife that you
14 recovered from this pictured spot?

15 A Because it's in my -- the box that I sealed shut
16 and secured in evidence.

17 MR. WETMORE: Your Honor, at this time I would
18 move to admit State's-58, the knife.

19 THE COURT: Any objection? Any objection?

20 MR. SHAHID: I've seen it, judge. No objection.

21 THE COURT: All right. Marked and admitted
22 without objection, 58.

23 (WHEREUPON, State's Exhibit No. 58 was admitted in
24 evidence.)

25 Q If you would pass that up, I'll trade you. I got

1 another thing for you to look at. I show you what's
2 marked 59 and 60. There's gloves here if you need
3 them. Can you take a look at seen what that is. Let's
4 look at 59 first. See if you could recognize 59. Can
5 you hold that up as high as you can.

6 A (Indicating.)

7 Q So that is the jacket that you collected?

8 A Yes.

9 Q How can you be sure about that?

10 A Because it was originally in the bag that I sealed
11 shut and submitted to evidence.

12 Q And before you were able to package that jacket,
13 did you need to dry it?

14 A Yes.

15 Q All right. Now, there is another item that's
16 packaged separately in that bag is item 60. Do you see
17 that item? I call that like a little cap or something;
18 does that sound fair to you?

19 A Yes.

20 Q Did you notice that with the jacket, tucked into
21 the jacket when you collected it?

22 A Not that I recall.

23 Q Okay. And did you send that jacket to the
24 laboratory to be tested?

25 A Yes.

1 Q Okay. When the lab took a thorough look at the
2 jacket, they found that cap in the jail --

3 MR. SHAHID: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. SHAHID: He's -- it's --

6 THE COURT: Is there a basis of the objection?

7 MR. SHAHID: There is, there's a couple of bases.
8 He's leading, for one.

9 THE COURT: Any further bases?

10 MR. SHAHID: Well, I mean, I will take care of
11 that one first, and then --

12 THE COURT: Leading, sustained. Rephrase.

13 Q Would it surprise you that when the lab took a
14 thorough look at the jacket they found that cap inside
15 it?

16 MR. SHAHID: Objection, Your Honor.

17 THE COURT: Basis?

18 MR. SHAHID: Still leading.

19 THE COURT: Sustained, leading.

20 Q Can you explain how the lab found that cap in that
21 jacket.

22 A I don't know.

23 Q You didn't notice it?

24 A I did not.

25 Q When you collected it, you didn't notice that cap

1 tucked in the jacket?

2 MR. SHAHID: Leading, Your Honor.

3 THE COURT: Sustained. Rephrase.

4 Q All right. When you collected that jacket, did
5 you thoroughly search that jacket?

6 A Evidently not.

7 Q Evidently not. What do you do or what did do you
8 in that instance with that jacket in terms of looking
9 at it, searching it, anything like that, what did you
10 do?

11 A When I hung it up to dry, I then -- it's more of a
12 controlled environment. So then I squeeze and kind of
13 feel around like where pockets would be and where
14 people could possibly store items, and I feel if there
15 is something in there instead of blindly sticking my
16 hand in the pockets, just for safety reasons.

17 Q Right.

18 A I just kind of feel all over.

19 Q Right. Did you thoroughly look through every
20 pocket in that jacket and search it?

21 A I thought I had, but I might not have felt it. I
22 don't recall.

23 Q Okay. Is that -- that's item 60, the cap. Was
24 that a heavy or thick item?

25 A Not particularly, no.

1 Q Why do you not thoroughly search something like
2 that jacket; as a crime scene officer, why would you
3 not thoroughly tear that jacket apart?

4 A It's a fine balance between fully searching and
5 preserving further evidence. Trace evidence, for
6 example, I don't want to destroy, lose, degrade any
7 other evidence that the lab would need that I can't
8 analyze.

9 Q All right. Did you intentionally add that cap --

10 A Nope.

11 Q -- to that jacket? And since the cap was found
12 with that jacket, I assume that's how it was when you
13 collected it?

14 A As far as I know. I don't...

15 Q All right. I'm sorry, I have to make you take all
16 that stuff out, this is obviously important. You
17 can --

18 MR. WETMORE: Mr. Shahid, you going to ask her to
19 pull it out again, or can she put it back up?

20 MR. SHAHID: I'm sorry, may we approach a second.

21 MR. WETMORE: Okay. I was going to ask her to
22 package it.

23 (WHEREUPON, a the following was held in the
24 presence of the jury but out of the hearing of the
25 jury:

1 MR. WETMORE: You going to go into it on
2 cross-examination?

3 MR. SHAHID: Yeah, I'll -- tell her to leave it
4 out. I'm sorry, I wasn't following you.

5 THE COURT: Y'all can have -- it needs to be in a
6 -- it's going to need to be out there in front of us,
7 not be put back in the bag. But might they have...

8 MR. WETMORE: She's going to put it back in and
9 take it back out?

10 THE COURT: I mean, she can just put it in the bag
11 with the jacket, she doesn't have to put it back in the
12 pocket. But I don't think it's safe for her to have
13 something --

14 MR. WETMORE: Okay.

15 THE COURT: -- that has biological waste on it
16 sitting up in front of her breathing it.

17 MR. WETMORE: Yeah.

18 MR. SHAHID: Yeah.

19 THE COURT: Yeah. I don't think that's safe,
20 yeah.

21 (End of bench conference.)

22 THE COURT: Proceed.

23 Q Please go ahead and put it back in the bag. You
24 may have to get it out again.

25 A (Complied.)

1 Q You can just leave it kind of right there behind
2 you. I think they are going to ask you about it again.
3 I'm going to next show you State's No. 61, see if you
4 can identify that.

5 A The bag I packaged the white thermal shirt in.

6 MR. WETMORE: Judge, before I forget, I would like
7 to move State's-59, the black jacket, into evidence.

8 THE COURT: Any objection?

9 MR. SHAHID: May I just see the package again,
10 please?

11 THE COURT: Sure.

12 MR. SHAHID: For 59. And you're going to do 61 as
13 well, I presume?

14 THE WITNESS: For the jacket?

15 MR. SHAHID: The jacket.

16 THE COURT: What is still outstanding is 59, 60
17 and 61.

18 MR. SHAHID: Your Honor, I do have a question for
19 her before it's admitted into evidence, just to double
20 checking something with the...

21 THE COURT: No speaking in the presence of the
22 jury.

23 MR. SHAHID: Yeah.

24 THE COURT: I just need to know if you consent or
25 don't to No. 59 which is the jacket, and the cap, which

1 are 59 and 60, actually.

2 MR. SHAHID: No objection, Your Honor.

3 THE COURT: 59 and 60 are marked and admitted
4 without objection.

5 (WHEREUPON, State's Exhibit Nos. 59 and 60 were
6 admitted in evidence.)

7 Q Now, let's focus on item 61. Is that the white
8 thermal long sleeve shirt?

9 MR. SHAHID: I took it away from her.

10 THE COURT: It's right there on the table.

11 THE WITNESS: That's item 61, yes.

12 Q Can you take that out and show the jury real
13 quick.

14 THE COURT: She's going to need her gloves again,
15 and she's going to need some scissors.

16 MR. WETMORE: Gloves are there, I don't have any
17 scissors, judge. Do you have any scissors?

18 THE COURT: Oh, well, she got it open without
19 them, never mind.

20 THE WITNESS: (Indicating.)

21 Q So that's the white thermal shirt that you
22 recovered from this pictured area here?

23 A Yes.

24 MR. WETMORE: Judge, I would like to move
25 State's-61 into evidence.

1 THE COURT: Any objection?

2 MR. SHAHID: No, ma'am.

3 THE COURT: Marked and admitted without objection,
4 No. 61.

5 (WHEREUPON, State's Exhibit No. 61 was admitted in
6 evidence.)

7 Q And you indicated this shirt was also damp when
8 you recovered it?

9 A Yes.

10 Q Did it have to be dried before you could package
11 it?

12 A Yes.

13 Q Okay. If you could please put that back in there.
14 I'm sorry, I hate to make you do that, we got to show
15 the jury what you found.

16 A (Indicating.)

17 Q So now, dealing with these items, the knife,
18 jacket that had a cap in it, and the white thermal
19 shirt, what did you do with this evidence?

20 A I'm sorry, will you repeat that. I couldn't hear
21 over the bag.

22 Q Sure. Sure. These items that you recovered,
23 black jacket that evidently had a cap in it, the white
24 shirt and the knife, what did you do with all that
25 evidence?

1 A Ensured it was dry before I further packaged it
2 and submitted it into the evidence compound.

3 Q That's a secure area?

4 A Yes.

5 MR. WETMORE: I have no further questions.

6 THE COURT: You may proceed.

7 CROSS-EXAMINATION

8 BY MR. SHAHID:

9 Q Those items, 58, 59, 60 and 61, those actually
10 were sent to SLED?

11 A I don't have a list of what number converts to my
12 items, I'm sorry.

13 Q All right. The cap, the blue jacket, the thermal
14 shirt --

15 A Black jacket.

16 Q -- and the knife were sent to SLED?

17 A The black jacket.

18 Q The black jacket.

19 A The knife and thermal -- yes.

20 Q Yes. The black jacket and the knife were sent to
21 SLED?

22 A I don't recall specifically. But according to the
23 packaging they had gone to SLED, yes.

24 Q Well, what happened after you collected these
25 items, what happened next? You put them in a secure

1 room and left them there, and that was the end of it?

2 A No.

3 Q Okay.

4 A I put them in the dryer to dry, and then further
5 packaged them in cleaner bags and put them into the
6 evidence compound.

7 Q And that's where they stayed until today?

8 A No. Until they went to SLED.

9 Q Okay. Now, as to Exhibit No. 50, this is the item
10 the night that you found when you arrived?

11 A Yes.

12 Q And you took that picture. And that picture
13 accurately reflects the items that you came across?

14 A Best of my knowledge, yes.

15 Q Is there anything in that picture that changes
16 your mind as to that is not the condition of the knife
17 when you found it?

18 A No.

19 Q Okay. And Exhibit No. 51 is a close-up of Exhibit
20 No. 50. I'm sorry. Is that better?

21 A Yes.

22 Q Or this way. Which way you like it, this way or
23 the other way (indicating)?

24 A It's the knife.

25 Q Okay. Now, is the blade, the condition of the

1 blade, is that how you found Exhibit No. 51 when you
2 arrived to take that photograph?

3 A Best as I can recall.

4 Q Is there anything that looking at Exhibit 51 would
5 change your mind that's anything different about how
6 that looked that is reflected in this photograph?

7 A Not that I can recall.

8 Q Okay. And only thing, the difference between 50
9 and 51 is you taking your hand to smooth some of the
10 green leafy area away from it?

11 A As much as I remember, yes.

12 Q Okay. So do you see anything on this blade right
13 here that looks like blood at all?

14 A Not that jumps out.

15 Q Okay. And do you see any moisture on that blade
16 of any sort?

17 A Not to be sure, but it appears right there, there
18 was like a fluid possibly on that (indicating).

19 Q All right. And that could account from you moving
20 a leave away?

21 A I can't say either way.

22 Q You can't say either way. And on the handle, any
23 moisture on the handle?

24 A There's some reddish suspected blood possibly
25 (indicating).

1 Q Okay, possibly?

2 A Yeah.

3 Q That's the only moisture you see on the handle?

4 A That's obvious, yes.

5 Q Okay. Now, on Exhibit No. 50, those two, 53, this
6 is a jacket as you found it after you pulled it over
7 and threw it over the fence; is that correct?

8 A That's the jacket, yes.

9 Q Number 53. And what are these things right here,
10 officer?

11 A Snaps or buttons, I don't recall.

12 Q Okay. So when you initially saw the jacket, there
13 was a leafy area around the jacket; is that correct, on
14 Exhibit No. 10?

15 A Would you rephrase the question.

16 Q Yeah, sure, I'm sorry. Why don't we switch places
17 so the court reporter can pick up your voice. So in
18 Exhibit No. 10, State's Exhibit No. 10, it looks like
19 green leafy material was touching the jacket; is that
20 accurate?

21 A Yes.

22 Q All right. Also, in the middle photograph
23 Exhibit 10 is also green leafy material touching the
24 jacket?

25 A Yes.

1 Q And there's moisture on the green leafy material?

2 A Yes.

3 Q And you had -- in order to remove the jacket it
4 had to come out and touch the green leafy material; is
5 that accurate?

6 A Yes.

7 Q Okay. And the same would be true, but you can
8 hardly see the knife, this is where the knife is right
9 here on Exhibit 10 (indicating). So that you had to
10 move the green leafy material at that point?

11 A Yes.

12 Q Okay, thank you. On the placards that you were
13 shown earlier and you talked about one through 18 on
14 the night that you were called out there, you found a
15 white tank top; correct? Was that a woman's tank top?

16 A I don't recall.

17 Q And the two sandals, right and left sandal, was
18 that a woman's sandal?

19 A They appear to be, but anybody can wear them.

20 Q Okay. But it looked more consistent with a
21 woman's sandal as opposed to a men's sandal?

22 A I think for our society, yes.

23 Q Okay. You also located a white T-shirt, and that
24 was the area that you understood where the victim was
25 found?

1 A Yes.

2 Q Okay. And that area had blood around it?

3 A Yes.

4 (Discussion off the record.)

5 Q And this is Exhibit No. 46. And this is placard
6 number 16?

7 A Yes.

8 Q And that's the white shirt?

9 A Yes.

10 Q And the substance around 16 where my pen is
11 pointed right now -- I can't pick that up, I'm sorry --
12 right in here, this area right in here (indicating),
13 that's all blood?

14 A Suspected.

15 Q And around this area here as well (indicating)?

16 A Suspected, yes.

17 Q And right in here (indicating)?

18 A Yes.

19 Q Now, you did not collect samples of blood from
20 this area?

21 A No.

22 Q Okay. And you did not submit the shirt, as I
23 understand, to SLED to be tested; is that correct?

24 A I don't recall.

25 Q Do you have anything in your records to reflect

1 that?

2 A I don't have all the chains of custodies with me,
3 no.

4 Q Did you take Exhibit No. 46, the shirt, into
5 custody?

6 A State's Exhibit 46 is that photo?

7 Q I'm sorry, not the photo itself. But I'm
8 referring to No. 16, the shirt itself that you've got
9 marked as 16, was that taken into custody?

10 A Yes.

11 Q And you don't have a recollection of whether or
12 not it was sent off to SLED or not?

13 A At this time I don't, no.

14 Q Do you have a record anywhere, officer, that shows
15 what was sent to SLED?

16 A Not on me.

17 Q Where would that be?

18 A The SLED website.

19 Q Well, if you sent something off to SLED, isn't
20 there a sheet of paper that shows the chain of custody?

21 A Yes.

22 Q Would you have a chain of custody on number --
23 that white shirt; you don't have it with you now?

24 A No.

25 (Discussion off the record.)

1 Q I want to see if you can first identify what I'm
2 handing you, that's a series of papers, first before I
3 mark it.

4 A I'm sorry. Before I go through all this, can you
5 just --

6 Q Can you identify what those are, those series of
7 papers are.

8 A Yes. They are chain of custodies from my
9 department.

10 Q Okay. Let me just...

11 MR. SHAHID: I'm going to have this marked as
12 Defendant's Exhibit No. 5, I believe.

13 THE COURT: Show it to counsel.

14 (Discussion off the record.)

15 MR. SHAHID: I was going to mark it for
16 identification only at this time, judge.

17 THE COURT: Defense-5, ID only.

18 (WHEREUPON, Defendant's Exhibit No. 5 was marked
19 for identification only.)

20 Q Would you please just review what's been marked
21 for identification only Exhibit No. 5, and if there is
22 anywhere in there that reflects this shirt being sent
23 off to SLED in the chain of custody.

24 A What was the question?

25 Q Whether or not the T-shirt which you have a

1 placard number 16 was sent off to SLED for testing.

2 A From these chains, I can't tell.

3 Q Okay. Hold onto that for one second. On State's
4 Exhibit 38 which you've got a placard number two seems
5 to be another white shirt.

6 A Yes.

7 Q Looking at what's been marked for identification
8 on Defendant's Exhibit No. 5, can you tell whether or
9 not that shirt was sent off to SLED for testing?

10 A I can't tell, to be exact.

11 Q And my same question would be for item number 48
12 which is placard number 18.

13 A I can't tell.

14 Q Okay. I think in your direct examination the
15 blood trail that you had described earlier, you took
16 only a sample which was placard number four; is that
17 correct?

18 A He spoke of number four, yes.

19 Q Were there other -- the other placards that showed
20 the trail, were those sent off to SLED as well? That
21 would be items four through nine or four through ten,
22 which are shown in Exhibit 41.

23 A Five, six, seven, eight, well, our items five,
24 six, seven and eight which depicted swabs from placards
25 six, four, twelve and thirteen were sent to SLED.

1 Q Those were sent to SLED?

2 A Yes.

3 Q All right. And can you tell the shirt, the
4 thermal shirt, I think that was 61, whether or not that
5 was sent to SLED the same time the knife and the jacket
6 was sent to SLED. Do you want any help with those
7 pages?

8 A If you can guarantee me my gloves, I'll take it
9 off.

10 Q I'm not going to ask to you touch any other
11 evidence besides those papers, officer.

12 A And to confirm, you were asking if these were sent
13 at the same time?

14 Q Was the thermal shirt sent to SLED at the same
15 time item number 58 and item number 59 were sent to
16 SLED?

17 A They were not.

18 Q They were not?

19 A No.

20 Q Okay. When was the thermal shirt sent to SLED?

21 A February 23rd of 2018.

22 Q Okay. Now, officer, when you recovered the jacket
23 and the shirt, were they put in separate bags or same
24 bags?

25 A I believe separate.

1 Q Okay. You can't tell off the top of your head?

2 A I don't recall.

3 Q I'll take those back. Thank you. One more quick
4 question for you, officer. When you arrived at the
5 area, were there other patrol cars in the general area
6 where you were there that you had -- had been marked
7 off from Emden Street?

8 A Which scene?

9 Q At the original scene from Emden and Railroad,
10 were there patrol cars already there in that general
11 area?

12 A Yes.

13 Q Within the area that had been initially taped off?

14 A Within the tape?

15 Q Yes.

16 A I don't recall.

17 Q All right.

18 MR. SHAHID: Excuse me just one second, please.

19 No further questions, Your Honor.

20 THE COURT: Any redirect?

21 MR. WETMORE: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. WETMORE:

24 Q Officer Ong, you collected all of the evidence
25 that was marked, that you marked when you collected it

1 all?

2 A From the original scene?

3 Q Yes.

4 A Yes.

5 Q And do you decide what gets sent to SLED lab for
6 testing?

7 A It's not solely my decision, no.

8 Q In this case did other detectives decide what
9 needed to be sent to SLED?

10 A Yes.

11 MR. WETMORE: No further questions.

12 THE COURT: Any objection to the witness being
13 excused from the State?

14 MR. WETMORE: No, Your Honor.

15 THE COURT: From the Defense?

16 MR. SHAHID: No, ma'am.

17 THE COURT: Ma'am, your excused.

18 THE WITNESS: Thank you.

19 THE COURT: You're welcome.

20 (Witness excused.)

21 THE COURT: We'll take care of it, don't worry
22 about it.

23 Madam forelady, ladies and gentlemen, we're going
24 to take advantage of this break in testimony, and we
25 appreciate you letting us go beyond 5 o'clock, to take

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON 2016-GS-10-01699

2016-GS-10-01700

2016-GS-10-01701

STATE OF SOUTH
CAROLINA,

PLAINTIFF,

VS.

RICKY ANTHONY SHORT,

DEFENDANT.

TRANSCRIPT OF RECORD

APRIL 19, 2018
CHARLESTON, SC

VOLUME 4 OF 5

B E F O R E:

HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.

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

BURNS WETMORE, ESQUIRE
RICHARD WARING, ESQUIRE
Attorneys for the State

PETER SHAHID, ESQUIRE
Attorney for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

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1 (The following proceedings were held
2 April 19, 2018, Charleston County, South Carolina,
3 @ 9:53 a.m.)

4 THE COURT: Good morning. State ready
5 to proceed?

6 MR. WETMORE: Yes, Judge. Update real
7 fast. Here this morning ready to go I have Wyant,
8 Darnell, Herrera and Clayton and then I have the
9 neonatologist and pathologist standing by for 1:30.
10 Does that work for you?

11 THE COURT: That works. I ordered
12 lunch for the jury and it should be here by 12:30.

13 MR. WETMORE: Thank you so much.

14 THE COURT: Ready? Is your witness out
15 there or in here?

16 MR. WARING: He is out there.

17 THE COURT: You can go ahead and get
18 the jury. Go ahead and bring them in the
19 courtroom.

20 (Whereupon the jury entered the
21 courtroom at 9:54 a.m.)

22 THE COURT: Good morning, ladies and
23 gentlemen. I hope everybody had a pleasant
24 evening. We are now going to resume testimony. I
25 would ask that you give counsel your attention.

1 You may proceed, Mr. Wetmore.

2 MR. WETMORE: Thank you, Judge. State
3 calls Scott Wyant.

4 THE COURT: Sir, if you would come
5 forward to be sworn.

6 SCOTT WYANT

7 having been duly sworn, testifies as follows:

8 THE CLERK: State your full name and
9 spell your last name.

10 THE WITNESS: Scott Cameron Wyant,
11 W-Y-A-N-T.

12 DIRECT EXAMINATION

13 BY MR. WETMORE:

14 Q. Mr. Wyant, where do you work now?

15 A. At Boeing.

16 Q. And back in October of 2015 did you
17 work for the North Charleston Police Department?

18 A. That is correct.

19 Q. And about that time frame what were
20 your duties and responsibilities with the police
21 department?

22 A. I was the supervisor over the forensics
23 unit.

24 Q. And as the supervisor for the forensics
25 unit did you ever collect any evidence?

1 A. Yes, I did.

2 Q. Did you ever collect evidence from
3 autopsies that were performed?

4 A. Yes, I did.

5 Q. Now, do you have a copy of the report
6 that you made in this case back in October of '15?

7 A. Yes, I do.

8 Q. And can you tell if you became involved
9 in this case against the Defendant?

10 A. Yes, I did.

11 Q. Did you respond to the autopsy?

12 A. Yes, I did.

13 Q. About this case?

14 A. Yes, I did.

15 Q. And when did you do that, can you tell?

16 A. On October 15th -- October 13th, 2015.

17 Q. And why did you respond to the autopsy
18 room at that time?

19 A. Responded to collect the evidence in
20 regard to this case.

21 Q. What specifically did you collect about
22 this case?

23 A. Brown color cap, left and right hand
24 fingernail clippings, nail clippers, a blood spot
25 and a CD containing autopsy images.

1 Q. Okay. If I may approach?

2 THE COURT: You may.

3 Q. I'm going to show you what's been
4 marked as State's Exhibit No. 62. Can you identify
5 that?

6 A. This is the blood spot that I
7 collected.

8 Q. From?

9 A. From this autopsy.

10 Q. From Ms. Frazier, the victim?

11 A. That's correct.

12 Q. That would be a sample of her blood?

13 A. Yes, it would be.

14 Q. And where did you have -- how did you
15 collect that evidence?

16 A. I responded to the autopsy room. I met
17 with Ashley Woodridge who was one of the autopsy
18 technicians there. And she signed over the items
19 to me via chain of custody.

20 MR. WETMORE: At this point we would
21 ask for No. 62 to be moved into evidence.

22 THE COURT: Any objection?

23 MR. SHAHID: No objection.

24 THE COURT: Marked and admitted without
25 objection.

1 THE COURT: 62 had already been
2 admitted without objection. 62 and 63 had been
3 admitted.

4 MR. WETMORE: Okay.

5 BY MR. WETMORE:

6 Q. I have handed you State's No. 63. Do
7 you recognize what that is?

8 A. It looks like at least the left hand,
9 might be the right hand fingernail clippings. Yes,
10 the left and right fingernail clippings from the
11 victim.

12 Q. Okay. Those are from the victim at the
13 autopsy?

14 A. That's correct.

15 Q. You collected those from the autopsy
16 room?

17 A. From Ashley Woodridge.

18 Q. And I believe 63 is already in evidence
19 you said, Judge?

20 THE COURT: Yes.

21 BY MR. WETMORE:

22 Q. Regarding both of these items, 62 and
23 63, the blood sample from the victim, fingernail
24 sample from the victim, what did you do with these
25 items after you collected them?

1 A. When she gives the items to me they are
2 already in sealed envelopes, little sealed
3 envelopes. They are labeled with a sticker that
4 says what the item is. I transport them to North
5 Charleston Police Department. I had Ms. Woodridge
6 sign my chain of custody. When I get to the
7 station I have to repackage it, put it in another
8 evidence bag that says North Charleston Police
9 Department. I take her sealed envelope and I put
10 it in an envelope that has our information on it.
11 I fill out that envelope. I continue with the
12 chain of custody signing that evidence into our
13 property room, into our evidence room.

14 Q. So is it a secure process?

15 A. Yes, it is.

16 Q. And it's placed in the secured evidence
17 locker; is that correct?

18 A. That is correct.

19 MR. WETMORE: I have no further
20 questions.

21 THE COURT: Any questions of the
22 witness?

23 MR. SHAHID: Excuse me one second,
24 Judge.

25 (Attorney confers with client.)

1 MR. SHAHID: No questions, Your Honor.

2 THE COURT: Any objection to the
3 witness being excused from the State?

4 MR. WETMORE: No, Your Honor.

5 THE COURT: From the defense?

6 MR. SHAHID: No, ma'am.

7 THE COURT: Sir, you are excused.

8 THE WITNESS: Thank you.

9 THE COURT: Call your next witness.

10 MR. WARING: State calls Thomas
11 Darnell.

12 THOMAS DARNELL

13 having been duly sworn, testifies as follows:

14 THE CLERK: State your full name and
15 spell your last name.

16 THE WITNESS: Thomas Edward Darnell,
17 D-A-R-N-E-L-L.

18 DIRECT EXAMINATION

19 BY MR. WARING:

20 Q. Good morning, Tom.

21 A. Good morning.

22 Q. Doing okay today?

23 A. Good.

24 Q. Can you tell the jury where you work?

25 A. I work at SLED, the State Law

1 Enforcement Division in Columbia.

2 Q. And how long have you worked there?

3 A. Total about 25 plus years. I actually
4 was there for about 20 years and retired and
5 bounced around a little bit and I was rehired in
6 2012, so about 25 years or so.

7 Q. Can you tell the jury what you did
8 during those 20 years and what you have been doing
9 the whole time?

10 A. The majority of my time at SLED I was
11 forensic laboratory, probably about 21 of those
12 years. I was in the crime scene department early
13 on doing latent print, doing fingerprint work,
14 evidence processing, those kind of things. I was a
15 supervisor of the department for about six years
16 prior to retiring. I left the lab for a few years,
17 went and did some different things at different
18 departments. Returned to the laboratory and
19 managed the fingerprint laboratory at SLED.

20 Q. And is that what you currently do?

21 A. Yes. I'm a fingerprint examiner,
22 non-supervisor at this point in my career at the
23 crime lab.

24 Q. Have you had to undergo any training
25 throughout your career?

1 A. Yes. I have a Bachelor of Science
2 Degree from the University of South Carolina in
3 criminal justice. That was back in '82. When I
4 started working at SLED in 1990 I had to complete
5 some inhouse training which dealt with all areas of
6 forensics as it related to crime scene fingerprint
7 evidence, fingerprint processing, fingerprint
8 comparison. I attended the local academy in
9 Columbia, took a few courses there. I attended the
10 FBI academy in Quantico, Virginia where I complete
11 some courses there as well. I have taken a number
12 of classes in different areas of the country over
13 my career all dealing with fingerprint crime scene
14 investigation.

15 Q. Any kind of yearly proficiency test
16 that you have to undergo?

17 A. Yes, sir. The laboratory that I work
18 for is internationally accredited. So we are
19 required to take an annual test for proficiency
20 which we have to pass of course. There are
21 measures in place to deal with times that you don't
22 pass. That's never happened to me, but we do have
23 to take tests every year from an outside vendor and
24 we take those tests independently of anyone else.
25 No one helps you with it. You do it on your own

1 and so that is something that is required.

2 Q. Now, Tom, have you ever testified
3 before?

4 A. I have.

5 Q. As an expert?

6 A. Yes, sir.

7 Q. Approximately how many times?

8 A. I have probably testified 150 times or
9 so all over the State of South Carolina. I have
10 been in state and federal courts. I have also been
11 out of state a couple of times. The majority of my
12 testimonies are where I am subpoenaed by the state
13 or the federal government. I have had the occasion
14 to be subpoenaed and testify for defense attorneys
15 as well.

16 Q. And typically what field are you
17 declared an expert in?

18 A. I'm an expert in the area of
19 fingerprint analysis.

20 MR. WARING: Your Honor, at this point
21 State would move to have the witness declared an
22 expert in fingerprint analysis.

23 THE COURT: Any objection or questions?

24 MR. SHAHID: No, Your Honor.

25 THE COURT: So admitted without

1 objection. You may proceed.

2 BY MR. WARING:

3 Q. Okay, Tom. Jumping right into it, were
4 you involved in this case, the Ricky Short case?

5 A. I was.

6 Q. And can you tell the jury how you got
7 brought into that?

8 A. Yes, sir. One of the things that we do
9 in our laboratory is not only do we look at
10 fingerprints, we also process evidence to determine
11 if there are fingerprints. And then we collect any
12 other type of evidence that might be present. In
13 this case I received an item of evidence that I was
14 asked to process for fingerprints as well as to do
15 any DNA collection from the item.

16 Q. Do you recall what date that was?

17 A. I received this item in a sealed box on
18 May the 18th of 2016.

19 Q. And so you indicated you received a
20 knife?

21 A. Yes, sir. I received the sealed box
22 that contained a -- what I have described as a wood
23 handle steak knife.

24 Q. And can you please tell the jury what
25 you did with that knife?

1 A. When I got the knife I -- of course the
2 first thing we do obviously is a visual
3 examination. We use lighted magnification to look
4 at items of evidence to see if there is anything
5 that needs to be collected right away to keep
6 anything from falling off or blowing away or
7 whatever. We want to collect those kinds of
8 things. And so once I did a visual examination I
9 made a note there were no fingerprint evidence.
10 There was no fingerprint evidence observed at the
11 time that I was doing the visual examination. The
12 tip of the blade was slightly bent. I have got
13 that noted in my notes here and there were -- and I
14 was asked to collect any possible blood stains or
15 touch DNA, those kind of things as well as
16 processing it for fingerprints.

17 There were some reddish stains that
18 were visible on the handle of the knife. I'm not
19 qualified to say it's blood, but I suspected that
20 it was so I was able to collect those areas. I
21 also collected some areas further away from the
22 blood stains in an attempt to get touch DNA as
23 well.

24 Once I do that then I try and process
25 what's left of the area for my fingerprint evidence

1 and I use a couple of different techniques to do
2 that.

3 Q. So you collected from those areas what
4 you believed to be possible blood. Can you mention
5 what exactly that process is?

6 A. Yes. When I swab up the blood we use
7 sterile swabs, cotton heavy swabs and a wooden
8 handle and there are two swabs per package. So
9 they are separately sealed. I'm in a clean room.
10 I've got gloves on and I have got garments on to
11 keep from contaminating anything. And I take the
12 swabs that are moistened and I moisten one of the
13 swabs with some deionized sterile water and then I
14 simply take a swab and moisten the area. It
15 transfers on to the swab, then I take the second
16 swab and sort of wipe up the residue or the
17 leftover after I use the moistened swab.

18 Once I get that collected I place it in
19 an area in a hood to allow it to dry. Once it
20 dries then I package it up, label the envelope,
21 what it is, where it came from, my initials, the
22 date I did it, case number, item number and then
23 that gets packaged in a sealed container and gets
24 transferred to our DNA laboratory.

25 Q. Is that how it went down for those

1 items of evidence?

2 A. Yes, sir.

3 Q. May I approach the witness, Your Honor?

4 THE COURT: You may.

5 BY MR. WARING:

6 Q. Tom, I am showing you what's already
7 been admitted as State's Exhibit 58. Would you
8 mind taking a look at that?

9 A. (Witness complies with request.) Yes,
10 sir. This appears to be the knife on State's
11 Exhibit 58. This appears to be the knife that I
12 swabbed and processed that date. It has the
13 laboratory number, the item number and it has my
14 initials on the blade and it also has my initials
15 on the bag itself.

16 Q. You already kind of mentioned for the
17 jury at the beginning of your testimony is that a
18 wooden handle?

19 A. Yes, sir, appears to be a wooden
20 handle. I refer to it as a steak knife.

21 Q. Would you mind holding that up for the
22 jury so they can see the handle.

23 A. (Witness complies with request.)

24 Q. I am now showing you what has been
25 marked for identification purposes as State's

1 Exhibits 64 and 65.

2 THE COURT: Any objection?

3 MR. SHAHID: I am sorry, Judge. Excuse
4 me. No objection, Your Honor.

5 THE COURT: Marked and admitted without
6 objection.

7 (STATE'S EXH. 64-65 in evidence.)

8 BY MR. WARING:

9 Q. Tom, these are admitted as State's
10 Exhibit 64 and 65. Would you mind taking a look at
11 those and tell the jury what you see in there?

12 A. Yes. I see two brown envelopes which
13 are the envelopes that I packaged, swabs that I
14 made from the knife and I put one envelope
15 contained the swabs that I wanted to be checked for
16 blood and then contained swabs I wanted to be
17 checked for any touch DNA that I might have been
18 able to pick up. And each of these envelopes has
19 the lab number, the item number, and the date that
20 I collected it which would have been May 18th,
21 2016. The item number 3.1 and 3.2. That item 3
22 being the knife and then the .1 and .2 indicates
23 that it came from Item 3.

24 Then once I got these two envelopes I
25 did put them in a heat sealed bag and I heat sealed

1 it, dated it and initialed it before it got
2 transferred. So basically it's sealed inside the
3 container and inside the outer container as well.

4 Q. Okay. I want to go back to the
5 fingerprints for a second. Did you check for
6 fingerprints?

7 A. I did.

8 Q. Okay. And on the knife were you able
9 to find any?

10 A. I was not.

11 Q. Okay. Does the fact that the knife has
12 a wooden handle mean anything to you as far as your
13 ability to collect fingerprints?

14 A. Well, the wood handle is not the ideal
15 surface, but it is a smooth enough surface that
16 sometimes you can develop prints on wooden handles.
17 I mean I have in the past. But it is not something
18 that happens very often. But it's not the best
19 surface, but it is a suitable surface.

20 Q. So is it harder to get a print from say
21 a wooden handle versus a non-wooden surface?

22 A. I would say it would be harder to get a
23 print on a wooden handle versus say like a drinking
24 glass or a mirror or something along that line.

25 Q. Okay. Now, you mentioned earlier that

1 the tip of the blade is bent a little bit; is that
2 right?

3 A. Yes, sir. The tip of the blade is just
4 maybe hard to see from there, but it has just got a
5 slight curve in the tip and which I made a note in
6 the worksheet that that was the case.

7 Q. In your experience have you ever
8 received knives before that were bent?

9 A. Yes, sir. I have received -- I mean I
10 have processed now thousands of pieces of evidence,
11 all kinds. And I have received quite a few knives
12 over the years. And I received some that were
13 bent. I have received some that were quite frankly
14 broken, tip sometimes break off and I've gotten all
15 kind of conditions of knives.

16 Q. Does that in any way signify anything
17 to you?

18 A. Other than at some point in time it got
19 bent. I don't know what caused it to be bent like
20 that. It does have an obvious bend in the blade.

21 Q. Court's indulgence, Your Honor.

22 THE COURT: Yes, sir.

23 MR. WARING: Please answer any
24 questions the defense has.

25 THE COURT: You may proceed.

1 MR. SHAHID: Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. SHAHID:

4 Q. Good morning, sir.

5 A. Good morning.

6 Q. I want to show you a photograph, Mr.
7 Darnell. I'm showing you State's Exhibit No. 51.
8 Does that look like a photograph of State's Exhibit
9 No. 58?

10 A. It appears to be, yes, sir.

11 Q. And in that photograph, sir, would you
12 agree with me that what's reflected in this
13 photograph is about the condition that you received
14 the knife?

15 A. Well, I mean --

16 Q. The overall look of it?

17 A. I mean like I said, it appears to be
18 the same knife that I have, the same shape and so
19 forth. But all I got was just the knife itself.

20 Q. Okay. But that -- the way that it is
21 reflected in that photograph is similar to what you
22 recall receiving back in May of 2016?

23 A. Yes, sir. I mean it was laying in this
24 box and it was suspended I think with some -- with
25 a plastic zip tie to keep the knife from moving

1 through the box.

2 Q. All right. So you received it in May
3 of 2016; is that correct?

4 A. Yes, sir. It actually came into the
5 laboratory in November of 2015 and I actually
6 received it on May the 18th of 2016.

7 Q. November what date?

8 A. It came into the laboratory initially
9 on 11-6-15.

10 Q. Of 2015?

11 A. Yes, sir, and then I actually received
12 it from my evidence vault on May the 18th, 2016.

13 Q. Okay. Now, what I understand that you
14 did is that you took the knife and you had to use
15 -- make sure I got the right terminology, lighted
16 magnification. So what you are talking about is a
17 magnifying glass of some sort, some kind of an aid
18 to help you beyond the naked eye, you and I have
19 glasses, to look at the item for examination?

20 A. Correct.

21 Q. And that magnifying glass is something
22 that you could have with a light in there to
23 illuminate what you are looking at; is that
24 correct?

25 A. It is just a visual aid that we pretty

1 much use for anything that we examine or at least I
2 do.

3 Q. And so you are looking for things that
4 you can't see with the naked eye?

5 A. Well, not necessarily with the lighted
6 magnification. It is nothing really fancy about
7 the light. Just the magnifier is about a ten power
8 so it is not like it's a microscope or anything,
9 but it does help me get a better visualization on
10 the surface.

11 Q. It's an aid to help you look beyond
12 what you may or may not find from the naked eye?

13 A. It does assist me in being able to see
14 the item a lot better, lot closer.

15 Q. Now, on this portion of Exhibit 58 I
16 think?

17 THE COURT: 51. Sorry. I apologize.

18 MR. SHAHID: 58?

19 THE COURT: It is 58.

20 BY MR. SHAHID:

21 Q. I am looking at 51 so the jury can see
22 this. This middle part here is called the blade;
23 is that correct?

24 A. Yes, sir.

25 Q. And as I understand your testimony on

1 the blade where my pen is right now there was --
2 you did not find any blood at all?

3 A. Yes. That was what I have noted here,
4 that reddish brown stains were visible on the
5 handle area. There were no visible reddish brown
6 on the blade.

7 Q. So there's no indication of any kind of
8 blood at all on the blade?

9 A. Not that I could find.

10 Q. Now, Mr. Darnell, where my pen is right
11 now, these three little spots, are those metal?

12 A. I would have to assume so, yes.

13 Q. Does it appear to be of the same type
14 of material of the blade?

15 A. I mean it's the same -- appears to be a
16 stainless steel, it's the same color.

17 Q. And this area right here along the
18 blade itself, this area where my pen is right now,
19 that looks like metal as well?

20 A. Yes, it does.

21 Q. Now, you had talked about fingerprints
22 a few seconds ago on a smooth surface. So if
23 someone touched this blade where my pen is right
24 now that's a good surface for fingerprints?

25 A. Well, it's a good surface. You know,

1 just because you touch something doesn't mean you
2 are going to leave a print. You know, on all the
3 television shows where you see that happens all the
4 time. And that doesn't really happen in the real
5 world. But it is a chance that someone could leave
6 it if they did touch the blade.

7 Q. My question to you, Mr. Darnell, is
8 whether or not this surface, this is a good surface
9 to collect a fingerprint?

10 A. Yes, sir. I would say it is a good
11 surface.

12 Q. And this surface, a handle, is also
13 suitable to receive a fingerprint?

14 A. It would be suitable. Probably not
15 quite as good as the blade itself, but the wooden
16 handle is a suitable surface.

17 Q. So when someone is grabbing something
18 like a knife and they are holding it their fingers
19 are rolled over into the items; is this a
20 reasonable assumption?

21 A. Yes, sir.

22 Q. Okay. And if someone picks up the
23 blade and grabs a blade part they don't want to cut
24 themselves obviously, but if they pick up the blade
25 part, the tip of their fingers are holding on to

1 the blade part or touching the blade part at some
2 point; is that right?

3 A. That's possible, yes, sir.

4 Q. If I put my hand on this jury bar right
5 here you may be able to pick up my print from that?

6 A. It's possible.

7 Q. It is possible?

8 A. It's not -- it doesn't always happen,
9 but it is possible.

10 Q. It's not a guarantee?

11 A. No, sir.

12 Q. That's why you were called in to help
13 see if you can pick out those prints and that's why
14 sometimes you use a light to help you see whether
15 prints may be visible or not?

16 A. Yes, I use lights and different
17 chemicals and various techniques.

18 Q. Now, what I understand that you did
19 with Exhibit 64 and 65, you took a cotton material
20 of some sort; is that right?

21 A. Yes, sir. It was a sterile cotton
22 swab.

23 Q. Sterile cotton swab. It means it is
24 clean?

25 A. Correct.

1 Q. And so there should be no contaminates
2 on it?

3 A. That's correct.

4 Q. And you dipped it in some kind of
5 saline solution?

6 A. Yes, sir. We actually use I call it
7 deionized water, sterile water.

8 Q. To make sure you can pick out whatever
9 you wanted to pick up. So you took that on to the
10 handle part; is that right?

11 A. Yes, sir.

12 Q. And then you so you were able to pick
13 up something off of those and then put it in here
14 to be analyzed later?

15 A. That's correct.

16 Q. So, Mr. Darnell, this incident happened
17 on October 10th, 11th, 2015. And it was sent to
18 your lab in November. So that's about not quite
19 maybe three weeks or so for lab to receive it and
20 then you don't get to it until May. So that's
21 November, December, January, February, March,
22 April, maybe seven months later, over seven months
23 later; is that right?

24 A. Math looks correct. Six or seven
25 months later.

1 Q. So would you tell the jury, is that
2 seven months after that knife is collected you're
3 still able to find something of value off that
4 handle?

5 A. Yes, sir.

6 Q. And so then when you find something of
7 value off the handle you are not telling the jury
8 how long that thing that you are able to collect
9 has been there?

10 A. No, sir.

11 Q. It could have been there two months
12 prior to October 10th?

13 A. That's certainly possible.

14 Q. Could have been there six months prior
15 to October 10th?

16 A. I have no way of knowing.

17 Q. At all?

18 A. No, sir.

19 Q. But the substance that you are
20 collecting off that knife has the ability to remain
21 on that wooden handle for a period of time and you
22 don't have any way of determining that length of
23 time?

24 A. Yes, sir. You know, like I said, they
25 had the knife in a box secured inside with the zip

1 tie. So it's been secured and in a protective
2 environment for at least six or seven months prior
3 to me receiving it prior to that. I can't tell you
4 where it was.

5 Q. Now, the only item that you were asked
6 to examine was the wooden knife; is that correct?

7 A. That's correct, yes.

8 Q. Now, I'm going to show you a photograph
9 of State's Exhibit No. 53. I am presuming you
10 haven't seen this before? Have you seen the actual
11 item depicted in 53?

12 A. No, sir, I have not.

13 Q. You were not asked to examine anything
14 with this?

15 A. No, sir.

16 Q. Now, these things right here on the
17 jacket are buttons; is that correct?

18 A. They appear to be like a letterman
19 athletic-type jacket. I would assume they are
20 metal button covers, stamp covers.

21 Q. Now, hypothetically, sir, it is
22 possible based on the nature of these buttons that
23 you may be able to get prints off those buttons; is
24 that correct?

25 A. It would be possible. I don't know

1 that I have ever developed anything on a snap cover
2 like that in my career, but I would have to say it
3 would be possible just because of the fact that it
4 is metal and it's smooth basically.

5 Q. Now, also, sir, reflected right here
6 where my pen is next to these two buttons, that may
7 be blood, okay? Can blood also serve as a
8 receptacle for fingerprints?

9 A. Yes, sir.

10 Q. Dried blood. Blood that has
11 substantially dried?

12 A. I'm not --

13 Q. Let me rephrase that. I will stick
14 with my initial question to you because I may have
15 confused myself. Blood at times can serve as a
16 receiver of fingerprints?

17 A. Yes, sir.

18 Q. And once blood dries and it receives
19 the fingerprint you have the capability of lifting
20 a print off the dry blood?

21 A. Well, we don't really lift the bloody
22 print. It would be processed chemically and we can
23 photograph it at that point. But that is something
24 that we can do.

25 Q. As I understand it you weren't asked to

1 do that in this case?

2 A. No, sir, I was not. Had I seen what
3 appeared to be a bloody impression on that knife,
4 State's Exhibit 58, I would have taken the
5 necessary steps to develop and to preserve it, but
6 I did not see that in this particular case.

7 Q. Okay. Give me just one second, please.

8 (Attorney confers with client.)

9 Q. You were asked about the bend on the
10 tip of the knife?

11 A. Yes.

12 Q. You don't have any idea how that
13 happened or when what happened?

14 A. I don't know when it happened or really
15 even how it happened, but I assume had to hit
16 something hard for it to be bend that like.

17 Q. At some point in time and you just
18 don't know what or where?

19 A. Right. I don't know. I have no way of
20 knowing.

21 MR. SHAHID: Thank you, sir. That's
22 all the questions I have, Your Honor.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION

25 BY MR. WARING:

1 Q. Thank you, Judge, just briefly. Tom,
2 were there indications of blood found on the knife?

3 A. Yes, there did appear to be what I
4 suspected to be blood. What I have seen in my
5 career certainly looked like blood to me.

6 Q. Now, with regard to the knife,
7 Exhibit 58, if somebody were holding it presumably
8 by the handle hypothetically and momentarily their
9 hand slipped down would you expect to lift a
10 fingerprint off the tiny little surface area of the
11 edge?

12 A. No, sir, not on the edge. I would
13 expect it is not enough surface there on the edge
14 of the blade.

15 MR. WARING: Court's indulgence. No
16 further questions, Your Honor.

17 THE COURT: Any objection to the
18 witness being excused from the State?

19 MR. WARING: No, Your Honor.

20 THE COURT: From the defense?

21 MR. SHAHID: No, Your Honor.

22 THE COURT: Sir, you are excused. You
23 may call your next witness.

24 MR. WARING: State calls Verona
25 Herrera.

VERONA HERRERA

having been duly sworn, testifies as follows:

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: My name is Verona Herrera, H-E-R-R-E-R-A.

DIRECT EXAMINATION

BY MR. WARING:

Q. Good morning.

A. Good morning.

Q. How are you doing today?

A. I'm well. And you?

Q. Good. Please tell the jury where you work.

A. I work at SLED which we refer to which -- I am sorry -- is a shortened version of the South Carolina Law Enforcement Division.

Q. And please tell me what your role is in SLED?

A. I'm a forensic serologist in the DNA case work department at SLED.

Q. And how long have you worked at SLED?

A. Approximately ten years.

Q. Now, you mentioned you are a forensic serologist?

1 A. Yes.

2 Q. Can you the tell the jury what that
3 means?

4 A. Forensic serology has two basic
5 sections within it. First one is we get larger
6 pieces of evidence such as clothing, car parts,
7 guns, we look for possibly body fluids or we
8 collect for skin cells where someone touched or
9 wore an item. We can also if needed take those
10 samples further and identify the body fluid. So if
11 we have a quick color change test that indicates
12 something may be semen we have further testing to
13 confirm if that substance is semen.

14 Q. Did you have to undergo any specific
15 training to get where you are now?

16 A. SLED has inhouse training. We train
17 under court qualified analysts. We first watch
18 them do their work. Slowly they allow us to do
19 some of the steps as they watch until we're doing
20 all the steps as they watch. We are given tests in
21 how we do the test, our report writing, our
22 testimony, and other areas to prove that we can
23 actually do case work alone and then we are allowed
24 to do our own case work.

25 Q. Do you have any kind of yearly

1 proficiency tests or anything like that?

2 A. Yes, we are proficiency tested every
3 year.

4 Q. How about testifying? You ever done
5 that before?

6 A. I have testified approximately I think
7 50 times now.

8 Q. How about as an expert?

9 A. As an expert it's somewhere between 50
10 and 20.

11 Q. And typically what fields do you
12 testify in?

13 A. It's either forensic serology which is
14 what I have been doing for the last three years or
15 it's forensic evidence processing which is that
16 first part or serology that I explained so that
17 kind of got absorbed in the serology section that
18 was created.

19 MR. WARING: Your Honor, at this point
20 State moves to have the witness declared an expert
21 in forensic serology.

22 THE COURT: Any objection?

23 MR. SHAHID: No objection.

24 THE COURT: So admitted without
25 objection.

1 BY MR. WARING:

2 Q. Now, do you have any knowledge of the
3 difference between DNA and serology?

4 A. Basic knowledge. I'm not an expert in
5 DNA, but I do collect items that go forward for DNA
6 testing.

7 Q. Okay. So serology, is that part of the
8 whole DNA process?

9 A. It is. The DNA case work section is
10 broken up in two sections. There's a serology
11 section which is basically a screening section to
12 make sure something needs to go forward and be
13 further analyzed in the DNA analysis or section of
14 the DNA department.

15 Q. Can you briefly describe how you're
16 able to test for bodily fluids?

17 A. For semen and blood there are two quick
18 color change tests. We swab the stain of interest,
19 apply a couple chemicals. If it changes color then
20 that's an indication that that possibly could be
21 that body fluid.

22 Q. What color would that be?

23 A. For blood it's pink, for semen it's a
24 darker one.

25 Q. So if something is presumptive positive

1 for blood it will turn pink?

2 A. With our chemical test, yes.

3 Q. Now, let's say that shows up on a piece
4 of clothing, that fluid, say blood for example. Do
5 you do anything in particular with that clothing?

6 A. That item area would be cut and then
7 placed in an envelope and forwarded for further
8 testing.

9 Q. Now, were you involved in this case,
10 the Ricky Short case?

11 A. Yes, sir.

12 Q. And tell the jury how you were brought
13 into that?

14 A. It was the next case in line I pulled
15 to work. I received the evidence from our evidence
16 control department and then looked at the request
17 the agency made on the item and processed the items
18 for those requests.

19 Q. Do you recall what you received as far
20 as item of evidence?

21 A. There was a jacket which I found a cap
22 with, a pair of boxer shorts and then at a later
23 date I processed a thermal shirt and a pair of
24 fingernail clippers.

25 Q. Can you tell us when that is?

1 A. The jacket, cap and the boxer shorts
2 were processed on April 1st of 2016. The
3 fingernail clippers and the thermal shirt were
4 processed on February 26th of 2018.

5 Q. Going through each one of those pieces
6 of evidence, can you tell the jury what you did
7 with the jacket?

8 A. The jacket has a request for blood and
9 ownership. So I visually examined the jacket and
10 that's when I found the cap. Visually examined the
11 jacket for any areas that could possibly be a blood
12 stain. Tested those areas and then cut out one
13 area that tested positive. I also scraped and
14 swabbed the neck and the cuffs of the jacket to
15 collect skin cells potentially of the person who
16 wore the item.

17 Q. All right. So breaking it down did it
18 appear that the jacket had any bodily fluids on it?

19 A. There were areas that were positive for
20 the presumptive test for blood.

21 Q. Okay. And, again, how were you able to
22 tell this?

23 A. Those areas were swabbed. The
24 chemicals were dropped on the swab and there was a
25 pink color change.

1 Q. Are you able to tell the jury where the
2 locations of those areas were?

3 A. The cutting that was taken was from the
4 front right chest area of the jacket. There was
5 also an area that tested positive on the left front
6 near the -- between the pocket and the snaps.

7 Q. And when you were done with those items
8 did you package everything?

9 A. The cuttings and the swab were packaged
10 in individual envelopes. Those would have been
11 placed in a heat seal pouch and that heat seal
12 pouch was sealed and forwarded on. The jacket was
13 wrapped in the paper on which I processed it,
14 placed back in the box in which it was submitted
15 and returned to the agency.

16 Q. Approach the witness, Your Honor?

17 THE COURT: You may.

18 Q. Show you been what's already been
19 admitted as State's Exhibit 59. Would you take a
20 look and tell the jury what you see?

21 A. (Witness complies with request.) This
22 is our Item 1.1 and 1.2 which is the jacket and the
23 cap.

24 Q. And I know it is kind of bunched up.
25 Would you mind pulling the jacket out?

1 A. (Witness complies with request.)

2 Q. Are you able to show the jury where you
3 got the cutout from?

4 A. This area here labeled 1.1.1 is the
5 cutting that was taken from the item. And then the
6 neck area and the inner cuffs were the area that
7 was scraped and swabbed.

8 Q. So you processed the jacket for
9 serology?

10 A. Yes.

11 Q. Okay. And how about the cap?

12 A. There were no areas of apparent blood
13 stains so when I looked at the item I saw no areas
14 that should have been tested with a quick color
15 change test. So the entire cap was scraped and
16 swabbed to try to collect skin cells.

17 Q. And you mentioned kind of before was
18 the cap by itself or was it packaged with the
19 jacket?

20 A. Was packaged with the jacket.

21 Q. Okay. But when you opened up the box
22 were you the one that saw both of those items
23 packaged together?

24 A. That is correct. When evidence is
25 submitted to our agency we give what the agency

1 said was in that package. Our evidence control
2 technicians do not open the items or look at them.
3 They remain in a sealed condition until I open it.
4 And then we inventory any evidence, anything that's
5 in the bag. So it's not uncommon to find extra
6 items in with what the agency said is there.

7 Q. Was any presumptive blood found on that
8 cap?

9 A. The cap had no areas that I actually
10 tested. There were no areas that appeared to be
11 blood stained so there was no presumptive testing
12 done on the cap.

13 Q. So conversely if you had found an area
14 that looked like it had blood on it would you have
15 processed it?

16 A. I would have, yes.

17 Q. Now, would you take a look in there as
18 well and hold up the cap, Item 60.

19 A. (Witness complies with request.)

20 Q. Is that the same cap?

21 A. It is, yes. The item number and our
22 unique lab number and my initials is on the item.

23 Q. Now, I want to ask you kind of a
24 hypothetical question. You mentioned there was no
25 blood on the cap?

1 A. There was no areas that I tested, yes.

2 Q. If there was no blood on the cap but
3 there was blood found, presumptive blood found on
4 the jacket, is it likely the cap would have somehow
5 transferred all of the jacket's blood to the
6 jacket?

7 A. That is not likely.

8 Q. Can you explain why that is?

9 A. The item is going to -- if there was an
10 item giving up blood it is going to retain some of
11 that blood. It's not likely that it would give up
12 everything on it to another item.

13 Q. So asked a different way, is it likely
14 based on your experience and training that the cap
15 somehow contaminated the jacket?

16 A. It could have with DNA with skin cells
17 maybe, but I don't think there was a transfer of
18 blood in the cap to the jacket unless it was
19 miniscule.

20 Q. And did you take -- so were you able to
21 take any swabs of the cap?

22 A. I took swabs from scraping the entire
23 cap.

24 Q. What did you end up doing with those?

25 A. Those were sealed in an envelope as

1 well and were also forwarded for DNA analysis.

2 Q. What about the boxers? Can you tell us
3 what you did with those?

4 A. Those also were requested for blood and
5 ownership. There was an area cut from the front
6 right hip area of the boxer shorts. It tested
7 positive for the presumptive test for blood. I
8 scraped and swabbed the waistband of the boxer
9 shorts, inner waistband of the boxer shorts and I
10 also collected debris from the boxer shorts. I am
11 sorry, there was debris collected from the cap and
12 the jacket as well, I am sorry.

13 Q. So there was presumptive blood on the
14 boxers?

15 A. Yes.

16 Q. And so does that mean there was also
17 presumptive blood on the cutting and the swab?

18 A. The cutting there was and there was
19 potential -- the cutting was of the area, one of
20 the areas that tested positive for the presumptive
21 test. That's the reason it was cut. There is a
22 potential for there still to be blood on the
23 waistband that I could not visualize. So when I
24 scraped it that could have been on the swab. I did
25 not test that swab to see.

1 Q. May I approach the witness, Your Honor?
2 Showing you what's already been admitted into
3 evidence as State's Exhibit 22. Package that up if
4 you can. Would you mind taking a look at that.

5 A. (Witness complies with request.) Yes,
6 sir. These are the boxer shorts.

7 Q. Would you mind holding them up for the
8 jury, please?

9 A. (Witness complies with request.) This
10 is the area I cut. It was positive for the
11 presumptive test for blood.

12 Q. Now I'm going to show you what's been
13 marked for identification purposes only as State's
14 Exhibit 68 and 69.

15 MR. SHAHID: No objection.

16 THE COURT: 69 and 68 marked and
17 admitted without objection. What about 22? Are
18 you seeking to have that admitted or waiting?

19 MR. WARING: Your Honor, that's already
20 been admitted.

21 THE COURT: It was. I apologize.

22 (STATE'S EXH. 68-69 in evidence.)

23 THE WITNESS: These are the cuttings
24 from the swabs and debris from the cap, the jacket
25 and the boxer shorts. I created the package. My

1 initial and date is here as well where I sealed it.
2 And this is my handwriting here. And I can see on
3 the envelopes on the inside the initial and the
4 date that I sealed the envelopes.

5 BY MR. WARING:

6 Q. And so Item 68 and 69, do they fairly
7 and accurately depict the cuttings from the boxers
8 and swabs and scrapings from the waistband of the
9 boxers?

10 A. It appears they are in here, yes, sir.

11 Q. Now, earlier in your testimony you
12 mentioned about how you tested some stuff at a
13 later date; is that right?

14 A. Yes.

15 Q. Okay. When was that?

16 A. There was a set of fingernail clippers
17 and a white thermal shirt.

18 Q. All righty. And do you know the date
19 of that?

20 A. That would be February 26th of 2018.

21 Q. All right. And starting with the white
22 thermal shirt, can you tell the jury what you did
23 with that?

24 A. Request on the item was blood and
25 ownership. I visually examined the item and tested

1 with the quick presumptive test for blood. There
2 was an area cutting that was positive from the
3 middle front of the thermal shirt and then there
4 was a swab from scraping the underarm areas
5 avoiding any staining of the thermal shirt.

6 Q. So there was presumptive blood found on
7 the white thermal shirt?

8 A. Yes, sir.

9 Q. And you packaged and sealed all that
10 stuff?

11 A. The swab and the cutting, yes, that was
12 all as well in envelopes.

13 Q. May I approach the witness, Your Honor?

14 THE COURT: You may.

15 BY MR. WARING:

16 Q. I am now showing you what has been I
17 believe already admitted into evidence as State's
18 Exhibit 61. If you'll tell the jury what you see?

19 A. This is the thermal shirt that I
20 examined. The cutting was taken from the center.
21 It's inside out because I processed it for the
22 ownership which would have been done as the last
23 item -- processing of the item.

24 Q. All right. I am now going to show you
25 what's been marked for identification purposes only

1 so far as State's Exhibit 70 and 71.

2 MR. WARING: Your Honor, I believe
3 admitted without objection.

4 THE COURT: Without objection; is that
5 correct?

6 MR. SHAHID: That's correct, Your
7 Honor.

8 THE COURT: Marked and admitted without
9 objection, 70 and 71.

10 (STATE'S EXH. 70-71 in evidence.)

11 BY MR. WARING:

12 Q. Would you mind telling the jury what
13 those are?

14 A. This is the cutting that tested
15 positive for the presumptive test for blood. That
16 is the swab from scraping the neck -- I mean the
17 underarm areas avoiding the stain.

18 Q. Court's indulgence, Your Honor?

19 THE COURT: Yes, sir.

20 (Off-the-record conference.)

21 MR. WARING: Please answer any
22 questions the defense has.

23 THE COURT: You may proceed.

24 MR. SHAHID: Thank you.

25 CROSS-EXAMINATION

1 BY MR. SHAHID:

2 Q. Good morning.

3 A. Good morning.

4 Q. Ms. Herrera, how are you today?

5 A. Well.

6 Q. Let me go over this. You were asked to
7 examine a jacket?

8 A. Yes, sir.

9 Q. And a cap?

10 A. Yes.

11 Q. Boxer shorts?

12 A. Um-hmm.

13 Q. And a thermal shirt?

14 A. Yes. And there were also a pair of
15 fingernail clippers.

16 Q. The last item was fingernail clippers.
17 Four items of clothing?

18 A. Yes, sir.

19 Q. And do you have those out still, those
20 items?

21 A. No, sir.

22 Q. We will go through those a little bit,
23 but one at a time. So on the -- what you are
24 looking for, you are sort of the first line of
25 screening?

1 A. That is correct.

2 Q. So it has to pass your office first
3 before it is then sent off to the DNA examiner?

4 A. Yes, that is correct.

5 Q. So what you are looking for are semen
6 on the item or blood or skin cells of some sort?

7 A. If those are the requested analysis,
8 yes, sir.

9 Q. Those are the three things you would --
10 those would be the things that you are looking for?

11 A. We can also do saliva and we do
12 evaluate hair as well.

13 Q. So hair, saliva, semen, blood, and/or
14 skin cells?

15 A. Yes.

16 Q. You used the term earlier in front of
17 the jury about ownership?

18 A. Yes.

19 Q. And ownership as I understand it is
20 that if I have on a collared shirt and I have on a
21 shirt that's got sleeves on them, so it's
22 conceivable that because my shirt is touching my
23 skin you could swab my cuff or my neck and you
24 could pick up traces of my skin?

25 A. Yes, that is correct. We usually

1 scrape and then swab, but, yes, sir, that is
2 correct.

3 Q. And that's called ownership?

4 A. It's we call it ownership processing at
5 our laboratory. Some laboratories just call it
6 touch processing. We differentiate touch more as
7 if someone who grabbed an item or touched an item
8 versus ownership someone would have worn something.

9 Q. So like a fingerprint of some sort; a
10 loose way of looking at it, you leaving your mark
11 on that item?

12 A. There is potential to leave the DNA on
13 just about anything you touch or wear.

14 Q. So when I am touching it and you can
15 say Peter Shahid was there?

16 A. That's potential to, yes.

17 Q. That's what your job is to say okay, we
18 were able to identify that at some point in time on
19 the 19th of April 2018 I scraped and swabbed a
20 shirt and lo and behold this blue shirt was worn by
21 Peter Shahid at some point?

22 A. I do the collection. I do not say
23 whose DNA was found there.

24 Q. Getting ahead of myself.

25 A. I need to clarify that. I do not do

1 the DNA analysis. I only do the collection to
2 forward it on.

3 Q. That's what --

4 A. Attempting to do is find out who wore
5 it.

6 Q. You are looking for the ownership part
7 and you're also looking for the presence that
8 someone's else blood or semen or saliva is on that
9 particular item?

10 A. Correct. That's what we evaluate for.

11 Q. So if you find an item like a jacket or
12 a shirt or a hat and it doesn't have blood on it,
13 and it still may have their DNA because they may
14 have touched it?

15 A. Potentially, yes, sir.

16 Q. Now, where is the cap?

17 A. It is packaged in with the jacket.

18 Q. This one?

19 A. I believe so, yes, sir.

20 Q. Have you put those gloves back on.

21 A. I have another pair.

22 Q. Would you come down with me over here
23 so the jury can get a full view of this.

24 A. (Witness complies with request.)

25 Q. I will hold the bag. So if you hold

1 maybe -- put it right there. Now, can you hold the
2 jacket up for us?

3 A. (Witness complies with request.)

4 Q. So as I understand it, what you did is
5 that you found --

6 A. There is -- the cuttings are just from
7 here.

8 Q. I am getting to that.

9 A. Okay.

10 Q. So help you out a little bit. Hold it
11 up for the jury. So right here is presumptive for
12 blood?

13 A. Yes, sir.

14 Q. And this was not cut and tested?

15 A. Correct.

16 Q. And then up here this area here is
17 where you cut out and you presumed it was blood
18 there?

19 A. Tested positive for the presumptive.

20 Q. Presumption?

21 A. Yes.

22 Q. And then you send that swab off to
23 another lab for testing, another department?

24 A. Correct, that cutting, yes, sir.

25 Q. Then you took and you scraped this area

1 of the jacket?

2 A. Neck area.

3 Q. Collar area?

4 A. Yes.

5 Q. And in this area, excuse me, and in
6 this area right along here, there's no blood?

7 A. There was no visible blood.

8 Q. No visible blood?

9 A. Also did the inner cuff areas.

10 Q. And inner cuffs area. So this is what
11 you are holding right now is the right arm?

12 A. Correct.

13 Q. And so along this sleeve there was no
14 testing for blood here as well?

15 A. There is right here. And that was
16 positive. I don't test every spot that appears to
17 be a blood stain as long as I have at least two
18 positives.

19 Q. That's presumptive, you can tell
20 because you did not cut the part out?

21 A. Correct.

22 Q. You sent it off for further testing?

23 A. Correct.

24 Q. And on the sleeve area where your right
25 hand is now touching this sleeve area, the cut, the

1 cuff, there was no testing for blood there?

2 A. Correct.

3 Q. Or any place along this other part of
4 the sleeve?

5 A. No.

6 Q. On this side there's no cutting out of
7 and testing for any blood to be sent off to the
8 other part of the lab?

9 A. Correct.

10 Q. Now, in addition, you can since our
11 body is touching like my coat is right now, my
12 t-shirt has an underarm part of it and that can --
13 you can pick up DNA cells from that as well?

14 A. Correct. Anywhere the fabric impacts
15 skin there's potential for there to be skin cells
16 remaining on the item.

17 Q. Okay. And there was on the -- these
18 metal buttons right here, there was no swab here?

19 A. No.

20 Q. So if I am buttoning that jacket and
21 clipping like that, if I am doing that, then there
22 is -- I am touching?

23 A. Correct.

24 Q. And presumably if I am touching my
25 fingers and my thumb you can swab the area as well

1 for my DNA cells?

2 A. Yes.

3 Q. Lay that out. Move to the cap.

4 THE COURT: Let me interrupt you one
5 moment. Madam forelady, ladies and gentleman, we
6 are going to take advantage of this break to take a
7 brief comfort break. Please do not discuss the
8 case and please leave your note pads in your seats.
9 Let the bailiffs know when you are done.

10 (Thereupon, the jury exited the
11 courtroom at 11:00 a.m.)

12 THE COURT: We will be at ease for a
13 few moments.

14 (Brief recess taken.)

15 THE COURT: State ready to proceed?

16 MR. WETMORE: Yes.

17 THE COURT: Defense ready to proceed?

18 MR. SHAHID: Yes.

19 THE COURT: Please bring the jury.

20 (Whereupon the jury entered the
21 courtroom at 11:16 a.m.)

22 THE COURT: You may resume examination
23 of the witness.

24 MR. SHAHID: Thank you, Judge.

25 BY MR. SHAHID:

1 Q. I think we are talking next about the
2 cap and that is Exhibit No. 60, I believe. So on
3 the cap on Exhibit No. 60, you did not find any
4 blood at all on the cap?

5 A. There were no areas that appeared to be
6 blood stained so I tested no areas.

7 Q. That's your job, to look for that --
8 those areas first?

9 A. Correct.

10 Q. And then you took your swab and swipes?

11 A. I scraped the entire item, the interior
12 and exterior and then swabbed the entire item.

13 Q. And there's no cuttings on here like
14 you did on the jacket because there is nothing to
15 cut?

16 A. Correct. We only cut for if something
17 tests positive for a presumptive test. I don't
18 typically cut scrapings.

19 Q. You took the inside of that and you
20 swabbed that area. That's what's on your markings
21 on here. And then --

22 A. Yes, sir, I scraped it which this is
23 the scraper we use, sterile, single user, return
24 with the item and then swabbed behind it.

25 Q. Where was that found in relationship to

1 the jacket?

2 A. I do not know where it was found in the
3 jacket. I do know that if it was in the pocket I
4 would have noted it was in the pocket. So it was
5 in some way in with the package.

6 Q. Just it was there?

7 A. Just in there, yes, sir.

8 Q. And on your inventory which you receive
9 from the sending agency, this being North
10 Charleston, that was not marked?

11 A. It was not listed, no, sir.

12 Q. It obviously came sort of like you got
13 right now?

14 A. Correct.

15 Q. Let me get another pair of gloves on.
16 The next item that you tested was the boxer shorts.
17 And that is Item No. 22. Can you pull that out for
18 the jury, please? So you are looking for blood as
19 well?

20 A. Yes.

21 Q. And you got an area of blood right
22 here?

23 A. That's correct.

24 Q. And any there any places that you cut?

25 A. I did not cut. There was another area

1 that tested positive.

2 Q. Presumptive?

3 A. For blood.

4 Q. Even though it tested presumptive for
5 blood you did not send it out, you did not do a
6 cutting for that?

7 A. No, sir, only the one area.

8 Q. And did you do another type of scraping
9 on this as well?

10 A. Yes, I scraped the interior of the
11 waistband and swabbed it as well.

12 Q. Item No. 22, does that appear to be the
13 same boxer shorts that is reflected in State's
14 Exhibit No. 11?

15 A. Appears it is possible.

16 Q. Okay. And also in 12?

17 A. Yes, sir, they appear to be similar.

18 Q. You can put those back. Then the other
19 item of clothing is the thermal shirt; is that
20 correct?

21 A. Yes, sir.

22 Q. You did the same thing with the shirt
23 similar as to what you did with the jacket and the
24 boxers and the hat, you scraped?

25 A. Yes, I scraped the underarms for the

1 ownership processing.

2 Q. That's what you got your black mark on?

3 A. Yes, sir.

4 Q. And over here?

5 A. Yes, sir.

6 Q. Okay. I am sorry. Just make sure,
7 this is Item No. 61, State's Exhibit No. 61. So
8 you scraped underneath here, then the arms and then
9 where else did you scrape?

10 A. Just the underarms. There was red
11 brown staining in the typical areas we would have
12 processed so I processed the underarms.

13 Q. Did you process the cuff sleeve area at
14 all?

15 A. I did not because there's red brown
16 staining, could potentially be blood.

17 Q. How about the collar?

18 A. Same thing. There was red brown
19 staining on the collar so I did not do that.

20 Q. And then right here there's a hole?

21 A. Yes, sir, that is where I cut, the one
22 cutting that was taken.

23 Q. It's inside out?

24 A. It is, yes. I always do ownership
25 processing last.

1 Q. And that's the only place you took out?

2 A. I also tested here and that was
3 positive for presumptive test.

4 Q. Presumptive?

5 A. Yes, sir.

6 Q. And you did not do a cutting here and
7 did not send that off?

8 A. Correct.

9 Q. The only part you took off for blood is
10 right here?

11 A. Yes, sir.

12 Q. You can put that back in there.

13 A. (Witness complies with request.)

14 Q. I think that's all on that part. So
15 those items were received at different times by
16 your agency; is that correct?

17 A. That is correct.

18 Q. The jacket with the cap and the boxers
19 were received at the same time?

20 A. Yes, sir, that is correct.

21 Q. And so that came from you what date?

22 A. To me or to our agency? I am sorry.

23 Q. When did it come to the agency first?

24 A. They were submitted to the agency on
25 11-6-2015. And I took them in my custody on

1 2-29-16.

2 Q. And I am sorry. They came in November
3 of '15 and then February of '16 is when you tested
4 them?

5 A. That is correct, when I took them into
6 my custody. I began my testing on April 1st.

7 Q. April 1st is the testing part?

8 A. Yes, sir.

9 Q. So and then as to the shirt, the
10 thermal shirt came to you and you did a testing in
11 February of '18 as I understand it or came to you
12 in February of '18?

13 A. Let me just consult my forms. It was
14 submitted to the agency 2-23 of 2018 and I took
15 custody on 2-26 of 2018 and processed it the same
16 day.

17 Q. And that was sent -- this is April,
18 February, March, two months ago was submitted to
19 you for testing?

20 A. That is correct.

21 Q. And that came from North Charleston,
22 the thermal shirt and the clippings with, sending
23 agency was North Charleston Police Department?

24 A. That is correct.

25 Q. So, likewise, what you are able to

1 collect if this item was initially collected in
2 October of 2015, the presence what you are looking
3 for still may be there from October of '15 until
4 February of 2018?

5 A. Body fluids and DNA is very stable as
6 long as it's kept in a dry humidity and
7 environmental controlled environment.

8 Q. So meaning that you don't know when the
9 body fluid, the blood or the dead cells or whatever
10 you are looking for become present on that item so
11 they could have been there sometime well before
12 October of 2015?

13 A. That is correct. I have no way of
14 dating when those items were deposited on the
15 clothing.

16 Q. That includes the blood? Did you test
17 presumptive for blood and any other type of DNA
18 scrapings and swabs that you may have taken?

19 A. That is correct. We have no way of
20 determining when they were deposited there.

21 Q. Just one second, please.

22 (Attorney confers with client.)

23 MR. SHAHID: I had asked you earlier
24 sort of a little demonstration, so I have a T-shirt
25 on and a long sleeved shirt on. Now, I think I am

1 done. Thank you, Judge.

2 THE COURT: Redirect?

3 MR. WARING: Just briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WARING:

6 Q. Is it common sometimes for items to be
7 packaged together?

8 A. Yes, sir, that is quite common.

9 Q. So is this instance with the cap and
10 the jacket, that's not -- you have never heard of
11 that before that that's ever happened before?

12 A. It is quite common to have items
13 packaged together or for us to find the items.

14 Q. Okay. And, again, was there
15 presumptive blood on the cap?

16 A. There was no areas tested.

17 Q. Based on that is it likely that
18 contaminated the jacket?

19 A. That is not likely.

20 Q. Is there any reason you picked certain
21 areas to cut out versus others?

22 A. Usually it's either the thickness of
23 the stain that I am viewing or the strength of the
24 color change. I try to do the strongest area
25 possible to go forward for DNA.

1 Q. Is it practical for you to process
2 every inch of a piece of clothing?

3 A. It is not. If we are aware that there
4 were multiple bleeders who could have contributed
5 to the item we test much more. But if our
6 information only lets us know that there were one
7 or two bleeders we scale back on that, but I rarely
8 test the entire item.

9 Q. You mentioned ownership testing or
10 processing. When you are doing that ownership
11 processing are you trying to avoid the blood
12 stains?

13 A. Yes, we do. The blood is a much higher
14 contributor of DNA so we try to avoid those areas.
15 So because I had already taken a cutting of what
16 potentially could be blood I am trying to collect
17 the skin cells instead.

18 Q. So asked a different way, when you are
19 doing your routine processing, your testing, are
20 you careful not to contaminate items?

21 MR. SHAHID: Objection, leading, Your
22 Honor.

23 THE COURT: Sustained, leading,
24 rephrase.

25 BY MR. WARING:

1 Q. When you are conducting your testing
2 are you being reckless or are you being meticulous?

3 A. We try to be very meticulous.

4 MR. WARING: No further questions, Your
5 Honor.

6 THE COURT: Any objection to the
7 witness being excused?

8 MR. WARING: No, Your Honor.

9 MR. SHAHID: No, Your Honor.

10 THE COURT: Ma'am, you are excused.
11 Call your next witness.

12 MR. WARING: State calls Jennifer
13 Clayton.

14 JENNIFER CLAYTON

15 having been duly sworn, testifies as follows:

16 THE CLERK: Please state your full name
17 and spell your last name.

18 THE WITNESS: Jennifer Clayton,
19 C-L-A-Y-T-O-N.

20 DIRECT EXAMINATION

21 BY MR. WARING

22 Q. Good morning, Jennifer.

23 A. Good morning.

24 Q. How are you doing today?

25 A. I'm doing pretty well.

1 Q. Please tell the jury where you work.

2 A. I am currently employed with the South
3 Carolina Law Enforcement Division also known as
4 SLED.

5 Q. How long have you worked there?

6 A. Approximately 15 years.

7 Q. And during those 15 years what have you
8 been up to?

9 A. I worked as a forensic technician in
10 the DNA department for two years and then I was
11 hired as an analyst and I have worked as a DNA
12 analyst since then.

13 Q. As a DNA analyst can you describe some
14 of your duties and responsibilities?

15 A. I receive items of evidence that may
16 contain DNA on them and then I attempt to extract
17 that DNA which means remove the DNA from the item
18 of evidence so that it can be tested. And I
19 attempt to develop DNA profiles and then I compare
20 DNA profiles from evidence to DNA profile
21 standards. And standards are items of evidence
22 that are taken directly from an individual,
23 typically either a sample of blood or buccal swab
24 which is a swab from the inside of an individual's
25 cheek. That way I know the profile taken from that

1 item, it came from that individual. And I compare
2 the profiles from evidence to those standards to
3 determine if the individual in question could have
4 contributed to that item and then I issue a report
5 of my results.

6 Q. Do you all have procedures for making
7 sure evidence items don't get contaminated?

8 A. Yes, we do.

9 Q. Can you elaborate on how that works?

10 A. Items are packaged separately when
11 they're submitted typically and then when I receive
12 the evidence I only open one package at a time and
13 one item of evidence. So if a pouch contains
14 multiple envelopes as is sometimes the case I will
15 take out one envelope and open one envelope at a
16 time. I will process that piece of evidence. I
17 will reseal it and then it put back in the pouch.
18 We wear gloves when we are working. We change our
19 gloves frequently. And certainly between every
20 item we clean. We have work space between every
21 item to make sure there is no contamination and
22 then when we do our DNA analysis we have some
23 controls that we run to check for contamination as
24 well. There's what's called a negative control
25 where we add things that we use during testing to a

1 tube that doesn't have any sample in it. And so it
2 should come up negative and if it gave a result we
3 know there is an indication of contamination for
4 that batch of evidence.

5 Q. Now, you mentioned a heat sealed pouch.
6 If one of those were unsealed or broken would you
7 be thrilled about going forward with testing it?

8 A. No. I would have to stop and be able
9 to verify first the evidence had been tampered
10 with. And then if there were obviously any
11 indication of tampering then I will not be able to
12 proceed with testing. I would have to stop. If
13 there's a reasonable explanation for it, we can
14 explain why there was an issue, then we may be able
15 to proceed with testing.

16 Q. Now, have you testified before,
17 Jennifer?

18 A. Yes, I have.

19 Q. And how about as an expert?

20 A. Yes, I have testified as an expert.

21 Q. Approximately how many times?

22 A. Approximately 50 times.

23 Q. Okay. And when you do that or have
24 done that in the past in what field has that been
25 in?

1 A. Forensic DNA analysis.

2 Q. All right. Now, did you have to do any
3 training for SLED?

4 A. Yes, I did.

5 Q. And what was that?

6 A. When I was originally hired as an
7 analyst I completed a one year training program
8 under another qualified analyst and I did case work
9 under his supervision before I was allowed to do
10 case work on my own.

11 Q. And do you have any continuing
12 training?

13 A. Yes. We are required to complete a
14 minimum of eight course hours a year to make sure
15 that we stay current in the field of DNA analysis.

16 Q. What about re-certifications?

17 A. We have to successfully complete two
18 proficiency tests a year to be able to continue to
19 do DNA analysis.

20 MR. WARING: Your Honor, at this point
21 State moves to have the witness declared an expert
22 in the field of forensic DNA analysis.

23 THE COURT: Any objection?

24 MR. SHAHID: No objection.

25 THE COURT: So admitted without

1 objection.

2 BY MR. WARING:

3 Q. Jennifer, moving ahead were you
4 involved in this case, in the Ricky Short case?

5 A. Yes, I was.

6 Q. And how did you get involved in that?

7 A. I received items of evidence that could
8 possibly contain DNA so I analyzed those items.

9 Q. Can you tell the jury what items you
10 received?

11 A. Yes. May I refer to my notes?

12 Q. Yes.

13 A. I received a number of items. I
14 received swabs of a reddish brown stain from item 3
15 knife handle. I received swabs from a placard
16 No. 6, from placard No. 13, a placard No. 4, a
17 placard 12. I received buccal swabs from Ricky
18 Short, a blood spot from Malakia Frazier, cuttings
19 from the right front chest area of the jacket, a
20 swab from a scraping of the neck and cuff areas of
21 the jacket, swab from scraping entire cap, cutting
22 from front right hip area of boxer shorts, swab
23 from scraping waistband boxer shorts, swab from
24 item 3 knife handle. I also received debris from
25 Item 1.1 and 1.2 which was a jacket and cap. That

1 would be SLED items 1.1 and 1.2. Debris from boxer
2 shorts, left fingernail clippings from Malakia
3 Frazier, right fingernail clippings from Malakia
4 Frazier, swabs from the blade, fingernail clippers
5 from Malakia Frazier, cutting from a middle --
6 front middle of a white thermal shirt, swab from
7 scraping underarms of a white thermal shirt
8 attempting to avoid stains.

9 Q. So did you have multiple batches of
10 evidence that came to you?

11 A. Yes.

12 Q. All right. And let's take it one step
13 at a time. With regard to the first batch when did
14 you receive that?

15 A. I took the first batch of evidence into
16 my custody on April 26th of 2017.

17 Q. All right. And were those items in
18 heat sealed pouches?

19 A. Yes, they were.

20 Q. All right. Now, briefly you mentioned
21 kind of your process for DNA analysis. Can you
22 further explain what a known standard is?

23 A. Yes. A known standard is as I said
24 before a sample that's taken directly from an
25 individual. It can either be a blood sample or it

1 can be a buccal swab. Those are the two most
2 common types of standards. And the buccal swab
3 looks kind of like a Q-tip, but only on one side.
4 It's a longer stick. That is taken and rubbed on
5 the inside of the cheek and it collects loose skin
6 cells on the inside of an individual's cheek. It
7 is allowed to dry and it's packaged and labeled
8 with the individual's name and that is submitted as
9 a standard.

10 So when I develop the DNA profile for
11 that item I know that it came from that particular
12 individual because it was collected directly from
13 that individual body.

14 Q. For this case did you receive a known
15 standard for both Defendant and the victim?

16 A. Yes, I did.

17 Q. May I approach the witness, Your Honor?

18 THE COURT: You may.

19 BY MR. WARING:

20 Q. Now showing what has been already
21 admitted as State's Exhibit 31 and 62. Will you
22 look at those and tell us what they are, please.

23 A. State's Exhibit No. 31 is SLED Item
24 No. 8 and that is the buccal swab from Ricky Short.
25 The heat sealed pouch has the lab number that was

1 assigned when it's submitted to SLED as well as the
2 item No. 8 and along the side here it has my
3 initials as well the date when I resealed the
4 package. And the item on the back also has the lab
5 number and the number item and my initials from
6 when I inventoried the package.

7 SLED Item 62 is -- I am sorry, State's
8 Exhibit 62 is SLED No. 1 which a blood spot from
9 Malakia Frazier and again it has the lab number,
10 item number and my initials and date on the seal as
11 well as on the item of evidence itself.

12 Q. So were those the known standards?

13 A. That's correct.

14 Q. And are those the known standards you
15 used to compare the other items of evidence to?

16 A. That is correct.

17 Q. Now, for the jury I would like to go
18 through one by one each piece of evidence. I'm
19 going to show you what's already been admitted as
20 State's Exhibit 66 and 67. Are those the items
21 labeled cutting from front right chest area of
22 jacket and swabs from neck and cuff areas of
23 jacket?

24 A. Yes. This pouch contains multiple
25 items, but those two items are two of the items

1 that are in this pouch, correct.

2 Q. Did you do DNA testing on those two
3 items?

4 A. Yes, I did.

5 Q. Now, were you able to come to a
6 conclusion about those two items?

7 A. Yes, I was.

8 Q. And will you explain to the jury what
9 your conclusion was?

10 A. The DNA profile developed from
11 Item 1.1.1 which was a cutting from the front right
12 chest area of the jacket matched the DNA profile of
13 Malakia Frazier and the probability of randomly
14 selecting an unrelated individual from the
15 population that has a DNA profile matching this
16 item is approximately one in 740 octillion.

17 And what that means is if you were go
18 to out in the population and just choose one random
19 individual unrelated to the individual that
20 actually left the DNA on the item, the probability
21 that by chance they would just happen to have this
22 same DNA profile is approximately one in 740
23 octillion. That means it's extremely unlikely that
24 you would just choose someone at random from the
25 population that would share that DNA profile.

1 Q. So that's for SLED Item 1.1.1 which is
2 State's Exhibit 66 which is the cutting from the
3 right chest area of jacket; is that correct?

4 A. Correct.

5 Q. Now, you mentioned one in 740
6 octillion?

7 A. Yes.

8 Q. Are there that many living people on
9 earth?

10 A. No, there are not. The current
11 population estimate is approximately 7 billion
12 people.

13 Q. Okay. So you said it's highly unlikely
14 that it's someone else DNA?

15 A. Yes.

16 Q. All right.

17 A. It's extremely unlikely that you would
18 chose an unrelated individual from the population
19 at random that would share the same DNA profile.

20 Q. All right. Now, switching gears to
21 Exhibit 67 which is SLED Item 1.1.2, swab from
22 scraping of neck and cuff areas of jacket.

23 A. The DNA profile developed from
24 Item 1.1.2 is consistent with being a mixture from
25 two individuals. The partial DNA profile of the

1 major contributor matches the DNA profile of
2 Malakia Frazier. The probability of randomly
3 selecting an unrelated individual having a DNA
4 profile matching that major contributor is
5 approximately one in 4.6 septillion. The partial
6 DNA profile of the minor contributor matches the
7 DNA profile of Ricky Short. The probability of
8 randomly selecting an unrelated individual having a
9 DNA profile matching the minor contributor is
10 approximately one in 61 billion.

11 In this mixture -- what a mixture means
12 is more than one individual donated DNA to the
13 item. In this particular instance it is consistent
14 with being a mixture of two individuals. And I was
15 able to determine that there was a major
16 contributor and that means that one individual
17 contributed considerably more DNA to the item than
18 the other individual or individuals.

19 And in this case, the profile of the
20 major contributor matches the profile of Malakia
21 Frazier and the profile of the minor contributor
22 matches the profile of Ricky Short.

23 Q. So kind of same song and dance. One in
24 4.6 septillion, is that again highly unlikely that
25 it's somebody else's DNA?

1 A. It's highly unlikely that you would
2 choose an unrelated individual from the population
3 that shared the same DNA profile.

4 Q. That's for the major contributor?

5 A. That is correct.

6 Q. The victim. And then I think you
7 mentioned for the minor contributor, the Defendant,
8 his DNA statistic is one in 61 billion?

9 A. The probability of randomly selecting
10 an unrelated individual from the population having
11 the same DNA profile and leaving the profile on the
12 item of evidence is approximately one in 61
13 billion.

14 Q. And, again, is that pretty strong?

15 A. That's fairly strong. It's not as
16 improbable as one in 4.6 septillion, but it's still
17 certainly a rare probability to chose someone at
18 random if the probability is one in 61 billion.

19 Q. All right. What did you do with those
20 items when you were done with them?

21 A. I repackaged the items and as I stated
22 before, I resealed the evidence and initial and
23 date it and it is returned to our evidence control
24 department for return to the submitting agency.

25 Q. Next up we will talk about the cap.

1 Did you receive the swab from the scraping of the
2 entire cap?

3 A. Yes, I did.

4 Q. Did you perform an analysis on that?

5 A. Yes, I did.

6 Q. And can you tell the jury what you
7 found?

8 A. The DNA profile developed from SLED
9 Item 1.2.1 which is the scraping from the cap is a
10 mixture from at least three individuals. And due
11 to the inability to calculate a statistic no
12 comparisons will be offered for this item. So in
13 some cases we get DNA results of varying quality
14 and hopefully that's going to be suitable quality
15 to do comparisons to standards, but sometimes it's
16 not. And in this particular case this was the case
17 with this item. The mixture was a mixture of DNA
18 from at least three individuals. But due to the
19 quality of the results it just wasn't suitable for
20 comparison standards.

21 Q. So to your knowledge there wasn't any
22 blood found on this?

23 A. Not to my knowledge. The sample that
24 was submitted to me for analysis was a swab for
25 ownership.

1 Q. All right. Now I want to ask you a
2 hypothetical question. If there was no blood found
3 on the cap, but there was blood, presumptive blood
4 found on the jacket, is it likely the cap
5 contaminated the jacket?

6 A. It is possible for secondary transfer,
7 even just skin cells, from one item to another.
8 However, if the DNA profile, let's say you have
9 item A and B and you are looking to see if item A
10 could have possibly transferred evidence to item B.
11 And that's the result of the DNA profile for item
12 B. You would expect if the DNA profile from item B
13 was actually DNA from item A, you would expect
14 similar DNA results.

15 So in the case of the cap and jacket if
16 the DNA profile from the jacket were to come from
17 the hat, we expect it to be a similar profile. So
18 for the profile that is a mixture of at least three
19 individuals was developed from the cap, but a
20 mixture of two individuals that were not suitable
21 for comparison was developed from the ownership
22 swab from the jacket. And then a single source
23 sample was developed from the possible blood. So I
24 would not expect to see that result if the mixture
25 -- if the profile from the hat was a mixture. I

1 don't think those profiles are the result of
2 transfer from the cap.

3 Q. So asked another way, based on the
4 results the cap being inconclusive, but the jacket
5 showing evidence of major and minor contributors,
6 is that consistent with contamination?

7 A. No. That profile developing a single
8 mixture consistent of two individuals is not
9 consistent with coming from a mixture of three
10 individuals from the hat.

11 Q. Okay. Jennifer, I would like to move
12 on to the boxer shorts. May I approach, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. WARING:

16 Q. Now I'm going to show you what's
17 already been admitted as State's Exhibits 68
18 through 69. Would you mind taking a look at those.

19 A. (Witness complies with request.)

20 Q. And are they the items labeled cutting
21 from front right hip area of the boxer shorts and
22 swab from scraping of waistband of boxer shorts?

23 A. Yes. Those items are in the heat
24 sealed pouch.

25 Q. And those are the ones that you did

1 testing on?

2 A. That is correct.

3 Q. Were you able to come to some kind of
4 conclusion on those items?

5 A. Yes, I was.

6 Q. Can you tell the jury what your
7 conclusion was?

8 A. The DNA profile developed from Item 2.1
9 which is the cutting from the front right hip area
10 of the boxer shorts is a mixture from at least two
11 individuals. The partial DNA profile of the major
12 contributor matches the DNA profile of Malakia
13 Frazier. The probability of randomly selecting an
14 unrelated individual having a DNA profile matching
15 the major contributor is approximately one in 110
16 septillion. And the partial DNA profile of the
17 minor contributor is insufficient for comparison.

18 So in this particular instance again
19 more than one individual donated DNA to the item.
20 And there was a major contributor, one individual
21 donated considerably more DNA to the item. The DNA
22 profile for the major contributor matches Malakia
23 Frazier, and unfortunately for the profile of the
24 minor contributor there was so little information
25 developed for the minor contributor that it wasn't

1 suitable for comparison to any of the standards.

2 Q. All right. One in a hundred
3 septillion, is that property strong?

4 A. That's pretty strong. It's pretty
5 unlikely that you would choose an individual at
6 random unrelated to the individual who left the
7 sample from the population.

8 Q. Was that particular item, the cutting
9 from right hip area of the boxer shorts Exhibit 6,
10 was that presumptive positive for blood?

11 A. Yes. I believe Verona Herrera tested
12 that and it was presumptive positive for blood.

13 Q. How about for Exhibit 69, the DNA swab
14 from scraping waistband boxer shorts?

15 A. The DNA profile developed from SLED
16 Item 2.2 which is the scraping from the waistband
17 boxer shorts is a mixture from at least two
18 individuals. The partial DNA profile of the major
19 contributor matches the DNA profile of Malakia
20 Frazier. The probability of randomly selecting an
21 unrelated individual having a DNA profile matching
22 the major contributor is approximately one in 23
23 sextillion. And due to the inability to calculate
24 a statistic no comparison will be offered regarding
25 the minor contributor.

1 So again this was a mixture from at
2 least two individuals and for the minor contributor
3 the results were not suitable for comparison.

4 Q. So Malakia Frazier, her DNA was on that
5 item and the statistic was one in 23 septillion?

6 A. In my opinion assuming that she does
7 not have an identical sibling this DNA came from
8 Malakia Frazier.

9 Q. Now, Jennifer, let's move on to the
10 knife. I'm going to show you what has already been
11 admitted as State's Exhibit 64 and 65.

12 A. Yes. This contains SLED Item No. 3.1
13 and SLED Item 3.2 which would be 3.1 swabs of
14 reddish brown stain from Item 3 knife handle and
15 Item 3.2 is swabs from Item 3 knife handle.

16 Q. All right. Now, did you do DNA testing
17 on those items?

18 A. Yes, I did.

19 Q. And were you able to come to a
20 conclusion?

21 A. Yes, I was.

22 Q. Please tell the jury what your
23 conclusion was?

24 A. The DNA profile developed from Item 3.1
25 is consistent with being a mixture from two

1 individuals, Malakia Frazier and Ricky Short are
2 included as possible contributors to this mixture.
3 The probability of randomly selecting an unrelated
4 individual to contribute to this mixture is
5 approximately one in 130,000.

6 So in this particular case, again more
7 than one individual donated DNA to the item.
8 However, I was not able to determine a major
9 contributor. So there was not one individual that
10 donated considerably more DNA to the item than
11 another. In this case rather than being able to
12 match an individual because we are not able to pull
13 out individual profiles, I have to determine simply
14 if an individual could have contributed to the
15 mixture of DNA or not. And in this case Malakia
16 Frazier and Ricky Short are both included as
17 possible contributors to the mixture that was
18 obtained from Item 3.1, the swab of reddish brown
19 stain from the knife handle.

20 For Item 3.2, the DNA profile developed
21 from that which is also from the handle is
22 consistent with being a mixture from two
23 individuals. The partial DNA profile of the major
24 contributor matches the DNA profile of Malakia
25 Frazier. The probability of randomly selecting an

1 unrelated individual having a DNA profile matching
2 the major contributor is approximately one in 65
3 sextillion. And Ricky Short is included as a minor
4 contributor, possible minor contributor. And the
5 probability of randomly selecting an unrelated
6 individual having a DNA profile matching the minor
7 contributor is approximately one in 6,800.

8 Q. Now, I want to break it down a little
9 bit since there is so many different numbers. SLED
10 Item 2.1 which is State's Exhibit 64, swab of
11 reddish brown stain from Item 3 knife handle, you
12 said that's a mixture of two people, the victim and
13 Defendant included as possible contributors; is
14 that right?

15 A. That's correct. Mixture of at least
16 two individuals and Ricky Short and Malakia Frazier
17 are included as possible contributors.

18 Q. Now, you mentioned for the earlier
19 items there was mention of major and minor
20 contributors and for this one your term is possible
21 contributors. Does that have any less distinction,
22 doesn't necessarily mean that somebody else's DNA
23 was present?

24 A. As I said, with a mixture sometimes we
25 can pull out major and minor and we are able to

1 match just a single source profile. With a single
2 source profile to be able to say it matches every
3 single piece of information in that profile has to
4 match. The profile can be standard exactly or it's
5 an exclusion. So if a mixture -- because we can't
6 pull out a major and minor, we can't tease it out
7 into individual single source profiles, we have to
8 look at it as a mixture. And so there are multiple
9 genetic combinations that could be included in that
10 mixture.

11 So rather than saying this profile
12 matches an individual which we can't do in the
13 mixture, we look at the profile to determine if the
14 individual's profile could have been a possible
15 contributor of the DNA to this mixture that it was
16 obtained.

17 Q. So for Exhibit 64 the statistic is one
18 in 130,000 and perhaps that's not as high as the
19 other ones; is that right?

20 A. That's correct. It's not -- well,
21 130,000 is not as high of a statistic of -- one in
22 130,000 is not as rare as the other statistics.

23 Q. But is it high enough to include the
24 possibility of the victim and the Defendant?

25 A. Well, based on the DNA profile they are

1 included in the possible contributors.

2 Q. Now, that particular item, item
3 Exhibit 64, was that presumptive positive for
4 blood?

5 A. Yes. That item was presumptive
6 positive for blood.

7 Q. Now, I want to turn to Exhibit 65, swab
8 from Item 3 knife handle. You said it was a
9 mixture of two people and the victim's partial DNA
10 was the major contributor; is that right?

11 A. The partial DNA profile major
12 contributor matches the victim Malakia Frazier.

13 Q. And you said the Defendant's DNA was
14 included as a possible minor contributor, right?

15 A. That's correct.

16 Q. Okay. Now, what was the statistic
17 again for the victim's partial DNA?

18 A. The DNA profile that matches the major
19 contributor, the probability of randomly selecting
20 an unrelated individual having the DNA profile
21 matching that item is approximately one in 6.5
22 sextillion.

23 Q. Again, do that many people live on
24 earth?

25 A. No, they do not.

1 Q. So is it fair to say that the victim's
2 blood was on that knife?

3 A. In my opinion assuming she does not
4 have an identical sibling that DNA profile came
5 from Malakia Frazier.

6 Q. And so for the next statistics for item
7 3.2, which is State's Exhibit 65, can you go over
8 the statistics on that one more time?

9 A. For the DNA profile from the minor
10 contributor the probability of randomly selecting
11 an unrelated individual having a DNA profile
12 matching the minor contributor is approximately one
13 in 6,800.

14 Q. Now, again, is that number as high as
15 the other numbers?

16 A. No. That probability is not as rare as
17 some of the previous probabilities.

18 Q. Okay. Now, for these cases do you look
19 at the science, do you look at the facts of the
20 case? What are you focused on?

21 A. The statistics that we calculate is
22 based solely on the DNA profile. In fact, I don't
23 need any standards for comparison because it's
24 based on the profile from the evidence. I can
25 actually calculate a statistic for the evidence in

1 the absence of any standards for comparison.
2 That's all that's taken into account, is the
3 genetic results that are obtained from that item of
4 evidence.

5 Q. Do the probabilities and statistics
6 that you read for example, in this case, do they
7 factor in whether the victim knew the Defendant?

8 A. No, they do not.

9 Q. Okay. Now, I'm going to show you
10 what's already been admitted as State's Exhibit 49.
11 Is that the item labeled swabs from placard No. 4?

12 A. That is one of the items contained in
13 this heat sealed pouch.

14 Q. Did you do DNA testing on that?

15 A. Yes, I did.

16 Q. Were you able to come to a conclusion?

17 A. Yes, I was.

18 Q. Can you tell the jury what your
19 conclusion was?

20 A. That is SLED Item No. 6 and the DNA
21 profile developed from 6 which was swab from
22 placard No. 4 matched the DNA profile of Malakia
23 Frazier and the probability of randomly selecting
24 an unrelated individual from the population having
25 the DNA profile matching that item is approximately

1 one in 740 octillion.

2 Q. Was that presumptive positive for
3 blood?

4 A. Yes, it was.

5 Q. Again, that number is pretty high?

6 A. That is a very small probability. Very
7 unlikely that you will choose an unrelated
8 individual from the population having a DNA profile
9 matching that item.

10 Q. I want to switch gears to the second
11 batch that came later. Were you later tasked with
12 performing tests at a later date?

13 A. Yes, I was.

14 Q. Do you recall when that was?

15 A. I can find it in my notes. I took
16 additional items into my custody on February 27th
17 of 2018.

18 Q. Now, was there an instance in March of
19 2018?

20 A. In March of 2018? I issued my report
21 on March 20th of 2018 for those additional items of
22 evidence.

23 Q. Okay. Can you tell the jury what you
24 received for that instance?

25 A. The buccal swabs from Ricky Short were

1 resubmitted, however, no additional testing was
2 performed on that item. The No. 9 was left
3 fingernail clippings from Malakia Frazier, SLED 10
4 was the right fingernail clippings from Malakia
5 Frazier, SLED item 12.1 was the swabs from blades
6 of fingernail clippings from Malakia Frazier, 13.1,
7 cutting from a middle front of a right thermal
8 shirt, 13.2 was the swab from scraping the underarm
9 areas of the white thermal shirt attempting to
10 avoid stained areas.

11 MR. WARING: May I approach the
12 witness, Your Honor?

13 THE COURT: You may.

14 BY MR. WARING:

15 Q. Now showing you what's been admitted
16 already as State's Exhibit 63. Does that contain
17 the left fingernail clippings of Malakia Frazier?

18 A. Yes. That is one of the items
19 contained in here in this envelope or heat sealed
20 pouch.

21 Q. Did you do testing on those fingernail
22 clippings?

23 A. Yes, I did.

24 Q. Were you able to come to a conclusion?

25 A. Yes, I was.

1 Q. Can you tell the jury what your
2 conclusion was?

3 A. The DNA profile developed from the left
4 fingernail clippings is a mixture from at least two
5 individuals. Ricky Short is included as a possible
6 contributor to the mixture. The probability of
7 randomly selecting an unrelated individual who
8 could have contributed to the mixture is
9 approximately one in 16 million. And DNA
10 attributable to Malakia Frazier is present in this
11 mixture.

12 Q. All right. So profile on the
13 fingernail clippings of the victim, it was a
14 mixture of at least two individuals, the Defendant
15 is a possible contributor, the probability of
16 selecting an unrelated individual who could have
17 contributed to the mixture is one in 16 million?

18 A. That's correct.

19 Q. And in addition the victim's DNA is
20 present; is that right?

21 A. DNA attributable to the victim is
22 present in this mixture, correct.

23 Q. Now, are you able to for those
24 clippings able to come to any conclusion about the
25 quantity of DNA?

1 A. As part of our testing for DNA we have
2 to determine an approximate amount of DNA present
3 in the sample that we extract because our
4 instruments have a target amount of DNA that they
5 need. If there's not enough DNA present in the
6 sample then it will reach the limits of detection
7 or possibly fall below the limits of detection of
8 our instrument. So we will either get poor quality
9 results that aren't suitable for comparison or
10 possibly no profile developed at all. Or if
11 there's too much DNA present in this sample then it
12 can overwhelm the instruments and give results that
13 are uninterpretable. So as part of our analysis we
14 want to take DNA in the sample that we extracted
15 and then from there if necessary adjust the
16 concentration of the DNA.

17 Q. All right. And so in this case for
18 those left fingernail clippings does the quantity
19 of DNA indicate this was a minor or casual
20 encounter?

21 A. There was more DNA -- another thing our
22 test does is it gives an indication if any male DNA
23 is present on the sample as well. It has male
24 specific target locations. And in this particular
25 instance there was more male DNA present than I

1 typically see in a female's fingernail scrapings.

2 Q. All right. Asked a different way, is
3 this more of a minor casual encounter or a more
4 substantial physical encounter?

5 A. I would think it was probably from a
6 more substantial contact. You can get DNA from
7 underneath your fingernails in a number of ways.
8 For example, if you grab someone's jacket for them
9 and hand it to them you can get a little bit of DNA
10 underneath your fingernails. Typically I would
11 expect that to be a very minimal amount of DNA.
12 However, if you have more prolonged contact or
13 certainly if you accidentally scratch someone or
14 something to that effect, then it would leave more
15 DNA under those fingernails.

16 Q. All right. Jennifer, now I'm going to
17 show you what's been already admitted as State's
18 Exhibit 70 and 71. Would you take a look at those,
19 please.

20 A. (Witness complies with request.)
21 State's Exhibit 70 contains SLED Item 13.1 which is
22 a cutting from the middle front of the right
23 thermal shirt. And SLED No. 13.2 which is State's
24 71 is swabs from scraping underarm areas of thermal
25 shirt attempting to avoid the stained areas.

1 Q. Did you do anything on those?

2 A. Yes, I did.

3 Q. Were you able to come to a conclusion?

4 A. Yes, I was.

5 Q. What was your conclusion?

6 A. For Item 13.1 which is the cutting from
7 the middle front of the white thermal shirt the DNA
8 profile matches the DNA profile of Malakia Frazier.
9 And the probability of randomly selecting an
10 unrelated individual from the population having a
11 DNA profile matching this item is approximately one
12 in 17 octillion.

13 Q. Okay. So you said septillion or
14 octillion?

15 A. Octillion, approximately one in 17
16 octillion.

17 Q. So that's Exhibit 70, cutting from
18 front white thermal shirt?

19 A. Correct.

20 Q. And it matches -- the victim statistic
21 is one in 730 octillion?

22 A. Approximately one in 17 octillion.

23 Q. Got you. Seventeen. Now, was that
24 presumptive positive for blood?

25 A. Yes. Per Verona Herrera's testing that

1 was presumptive positive for blood.

2 Q. Now, for Exhibit 71 which was the swab
3 from scraping underarm areas of white thermal
4 shirt, can you tell us about that?

5 A. Yes. The DNA profile is a mixture from
6 at least two individuals. Malakia Frazier and
7 Ricky Short are included as possible contributors
8 to this mixture. And the probability of randomly
9 selecting an unrelated individual from the
10 population who could have contributed to this
11 mixture is approximately one in 3.6 million.

12 Q. Is that a strong statistic?

13 A. There is a range of statistics. It's
14 not particularly weak, but obviously it is not one
15 in 13 octillion either so it's a fairly low
16 probability that you would choose someone at random
17 that would be included as a possible contributor to
18 this mixture.

19 Q. All right. Now, Jennifer, I have got a
20 question. On your report it looks like there were
21 a couple of statistics for pieces of evidence that
22 we have discussed, statistics changed a little bit.

23 A. Yes, that's correct.

24 Q. Can you -- so for example, as like for
25 SLED Item 1.1.1, cutting from right -- from front

1 right chest area of jacket, let's see, and swabs
2 from placard, it looks like those changed from one
3 in 730 octillion to 740 octillion?

4 A. That's correct.

5 Q. Do you have any explanation for that?

6 A. Yes, I do. The statistics that we
7 calculate use what are called population frequency.
8 And so a DNA profile is reported as a series of
9 numbers for easy reporting. And those particular
10 numbers is a series of numbers and each number in
11 that series has a frequency which is an indication
12 of how rare that particular number or that
13 particular location is in the population. These
14 frequencies are estimated because in order to have
15 the exact frequency we would have to test every
16 individual on the planet and we would have to have
17 all of our testing done and our numbers completed
18 before anybody was born or anybody died which
19 obviously is both impractical and impossible.

20 So scientists over the years have found
21 that you can take a sampling from a population and
22 come up with an accurate estimate of the frequency
23 of a particular trait in a population. So we use
24 frequencies that were calculated and we use
25 National Institute of Standards, and I apologize, I

1 forget -- and Technology I believe is the last
2 letter, I apologize if that is incorrect, NIST for
3 short, and those frequencies are used for
4 everything statistically calculated currently. And
5 last year they discovered they had some very minor
6 errors in a couple of their frequencies. They
7 tested with additional kits to be able to report
8 additional locations and as a result they
9 discovered they had a couple of very minor
10 frequencies in a couple of frequency locations. So
11 they corrected those and informed everyone that
12 might be using the NIST frequencies that there were
13 those minor corrections.

14 And because we want to be as accurate
15 as possible I went back and recalculated the
16 statistics using the updated frequencies and this
17 was the corrected number. So the number that I
18 originally reported to you when I read off the
19 results was the corrected statistics. My original
20 report contains the original statistics that I
21 reported before the discrepancies in the NIST
22 populations were discovered.

23 Q. So after all the kinks got worked out
24 did the statistics get stronger or weaker?

25 A. They got slightly stronger so it became

1 slightly more impossible that you would choose an
2 individual at random from the population that
3 matched that particular item. Matching those
4 particular items, Item 1.1.1 and Item 6 I believe
5 was the one portion.

6 Q. Now, do y'all use conservative numbers
7 or non-conservative numbers?

8 A. Yes, we calculate the statistics for
9 four different populations, Hispanic, Black,
10 Caucasian and Asian. Those four statistics we come
11 out we report the most conservative numbers.

12 Q. Did you end up doing a report for all
13 your findings?

14 A. I actually issued two reports. I
15 issued one report for the first batch of evidence
16 that I analyzed and then I issued a second report
17 for the second batch of evidence.

18 MR. WARING: May I approach, Your
19 Honor?

20 THE COURT: You may.

21 Q. Show you what's been marked for
22 identification purposes as State's Exhibit 72.

23 MR. SHAHID: May we approach, Your
24 Honor?

25 THE COURT: You may.

1 (Following proceedings were held at the
2 bench.)

3 MR. SHAHID: He wants to introduce her
4 report. She has already testified. The testimony
5 is already in. The report is cumulative.

6 MR. WARING: Your Honor, the statistics
7 are confusing. I am confused just talking about it
8 up there. I'm sure they are going to be confused.
9 Having an actual document will assist them.

10 THE COURT: I will take it under
11 advisement, but I'm probably going to admit it.
12 It's routinely admitted. It is a lot to remember.

13 (End of sidebar conference.)

14 BY MR. WARING:

15 Q. Jennifer, I am showing you what has
16 been marked for identification purposes as State's
17 Exhibit 72. Would you take a look at that, please.
18 Can you tell the jury what you see or what that is.

19 A. State's Exhibit 12 is copies of both of
20 the reports that I issued.

21 Q. Jennifer, do you mean Exhibit 72?

22 A. Oh, yes, Exhibit 72, sorry.

23 Q. Does that fairly and accurately depict
24 your report for this case, both sets of reports?

25 A. Yes, it does.

1 MR. WARING: Your Honor, at this point
2 I would move to admit Exhibit 72.

3 MR. SHAHID: Objection, Your Honor.

4 THE COURT: It's under advisement.

5 BY MR. WARING:

6 Q. It will be marked for ID only. Just a
7 couple last questions and I know I asked you this
8 question for one specific piece of evidence, I
9 believe the knife. But I want to ask you about for
10 all these pieces of evidence overall. You
11 mentioned you look at the statistics, right?

12 A. I calculate statistics based on the DNA
13 profile developed, correct.

14 Q. And so in other words, are you more
15 focused on science and not facts of the case?

16 A. I am interested in what information can
17 be developed as far as the DNA profile from the
18 evidence and then I develop my statistics based on
19 that and report my results.

20 Q. So if you had all the facts of the case
21 would that possibly skew your findings?

22 A. No, the DNA results would be the same
23 because the DNA results are based solely on the DNA
24 extracted from the items of evidence. And the
25 statistic calculated is based solely on the DNA

1 profile developed and does not take into account
2 any of the facts of the case.

3 Q. Court's indulgence.

4 THE COURT: Yes, sir.

5 (Off-the-record conference.)

6 BY MR. WARING:

7 Q. Jennifer, I'm going to ask this a
8 different way. Did your statistics take into
9 account the fact that the Defendant and the victim
10 were in a relationship?

11 A. No, it does not.

12 Q. Do the statistics take into account the
13 fact that the Defendant and the victim were in an
14 argument on --

15 MR. SHAHID: Your Honor, leading.

16 THE COURT: Sustained, leading.

17 Rephrase.

18 BY MR. WARING:

19 Q. Did your statistics consider the facts
20 of the case?

21 A. No, they do not. The statistic is
22 based solely on the particular item of evidence
23 from which the DNA profile was developed and again
24 as I said earlier, it's based solely on that and I
25 calculate the statistics without knowing any facts

1 of the case. And, in fact, I do not need any
2 standards for comparison. I only need the DNA
3 profile from the item of evidence to calculate that
4 statistic.

5 MR. WARING: Please answer any
6 questions the defense has.

7 THE COURT: Please approach.

8 (Following proceedings were held at the
9 bench.)

10 THE COURT: The court reporter reflects
11 66 and 67 haven't come into evidence under
12 questioning her. You said they were already in
13 without objection.

14 MR. SHAHID: You questioned the
15 serology person about them. You didn't move them
16 into evidence.

17 MR. WARING: It was my understanding
18 they were moved in.

19 THE COURT: 66 and 67 are cutting from
20 the jacket and scraping from the jacket.

21 MR. WARING: Those were moved in, Your
22 Honor.

23 THE COURT: Me and the court reporter
24 don't reflect that. So I need to know if you have
25 an exception.

1 MR. SHAHID: Which ones?

2 THE COURT: 66 and 67 which is the
3 cutting from the right chest area of the jacket and
4 scraping from the neck and cutting of the jacket.

5 MR. SHAHID: 66 and 67, I didn't put a
6 check mark by them.

7 THE COURT: I am asking if you have any
8 objection to them coming in.

9 MR. SHAHID: No.

10 MR. WARING: I can lay the foundation
11 if you want with her.

12 THE COURT: You never moved them into
13 evidence, but he doesn't have an objection.

14 (Following proceedings were held in
15 open court.)

16 THE COURT: 66 and 67 are in without
17 objection. Does anyone need a restroom break?
18 Let's stand up.

19 (STATE'S EXH. 66-67 admitted in
20 evidence.)

21 (Brief pause.)

22 CROSS-EXAMINATION

23 BY MR. SHAHID:

24 Q. How are you doing?

25 A. Doing well.

1 Q. You gave us a lot of information.

2 A. Yes.

3 Q. Basically what you are doing is that
4 somebody sends you a sample of something and you
5 make a comparison sample that you received; is that
6 accurate to say?

7 A. That's correct. I develop DNA profiles
8 and if the profile is suitable I compare it to
9 standards.

10 Q. You just do a DNA profile comparison of
11 item A and B?

12 A. Correct.

13 Q. You don't actually touch or handle the
14 items, the source of what you are testing? In
15 other words, if a cutting or a swab comes off of a
16 jacket you are not handling the jacket, you are
17 handling what came off that jacket?

18 A. That's correct. For larger items such
19 as clothing that is typically processed in our
20 serology and evidence processing department and
21 then I receive the swabs or cuttings from those
22 items.

23 Q. And so items, a knife, a jacket, a hat,
24 boxer shorts, thermal wear, and blood on a sleeve,
25 you are just receiving the samples that came from

1 those areas?

2 A. That's correct.

3 Q. Now, I want to clarify two things to
4 make sure that we are all clear on this. You
5 received in your testing, which is the basis of
6 what you just testified about, you received a swab
7 from what was reported to you to be a blood swab
8 from Ms. Frazier and then a swab from Mr. Short; is
9 that correct?

10 A. The sample from Malakia Frazier was a
11 blood spot so it would have been a piece of sterile
12 paper with dried blood on it. That would be what I
13 received.

14 Q. Mr. Short was the swab from the inside
15 of his month?

16 A. Correct.

17 Q. So those were known samples?

18 A. Correct.

19 Q. And then you received either a sample
20 of blood that would be like the cutting from the
21 jacket, the boxer shorts and the thermal shirt; is
22 that correct?

23 A. I believe all those had presumptive
24 testing positive samples, correct.

25 Q. Of blood?

1 A. Yes, presumptive positive for blood.

2 Q. Presumptive for blood. So presumptive
3 meaning you are not confirming blood, you are just
4 presuming that's what the blood is?

5 A. Correct. The sample -- if the sample
6 appears to have blood and a blood request is
7 requested then we will do the presumptive test
8 which indicates but does not confirm the presence
9 of blood, correct.

10 Q. But, again, you are just taking a
11 sample from an item presuming it to be blood?

12 A. Correct.

13 Q. Then the other source is a scraping
14 that someone has sent to you from a particular
15 item?

16 A. That's correct.

17 Q. Or a swab, cotton swab, of something as
18 well?

19 A. That is correct. I am sometimes
20 submitted swabs that are from particular items.

21 Q. Taking the knife as our first item,
22 Item No. 58 which is the knife, you received a swab
23 for presumptive blood and a swab that was not blood
24 from the knife handle?

25 A. Yes. One was presumptive positive for

1 blood, the other one was not tested for blood.

2 Q. So the one that was not tested for
3 blood is what you would refer to as an ownership?

4 A. Well, for that particular item it would
5 be considered touch DNA. Ownership is typically
6 collected when we are trying to determine an
7 individual that wore a particular item such as a
8 jacket, hat, shirt, something to that effect.
9 Touch DNA, we refer to it as touch DNA when it's an
10 item that would simply be handled by another
11 individual. For instance, a knife handle, you pick
12 up a knife handle or a door knob, that would be
13 considered touch DNA. So Item 3.2 which was the
14 second swab was collected in an attempt to collect
15 touch DNA.

16 Q. So there is in your science, in your
17 world, there is a difference between presumptive
18 blood DNA and either ownership DNA or in this case
19 with the knife touch DNA?

20 A. The blood samples typically contain
21 considerably more DNA in them than a touch DNA
22 sample does or an ownership sample in the majority
23 of cases.

24 Q. My question to you, Ms. Clayton, was
25 that the two samples that you received from the

1 knife, one included what you identify as touch DNA
2 and the other was presumptive blood DNA; is that
3 correct?

4 A. Correct. One item was submitted for --
5 it was found positive or presumptive positive for
6 blood and the other item was collected as possible
7 touch DNA.

8 Q. Meaning somebody handled it, the touch
9 would mean someone handled it?

10 A. That would be what they were testing
11 for, that we were testing for, correct.

12 Q. Now, the samples that you received in
13 which you began your testing for the knife, boxer
14 shorts, and the jacket and the cap, you did not
15 start your testing until April of 2017; is that
16 correct?

17 A. I have to refer to another part of my
18 notes to make sure I have it correct. That is
19 correct, I started analysis on those items on
20 April 28th of 2017.

21 Q. So for lack of a better way of saying
22 this, the shelf life of those items can last beyond
23 a year?

24 A. That's correct. If DNA on an item is
25 stored in a cool, dry environment protected from

1 sunlight and chemicals and excessive heat then it
2 can last a long time, almost indefinitely.

3 Q. And even if you don't have those
4 control factors not being exposed, it still can
5 have a shelf life of a long time?

6 A. It can. Again, it very much depends on
7 the environment that it is stored in. If it's left
8 out in the rain obviously it's not going to last as
9 long as if it's stored inside a cool, dry area. If
10 it's exposed to excessive heat it can affect it.
11 UV light begins to break down DNA and can affect
12 it. So it very much has to do with the storage
13 conditions of the item.

14 Q. These folks who participate in this
15 trying to find out who your ancestors are, they are
16 going back to DNA samples they haven't been
17 collected under sterile conditions, right?

18 A. They --

19 Q. They are not necessarily getting their
20 samples and testing from something that's in a heat
21 sealed package, it's just whatever the data base is
22 which could have come from anything?

23 A. I am afraid I don't know what samples
24 they use for this testing, but I would assume they
25 use a number of different sources.

1 Q. And some of those sources may not be in
2 a heat sealed package?

3 A. That's definitely possible.

4 Q. So the point of this is when someone is
5 touching a knife that touch, you are unable to say
6 when that touch occurred?

7 A. That's correct. I do not have a test
8 that can tell me when the DNA was deposited on an
9 item.

10 Q. So the person who you find DNA off of
11 on the wooden handle of a knife, that touch could
12 have occurred back in October of 2015, occurred in
13 October of 2014, you don't know?

14 A. I don't know.

15 Q. Likewise, if the swab came from what is
16 presumed to be blood, that drop of blood could have
17 been there in October of 2015, October of 2012,
18 maybe even October of 2013, you don't know?

19 A. That's correct. It would all depend on
20 the storage condition of the item. I cannot
21 determine when it was deposited on the item.

22 Q. The same thing with the jacket. You
23 took just one area of the jacket that was submitted
24 to you, was the upper part of the jacket zipped?
25 That was presumptive for blood as well?

1 A. Yes, that's correct.

2 Q. So the front area of the jacket and the
3 only blood if I am understanding this correctly,
4 the only blood that you found on the jacket was
5 that of Ms. Frazier?

6 A. The item that I tested that was
7 presumptive positive for blood, the DNA profile
8 developed from that matched Malakia Frazier.

9 Q. And nobody else?

10 A. No, that was a single source DNA
11 profile from that item.

12 Q. And you were not asked to -- and not
13 submitted for any blood on the right-hand cuff or
14 the right-hand sleeve of that jacket; is that
15 correct?

16 A. That's correct. I did not receive any
17 samples from the sleeves of the jacket.

18 Q. The right or the left?

19 A. Oh, I apologize. Actually Item 1.1.2
20 was swab from scraping the neck and cuff areas of
21 the jacket.

22 Q. Not for blood though?

23 A. No. That item was submitted attempting
24 to determine ownership.

25 Q. That was for ownership?

1 A. Correct.

2 Q. So there's a distinction between the
3 presumption of blood and the ownership test source?

4 A. We are attempting to answer two
5 different questions, that's correct.

6 Q. And as to the swab from the neck, the
7 cuff area which is Item 1.1.2, that had two
8 people's on there; is that correct?

9 A. Yes.

10 Q. That was Ms. Frazier and Mr. Short?

11 A. Yes. The major contributor matches
12 Malakia Frazier and the profile minor contributor
13 matches Ricky Short.

14 Q. And, likewise, we don't know when the
15 source, the individual touched, had ownership of
16 that jacket?

17 A. That's correct. I do not know when the
18 DNA was deposited on the item.

19 Q. And it could come from two different
20 people, correct?

21 A. Yes. At least two individuals
22 contributed DNA to them.

23 Q. At least two individuals?

24 A. Correct. Based on the DNA results it's
25 consistent with being from two individuals.

1 Q. You said two different things. At
2 least two individuals or just two individuals?

3 A. It's -- based on the results, it's
4 consistent with being from two individuals. There
5 are instances where a mixture consistent with two
6 individuals can have more individuals contributing.
7 That is typically when it is a mixture of close
8 relatives, for instance like a mother, father and
9 daughter. That could be like a two person. It
10 would be consistent with being a two-person mixture
11 in some cases when it was actually three. But
12 based on the results this is consistent with being
13 a two-person mixture.

14 Q. So at least more than two contributors?

15 A. It's possible that a third very closely
16 related individual such as a daughter or other
17 offspring, a son could possibly have contributed.
18 Based on the results I would expect to see more
19 information if there was a third unrelated
20 individual contributing to this mixture.

21 Q. That was the ownership part we are
22 talking about?

23 A. Yes.

24 Q. The ownership part. Then I think you
25 talked about the age. You don't know when that was

1 touched, could have happened at any point in time?

2 A. That's correct.

3 Q. The third item that you tested is this
4 cap. And this is a cap that someone puts on their
5 head, right?

6 A. Yes.

7 Q. That's what it is for. And it would
8 come above over their head and from that you can
9 get all kinds of DNA, this being worn on somebody's
10 head; is that correct?

11 A. That's correct. It's very common for
12 an individual to leave their DNA on a hat.

13 Q. So I'm kind of bald, but you can get
14 hair follicle, DNA from hair?

15 A. Yes, that's correct.

16 Q. If I wear this cap and I am sweating, I
17 am going to produce a lot of DNA from my sweat?

18 A. That's possible. Different individuals
19 contribute different amounts of DNA to an item and
20 it has certainly been found transfer can occur if
21 an individual is sweating.

22 Q. So I am engaged in criminal activity
23 and I'm perspiring and I have that on, you would or
24 you could expect some kind of DNA to show up on
25 that hat or that cap?

1 A. That's certainly possible.

2 Q. But for the cap, you found -- you
3 couldn't identify statistically who wore that cap
4 on the ownership part; is that correct?

5 A. That's correct. It was a mixture for
6 at least three individuals and due to the inability
7 to calculate a statistic no comparisons were
8 offered.

9 Q. And I think there was a mixture for at
10 least three individuals on that cap?

11 A. Correct. A mixture from at least three
12 individuals.

13 Q. And I wasn't sure I quite heard your
14 answer to a question that the State asked you. But
15 the cap being mixed inadvertently apparently with
16 the jacket, if there's some kind of transfer of
17 DNA, the transferee of the transferor should both
18 show up? In other words, if there was a transfer
19 from one to the other that DNA should show up on
20 both of those items?

21 A. Not necessarily. It can depend on the
22 amount of DNA transferred from one item to the
23 other and the amount of DNA that's already present
24 on the item that's receiving the DNA. So if one
25 item has a lot of DNA on it and a little bit of

1 transfer from the second item does occur, it's
2 possible there's so much DNA present on the
3 receiving item that the tiny bit of DNA, small
4 amount of DNA that's received from the contributing
5 item would actually not detected during testing.
6 But if more DNA is transferred or if there's only a
7 very small amount of DNA on the receiving item,
8 then it is possible that the transfer DNA would be
9 detected on the second item.

10 Q. Now, the next item, we talked about the
11 knife, we talked about the jacket. The next item
12 you tested was the boxer shorts, right?

13 A. I did test the boxer shorts, correct.

14 Q. I am trying to go in order so we are
15 all clear. Boxer shorts are something that people
16 got that's touching their skin, it's their
17 underwear; is that right?

18 A. That's correct.

19 Q. So you have got a direct contact with
20 your body?

21 A. That's correct.

22 Q. And on the boxer shorts which is item
23 the 2.1 and 2.2, those items that you tested were
24 one for presumption of blood; is that correct?

25 A. Item 2.1 was presumptive positive for

1 the possible presence of blood and 2.2 was not
2 tested for possible presence of blood.

3 Q. But it was a swab. So they did a
4 scraping of the swab to submit to you?

5 A. For Item 2.2, that's correct.

6 Q. So on that the blood part of the boxer
7 shorts had a very high probability of that being
8 from Ms. Frazier; is that right?

9 A. The probability of choosing someone at
10 random from the population was approximately one in
11 110 septillion.

12 Q. Ms. Frazier's blood is on the boxer
13 shorts?

14 A. In my opinion assuming she doesn't have
15 an identical sibling that DNA profile came from
16 Malakia Frazier.

17 Q. And, again, we were talking about
18 presumptive for blood?

19 A. Presumptive positive for blood.

20 Q. And then the 2.2. which is still from
21 the boxer shorts that someone is wearing, a man is
22 wearing, that came from two different individuals,
23 correct?

24 A. Correct.

25 Q. And so the higher part of that is Ms.

1 Frazier, did I understand that testimony correctly?

2 A. Yes. The DNA profile from the major
3 contributor to the item 2.2 swab from the waistband
4 matches the DNA profile of Malakia Frazier.

5 Q. Now, so even though if we are presuming
6 that those are Ricky's shorts or underwear, Ms.
7 Frazier has a higher contributor rate than that of
8 Mr. Short; is that accurate?

9 A. That's correct. She was the major
10 contributor to item 2.2 or the DNA profile, major
11 contributor matched Malakia Frazier.

12 Q. More than that of Mr. Short?

13 A. I don't have anything matching Mr.
14 Short.

15 Q. Nothing matching Mr. Short. Presuming
16 he was wearing his underwear?

17 A. Not based on the DNA testing that I did
18 on 2.1 and 2.2, no.

19 Q. And then 3.1, I think we did the knife?

20 A. Correct.

21 Q. And we did the cap and the jacket.
22 That was the first items that were sent to you
23 clothing wise item wise; is that correct?

24 A. Yes, that's correct.

25 Q. Now, you also in that first group of

1 items you received blood, that came from a placard?

2 A. Yes. There was a sample -- I actually
3 received four samples that were believed to be
4 blood from placards.

5 Q. So we are presuming those placards,
6 Item 4, Item 7 and some other items as well?

7 A. It would be SLED 4, 5, 6 and 7.

8 Q. You tested 4 and 7?

9 A. I actually tested 4, 5, 6 and 7.

10 Q. And so those are the droppings of blood
11 on the street as I understand?

12 A. I don't know the recovery location.
13 It's just described as swabs for placards. No. 6,
14 No. 13 and No. 4 and 12.

15 Q. Are those all the blood of Ms. Frazier?

16 A. The DNA profile from those items
17 matched Malakia Frazier, correct.

18 Q. Did not match any other individual?

19 A. No.

20 Q. So that was the first group that you
21 had, were the placards of blood samples, the knife
22 handle, the cap, the jacket and the underwear?

23 A. That's correct.

24 Q. So then about a year later you receive
25 some clippings or a sample from a thermal shirt; is

1 that right?

2 A. Yes, that's correct.

3 Q. So and as to the clippings let's talk
4 about for a few seconds first. So we are talking
5 about a person's fingernails. And a person's
6 fingernails, underneath fingernails is skin?

7 A. Correct.

8 Q. So presumably if you take a clipping
9 from my fingers you should find my skin, my DNA
10 underneath my fingers?

11 A. That's correct. The majority of the
12 time I would expect to find your DNA under your
13 fingernails, correct.

14 Q. But there may be another contributor
15 because of touch?

16 A. That's correct.

17 Q. All right. And you had mentioned
18 earlier that there's sort of a level of touch that
19 would present more of a person's DNA?

20 A. That's correct. Typically with
21 fingernail scrapings or fingernail clippings the
22 majority of the DNA found is from the individual
23 that donated the fingernail clippings. And
24 sometimes there's trace amounts from another
25 individual or multiple individuals under our

1 fingernails. It's not uncommon to have DNA from
2 another individual or individuals under your
3 fingernail scrapings. It is typically a very small
4 amount of DNA.

5 Q. And so if I take my hand and rub it on
6 another person's face, touch their face, there is a
7 good chance, a high chance that you are going to
8 find that person's DNA underneath my fingernails?

9 A. There's definitely a possibility. I
10 don't know what the chance is, particular chance is
11 because I have not read a study on that particular
12 type of contact. But, yes, it is definitely
13 possible that you could end up with that
14 individual's DNA underneath your fingernails.

15 Q. And if I am engaged in sexual
16 intercourse with another person, I am touching that
17 person, I'm intimate with that person, then there
18 is an expectation that person's DNA will be under
19 my fingernails or vice versa?

20 A. Certainly the more intimate you are
21 with an individual the more likely it is that you
22 would transfer some of your DNA to them or their
23 DNA might end up underneath your fingernails if
24 it's skin to skin or fingernail to skin contact.

25 Q. And that can come from touching any

1 part of their body, their fingers, their chest, any
2 part of their body?

3 A. Correct.

4 Q. There's a high chance you can find that
5 person's DNA underneath someone else's fingernails?

6 A. I have worked a lot of fingernail
7 scrapings and fingernail clippings and the results
8 vary widely. Most of us make contact with other
9 individuals at least periodically. Sometimes I
10 find DNA from other individuals, sometimes I don't
11 and the amount varies.

12 Q. It comes from something as casual as a
13 handshake?

14 A. Yes, it's possible.

15 Q. Then the other item, last item is the
16 thermal T-shirt. Thermal shirt, not T-shirt. Now,
17 so you took the sample from presumptive blood from
18 the shirt?

19 A. Correct.

20 Q. And I lost my place. So the blood from
21 the cutting on the middle part of the thermal
22 shirt, that came from just one individual?

23 A. The DNA profile from that item was a
24 single source profile. And it matched the DNA
25 profile of Malakia Frazier.

1 Q. Just one person?

2 A. Correct.

3 Q. Then you took the swab or scraping from
4 underneath the armpit area of the shirt and that
5 came from at least two people?

6 A. Correct.

7 Q. Ms. Frazier and Mr. Short?

8 A. Malakia Frazier and Ricky Short are
9 included as possible contributors to the mixture.

10 Q. And as I understand, at least two
11 individuals, so that could have been more that
12 could have contributed to the ownership part?

13 A. That's correct.

14 Q. And, again, with the shirt, thermal
15 shirt, when that person wore it or touched it or
16 had as you call it the ownership part, you don't
17 know the age of that?

18 A. . That's correct.

19 Q. And you don't know the age of the blood
20 that's on the thermal shirt as well?

21 A. That's correct.

22 Q. Give me just one second, please.

23 (Attorney confers with client.)

24 BY MR. SHAHID:

25 Q. If someone for instance, what I have on

1 now, I have on a shirt. You can see my shirt, my
2 dress jacket. Can you get DNA ownership from my
3 suit jacket even if I have on a dress shirt?

4 A. It is possible. Obviously having a
5 layer of clothing in between the inner and outer
6 layers would hinder the transfer of DNA from one
7 item to the next. But it is possible to develop
8 DNA profiles from items that are typically worn on
9 the outside of other items.

10 Q. But the chances of that happening are
11 increased by the layer of clothes I have on?

12 A. Certainly. As I said before, that
13 hinders the transfer. If you have layers of items
14 in between the skin and the item of clothing being
15 worn it can hinder the transfer of DNA to that
16 item.

17 MR. SHAHID: Thank you. That's all the
18 questions.

19 THE COURT: Redirect?

20 MR. WARING: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. WARING:

23 Q. Jennifer, I have got a couple of
24 questions for you. Could the knife being in
25 possible wet elements for multiple hours affect the

1 DNA process at all?

2 A. It could depending on how much water it
3 was left in. Water can rinse DNA off of an item.
4 That's why we wash items, the water helps get
5 anything that might be on the item off it. And
6 certainly if it's soaking in a puddle that will
7 possibly clean some of the DNA. The other problem
8 with an item being wet is it tends to start growing
9 bacteria. And bacteria will start to break down
10 DNA so that can certainly affect how long DNA will
11 last on the item.

12 Q. Now, you mentioned on direct
13 examination that because the cap was a mixture of
14 at least three individuals based on the way things
15 turned out the jacket for that profile, it's
16 unlikely the jacket was contaminated by the cap; is
17 that right?

18 A. I do not think that the DNA profile
19 from the jacket is a result of contamination from
20 the hat. If the DNA profile from the jacket was
21 from the hat I would expect similar results. So
22 the DNA profile from the hat was a mixture of at
23 least three individuals not suitable for
24 comparison. If the DNA profile from the jacket was
25 a result of contamination from the hat I would

1 expect the profile to be something along the lines
2 of a mixture of at least three individuals not
3 suitable for comparison. I developed a DNA profile
4 that is consistent with being a mixture from two
5 individuals and it is suitable for comparison so
6 that to me is an indication that that those results
7 are most likely not the result of transfer from
8 another item.

9 Q. Now, was the victim's DNA including
10 items that were presumptive for blood on the
11 jacket?

12 A. Sorry. Could you repeat the question.

13 Q. Was the victim, Malakia Frazier's, DNA
14 on the jacket including those items that were
15 presumptive for blood?

16 A. Yes. The -- well, the DNA profile
17 developed from the major contributor to Item 1.1.2
18 which was the neck and cuff area matches the DNA
19 profile of Malakia Frazier. And the DNA profile
20 from the area that was presumptive positive for
21 blood on the jacket matches the DNA profile of
22 Malakia Frazier.

23 Q. Was the Defendant's partial DNA on the
24 jacket?

25 A. The partial DNA profile developed from

1 the minor contributor to item 1.1.2 which again was
2 the scraping from the neck and cuff matched the DNA
3 profile of Ricky Short.

4 Q. All right. Was the victim's DNA on the
5 Defendant's boxer shorts?

6 A. The DNA profile developed from the
7 major contributor to both of those items 2.1 and
8 2.2 which were both the boxer shorts matches the
9 DNA profile of Malakia Frazier.

10 Q. Was the victim's DNA on the knife?

11 A. For item 3.1 a mixture was developed
12 and Malakia Frazier is included as a possible
13 contributor to that mixture. For Item 3.2 the DNA
14 profile of the major contributor matches the DNA
15 profile of Malakia Frazier.

16 Q. Were both those items taken from the
17 knife?

18 A. Yes, both of those items were taken
19 from the knife.

20 Q. Was the Defendant a possible
21 contributor for both swabs from the knife?

22 A. Yes, he was.

23 Q. Was the Defendant a possible
24 contributor with a statistic of one in 16 million
25 on the victim's fingernails?

1 A. Ricky Short is included as a possible
2 contributor to the mixture developed from the
3 fingernails and the probability of randomly
4 selected and an unrelated individual who
5 contributed to that mixture is approximately one in
6 16 million.

7 Q. And would that have been a minor casual
8 encounter or more likely a more substantially
9 physical encounter?

10 A. In my opinion it was probably something
11 more substantial than say secondary transfer like
12 picking up a jacket or even from say just a
13 handshake based on the amount of DNA that was
14 present.

15 Q. Was the victim's DNA on the white
16 thermal shirt?

17 A. Yes. The DNA profile that's developed
18 from Item 13.1 matched the DNA profile of Malakia
19 Frazier and Malakia Frazier is included as a
20 possible contributor to the mixture that was
21 developed from the scrapings from the underarm of
22 the thermal shirt.

23 Q. Was the Defendant a possible
24 contributor with a statistic of one in 3.6 million
25 for that white thermal shirt?

1 A. Yes. Ricky Short is included as a
2 possible contributor in the mixture on the thermal
3 shirt and the possibility of choosing an unrelated
4 individual from the population who could have
5 contributed to that item is approximately one in
6 3.6 million.

7 MR. WARING: No further questions, Your
8 Honor.

9 THE COURT: Any exception to the
10 witness being excused from the State?

11 MR. WARING: No.

12 THE COURT: From the defense?

13 MR. SHAHID: No, Your Honor.

14 THE COURT: Ma'am, you are excused.
15 Madam forelady, ladies and gentlemen of the jury,
16 we are going to take advantage of this break in
17 testimony to take our lunch recess. Your lunch has
18 arrived. I have already had them place it in the
19 jury room. You are welcome as you did yesterday to
20 walk around, just return promptly to the jury room
21 by 2:00 at which time gives -- that gives right at
22 an hour for lunch at which time we will resume
23 testimony. Please do not discuss the case. Please
24 don't have any contact with anyone in or about the
25 courthouse and you can leave your note pads in your

1 THE DEFENDANT: Ricky Short.

2 THE COURT: Sir, we are soon going to
3 reach the stage of the trial where you have the
4 opportunity to present a case if you so desire and
5 I'm going to explain to you certain of your rights
6 in advance of that so that in the event that you
7 and Mr. Shahid want to talk over the luncheon
8 recess that you can have a meaningful conversation
9 regarding that. If you don't understand something
10 I explain to you let me know. Or if you need me to
11 explain something in more detail let me know. Do
12 you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Sir, you have the right to
15 claim the protections given to you by the Fifth
16 Amendment to the United States Constitution and
17 that amendment states in part that no person shall
18 be compelled in any criminal case to be a witness
19 against himself. This means that you cannot be
20 required to testify in this case. Of course you
21 have the right to testify on your own behalf, but
22 no one can make you testify. It is a personal
23 right. No one can waive that right except you. If
24 you decide to testify you will be subject to the
25 same rules that govern other witnesses and you may

1 be examined and cross-examined on any relevant
2 issue in this case. In addition, if you have any
3 convictions involving dishonesty or false statement
4 or crimes punishable by imprisonment for more than
5 one year and this Court determines that the
6 probative value of admitting this evidence
7 outweighs any potential prejudicial effect to you
8 the solicitor will be able to introduce your record
9 to attack your credibility. If you decide to
10 testify this decision on your part must be made
11 freely, voluntarily, knowingly and intelligently
12 with knowledge of the protections to you by the
13 Fifth Amendment and the consequences of your
14 decision to testify.

15 If you decide not to testify I will
16 instruct the jury that they cannot give that fact
17 any consideration whatsoever, that there is to be
18 no prejudice to you because you did not testify.
19 In fact, I will instruct them that the burden
20 remains on the State to prove each and every
21 element of the offenses against you beyond a
22 reasonable doubt, that you have no burden of proof,
23 that you can remain silent and that they are not to
24 discuss the fact that you did not testify in any
25 manner whatsoever during their deliberations.

1 Sir, it's left entirely up to you
2 whether or not you testify. You may speak with
3 your attorney, your family members or anyone else,
4 but the final decision is yours. Do you understand
5 your rights as I have just explained them to you?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you have any questions
8 about your rights as I have just explained them to
9 you?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: We will recess until you
12 all have a meaningful opportunity to continue to
13 discuss this issue and at the appropriate time I
14 will resume the colloquy. Is there anything
15 further that we need to take up before we break for
16 lunch from the State?

17 MR. WETMORE: No, Your Honor.

18 THE COURT: From the defense?

19 MR. SHAHID: No, ma'am.

20 THE COURT: Have a good lunch. I will
21 see you at 2:00.

22 (A luncheon recess transpired.)

23 THE COURT: State ready to proceed?

24 MR. WETMORE: Yes, Your Honor.

25 THE COURT: Defense ready to proceed?

1 MR. SHAHID: Yes, ma'am.

2 THE COURT: The jury should be right
3 behind us.

4 (Thereupon, the jury entered the
5 courtroom at 2:09 p.m.)

6 THE COURT: Ladies and gentlemen, hope
7 you had a good lunch. We will resume testimony.
8 You may proceed.

9 MR. WETMORE: Thank you, Judge. State
10 calls Dr. Julie Ross, MUSC.

11 JULIE ROSS

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state your full name
14 and spell your last name for the record.

15 THE WITNESS: Julie Ross, R-O-S-S.

16 DIRECT EXAMINATION

17 BY MR. WETMORE:

18 Q. Good afternoon, Dr. Ross.

19 A. Good afternoon.

20 Q. Where are you employed right now?

21 A. I'm employed at the Medical University
22 of South Carolina.

23 Q. And what would be your medical field or
24 area of expertise?

25 A. I'm a neonatologist so I am a trained

1 general pediatrician and board certified in
2 neonatal medicine as well.

3 Q. I am sure it's probably fairly
4 extensive, but can you give us a brief rundown of
5 your educational history?

6 A. Absolutely. So I graduated with a
7 Bachelor of Science at Presbyterian College. Went
8 on to the Medical University of South Carolina
9 where I completed my medical degree in 2006. I
10 followed that with three years of pediatric
11 residency training at Vanderbilt University in
12 Nashville, Tennessee and returned to the Medical
13 University of South Carolina for three years of
14 neonatal perinatal medicine.

15 Q. Your employment history is with MUSC
16 consistently?

17 A. It has been, since graduating.

18 Q. Other than the time at Vanderbilt?

19 A. Right.

20 Q. And your facility at MUSC is current
21 and accurate and state of the art?

22 A. Correct. We are a Level 4 neonatal ICU
23 so we take care of the highest level of care needed
24 for babies across the state.

25 MR. WETMORE: At this point, Your

1 Honor, I would like to offer Dr. Ross as an expert
2 in neonatology.

3 THE COURT: Any objection?

4 MR. SHAHID: No objection. Just speak
5 up a little bit.

6 THE WITNESS: Absolutely. I am sorry.

7 THE COURT: You may proceed without
8 objection.

9 BY MR. WETMORE:

10 Q. Dr. Ross, were you involved with the
11 care of one of the victims in this case, Miracle
12 Frazier?

13 A. Yes I was.

14 Q. If you can please describe to the jury
15 what your involvement was in her case?

16 A. Absolutely. So I was the attending
17 neonatologist and neonatologist on call the night
18 Miracle was born. And so I admitted her to the
19 neonatal ICU and then my active involvement in her
20 care ended following that admission.

21 Q. Now, do you happen to know how the
22 mother presented or came to the care of MUSC?

23 A. Per the records that we have, mom
24 presented on the day of delivery. Prior to that we
25 had record of an ultrasound, I think it was around

1 six weeks that dated her pregnancy.

2 Q. So that would have been prenatal care?

3 A. From the records that I have that's
4 what we have.

5 Q. When she came at the time of this
6 incident do you know her condition, the mother?

7 A. The mother's condition at arrival was
8 actively being coded in the emergency department.
9 So I wasn't present for arrival, but it means heart
10 was not -- they were performing advanced life
11 support on mother on arrival.

12 Q. So mother was dying if not already
13 dead?

14 A. Correct.

15 Q. Did it become known to yourself or
16 anyone that works with you that she was pregnant,
17 the mother?

18 A. So we were activated that a pregnant
19 woman was arriving under the emergency department
20 in extremis so that activated our resuscitation
21 team. So we have a separate team for neonatal
22 resuscitation that responds to instances such as
23 this.

24 Q. And they respond so they can help with
25 what?

1 A. So as neonatologists we care for the
2 baby. So they are there to in the event that a
3 baby is born provide any necessary resuscitation
4 that is needed to sustain life for a baby.

5 Q. Now, could you tell how far along
6 exactly the mother was either initially or as you
7 worked in this case?

8 A. So my knowledge I think after the -- as
9 soon as the baby was delivered we can oftentimes
10 from an exam give an estimated gestational age. So
11 based on records and the individuals that were
12 there the baby was estimated to be 24 weeks based
13 upon the characteristics of the baby and then on
14 further review of the records that we had we
15 actually had an estimated date of delivery or a due
16 date for mom in the records which put the baby at
17 24 and 5/7 weeks.

18 Q. So the exact answer for how far along
19 this baby was?

20 A. Was 24 and 5/7 weeks.

21 Q. That means 24 weeks?

22 A. Five days.

23 Q. Of the next week?

24 A. Correct.

25 Q. Now, as an expert in neonatology are

1 babies at 24 and 5/7 weeks potentially viable?

2 A. In my professional opinion, yes.

3 Q. How do you define or characterize
4 potential viability?

5 A. So personally and in our professional
6 community we define potentially viable begins
7 around 23 weeks. So and that is when after baby is
8 delivered and separate from the mother that we are
9 able to provide support to potentially have a baby
10 that can survive to discharge home.

11 Q. And do you know how the South Carolina
12 statute defines viability?

13 A. The information that I know is from
14 just an abortion statute defines --

15 MR. SHAHID: Objection, Your Honor.

16 THE COURT: Basis?

17 MR. SHAHID: She is giving a legal
18 opinion.

19 THE COURT: It's within the ambit of
20 what she does for a living, the foundation has been
21 laid. She clearly has a rationale perception of
22 what she speaking of. Overruled.

23 MR. SHAHID: May we approach?

24 THE COURT: Um-hmm.

25 (Following proceedings were held at the

1 bench.)

2 MR. SHAHID: This is information the
3 jury is going to hear.

4 THE COURT: It's within the ambit of
5 what she does. She clearly has a working knowledge
6 of the statute.

7 MR. SHAHID: This is going to be the
8 problem. She is about to use the abortion statute.
9 That's not the standard for whether the baby was
10 viable or not. The statute -- this is a medical
11 decision, not a legal decision whether or not the
12 child is viable. The statutes around the country
13 vary.

14 THE COURT: You asked her this and I
15 don't see -- in South Carolina she has to know that
16 stuff. She is performing medical care and she
17 could be prosecuted.

18 MR. SHAHID: She's not performing
19 abortions. She's there to determine whether or not
20 this child --

21 THE COURT: She uses the statute as the
22 basis of her opinions. It's well within her
23 training and experience. If you want to question
24 that cross-examine her about it.

25 MR. SHAHID: Thank you.

1 THE COURT: The objection is overruled.
2 (Following proceedings were held in
3 open court.)

4 THE COURT: It is well within the ambit
5 of the witness's knowledge and within her
6 expertise, something she regularly relies on in her
7 profession. Goes to weight, not admissibility. Do
8 you need the question repeated? Probably. Repeat
9 the question, please.

10 BY MR. WETMORE:

11 Q. Are you familiar at this point in your
12 job how the South Carolina statute defines
13 viability?

14 A. I am.

15 THE COURT: I couldn't hear what you
16 said, Mr. Wetmore. Your voice is low. I couldn't
17 hear you.

18 BY MR. WETMORE:

19 Q. Do you know how the South Carolina
20 statute defines viability?

21 THE COURT: Ma'am, I need to interrupt
22 you. You need to rephrase the question
23 differently. As it's phrased it is not
24 appropriate. Bring it within my -- the Court's
25 ruling.

1 BY MR. WETMORE:

2 Q. Based on your job in neonatology are
3 you familiar with how the South Carolina statute
4 defines viable?

5 THE COURT: Still you need to approach.

6 (Following proceedings were held at the
7 bench.)

8 THE COURT: The way I understood the
9 question originally was that you asked her how did
10 she define viability and she said under the statute
11 it is defined as this way. It is a leading
12 question and answer. You need to ask her an open
13 ended question. It is your witness. How does she
14 define viability in her profession. You need to
15 ask a question that is not suggesting the answer.
16 You need to rephrase the question and make it a
17 direct question.

18 MR. WETMORE: Can I ask her her
19 definition of the statute?

20 THE COURT: Ask the first question
21 which is how she defines viability as an expert.
22 That's her job. She's a neonatologist.

23 (End of sidebar conference.)

24 BY MR. WETMORE:

25 Q. Let me back up here. How do you define

1 and characterize potential viability?

2 A. So I define viability similar to our
3 professional organizations and in professional
4 practice that we define viability. We define a
5 period viable or potentially viable period. Most
6 babies begin at 23 and 0/7 weeks we view as
7 potentially viable unless there are other
8 extenuating circumstances that would lead us to
9 believe that the baby did not have a reasonable
10 chance of survival.

11 Q. And does your definition or
12 characterization incorporate the state statute?

13 MR. SHAHID: Leading, Your Honor.

14 THE COURT: I'm going to give him some
15 latitude. Overruled. Do you understand the
16 question, ma'am? Do you need to have it rephrased?

17 THE WITNESS: I think I understand it.
18 Can you restate the question.

19 BY MR. WETMORE:

20 Q. Does your definition or
21 characterization of potential viability take into
22 account the state statute?

23 A. I do not know that it takes into
24 account the state statute. I can't answer that
25 from a professional standpoint.

1 Q. So you have already said that -- are
2 babies at 24 and 5/7 weeks potentially viable?

3 A. In my professional opinion absolutely,
4 yes.

5 Q. Absolutely, yes. Did you consider this
6 baby, Miracle Frazier, potentially viable?

7 A. I did consider her potentially viable.

8 Q. What is that based upon?

9 A. That is based upon her gestational age
10 at 24 and 5/7 weeks and her ability to be
11 resuscitated initially.

12 Q. Did the MUSC personnel actually deliver
13 Miracle?

14 A. MUSC personnel did deliver Miracle.

15 Q. How was that accomplished?

16 A. It was done by an emergency C-section.

17 Q. And so what was her actual date of
18 birth?

19 A. Date of birth was [REDACTED].

20 Q. Do you have a time?

21 A. The time was 2357 or 11:57 p.m.

22 Q. Just before midnight. Would Miracle
23 have had a live birth certificate?

24 MR. SHAHID: I am sorry. Can you
25 repeat the question?

1 Q. Would Miracle have had a live birth
2 certificate?

3 A. Yes. Any baby that is born and is
4 admitted to a neonatal ICU or has heart rate at
5 birth receives a birth certificate to the best of
6 my knowledge.

7 Q. To the best of your knowledge can you
8 describe the circumstances that Miracle was facing
9 in her time on earth?

10 A. Absolutely. For the records that we
11 have, when Miracle was delivered she was delivered
12 by perimortem C-section, her mom was actively
13 dying. So she was delivered in a state where there
14 was decreased blood flow and decreased oxygen
15 delivery to the fetus which can increase the risk
16 of death and complications after delivery.

17 So when Miracle was delivered the
18 resuscitation team was there and available and
19 provided resuscitative efforts that involved giving
20 breath to her lungs and then putting a breathing
21 tube in. And at that point in time her heart rate
22 did not respond to those measures. Chest
23 compressions or compressions of the heart were
24 undertaken. An emergency IV access was obtained
25 through her umbilical cord where emergency

1 medications to help improve the heart rate were
2 given which was epinephrine.

3 Q. What would you say were Miracle's
4 greatest health challenges or problems at the time
5 of her birth?

6 A. At the time of her birth the situation
7 in which she was born in led her to have severe
8 acidosis or signs of decreased oxygen delivery so
9 that puts her in an uphill battle and at risk for
10 neurologic complications and at risk for
11 complications to her other organs where there was
12 increased oxygen delivery at that point in time.

13 Q. So safe to say that Miracle was facing
14 an uphill battle?

15 A. Absolutely.

16 Q. To a reasonable degree of medical
17 certainty what was the cause of her health problems
18 at birth?

19 A. So her health problems at birth were a
20 combination of extreme prematurity at 24 5/7 weeks
21 as well as the severe acidosis and perinatal
22 hypoxia that she was delivered under which placed
23 her at even higher risk.

24 Q. So did the assault on her mother and
25 the resulting emergency delivery, did those factors

1 contribute to her health problems at birth?

2 MR. SHAHID: Leading question, Your
3 Honor.

4 THE COURT: I will give him a little
5 latitude. Overruled.

6 THE WITNESS: Yes. The blood gas at
7 the time of the delivery had a pH of 6.5 which was
8 severely acidotic. That is a sign of the
9 environment that Miracle was in prior to delivery
10 and then was born with a very low heart rate and
11 needed full resuscitation.

12 BY MR. WETMORE:

13 Q. So it is your professional opinion
14 those factors contributed to her health problems?

15 A. Yes.

16 Q. So what day was it that -- you said
17 when she was born. What day was she admitted to
18 the neonatal intensive care unit?

19 A. So actually admitted to NICU would have
20 been on 10-11 so she was delivered in the emergency
21 department and then was admitted to our unit
22 shortly thereafter.

23 Q. Do you have in your records admission
24 weight and percentile?

25 A. I do. Her admission weight was

1 610 grams and the percentile of that is the 17th
2 percentile for a baby born at 24 and 5/7 weeks.

3 Q. Do you have her admission length?

4 A. She was 30 centimeters long which was
5 the 11th percentile for her gestational age.

6 Q. All right. Now she is in the neonatal
7 intensive care unit. What sort of care did she
8 receive there and use whatever records you deem
9 necessary to give us a brief history of what you
10 know?

11 A. So for during the first day of life
12 when I was actively caring for her she was
13 requiring significant support. So with the
14 resuscitative efforts in the emergency department
15 her heart rate improved. She had a breathing tube
16 and she was admitted on a ventilator and provided
17 maximum respiratory support. She had issues with
18 evidence of some end organ issues. So she had
19 coagulopathy so she required resuscitation with
20 blood products for that.

21 She had severe hypotension or low blood
22 pressure and required multiple medications in that
23 first 12 hours of life or so to improve her blood
24 pressure as well as volume resuscitation.

25 Q. Is that the extent of the care you're

1 aware of in the NICU?

2 A. So I have the records of the care.

3 Q. If you can give us just a brief what
4 care she received in the unit?

5 A. So for really the duration of her
6 admission to the unit she received maximal medical
7 support that we can provide. With severe
8 hypotension problems requiring maximum amount of
9 blood pressure medications to treat the blood
10 pressure required, one of the higher levels of
11 ventilators that we can use. The high frequency
12 jet ventilation, she was on that from about
13 12 hours of life or so for the duration of her stay
14 with us. Neurologically she had a neurologic exam
15 from the time of the admission and that persisted
16 with really minimal response and movement to the
17 things that we were doing to her.

18 Q. How long did Miracle live in your unit?

19 A. She lived for two weeks.

20 Q. And was everything done for her that
21 could be done for her?

22 A. Absolutely.

23 Q. And during that two-week period you
24 mentioned several specific things. Did Miracle
25 receive what you define as artifical aid?

1 A. She did.

2 Q. How do you define and consider
3 artificial aid, is there a definition in your
4 field?

5 A. I think a lot of things that we do can
6 be defined as artificial aid. We have to provide
7 warmth for babies with incubators. We have to
8 provide breathing support with ventilators. We
9 provide nutrition with IVs and IV nutrition,
10 provide blood pressure support and medications.

11 Q. Do all babies require artificial aid?

12 A. All babies? Hard to say.

13 Q. Do all babies born 24 and 5/7 weeks
14 require artificial aid?

15 A. Yes.

16 Q. And is the use of artifical aid the
17 best practice?

18 A. It is.

19 Q. Would that have given Miracle the best
20 chance of survival?

21 A. It would.

22 Q. Do you have -- I know you didn't try it
23 certainly, but do you have any professional opinion
24 about how long Miracle could have potentially lived
25 without this aid?

1 A. Without this aid? Without this aid she
2 would not have survived to make it to the NICU.

3 MR. SHAHID: I am sorry?

4 THE WITNESS: Without the aid that we
5 were supplying her she would not have survived.
6 BY MR. WETMORE:

7 Q. And once she is in the NICU and she's
8 stabilized, how long could she potentially live
9 without artificial aid?

10 A. I'm unable to answer that.

11 Q. Is it possible she could have lived for
12 a period of time without artificial aid?

13 A. She was born with a heart rate so I
14 mean she was living at that point in time, but
15 there's -- I can't say how long she would have
16 lived.

17 Q. That's fine. I am glad you don't try
18 those things. Was there any disruption in her aid
19 until the end of her life?

20 A. No.

21 Q. And that was the best practice?

22 A. It was.

23 Q. At the end of her life in the unit what
24 was her weight and percentile?

25 A. I have to get my records for that. Her

1 weight at the time of her death was 1,070 grams
2 which was the 87th percentile.

3 Q. And that is higher than when she was
4 admitted, correct?

5 A. It is.

6 Q. And her length and percentile at the
7 end of her life?

8 A. Thirty-three. five centimeters. That
9 was the 51th percentile.

10 Q. And is that a higher figure than when
11 she was admitted?

12 A. She was born at 30, so yes.

13 Q. And how long did Miracle live in the
14 NICU?

15 A. She lived for two weeks.

16 Q. During her two weeks of life did
17 Miracle's health problems or challenges improve?

18 A. Difficult to say improved. I think at
19 one point in time she did not require blood
20 pressure for a very short period of time, but she
21 was extremely gravely ill throughout her entire
22 stay.

23 Q. Critically ill throughout?

24 A. Yes.

25 Q. And to the best of your opinion you

1 have what was the cause of her persistent health
2 problems?

3 A. Her extreme prematurity and contributed
4 by the perinatal asphyxia oxygen deprived.

5 Q. So did the assault on the mother
6 contribute to this persistent health problems?

7 MR. SHAHID: Objection, leading, Your
8 Honor.

9 THE COURT: Sustained, leading.
10 BY MR. WETMORE:

11 Q. How did the assault on her mother
12 contribute to her health problems?

13 A. So in the case of a baby born in 24 and
14 5/7 weeks she was delivered without the typical
15 treatment that would hopefully be able to be given
16 to a mother before delivery of a preterm baby and
17 then actually the environment and the severe
18 acidosis and decreased oxygen delivery prior to the
19 delivery contributed to her health findings.

20 Q. And did Miracle die in your unit?

21 A. She did.

22 Q. And what was the date of her death?

23 A. Date of death was 10-24-2015.

24 Q. And what was her cause of death to the
25 best of your knowledge?

1 A. The cause of death was complications of
2 extreme prematurity secondary to the circumstances
3 surrounding her delivery and time with us.

4 Q. So what effect did her premature
5 delivery have on that?

6 A. Most of her problems were secondary to
7 complications of extreme prematurity.

8 Q. Was her premature delivery caused by
9 the assault and battery on her mother?

10 A. In terms of a perimortem C-section,
11 yes.

12 Q. So it is your opinion that the assault
13 on the mother caused the premature delivery?

14 MR. SHAHID: Objection, leading, Your
15 Honor.

16 THE COURT: Sustained, leading.
17 Rephrase.

18 BY MR. WETMORE:

19 Q. What was the cause of the premature
20 delivery?

21 A. The perimortem C-section.

22 Q. What was the cause of that C-section?

23 A. From our knowledge maternal assault.

24 Q. Court's indulgence?

25 THE COURT: Yes, sir.

1 (Off-the-record conference.)

2 MR. WETMORE: Nothing further of this
3 witness, Judge.

4 THE COURT: You may proceed.

5 CROSS-EXAMINATION

6 BY MR. SHAHID:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. My name is Peter Shahid. I'm a lawyer.
10 I represent Mr. Short.

11 A. Okay. Nice to meet you.

12 Q. Your involvement with this child was to
13 provide care to her after she was delivered by
14 emergency C-section?

15 A. Yes.

16 Q. When a child is born there's a score
17 given to the -- assigned to that child that is
18 called an A-P-G-A-R score?

19 A. Apgar score.

20 Q. And what is the scale, from one to
21 what?

22 A. One to ten.

23 Q. And at the time and so one being the
24 worst, ten being the best?

25 A. Correct. There are five components of

1 an Apgar score. You can get a score of zero to one
2 on each those components.

3 Q. So can you give the jury a little bit
4 sampling of the five components you are looking for
5 a child who was born?

6 A. Absolutely. So the first is the heart
7 rate. So if the heart rate -- if there is a heart
8 rate, and then if that is over a hundred. We look
9 at respiratory effort, so how well the baby is
10 breathing. We look at muscle tone. We look at
11 grimace, so how the baby reacts.

12 Q. Muscle tone?

13 A. Respiratory effort. Grimace. So the
14 grimace is kind of reactivity. So if the baby --
15 you touch the baby and the baby kind of makes a
16 face and responds. Reactivity. And then coloring,
17 so how the color of the baby is.

18 Q. So what was her Apgar score?

19 A. So we give a score at one minute, at
20 five minutes and then can extend that to five
21 minutes. At one minute her Apgar score was a one.

22 Q. Okay. And at five minutes?

23 A. It was a one.

24 Q. At ten minutes?

25 A. It was three.

1 Q. Does that score change after ten
2 minutes?

3 A. It was five at 15 minutes.

4 Q. Ever change after that?

5 A. We typically will stop scoring after
6 that.

7 Q. The highest it got was a five?

8 A. Correct.

9 Q. And the highest that you can achieve is
10 a ten?

11 A. Correct.

12 Q. She is at best right in the middle?

13 A. She is a five.

14 Q. Which is one to ten?

15 A. Correct.

16 Q. Now, would you agree with me, Doctor,
17 that the term viable is a different term than
18 birth?

19 A. Correct.

20 Q. You would agree with me on that?

21 A. I agree.

22 Q. And viable as I understand it, the
23 definition is a fetus that is developed
24 sufficiently to be able to live outside of the
25 uterus; is that a fair definition?

1 A. Seems fair.

2 Q. So what that means is a child being
3 able to live outside of the mother's womb. Now, as
4 I understand your testimony, you are a highly
5 sophisticated unit of the MUSC?

6 A. We are.

7 Q. And you all provide the best care
8 anywhere; is that fair to say?

9 A. We are proud of the care we provide.

10 Q. And we are all proud of the Medical
11 University. And sometimes you learn things at
12 Medical University. So for this child you had to
13 resuscitate this child when she was brought to you.
14 Now, resuscitate in layman's terms means that at a
15 point in time she is not breathing?

16 A. Resuscitate can mean different things.
17 That is not the only thing that means.

18 Q. But in this particular instance you had
19 to resuscitate meaning you had to bring air into
20 her lungs?

21 A. Um-hmm.

22 Q. Regardless of what that means to other
23 things, in this particular instance the first thing
24 you had to do upon delivery was to bring air into
25 her lungs, you are going to force air into her

1 lungs, she was not breathing on her own?

2 A. Correct.

3 Q. And throughout the time, the two-week
4 period of time from the 10th or the 11th of October
5 until the 24th I think of October, that child was
6 always on a respirator?

7 A. Correct.

8 Q. A ventilator?

9 A. Correct.

10 Q. She was not breathing on her own?

11 A. So that being on a ventilator does not
12 necessarily mean you are not breathing on your own.
13 I don't have the records to know if she was
14 spontaneously breathing. I believe at one point
15 she was.

16 Q. I am sorry?

17 A. I don't have the records to say whether
18 or not she was actually breathing with the
19 ventilator. You can need one for reasons other
20 than just not breathing.

21 Q. If you had removed the ventilator,
22 Doctor, fair to assume if you had removed the
23 ventilator at any point from day one to day 14 she
24 would have not been able to breathe?

25 A. She could have possibly been able to

1 breathe, but her lungs were so immature. They were
2 extremely sick.

3 Q. It would have been a short while and
4 she is not going to breathe any more.

5 A. Correct. I guess.

6 Q. Now, I think you used the word maximum
7 medical support so I'm using laymen's terms. You
8 were throwing everything that was available to you
9 for this child to survive?

10 A. We were providing a lot of support to
11 help her.

12 Q. Lot of support. Whatever arsenal you
13 had available to you, you utilized every arsenal
14 that was available to you, every tool, every
15 medicine, every instrument, every technique that
16 you could and that child stayed alive for 14 days?

17 A. Correct.

18 Q. And absent any of those measures that
19 14 days may have been shortened?

20 A. Potentially.

21 Q. Potentially. And, Doctor, in response
22 to Mr. Wetmore's question at 24 weeks and 5 days
23 your definition was that this child was potentially
24 viable because in your science, the literature on
25 viability at that particular age is 50/50?

1 A. Correct. So 24 weeks potential is
2 50 percent chance of survival.

3 Q. Flip of a coin, right? When it's all
4 said and done?

5 A. Fifty percent chance of survival.

6 Q. Flip of a coin. That's all the
7 questions I have. Thank you so much for your care
8 to our citizens of South Carolina.

9 THE COURT: Redirect?

10 MR. WETMORE: Just a couple of things,
11 Judge.

12 REDIRECT EXAMINATION

13 BY MR. WETMORE:

14 Q. Dr. Ross, you indicated that her Apgar
15 scores, initially one, five minutes later one; is
16 that right?

17 A. That's correct.

18 Q. And then five minutes after that it was
19 three?

20 A. Correct.

21 Q. And five minutes after that it was
22 five?

23 A. Correct.

24 Q. So that shows some progress that the
25 baby made?

1 A. So the one minute Apgar score is
2 typically reflective of the baby's intrauterine
3 life or the life inside of mom. And the five and
4 Apgar scores and above are the babies response to
5 resuscitative efforts.

6 Q. And at that time the scores were being
7 taken was Miracle alive?

8 A. She always had a heart rate.

9 Q. And was she outside of her mother?

10 A. She was.

11 Q. And do these Apgar scores indicate to
12 you some progress is being made?

13 A. It does.

14 Q. You indicated she was using a
15 respirator ventilator for breathing; is that right?

16 A. Correct. So preterm baby's lungs are
17 born extremely immature and most often need some
18 form of respiratory support.

19 Q. That's all preterm babies?

20 A. At this gestational age, yes.

21 Q. So was the respirator helping Miracle
22 to breathe?

23 A. It was.

24 Q. Can you tell if she was possibly making
25 effort to breathe herself?

1 A. I can't answer that with the
2 information that I have.

3 Q. And is it possible that Miracle could
4 have breathed for a short period of time without
5 the respirator?

6 A. It is possible.

7 Q. Obviously best practice is use them?

8 A. Yes.

9 Q. Now, you mentioned all preterm babies
10 24 and 5/7 weeks would use a respirator?

11 A. In our practice. In my practice they
12 will all use some form of respirator support
13 whether that is through CPAP or pressure delivered
14 to the lungs through a mask or a cannula in the
15 nose or in most often cases in my practice that is
16 through a ventilator at least initially.

17 Q. And is that because of when the lungs
18 develop?

19 A. It is.

20 Q. Can you describe that?

21 A. So the lungs develop, the air sacks
22 develop over time and gestation at 24 weeks the
23 baby's lungs are very underdeveloped. They do not
24 have the air sacks that have developed properly at
25 that point in time for gas exchange. So we

1 transmit oxygen and CO2 which is the purpose of
2 lungs. They also do not make enough of the
3 materials that our lungs make that help us breathe
4 with ease.

5 Q. At 24 5/7 weeks is there anything that
6 can be done if the mother is not assaulted to help
7 her in that process?

8 A. We can put -- mothers can get
9 Betamethasone or a steroid shot prior to delivery
10 and that helps with improving lung function after
11 birth.

12 Q. And in this case the mother -- if the
13 mother was not assaulted could you have done that?

14 A. The obstetricians could have done that.
15 That's not my practice.

16 Q. Thank you.

17 THE COURT: Any objection to the
18 witness being excused?

19 MR. WETMORE: None.

20 THE COURT: From the defense?

21 MR. SHAHID: No, Your Honor.

22 THE COURT: Doctor, you are excused.
23 Call your next witness.

24 MR. WETMORE: Dr. John Cahill.

25 MR. SHAHID: May we approach?

1 THE COURT: Sure.

2 (Following proceedings were held at the
3 bench.)

4 MR. SHAHID: I believe this one witness
5 was present, Your Honor, during Dr. Ross's
6 cross-examination.

7 THE COURT: We didn't agree to
8 sequester witnesses on the record so they are not
9 bound to it. They might have done it
10 involuntarily. I don't have any independent
11 recollection of it. My notes don't reflect there
12 was an agreement to sequester the witness. You may
13 proceed.

14 (End of sidebar
15 conference.)

16 JOHN CAHILL

17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your full name
19 and spell your last name.

20 THE WITNESS: John Cahill, C-A-H-I-L-L.

21 DIRECT EXAMINATION

22 BY MR. WETMORE:

23 Q. Dr. Cahill, where are you employed?

24 A. I'm employed by the Medical University
25 of South Carolina Division of Neonatology.

1 Q. Division of Neonatology.

2 A. Yes.

3 Q. As Dr. Ross did, can you give us a
4 brief rundown of your educational history?

5 A. Yes. I completed my undergraduate
6 regular college at Rutgers graduating in 1994,
7 completing my medical degree in 1997. I then came
8 to the Medical University of South Carolina where I
9 completed a residency in pediatrics and a
10 fellowship in neonatology before joining the
11 faculty in 2003. I joined the faculty as an
12 assistant professor in 2003, was promoted to
13 associate professor in 2014.

14 Q. Has your employment history been with
15 MUSC?

16 A. Yes, it has.

17 MR. SHAHID: Your Honor, may I ask the
18 witness to speak up?

19 THE COURT: Sir, speak directly into
20 the microphone. There we go.

21 BY MR. WETMORE:

22 Q. And your facility there at MUSC is
23 state of the art?

24 A. Yes, it is.

25 MR. WETMORE: At this point, Judge, I

1 would like to offer Dr. Cahill as an expert in
2 neonatology.

3 THE COURT: Any objection or questions?

4 MR. SHAHID: No objection.

5 THE COURT: So admitted without
6 objection.

7 BY MR. WETMORE:

8 Q. Dr. Cahill, were you involved in the
9 care of the victim in this case, Miracle Frazier?

10 A. Yes, I was.

11 Q. Describe for us your involvement in her
12 care?

13 A. I was her attending physician from her
14 second day of hospitalization through the 13th day
15 of her care.

16 Q. Dr. Ross was her delivery, you're her
17 attending?

18 A. Correct.

19 Q. Do you know how the mother presented or
20 came to MUSC?

21 A. From review of the records I have an
22 understanding.

23 Q. What is that understanding?

24 A. The mother was brought as a trauma
25 patient to the emergency department trauma bay

1 receiving cardiopulmonary recitation by providers
2 both in the emergency department and from EMS prior
3 to that.

4 Q. And did you find out she was pregnant,
5 the mother?

6 A. My review of the records indicated it
7 appears that the attending in the emergency
8 department trauma bay did know she was pregnant.

9 Q. Based on your records what was your
10 best estimation of how far long she was, the baby
11 was?

12 A. On review of the records it is noted
13 that mother of Miracle had identified pregnancy
14 approximately six weeks of gestation or through
15 sixth week.

16 Q. I didn't understand that. Six weeks?

17 A. On review of the records it appears
18 that mother had an identified pregnancy when she
19 was six weeks pregnant.

20 Q. Okay. And when the mother presented to
21 MUSC could you tell how far along she was then?

22 A. I could not. The opinion of those in
23 attendance at the delivery in their records
24 indicate that Miracle was 24 weeks, assigned at 24
25 to 25 weeks pregnancy for gestation.

1 Q. So 24 to 25. Do you have any exact
2 number in your records?

3 A. On the subsequent day of her care her
4 gestational age was appropriately assigned at birth
5 to be 24 weeks and 5 of 7 days in addition to the
6 24th week.

7 Q. So at the time of the birth it was 24
8 and 5/7 weeks?

9 A. Yes.

10 Q. Now, are babies in general at 24 and
11 5/7 weeks potentially viable?

12 A. Yes.

13 Q. And babies that are born at 24 and 5/7
14 weeks, are there things that you can do to help
15 them?

16 A. Yes, there are.

17 Q. What sort of things are those?

18 A. When a baby is born prematurely in the
19 24 5/7 weeks providing multisystem support is
20 necessary for all babies at that gestational age.
21 Subject to providing the care and provision of
22 temperature control, respiratory management, both
23 breathing for the baby and assisting the
24 respiratory actions that the baby is able to
25 undertake, providing nutrition, providing blood

1 pressure monitoring support and providing coverage
2 for any risk of infection.

3 Q. And at 24 and 5/7 weeks is there
4 anything that you or anyone in your practice could
5 do to the mother that would help the baby?

6 A. If a mother were to be identified in
7 labor at 24 and 5/7 weeks and labor was able to be
8 stopped or the pregnancy was able to be continued
9 or delivery delayed, yes, there are.

10 Q. What are those things? What can be
11 done at that time period to help the child?

12 A. Well, the provision of medication to
13 mother that are known to improve the status of the
14 baby when a baby is born prematurely such as giving
15 the baby a steroid called Betamethasone.

16 Additionally, a very premature baby may be born to
17 a mother who is given magnesium. All of these are
18 done to accelerate the baby's physiologic responses
19 to make that transition from being inside of their
20 mom to being out in the world that we live in.

21 Additionally, providing some neuro
22 protection to the baby and giving them improvement
23 in their developmental outcome.

24 Q. These steps are done through the
25 mother; is that correct?

1 A. Yes, they are.

2 Q. And can these steps be done if the
3 mother is assaulted? Mother is dead?

4 A. These steps require time and so the
5 provision of time to deliver these therapies and
6 gain an effect of these therapies is what's
7 required. And in an emergency delivery that time
8 is not available.

9 Q. Now, how do you define or characterize
10 potentially viable?

11 A. A baby who is delivered who is
12 premature requires multisystem organ support which
13 is the type of support we deliver to all of our
14 premature babies. All is included in viability in
15 my practice and the practice of our discipline.
16 The provision of artificial assistance support is
17 the standard form of therapy for 24-week gestation
18 pregnancy of babies delivered at 24 weeks.

19 Q. And did you consider Miracle Frazier to
20 be potentially viable?

21 A. Yes.

22 Q. Why is that?

23 A. On my assumption of her care on day of
24 life two Miracle was alive in our intensive care
25 unit.

1 Q. So in your opinion --

2 A. I was supporting the viability that she
3 was presenting at that time.

4 Q. So in your opinion when you took over
5 as her attending she had achieved that viability,
6 she was alive?

7 A. Yes.

8 Q. When was Miracle delivered at MUSC?

9 A. October 10th, 2015, but I believe
10 2300 hours or between 11:00 p.m. and midnight.

11 Q. And would she have been given a live
12 birth certificate?

13 A. Yes, she would have.

14 Q. So are you aware of, you might not be,
15 of the circumstances surrounding her birth?

16 A. Yes, I was.

17 Q. What were those circumstances, do you
18 know?

19 A. Circumstances surrounding her birth I'm
20 aware of was that the Miracle was delivered by
21 emergency delivery in the emergency department,
22 specifically trauma bay after a trauma case is
23 called activating our services along with the
24 obstetrics and our trauma base responses to a
25 pregnant woman in trauma. Equipment is all

1 maintained in the emergency department area to
2 respond to a premature or term baby who has to be
3 delivered in that setting secondary to trauma,
4 whatever the reason for that trauma is.

5 Q. Why was Miracle born into that trauma
6 environment?

7 A. On review of record mother was unstable
8 requiring cardiopulmonary support and her survival
9 was not assessed to be likely and so the delivery
10 of her baby was indicated at that time.

11 Q. In your opinion did the assault on the
12 mother or how did assault on the mother contribute
13 to Miracle's health problems at birth?

14 A. A baby delivered in an unstable
15 maternal situation where there is a disruption of
16 the normal cardiopulmonary system, the heart and
17 lungs and blood pressure and supply to the mother's
18 uterus in particular would result in a fetus baby,
19 premature baby once delivered in not receiving the
20 appropriate amount of oxygen that we would expect
21 babies to receive in their mom.

22 Likewise, the baby's waste products
23 would not be able to be effectively removed by the
24 mother's circulation and the mother's body. And I
25 believe that imbalance would have placed Miracle at

1 risk.

2 Q. Thank you, Doctor. After being
3 delivered was Miracle admitted to the neonatal
4 intensive care unit?

5 A. Yes. After Miracle was delivered in
6 the emergency department she was brought up to the
7 eighth floor of the Medical University Children's
8 Hospital and admitted to ICU with an admit date of
9 the 11th of October.

10 Q. And give us a brief history of what the
11 care she received there either from you or others
12 on your team using the records there.

13 A. Her care in the neonatal ICU involved
14 multisystem support and assistance. Specifically,
15 she required nutritional support as all babies at
16 24 weeks will through an IV delivering IV fluids
17 providing protein, glucose, fat, vitamins, minerals.
18 Additionally, she required extensive respiratory
19 support. As we discussed earlier, 24 week babies
20 do require the assistance of their respiratory
21 system in that transition from being in the mom to
22 being what we live in here breathing and supporting
23 themselves. Miracle did require that support.
24 Additionally, she had the need for mechanical
25 ventilation of a significant nature to provide

1 oxygen to her and to eliminate carbon dioxide from
2 her body.

3 Additionally, and probably most
4 significantly, her cardiovascular system and her
5 ability to maintain her blood pressure and to
6 provide perfusion to her own end organs required
7 significant levels of support in the beginning of
8 her hospitalization with a decline in that support
9 in the middle of her hospitalization and then as
10 her organ systems were failing once again increased
11 in that provision of support to maintain her
12 cardiovascular function.

13 She likewise had an ultrasound which we
14 do for all premature born babies at this age. She
15 had one done earlier because of her multisystem
16 dysfunction. And then she had a subsequent
17 ultrasound of her brain performed at seven days as
18 is our normal custom of care. And there was a
19 significant change in her finding on those
20 ultrasounds between those two events that all
21 corresponds with the degree of cardiovascular and
22 multisystem instability that she had.

23 Those are the items that I would
24 summarize briefly to be the major points of her
25 care.

1 Q. So did Miracle, in fact, live separate
2 from her mother inside of her uterus?

3 MR. SHAHID: Objection.

4 THE COURT: Basis?

5 MR. SHAHID: Leading.

6 THE COURT: Please rephrase the
7 question.

8 BY MR. WETMORE:

9 Q. Did Miracle live in your neonatal
10 intensive care unit?

11 THE COURT: He couldn't hear you.

12 Q. Did Miracle live in the NICU?

13 A. Yes, she did.

14 Q. Was she outside of her mother at that
15 time?

16 A. Yes, she was.

17 Q. How long did Miracle live in your unit?

18 A. Miracle was delivered on the 10th of
19 October, admitted on the 11th of October and
20 Miracle died on the 24th of October, her 14th day
21 of life.

22 Q. So two weeks?

23 A. Yes.

24 Q. Was there anything that could be done
25 for her that wasn't done for her?

1 A. No.

2 Q. And I think you sort of covered this,
3 but she obviously received or did she receive
4 artificial aid?

5 A. Yes, she did.

6 Q. And is that the best practice for
7 doctors in your field?

8 A. Both for doctors in my field and for
9 patients cared for at this age in our intensive
10 care unit.

11 Q. Does that give her the best chance to
12 survive?

13 A. Yes, it does.

14 Q. Do you have any idea how long Miracle
15 could have potentially lived without this aid?

16 A. No, I don't. We do not review that
17 until her death so I cannot answer that questions.

18 Q. Is it possible that she could have
19 lived without that aid?

20 A. It is possible her heart would have
21 beat for a short period of time, but I do not know
22 what her outcome would have been.

23 Q. You don't know how long?

24 A. Correct, I don't know how long.

25 Q. But there was certainly no disruption

1 in her aid until the very end?

2 A. That is correct.

3 Q. And is that keeping with the best
4 practices of your field?

5 A. Yes.

6 Q. I guess during the two-week period of
7 her life did her health problems improve or stay
8 the same?

9 A. Miracle had multiple health problems,
10 none of them resolved completely. There were
11 periods of improvements in different health
12 problems during her care for a period of time.

13 Q. What was the cause of her persisting
14 health problems?

15 A. Her multisystem organ dysfunction
16 secondary to her asphyxiated state at birth in the
17 setting of an extremely premature baby delivered
18 without the benefit of antenatal and before
19 delivery care of the mom to prepare a premature
20 baby for delivery.

21 Q. And Miracle did, in fact, die in your
22 unit?

23 A. Yes, she did.

24 Q. And what date did you state that was?

25 A. On review of the records Miracle died

1 in her grandmother's arms on the 24th of October.

2 Q. Her grandmother was with her?

3 A. Yes, family members were very involved.

4 Q. And what did you determine was her
5 cause of death?

6 A. Specifically one of my colleagues Dr.
7 Kiger was in attendance at the time of her death
8 and his assessment on the discharge summary on the
9 death summary is cause of death was cardiopulmonary
10 failure due to severe RDS or respiratory distress
11 syndrome, the premature, the lung disease with
12 being born prematurely due to extreme prematurity.

13 Q. So what effect, if any, did her
14 emergency premature delivery have on these
15 problems?

16 A. They were the cause of her extreme
17 prematurity.

18 Q. They were, in fact, the cause?

19 A. Which is the underlying cause of her
20 death.

21 Q. And was her emergency premature
22 delivery caused by the assault on her mother?

23 A. The mother's state when coming to the
24 emergency department was the reason that she was
25 delivered prematurely.

1 MR. WETMORE: Nothing further.

2 THE COURT: Any questions of the
3 witness?

4 MR. SHAHID: Yes, ma'am.

5 CROSS-EXAMINATION

6 BY MR. SHAHID:

7 Q. Welcome to Charleston.

8 A. Thank you.

9 Q. You allow yourself to be called a
10 Charlestonian yet from New Jersey?

11 A. Well, I don't know. Depends on the
12 room I'm in if I have to hide or not.

13 Q. That fellow is from New Jersey. And so
14 you all may have --

15 A. Which exit?

16 Q. Thank you for your service to the
17 citizens of South Carolina, Doctor. You all do
18 wonderful work at the medical university. Thank
19 you. You are a highly trained expert physician to
20 provide care to newborns; is that a fair statement?

21 A. Yes.

22 Q. One of the last questions that Mr.
23 Wetmore asked you was that the cause of death that
24 was cited, Doctor, was extreme prematurity.

25 A. Yes.

1 Q. So the child was born way too early?

2 A. The meaning we use clinically to define
3 extreme prematurity would be a baby that would be
4 born at under 26 weeks gestation.

5 Q. He used the term official record was
6 extreme prematurity?

7 A. Correct.

8 Q. The level of care that you provided to
9 this baby is the same level of care that you would
10 have provided to a child who came to you at this
11 24 weeks 5-day period; is that fair to say?

12 A. Yes.

13 Q. All things being equal I guess is the
14 way I am trying to phrase it that. Regardless of
15 other extenuating circumstances as you characterize
16 this child coming to you that level of care would
17 have been the same for any child at 24 weeks
18 5 days?

19 A. It's the care we provide to a number of
20 24 and 5-day week babies.

21 Q. Now, we all know that the normal period
22 of time for a pregnancy is nine months?

23 A. Correct.

24 Q. And during that nine months the fetus
25 is not a child, not a baby, still a fetus, is

1 developing inside the mother's womb?

2 A. Yes.

3 Q. And the child is receiving the
4 nutrients as necessary for the fetus to grow?

5 A. Correct.

6 Q. And because at that point, use full
7 term I guess, reaching that magic number of nine
8 months or some period of time within nine months,
9 the lungs have got to develop, the kidney has to
10 develop, and those are vital organs to sustain
11 life?

12 A. Yes.

13 Q. And the heart has to develop?

14 A. Yes.

15 Q. And you mentioned try to get -- you
16 mentioned that the three major components were the
17 lungs, the heart and the kidneys and I think that
18 was the major issues that she was suffering from,
19 those three things were not well developed?

20 A. I did not mention her kidneys. Her
21 kidney function appeared actually remarkably good.

22 Q. It was the heart and the lungs?

23 A. Yes.

24 Q. And I didn't quite hear this, so maybe
25 you can explain this. You did an initial

1 ultrasound at some point after the baby -- the
2 child was delivered?

3 A. An ultrasound was done on the second
4 day and actually on the first and second day and
5 again on the seventh day.

6 Q. So that was a measuring point from day
7 two to day seven to do the ultrasound and that gave
8 you some point of reference?

9 A. The ultrasound obtained on the second
10 day of life was obtained by the folks on service
11 because Miracle had been born requiring
12 cardiopulmonary resuscitation herself and
13 medication to evaluate her for an intercranial
14 hemorrhage in the brain. A review of those records
15 and review of the radiology reading is that it's an
16 assignment of grade two. There are four grades of
17 bleedings that can be labeled within a baby's
18 brain. And, however, they were unsure that that
19 was actually a grade two versus a normal variant at
20 24 and 5/7 weeks.

21 On day seven an ultrasound was obtained
22 as we would for any baby at 24 weeks gestation
23 because approximately a third, 35 percent, of
24 babies born at this age can have a bleed in their
25 brain. On that day seven ultrasound Miracle was

1 found to have bilateral grade four intercranial
2 hemorrhage.

3 Q. So grade four in comparison to grade
4 one or ten, what does that mean?

5 A. So grade one is what we call a small
6 amount of blood that is identified on ultrasound.
7 It does not extend into the ventricles. When one
8 looks in the brain of a person when you see an
9 ultrasound, we see a CAT scan or an MRI, we see
10 areas inside our brain. Our brain looks like a
11 mushroom. Top part sits upon a brain stem and
12 inside that brain we see openings that are
13 typically filled with cerebral spinal fluid come
14 from the air, move around and create the fluid
15 cushion with our nervous system, in essence floats
16 in it.

17 What we see in premature babies in
18 particular at times is a grade one bleed. We
19 identify some blood in an area that it should not
20 be in, but does not enter the ventricle. A grade
21 two is where one may see defining of some blood in
22 the ventricle. Grade three is where there is blood
23 in the ventricle and the ventricle has dilatation
24 or what the common discussion we may have is
25 hydrocephalus. And a grade four intercranial bleed

1 is actually a bleed into the tissue of the brain.

2 And so on day seven Miracle was
3 identified to have grade four hemorrhages
4 bilaterally that were not present on day two.

5 Q. So hemorrhaging is blood in the brain
6 and that shouldn't be there?

7 A. Correct.

8 Q. And so there's a certain level I hate
9 to say the word acceptable, but maybe grade one not
10 so concerned, but as the grades get higher it is
11 more serious and could become more fatal?

12 A. As we typically see with family members
13 one has to find a way to weigh that and obviously
14 when you begin to see babies who have a grade four
15 or three intracranial hemorrhage the ability of the
16 providers to estimate the baby's full term when
17 they go home they should survive, their ability to
18 not have any delays is something we cannot assure,
19 but our suspicion is raised and is something that
20 needs to be thought about.

21 Q. Now you are getting blood into the
22 tissues that you don't want there, it's a bad
23 situation medically at that point?

24 A. It is a complication of prematurity.

25 Q. And so that measure from the ultrasound

1 on day two to day seven gives you a good looking
2 glass what is to be expected, what this child's
3 progress would be from that moment on? The
4 condition was worsening is what I am trying to say?

5 A. I'm not able to determine when a bleed
6 occurs and so the choice of days with which we
7 screen babies, a screening test is by our practice
8 on the seventh day. But I can't tell you when the
9 baby had that event happen. All I can say is that
10 we don't want to see that.

11 Q. You don't want to see it, but the day
12 two ultrasound gave you a point of reference to
13 where you were on day seven with the ultrasound?

14 A. Miracle was not born with grade four.

15 Q. Doctor, in order for a premature baby
16 to be viable, the major organs have got to be well
17 enough developed to sustain that child's life; is
18 that a fair statement?

19 A. With assistance to be able to sustain
20 that child's life.

21 Q. With assistance. Thank you again for
22 your testimony. Thank you. Appreciate you being
23 here.

24 THE COURT: Redirect?

25 MR. WETMORE: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. WETMORE:

Q. Dr. Cahill, I think I asked you, you said that cause of death was extreme prematurity?

A. The cause of death was cardiopulmonary multi, meaning more one, system failure secondary to severe RDS and requiring that degree of respiratory support which are two findings that are seen and thereby would be the result of being born extremely premature.

Q. So the result of extreme prematurity?

A. That is what is written here.

Q. And you were discussing with Mr. Shahid hemorrhaging on the brain. Is that a complication of prematurity?

A. It's associated with prematurity and with babies who have multiorgan dysfunctions, particularly cardiopulmonary instability.

Q. You also indicated problems with maturity of the baby's lungs; is that right?

A. Correct.

Q. And is that a complication or symptom of prematurity?

A. Yes, it is.

Q. Why was the baby delivered so

1 prematurely?

2 A. My understanding is the mother was
3 unstable and being actively resuscitated at the
4 presentation and the delivery of the baby at that
5 time was in the best interest of the baby.

6 Q. Did you see any other reason why the
7 baby would have been delivered prematurely?

8 A. No.

9 MR. WETMORE: No further questions.

10 THE COURT: Any objection to the
11 witness being excused?

12 MR. WETMORE: No.

13 MR. SHAHID: No, Your Honor.

14 THE COURT: You are excused, sir.

15 Ladies and gentleman, we are going to take
16 advantage of this break in testimony to give you a
17 brief break. During the break please do not
18 discuss the case and please leave your note pads in
19 your seats.

20 (Thereupon, the jury exited the
21 courtroom at 3:17 p.m.)

22 THE COURT: We will be at ease for
23 about ten minutes. Next is the forensic
24 pathologist?

25 MR. WETMORE: Yes, Your Honor.

1 (STATE'S EXH. 74-76 were marked for
2 identification.)

3 (A recess transpired.)

4 THE COURT: Is the State ready to
5 proceed?

6 MR. WETMORE: Yes.

7 THE COURT: Defense ready?

8 MR. SHAHID: Yes.

9 (Whereupon the jury entered the
10 courtroom at 3:45 p.m.)

11 THE COURT: Ladies and gentlemen, I
12 hope you enjoyed your break. We will now resume
13 testimony. You may call your next witness.

14 MR. WETMORE: Thank you, Judge. Dr.
15 Erin Presnell, MUSC.

16 ERIN PRESNELL

17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your full name
19 and spell your last name.

20 THE WITNESS: My name is Susan Erin
21 Presnell, P-R-E-S-N-E-L-L.

22 THE COURT: You may proceed.

23 DIRECT EXAMINATION

24 BY MR. WETMORE:

25 Q. Dr. Presnell, where are you employed?

1 A. I'm a forensic pathologist. I work at
2 MUSC down the road.

3 Q. What is your medical field of
4 expertise?

5 A. I'm a forensic pathologist.

6 Q. Can you give us a rundown of your
7 educational history?

8 A. I went to Clemson for undergrad and
9 then I graduated in '89 and then I came to
10 Charleston and went to MUSC to med school and
11 stayed. After I finished medical school I picked
12 pathology as my specialty and stayed here.
13 Basically I stayed here ever since. I did my
14 five-year residency in pathology. Also did a year
15 of forensic fellowship training so I specialized in
16 forensic pathology. And then I was hired on as
17 faculty in 1999 and I have not left.

18 Q. So your entire employment history is
19 with MUSC?

20 A. The entire thing, yes.

21 Q. And have you ever been declared an
22 expert before?

23 A. Yes, in the field of forensic
24 pathology.

25 Q. How many times do you think that's

1 taken place?

2 A. It would be an estimate, probably
3 150-ish.

4 MR. WETMORE: Judge, at this point I
5 would like to offer Dr. Presnell as an expert in
6 forensic pathology.

7 THE COURT: Any objection or questions?

8 MR. SHAHID: No objection.

9 THE COURT: So admitted without
10 objection. You may proceed.

11 BY MR. WETMORE:

12 Q. Dr. Presnell, did you have the task of
13 performing the autopsy of Malakia Frazier?

14 A. Yes, I did. I performed the exam and
15 autopsy on her on October 11, 2015.

16 Q. Do you know the date and time of
17 Malakia's death?

18 A. I have that information provided by our
19 coroner which we work with in coroner death
20 investigations. Her date and time of death was
21 October 10th, 2015, at 2359 which is almost
22 midnight.

23 Q. The next morning looks like you did the
24 autopsy?

25 A. Yes.

1 Q. Where was it done?

2 A. At MUSC. We have an autopsy area
3 there.

4 Q. And what was the reason for this
5 autopsy?

6 A. Ms. Frazier died an unnatural death.

7 Q. Who requested that she be autopsied?

8 A. One of the Charleston County deputy
9 coroners.

10 Q. At the time of this autopsy what was
11 your diagnosis of the harm to Ms. Malakia?

12 A. Well, she came to us with background of
13 receiving multiple stab wounds, also having been
14 pregnant and that efforts were made to keep her
15 pregnancy going by doing CPR so they can deliver
16 the baby, but that that had happened and that the
17 baby lived, was in the hospital.

18 Q. So as to Malakia Frazier what
19 specifically was your diagnosis of her?

20 A. You mean after the autopsy?

21 Q. I am referring to in your report first
22 section, diagnosis. What do you list as her
23 diagnosis?

24 A. Well, typically I will just go through
25 what my findings were at the time of autopsy. Just

1 to summarize I have a list of diagnoses and the top
2 one says 30 sharp force injuries to her body to
3 include her neck, chest, abdomen and her arms.

4 Q. That's good. We will go through them,
5 okay?

6 A. Okay.

7 Q. Just summary of your diagnosis is 30 or
8 says at least 30 sharp force injuries?

9 A. Correct.

10 Q. Now, in doing these autopsies do you do
11 a toxicology of the victim's blood?

12 A. We usually -- at all times draw blood
13 and send it off for toxicology study and then it's
14 usually done outside MUSC. In this case it was
15 done at National Medical Services Laboratory.

16 Q. Were there any chemicals found in the
17 victim, Malakia Frazier's, blood?

18 A. There was caffeine found.

19 Q. Nothing else?

20 A. Correct.

21 Q. All right. What did you determine to
22 be the cause of death of Malakia Frazier?

23 A. Well, I specifically listed some of the
24 things that were injured in the stab wounds
25 including the aorta, pulmonary artery and the

1 jugular vein due to her multiple stab wounds and
2 then I made contributory some of the other organs
3 that were damaged as well including the liver, the
4 kidney, the spleen and the lung and the intestines
5 due to the other stab wounds.

6 Q. All these injuries were caused by the
7 stab wounds?

8 A. Yes.

9 Q. What did you determine to be the manner
10 of death?

11 A. The manner of death for me as a
12 forensic pathologist is one in four choices.
13 Either natural death, accident, suicide or
14 homicide. Homicide for us is that of hand of
15 another and in this case Ms. Frazier's manner of
16 death was caused by homicide.

17 Q. What case history did you have before
18 doing this autopsy?

19 A. That Ms. Frazier received multiple stab
20 wounds and that she was pregnant and she was -- her
21 cardiovascular system was being sustained through
22 CPR so they could deliver the child.

23 Q. Okay. How did you start your autopsy
24 for Ms. Malakia Frazier?

25 A. So we do perform the autopsy generally

1 the same way consistently throughout the different
2 types of cases and then we will especially focus on
3 whatever is unique to that case.

4 So we will start off at external exam,
5 I will look at all of her normal findings, arms are
6 present, no deformities, the color of her eyes, et
7 cetera and go through the whole normal findings.
8 And then I will go back and evaluate the trauma,
9 use a diagram to illustrate the trauma.

10 And then after that we will look inside
11 the body to see what is damaged or if there is any
12 other diseases. And then after that we will put
13 all the findings together in our report and
14 generate a final report with the cause and manner
15 of death.

16 Q. So was your first exam an external
17 examination?

18 A. The first part of the exam is external
19 exam.

20 Q. And but for the injuries that you noted
21 was the victim's body otherwise in a normal,
22 healthy condition?

23 A. Yes. She had gallstones and then what
24 else was abnormal -- not abnormal, but unusual for
25 us to see was that she had a pregnant uterus, but

1 it was empty with no baby or placenta inside.

2 Q. And then did you notice any dirt on the
3 body?

4 A. She did have dirt on her legs and her
5 feet, also to include the bottom of her soles.

6 Q. Did you notice evidence of injuries?

7 A. Yes.

8 Q. Did you make charts or diagrams to
9 document these injuries?

10 A. I did. I made them at the time of
11 autopsy and then I remade some with the hopes of
12 illustrative purposes here in the courtroom.

13 MR. WETMORE: May I approach the
14 witness?

15 THE COURT: You may.

16 BY MR. WETMORE:

17 Q. Let me show you what's been marked as
18 74, 75 and 76.

19 MR. SHAHID: Without objection, your
20 Honor.

21 THE COURT: Marked and admitted without
22 objection. That would be 74, 75 and 76.

23 (STATE'S EXH. 74-76 in evidence.)

24 BY MR. WETMORE:

25 Q. Can you identify these, Dr. Presnell?

1 A. Yes, these are copies of the diagrams
2 that I made at autopsy, but I used some colors and
3 illustrations to try to help explain the different
4 injuries.

5 Q. And can you use those to describe the
6 injuries today for us?

7 A. Yes. This would be great.

8 Q. That's what we will do then. Start
9 with State's No. 74.

10 A. Can you enlarge on the head and neck
11 area?

12 Q. State's No. 74, let's start describing
13 her injuries, please, for the jury. Let's start
14 with the top say of the head, neck area, work
15 forward?

16 A. So what I plan to do is kind of group
17 the injuries. So we do the head, neck area and
18 then the shoulder area, then the torso and then
19 arms. So to the head actually -- well, in the head
20 area we have one injury -- we have actually -- let
21 me back up. Before if I could go ahead and just
22 define some terms that I am going to use, although
23 it's probably intuitive, but just so we have it out
24 there.

25 For me there is two types of sharp

1 force injuries. There is stab wounds and there is
2 cuts, also incised wounds. So a stab wound and it
3 makes sense, it's longer, the pathway into the body
4 is longer than its dimension on the skin, its width
5 on the skin. So that will be a stab wound. A cut
6 or an incised wound is longer on the skin surface,
7 but it's smaller, doesn't go as deep in the skin.

8 So what we have here is an incised
9 wound to the left ear and I tried to illustrate the
10 incised wounds as pink in color. So right here is
11 the incised wound to the left ear, just goes
12 through cartilage. The next on the left side of
13 the neck we have red marks are five stab wounds and
14 in addition to D which is another incised wound or
15 a cut. And then on the right side of the neck we
16 have this stab wound here.

17 So in all we have the cut to the left
18 ear, we have five stab wounds and a cut to the left
19 neck and we have a stab wound to the right neck.
20 With these injuries a lot of the pathways inside
21 kind of overlapped. One of these stab wounds cut
22 the left jugular vein which is one of the vessels
23 bringing blood back to the heart from the head
24 area. Also I tried to label the stab wounds with
25 letters so you can see C, up at the front area

1 here, is also cut into the trachea, and D which is
2 down a little further here also went into the
3 esophagus. So we have a total of one on the ear
4 and then the seven stab cuts to the neck with
5 incision or cutting of the left jugular, the
6 trachea, which is your windpipe and your esophagus.
7 Since we are on this page, you can also see that
8 there's a contusion which is the green spot on her
9 left temple area or meaning a bruise. That's the
10 head and neck area.

11 Q. Next you describe a shoulder area. Can
12 you see that on this?

13 A. I need the other diagram. We will use
14 the other diagram for the rest of it.

15 Q. Show you State's Exhibit No. 75.

16 A. That's good right there.

17 Q. Can you describe Ms. Frazier's injuries
18 in the shoulder area?

19 A. Yes. So what I did for the rest of
20 this diagram, so the only reason there's a
21 difference in the colors is just because we are
22 going to do these stab wounds by area. So the red
23 is going to be the shoulder area, the blue is my
24 torso area and the purple are on the arms.

25 So for the shoulder area which is next

1 we have five stabs and two cuts. All of these go
2 into either chest muscle or neck muscle area or
3 shoulder muscle area and don't necessarily hit
4 anything more vital. So on the left shoulder --
5 well, first let me do this. Over here this J is a
6 cut. It's on the left shoulder and then on the
7 front of the left shoulder we have four stab wounds
8 again going into the shoulder muscle and the chest
9 muscle and or neck muscle.

10 On the right side we have a stab wound
11 there and then a cut or incised wound there that
12 actually goes through the shoulder and see where X
13 is? That's an X went in her shoulder area and out
14 of the other side. So for shoulder we have a total
15 of five stabs and cuts on the left shoulder area
16 and two on the right.

17 Q. The next group of injuries is the
18 thorax and abdomen?

19 A. I will call the torso meaning the body
20 or the chest and abdomen would work too. So this
21 we have seven stab wounds to the left side of the
22 body and six stab wounds to the right side of the
23 body. Because we have a front diagram and then we
24 see the back of her body two dimensional, notice
25 that this part and this part are both the left side

1 of her body and then on the outside of the diagram
2 those are both the right side of her body. We will
3 go through them one by one. We have F right here
4 which goes up towards the neck muscle. G which
5 goes into the chest muscle. L, this L is probably
6 the quote most fatal stab wound. This one actually
7 goes into the chest into the rib, hits the aorta
8 which is your main vessel leading to the heart
9 taking blood to the rest of the entire part of your
10 body and also that pulmonary artery which is the
11 vessel taking the blood to the lungs.

12 O is on the left chest area on the
13 side. This goes in and hits the left lung. P is
14 also the left chest top side. This goes and hits
15 the spleen which is nestled there. EE is a little
16 bit furthermore towards the back, but it's still on
17 the left chest abdomen area. That goes in and hits
18 the kidney. Then the last one on the left side is
19 N. That's below the left abdomen and that goes and
20 cuts some small bowel. So that's seven on the
21 left.

22 On the right there's six. We have two
23 to the breasts, R and W, and those go through the
24 breast tissue and to the chest, but not into the
25 chest. And then we have S, T and U all through the

1 liver which is right underneath this area of the
2 abdomen. And then No. 6 which is V and the right
3 hip goes through soft tissue. So with these 13
4 stab wounds they are inside, there is blood that
5 collected, there's 200 milliliters of blood in the
6 heart sac. There's a bunch of blood in the left
7 chest cavity and blood in the abdomen obviously
8 from the injuries. So that is the injuries to the
9 torso or chest and abdomen.

10 Q. Are most of the stab wounds in this
11 section, the chest section, abdomen section?

12 A. Are most of them what?

13 Q. Is this where the concentration of stab
14 wounds is?

15 A. I arbitrarily divided so there's 13 to
16 the torso, seven to the shoulders and then six to
17 the neck, seven if you include the head and neck
18 area. So head, neck and shoulders is 14
19 altogether, and 13 for her torso.

20 Q. Then you list the extremities. There's
21 some injuries there?

22 A. Right. There's three stab wounds.
23 There is one on the left forearm. This is Q right
24 here. This goes through the forearm and exits the
25 other side coming out that injury called CC. So

1 goes through the forearm. Then we have two on the
2 right arm. One is V, that purple mark there and
3 that actually goes through and comes out the inside
4 of the right arm BB on the inside. And the last
5 one is AA on the right forearm that goes into soft
6 tissue.

7 Q. Those are all injuries that you note?

8 A. Those were the stab wounds. There are
9 some scratches and some abrasions that are present
10 as well, but these are the stab wounds. The seven
11 to the head and neck, seven to the shoulders, 13 to
12 the chest, abdomen and then two on the right arm,
13 one on the left arm.

14 Q. Did you document the other abrasions?

15 A. I did.

16 Q. State's No. 76.

17 A. Zoom out a little.

18 Q. Is that right?

19 A. That's good. Remember on the first
20 diagram we also had a bruise on the left temple.
21 So that's part of one of the non-stab injuries.
22 Then we have I'm calling these abrasions, these
23 pink areas. Clearly on the abdomen we have this
24 kind of a scraping-type abrasion or scratch. But
25 some others like this one on the left forearm, this

1 one on the right hip area and then these by the
2 breasts, they are kind of linear scratches; it may
3 have been made by the point of a knife. Might have
4 been some other non-specific thing that's causing
5 this scratch. So I went off track. Let me
6 backtrack and say that this area on the abdomen,
7 this area on the right knee are more diffuse broad
8 scrapes and then we have the scrape on the left
9 arm, two kind of puncture marks on the right upper
10 arm and then two scrapes on the right breast.

11 One other thing to point out is on the
12 left hand there are a number of what look like
13 non-specific scratches on the back of the arm or
14 back of the hand. But the one on the palm of the
15 left arm looks kind of like a cut or a puncture,
16 but again I can't be sure of that. So those were
17 the injuries.

18 Q. Okay. And considering first of all,
19 let me show you, what's been marked as State's
20 Exhibit No. 58. You don't have to do any specific
21 -- take a look if you would. 58 is the knife
22 recovered. Would that knife be consistent with the
23 injuries that you observed assuming the stabs and
24 the cuts, not the abrasions?

25 A. Certainly could have. I mean the stab

1 wounds don't give me specific information as to
2 which type of or which specific knife did it.
3 Certainly this could have been that knife.

4 Q. And then you did an internal
5 examination; is that correct?

6 A. Yes. Yes, I did.

7 Q. But for the trauma you have already
8 described did you notice anything abnormal in the
9 internal examination?

10 A. I just mentioned gallstones and then
11 again the pregnant uterus, the empty uterus.

12 Q. And did you collect any evidence from
13 Ms. Malakia Frazier that you --

14 A. I did fingernail clippings as well as I
15 pulled head hair and also a blood sample of her
16 blood to transfer to law enforcement.

17 Q. Was that turned over to law
18 enforcement?

19 A. Yes.

20 Q. And to summarize at the end, what did
21 you determine the cause of Malakia's death?

22 A. Well, the cause of death is the
23 multiple stab wounds. I actually specified the
24 aorta, pulmonary artery and the jugular vein as the
25 most serious due to the stab wound, but then again

1 contributory the other organs that were hit, the
2 lungs, the liver, the spleen, the kidney, the
3 intestines as contributory.

4 Q. What did you determine the manner of
5 death?

6 A. As we discussed earlier, the death of
7 the mother would be homicide.

8 Q. Court's indulgence.

9 THE COURT: Yes, sir.

10 (Off-the-record conference.)

11 BY MR. WETMORE:

12 Q. Dr. Presnell, I would like to move on
13 now. Did you have an opportunity to do more work
14 in this case?

15 A. I did. The pathologists rotate on
16 service and it was back to be my turn when Ms.
17 Frazier's baby came to us.

18 Q. So did you have an opportunity to
19 perform an autopsy on the second victim in this
20 case, Miracle Frazier?

21 A. Yes, I did. I did that on
22 October 26th, 2015.

23 Q. And what do you know to be the date and
24 time of her death?

25 A. I have it dated as October 24th, 2015,

1 at 7:43 p.m.

2 Q. And where was the autopsy done?

3 A. Same location, at MUSC.

4 Q. And why was this autopsy done?

5 A. Potentially not -- an unnatural death.

6 Q. It was authorized by the coroner again?

7 A. Again, yes, the Charleston County chief
8 deputy coroner this time.

9 Q. Again, what was your summary diagnosis
10 there at the very beginning?

11 A. Let's see. So my summary diagnosis
12 included prematurity and then basically all the
13 things that are associated with her with
14 prematurity, including her immature lungs, she had
15 fluid in her lungs, her left and right lung
16 cavities, she had hemorrhages in her brain, she had
17 changes in her bowel related to low oxygen, she had
18 findings that are normal for prematurity that
19 involve her making her own blood cells.

20 And then she had some skin breakdown
21 and she was really swollen from her multiple system
22 organ failure, not being able to retain fluid in
23 her vascular system. And then finally we have --
24 it's not really her diagnosis, but we have the
25 history of the maternal assault which resulted in

1 her birth.

2 Q. What did you determine to be the cause
3 of death of Miracle Frazier?

4 A. I lumped it all together and called it
5 complications of prematurity due to premature birth
6 that would be due to the maternal assault.

7 Q. So you listed her cause complications
8 of premature birth and then you say that's due to
9 maternal assault?

10 A. Correct.

11 Q. And what is the manner of death you
12 determined for Miracle Frazier?

13 A. Again, this would be death actually
14 went back to the hands of another so I call this
15 homicide.

16 Q. What case history did you have on
17 Miracle Frazier?

18 A. Well, we have some -- I know the case
19 history from mom and think we received some medical
20 records, medical treatment, et cetera, that she had
21 received. But that ultimately it wasn't enough to
22 sustain her and that she died.

23 Q. At the autopsy of Miracle Frazier did
24 you again begin with the external examination?

25 A. Yes, I did.

1 Q. In your opinion was the baby perfectly
2 developed given its stage?

3 A. Well, it had -- again it was diffusely
4 swollen, but it was normally developed. And if we
5 want to go through the different categories perhaps
6 we could.

7 MR. WETMORE: If I may approach?

8 THE COURT: You may.

9 BY MR. WETMORE:

10 Q. Show you what's been marked as State's
11 No. 73.

12 (Discussion off the record.)

13 THE COURT: Ladies and gentlemen of the
14 jury, I have a brief matter I need to take up with
15 counsel. During the break please do not discuss
16 the case. Please leave your note pads in your
17 seats.

18 (Thereupon, the jury exited the
19 courtroom at 4:14 p.m.)

20 THE COURT: I need to ask what may seem
21 like an overly simplistic question. Is the defense
22 in good faith challenging the viability of this
23 child?

24 MR. SHAHID: Judge, I'm sorry.

25 THE COURT: I said is the defense in

1 the way they were describing it hey, Ricky, enjoy
2 yourself, baby. He's in there for 12 hours without
3 a shirt on. Didn't sleep. Straight. The mother
4 of his child just died. I'm sure it was lovely and
5 pleasant for him.

6 The bad cop, good cop routine. I guess
7 we are human beings. Officer Johnson in there
8 questioning him. I guess he could have given
9 better responses. My goodness gracious, folks,
10 after 12 hours of being in that room one pee break
11 what would you expect him to say? Are you going to
12 fault him for all the things he should have done
13 better?

14 After 12 hours of interrogation after
15 you have been lied at, screamed at, told to shut
16 up, demeaned. I guess so. Maybe that's the idea
17 of guilt beyond a reasonable doubt. It's not.
18 It's not guilt beyond a reasonable doubt.

19 The police had the opportunity and they
20 did take a swab and stick it in Ricky's mouth and
21 get his DNA. They had the opportunity available to
22 them to take a swab and swab his hands of blood and
23 answer that question for us. Is that blood on your
24 hands or not? They didn't do that. I guess that's
25 reasonable doubt too. It could be.

1 Q. And is it okay if it's black and white?

2 A. It is.

3 MR. WETMORE: At this point, Judge, I
4 would like to admit No. 73.

5 THE COURT: You need to approach.

6 (Following proceedings were held at the
7 bench.)

8 THE COURT: You need to establish that
9 she used that photo to explain the mode and manner
10 of this child's death, the fact that she examined
11 the internal organ structure and level of
12 development.

13 MR. WETMORE: This has to do with the
14 external examination and then development.

15 THE COURT: Okay.

16 MR. WETMORE: Not internally. That
17 would be horrible. This is the external exhibit.

18 THE COURT: She is saying about the
19 development of the organs and what stages they
20 were.

21 MR. WETMORE: Not using the photo. She
22 will testify about that, yes.

23 THE COURT: Okay. She is talking about
24 the physicality.

25 MR. WETMORE: Yes.

1 THE COURT: Proceed.

2 (End of sidebar conference.)

3 BY MR. WETMORE:

4 Q. And can you use State's Exhibit No. 73
5 to describe to the jury the development of the
6 exterior of Miracle Frazier?

7 A. Yes.

8 MR. WETMORE: At this time I would like
9 to admit 73.

10 THE COURT: Marked and admitted subject
11 to the objection and overruled based on the Court's
12 ruling.

13 (STATE'S EXH. 73 in evidence.)

14 BY MR. WETMORE:

15 Q. This is No. 73.

16 A. You might want to put it sideways, put
17 the photo sideways.

18 Q. Like this?

19 A. Yes.

20 Q. Using this photograph that you took can
21 you describe the development externally of Miracle
22 Frazier?

23 A. Yes. So this is obviously an overall
24 photograph and how we received the baby Frazier.
25 She is wearing a diaper as you can tell. Then you

1 can kind of tell in her face how she looked really
2 swollen. That's the diffuse edema fluid just from
3 her organs failing. What we can see overall, other
4 than the edema she's normally developed. You see
5 that she has some black hair, the hair growth
6 pattern is normal. The soft spots in the infant's
7 head are soft and not abnormal. The eyes are
8 normally formed. You can't see it here, but her
9 color of her eyes are brown. Her ears are normally
10 formed. They are in the proper location. Her nose
11 is in the normal location. Her lips are
12 unremarkable. The inside of her month has no
13 congenital anomalies. Her neck is symmetrical and
14 has no abnormality. Her chest is symmetrical. You
15 can see the two breast buds on her chest there.
16 Her abdomen actually has some skin abrasions on it
17 from some of the complications of her treatment.
18 Her back has some of those same findings, but
19 otherwise normal. Her female genitalia are
20 properly formed and her anus is patent and normally
21 formed. All four of her extremities are normally
22 formed with all digits, all fingers and toes are
23 present. Her palm creases are unremarkable.

24 Q. What about the extremities? She has
25 all her extremities?

1 A. Yes, she does, both arms and both legs
2 with all her fingers and toes.

3 Q. Symmetrical everything?

4 A. Yes, normally formed, although swollen.

5 Q. Why is there swelling?

6 A. Losing fluids from her multisystem
7 organ failure.

8 Q. But in your opinion was Miracle Frazier
9 appropriately developed for her age?

10 A. Yes.

11 Q. Take this down now. I'm going to go
12 now through your internal examination. Did you
13 perform such an exam?

14 A. Yes, I did.

15 Q. And for each part of the body?

16 A. I will just go through the report on
17 the different sections.

18 Q. For each part of the body I am going to
19 ask you if findings are either normal or abnormal
20 for a baby of this age. So first one is body
21 cavities. Talk about the normality or abnormality
22 of that?

23 A. She has some fluid in her right and
24 left chest cavity. Just like she has fluid under
25 her skin and she is swollen, she also some of that

1 fluid in the chest cavity. But otherwise her body
2 cavities are normal. The organs are all present.
3 They are all in the appropriate place and nothing
4 is missing.

5 Q. What about the size and weight of all
6 the organs? Are they what you expect for the
7 child's age?

8 A. They are average, yes.

9 Q. Let's move on to the head and the
10 nervous system. Is that abnormal or normal?

11 A. Both.

12 Q. Describe what you mean.

13 A. So a baby at 25 weeks gestation has a
14 pretty smooth brain. So she has a smooth brain.
15 Everything was fine externally, but when we section
16 the brain we can see that there's hemorrhages
17 around the center part of the brain or the
18 ventricles and also some hemorrhage in the brain --
19 in the ventricles themselves. As to the finding,
20 that's a complication that's associated with a
21 premature baby.

22 Q. So the brain was normal, but then
23 inside was the hemorrhages?

24 A. Yes, she had some hemorrhages.

25 Q. What do you believe is the cause of the

1 hemorrhages?

2 A. The prematurity.

3 Q. What about the neck?

4 A. The chest and neck was normal.

5 Q. Normal for a baby that age?

6 A. Yes.

7 Q. What about the cardiovascular system?

8 A. Again normal. Just to illustrate the
9 size we are dealing with, the heart weighed
10 5 grams, 5.4 grams, that's tiny. But the average
11 for that size is 5.2 grams. So she is
12 appropriately developed along the scale for her
13 gestation.

14 Q. Average size heart; fair to say?

15 A. She has an average size heart.

16 Q. What about the respiratory system?

17 A. Respiratory system is the lungs, they
18 are appropriately developed, the right has two
19 lobes, the left has two lobes. They are in the
20 right location with the airways, but we have the
21 complication of that they are dense. They have a
22 lot of fluid in them and if you look at them under
23 the microscope signs that are consistent with
24 respiratory distress syndrome or breathing
25 difficulties that infants of that gestation would

1 have because a lot of the lungs aren't as developed
2 internally as a baby of term stage.

3 Q. So at that age the lungs aren't fully
4 developed in most babies?

5 A. Correct, her oxygen exchange, yes.

6 Q. What about the liver and biliary
7 system?

8 A. Liver and biliary system, they're
9 normal.

10 Q. The alimentary tract?

11 A. That is normal. So that's the whole
12 gastrointestinal system from the esophagus to the
13 stomach to small and large bowel and out the end.
14 We also put pancreas in there as well and those are
15 normal. There was actually some change in the
16 bowel that are in areas that are alluded to low
17 oxygen.

18 Q. Next one?

19 A. Genitourinary which would be the
20 genital and the urinary, the kidneys which were
21 both normal and then a normal uterus, ovaries and
22 vagina.

23 Q. All right. Go to the next system,
24 please?

25 A. The next system is the spleen and the

1 lymph nodes. The spleen is normal. She has normal
2 lymph nodes. After that is endocrine system, so
3 pancreas we already addressed, but some of the
4 others are pituitary, thyroid and adrenal glands.
5 Those were normal. And then finally just the
6 overall musculoskeletal system. The bones are
7 appropriate for her age of development and
8 otherwise unremarkable.

9 Q. So you mentioned the hemorrhaging in
10 the brain and the prematurity of the lungs, but
11 beyond that Miracle was normally developed for a
12 baby of this age?

13 A. Yes.

14 Q. Had Miracle reached the age where she
15 was capable of separate and independent life from
16 the mother?

17 A. There is always a chance that somebody
18 of that gestation may not.

19 Q. Now, did Miracle, in fact, live
20 separate and apart?

21 A. Yes, she did, for two weeks.

22 Q. At her death what did you find the
23 cause of death?

24 A. Again, I am a lumper so instead of
25 singling out individually one specific thing I

1 grouped them together as pretty much all of her
2 findings are related to the fact that she was born
3 premature. And so complications of prematurity or
4 premature birth due to the reason for that
5 premature birth which was the maternal assault and
6 death.

7 Q. Manner of death you determined?

8 A. Homicide.

9 MR. WETMORE: No further questions.

10 THE COURT: Any questions for the
11 witness?

12 CROSS-EXAMINATION

13 BY MR. SHAHID:

14 Q. Thank you, Judge. Good afternoon, how
15 are you doing today?

16 A. I'm well. Thank you.

17 Q. Doctor, I can live without my hands,
18 right?

19 A. Yes, you should be able to.

20 Q. Without my eyes?

21 A. You should be able to.

22 Q. I can live without my lips?

23 A. Your what?

24 Q. Live without my lips?

25 A. Your lisp?

1 Q. Lips?

2 A. Lips, yes.

3 Q. My ears, my nose, my fingers; is that
4 all true?

5 A. Yes.

6 Q. I don't need those things to be alive,
7 do I?

8 A. Right.

9 Q. I need my lungs to live, don't I,
10 Doctor?

11 A. Yes, you do.

12 Q. I need my heart to live, don't I,
13 Doctor?

14 A. Yes, you do.

15 Q. Now, the cause of death that you cited
16 was the premature birth; is that correct?

17 A. Yes.

18 Q. And the major organs of this child were
19 not fully developed; isn't that correct?

20 A. The lungs were the major organ that was
21 not fully developed.

22 Q. Lungs not fully developed?

23 A. Correct.

24 Q. Meaning the lungs were unable to pull
25 and take in and take out air?

1 A. To do oxygen exchange was the main
2 problem.

3 Q. In and out?

4 A. Yes.

5 Q. Besides all the other things that you
6 related on that photograph, the one thing that she
7 had to have that she didn't have was that her lungs
8 were not developed long enough to be able for her
9 to sustain life?

10 A. Well, she did live for a period of
11 time, but they were not developed enough to get her
12 through that period of development to the point
13 where she could exist without the support. I know
14 we didn't really go into it much, but there is
15 another kind of confounding factor in this birth
16 which is there was a period of time that the baby
17 was not getting oxygen during the delivery part.
18 So I believe the medical records have stated that
19 her pH or the acidity of her blood was a little bit
20 high; it's likely related to some degree of hypoxia
21 or low oxygen to the baby. So that on top of
22 prematurity probably set her up to have less of a
23 chance to survive.

24 Q. You don't know the level of the extreme
25 measures provided to Miracle from October the 11th

1 through the 24th of October, do you?

2 A. I don't know the details of them, no.

3 Q. You don't know what measures were taken
4 that was sustained, those extraordinary measures,
5 do you?

6 A. I don't know the details. I mean in
7 general cardiopulmonary assists and the nutrition
8 assists, et cetera.

9 Q. Isn't the mortality rate of a fetus of
10 25 weeks 50 percent?

11 A. I believe that's the general accepted
12 estimate now is 50 percent rate of survival or
13 50/50 chance to survive.

14 MR. SHAHID: Thank you. That's all the
15 questions I have.

16 THE COURT: Any redirect?

17 MR. WETMORE: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. WETMORE:

20 Q. Miracle Frazier, did she have lungs,
21 albeit premature?

22 A. Yes, she did.

23 Q. And did she have a heart, albeit
24 premature?

25 A. Well, all of her organs were premature

1 really. The main anatomic issue was the lungs, the
2 development. Lungs which was normal for her
3 gestational age, but a detriment to try to survive
4 outside the womb.

5 Q. Right. At the time of the autopsy what
6 was the weight of Miracle's heart?

7 A. 5.4 grams.

8 Q. What is the expected average of a baby
9 of her age?

10 A. 5.2 grams.

11 Q. So this a slightly larger heart?

12 A. It is not significant.

13 Q. You mentioned the lungs had problems,
14 premature lungs?

15 A. Yes.

16 Q. You also mentioned, too, that Miracle
17 had a low oxygen level leading up to her emergency
18 birth. Why is that?

19 A. So from what I read that she had an
20 acidotic pH which would be from low oxygen and that
21 would be if the maternal support circulation is
22 compromised, mother, she is assaulted and stabbed
23 and bleeding, the CPR is not effective, whatever,
24 there's no mom blood getting to the placenta to be
25 able to give the baby oxygen. So without that the

1 baby would be -- would typically not be breathing
2 for that period of time.

3 Q. You know what happened to the mother,
4 don't you?

5 A. Yes, I do.

6 Q. Would that have caused low oxygen to
7 Miracle?

8 A. Yes. The maternal death would be low
9 oxygen to the baby.

10 MR. WETMORE: I have no further
11 questions.

12 THE COURT: Any objection to the
13 witness excused from the State?

14 MR. WETMORE: No, Your Honor.

15 THE COURT: From the defense?

16 MR. SHAHID: No.

17 THE COURT: Doctor, you are excused.
18 State may proceed.

19 MR. WETMORE: Judge, I believe we have
20 got 1 through 76 in with 72 under advisement and
21 once we can confirm that I will be prepared to
22 rest.

23 THE COURT: I think you need to go
24 ahead and rest. We will deal with those
25 administrative matters outside the jury's presence.

1 Now, I am still thinking about the DNA
2 report. I haven't forgotten about it. It's my
3 understanding everything else was admitted or dealt
4 with.

5 MR. WETMORE: That's correct.

6 THE COURT: And the only thing that's
7 left is 72 and I am still thinking about that. I'm
8 going to have to look at it before I can make a
9 decision regarding it. I am having the e-mail you
10 sent marked as a Court's exhibit regarding your
11 request for instruction.

12 (COURT'S EXH. 3 marked for
13 identification.)

14 THE COURT: Sir, I need you to stand
15 for me. I will remind you you are still under
16 oath. Have you understood your rights as I have
17 explained them regarding your right to testify?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you need to ask me any
20 questions about your rights as I have explained
21 them to regarding your right to testify?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Have you had sufficient
24 time to speak with your lawyer whether you should
25 or should not testify?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: You have not had enough
3 time to talk to him?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: How much more time did you
6 need to talk to him? I need to know today because
7 I have a trial I have to complete and we have to do
8 so by tomorrow. So I need to know how to plan so I
9 will give you 15 minutes to talk with him. It is
10 5:15. I will give until 5:30 and you need to let
11 me know. You have had all day to talk with your
12 lawyer, really all week, but I need to have some
13 indication. I need to know how to plan for my jury
14 tomorrow because if you are testifying we need to
15 plan one way. If you're not testifying we need to
16 plan another way. Lawyers can't be caught unaware.
17 They need to know what they need to be prepared to
18 do in the morning. So we will be at ease until
19 5:30.

20 (Brief recess.)

21 THE COURT: I will remind you you are
22 still under oath. Have you had adequate time to
23 speak with your attorney about whether you should
24 or should not testify?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you need to speak with
2 him any further at this time?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Sir, do you wish to
5 testify?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Okay. What we will do is
8 we will hold -- I will tell you what we are going
9 to do. I will go through the proposed charge very
10 quickly five minutes and then we will do it again
11 once he has testified to see if it changes
12 anything. We need to be prepared to go to closing
13 arguments and instructions after he's testified and
14 not to hem you in or anything, how long do you
15 think his testimony will be?

16 MR. SHAHID: Judge, I think with the
17 direct and cross and redirect maybe really an hour
18 and-a-half.

19 THE COURT: I hope there's not a wreck
20 because it is going to be raining. I think we are
21 going to have positive thoughts. I will give the
22 jury a general instruction regarding their
23 responsibility and my responsibility, how they are
24 to judge witness credibility and believability,
25 give them a general instruction on how they are to

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2016-GS-10-01699
2016-GS-10-01700
2016-GS-10-01701

STATE OF SOUTH)
CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VS.) APRIL 20, 2018
CHARLESTON, SC
VOLUME 5 OF 5
RICKY ANTHONY SHORT,)
DEFENDANT.)

B E F O R E:

HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.

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

BURNS WETMORE, ESQUIRE
RICHARD WARING, ESQUIRE
Attorneys for the State

PETER SHAHID, ESQUIRE
Attorney for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

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1 (The following proceedings were held
2 April 20, 2018, Charleston County, South Carolina,
3 @ 9:33 a.m.)

4 (DFT. EXH. 6-17 marked for
5 identification.)

6 THE COURT: State ready to proceed?

7 MR. WETMORE: Yes, Your Honor.

8 THE COURT: Defense ready to proceed?

9 MR. SHAHID: Yes, ma'am.

10 THE COURT: Sir, if you would stand for
11 me. I remind you you are still under oath. You
12 indicated yesterday that you wished to testify,
13 correct?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Have you understood your
16 constitutional rights as I have explained them to
17 you?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you have any questions
20 about your rights as I have explained them to you?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Have you had adequate time
23 to speak with your attorney about whether you
24 should or should not testify?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you need to speak with
2 him any more at this time?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Perfect. You can get the
5 jury.

6 (Whereupon the jury entered the
7 courtroom at 9:35 a.m.)

8 THE COURT: Good morning, ladies and
9 gentlemen. Hope everybody had a pleasant evening.
10 We are now going to resume testimony. Mr. Shahid,
11 you may proceed.

12 MR. SHAHID: Good morning. Thank you,
13 Your Honor. We call Mr. Short.

14 THE COURT: If you would come to the
15 stand and be sworn.

16 RICKY SHORT

17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your full name
19 and spell your last name.

20 THE WITNESS: My name is Ricky Short
21 and last name is S-H-O-R-T.

22 DIRECT EXAMINATION

23 THE COURT: If you would speak directly
24 into the microphone. That mic doesn't move. You
25 have to bend it toward you. You may continue.

1 BY MR. SHAHID:

2 Q. I'm going to stand over here so I can
3 hear you and these folks can hear you, okay?

4 A. All right.

5 Q. Ricky, how old are you?

6 A. Twenty-nine.

7 Q. What is your birth date?

8 A. [REDACTED].

9 Q. So yesterday was your birthday?

10 A. Yes, sir.

11 Q. Ricky, where were you born?

12 A. In North Charleston, South Carolina.

13 Q. Who is your mom?

14 A. Ms. Mona Kelley.

15 Q. Is that the lady seated over here?

16 A. Yes, sir.

17 Q. Who is sitting next to her?

18 A. That would be my younger brother Ramone
19 Kelly and my father Ricky Kelly.

20 Q. Where did you grow up, Ricky?

21 A. In North Charleston area in South
22 Carolina.

23 Q. Did you go to high school?

24 A. Yes, sir.

25 Q. What high school did you go to?

1 A. I went to North Charleston High and
2 then I went to RB Stall High.

3 Q. Did you graduate from school?

4 A. No, I didn't graduate from school, but
5 I went to an alternative school and received my
6 GED.

7 Q. And is that -- what school was that?

8 A. That's Wil Lou Gray Opportunity School.
9 It's a school for guys and girls that the National
10 Guard is hosted.

11 Q. And did you receive any other education
12 beyond your GED?

13 A. I didn't go to school afterward, but I
14 received a few certificates which one was my job
15 ready certificate in the WorkKeys Program.

16 Q. Since you were 16 or 17 years old were
17 you employed, ever employed?

18 A. Yes, sir.

19 Q. What type of jobs did you have, Ricky?

20 A. Construction jobs, landscaping and
21 warehouse and plants and factories.

22 Q. What kind of salary did you make when
23 you were working there?

24 A. Anywhere between 10 and 11.50.

25 Q. An hour?

1 A. Yes, sir.

2 Q. Ricky, do you have any children?

3 A. Yes, I do.

4 Q. How many do you have?

5 A. Two.

6 Q. And how old is the oldest child?

7 A. He's eight.

8 Q. And what's his first name?

9 A. Romello.

10 Q. Who is Romello's mother?

11 A. Ms. Tocora King.

12 Q. Where does Ms. King live?

13 A. I knew she stayed on Trammel. I'm not
14 sure exactly where she stays right now.

15 Q. Do you see -- have you seen your child
16 was he was growing up?

17 A. Yes, sir.

18 Q. You spend time with him?

19 A. Yes, sir.

20 Q. Do you support him?

21 A. Yes, sir.

22 Q. How would you describe your
23 relationship with your older son and his mother?

24 A. Me and him had a great relationship.
25 Me and his mother, we talked when it needed to be

1 concerning him.

2 Q. Now, did you have a younger child?

3 A. Yes, sir.

4 Q. What is that child's name?

5 A. Rylan Short.

6 Q. How old is Rylan?

7 A. Rylan is seven now.

8 THE COURT: Is that Ryland?

9 THE WITNESS: Rylan.

10 THE COURT: Spell that.

11 THE WITNESS: R-Y-L-A-N.

12 THE COURT: Thank you.

13 BY MR. SHAHID:

14 Q. Who is Rylan's mother?

15 A. Malakia Frazier.

16 Q. I don't mean to be blocking you,
17 detective. All right. Now, would you describe
18 your relationship between Rylan and yourself?

19 A. It was a great relationship. He spent
20 most of his time with me. So it was always good.

21 Q. Now, where did you live before the
22 incident occurred, Ricky?

23 A. I stayed with my mom and my younger
24 brother on Harper Street.

25 Q. And how long did you all live there?

1 A. I would say maybe we were staying there
2 maybe five or six years.

3 Q. Would you describe the residence for
4 us, please?

5 A. It was a trailer in the Ferndale
6 community.

7 Q. And what other kind of houses or
8 structures are around you?

9 A. There's houses in the front end and
10 once you get toward the back end it is mostly
11 trailers.

12 Q. Back in October of 2015 how would you
13 describe your relationship with Ms. Frazier?

14 A. It was good. It was good. We were
15 talking about welcoming a young baby and talking
16 about getting a place together and what we were
17 going to do from here on out.

18 Q. Was she pregnant?

19 A. Yes, sir.

20 Q. You were aware that she was pregnant?

21 A. Yes, sir.

22 Q. As far as you know who was the
23 biological father of that child?

24 A. I was.

25 Q. How long have you known Ms. Frazier?

1 A. At that time I have known her maybe
2 five or six years.

3 Q. Okay. Now, your son Rylan is now
4 seven. You are going back to that time in October
5 of 2015?

6 A. Yes, sir.

7 Q. How would you describe Ms. Frazier's
8 relationship with the rest of your family?

9 A. It was pretty good. She once hang with
10 my family, my cousins and whatnot and it was
11 occasionally. They were good. They didn't talk
12 much, but they were good.

13 Q. Now, sitting behind me in the gallery
14 behind me is Ms. Frazier's family?

15 A. Yes, sir.

16 Q. And how would you describe your
17 relationship with their family?

18 A. It was okay. We didn't talk much, but
19 the time that we did talk was very good.

20 Q. And where did Ms. Frazier live?

21 A. She stayed downtown for a while and
22 then she moved out and moved back in with her
23 mother.

24 Q. Where was her mother's residence?

25 A. On Alabama Drive.

1 Q. Is that in North Charleston?

2 A. Yes, sir.

3 Q. Do you remember October 10th,
4 October 11, 2015?

5 A. Yes, sir.

6 Q. I want you to start, like a Beatles
7 song, what happened in a day of your life of Ricky
8 Short, what happened in the very beginning of that
9 morning when you woke up.

10 A. I got up. Started my day as usual,
11 took a shower. Ate. Got dressed and watched some
12 television.

13 Q. What day of the week was -- excuse me.
14 What day of the week was October the 10th?

15 A. I believe it was a weekend. Friday or
16 Saturday.

17 Q. Okay. And so you woke up, got out of
18 bed, took a shower, had breakfast. What happened
19 next?

20 A. Watched television for a while
21 throughout the afternoon and that was pretty much
22 it.

23 Q. Okay. Did you have a conversation with
24 Ms. Frazier at some point?

25 A. Yes, sir.

1 Q. What happened as a result of that
2 conversation you had with her?

3 A. After we talked we were talking about
4 getting together and spend some time so she came
5 over.

6 Q. Now, did Ms. Frazier at that point own
7 an automobile?

8 A. Yes, sir.

9 Q. What type of car did she own?

10 A. It was a Honda Accord.

11 Q. Now, Ricky, did she come over to the
12 house?

13 A. Yes, sir.

14 Q. And what time do you remember her
15 coming by the house?

16 A. It may have like between four and
17 5:00 that evening.

18 Q. And what did you all do when she came
19 over? Who was at your house when you came over?

20 A. I believe my mother had just left so I
21 was there by myself.

22 Q. Okay. How about your brother?

23 A. He was with my mother at the time.

24 Q. Anybody else with them?

25 A. They had my oldest son and I believe

1 they also had Rylan with them also.

2 Q. Was that a typical setup with Rylan
3 being with your mom?

4 A. Yes, sir.

5 Q. All right. So she came over. What did
6 you do -- two of all you do together when she
7 arrived in that time frame you just described?

8 A. Not much. We stood outside, talked,
9 joked around, sat in the car and listened to music.

10 Q. Did y'all have any particular plans
11 what you wanted to do that day?

12 A. We didn't have plans initially, but
13 then she knew that she wanted to go walking.

14 Q. Okay. And did y'all go for a walk?

15 A. We attempted to, but then when we got
16 to Park Circle to walk she changed her mind and she
17 didn't want to walk, so we sat in the car.

18 Q. Now, in relationship to your house
19 where is Park Circle?

20 A. It's the end of Montague I would say
21 probably like give or take ten or so minutes.

22 Q. Ricky, I will show you what I have had
23 marked as Defendant's Exhibit No. 6 and No. 7. And
24 ask you can you identify Exhibit No. 6 and No. 7?

25 A. Yes, sir. These are pictures of the

1 trailer that we stayed in at Harper.

2 Q. Okay. And then can you identify
3 Exhibit No. 8?

4 A. Yes, sir. That's the lot across the
5 street from my house where Malakia used to park
6 there when she came over.

7 MR. SHAHID: I would move Exhibit 6 and
8 7 and 8 into evidence.

9 THE COURT: Did you show them to Mr.
10 Wetmore?

11 MR. SHAHID: Yes, he has seen them.

12 MR. WETMORE: No objection, Your Honor.

13 THE COURT: Marked and admitted without
14 objection, 6, 7 and 8.

15 (DFT. EXH. 6-8 in evidence.)

16 BY MR. SHAHID:

17 Q. Ricky, that is Exhibit No. 6; is that
18 right?

19 A. Yes, sir.

20 Q. And is this a photograph of your home?

21 A. Yes, sir.

22 Q. What is this area right here?

23 A. That's the steps.

24 Q. Okay. And then Exhibit No. 7?

25 A. Yes, sir. That's the trailer from the

1 street view.

2 Q. Okay. And is that part of y'all's yard
3 over here?

4 A. That's the next neighbor's yard.

5 Q. Okay. And then Exhibit No. 8?

6 A. That's the lot across the street from
7 the trailer.

8 Q. All right. So you and Ms. Frazier were
9 parked and you spent most of the day over there?

10 A. Yes, sir.

11 Q. And then you mentioned going to the
12 park; is that right?

13 A. Yes, sir, to Park Circle.

14 Q. How far is Park Circle from where you
15 are?

16 A. Maybe about ten or so minutes give or
17 take.

18 Q. How long had y'all been at this
19 location, Exhibit No. 8, before when she first
20 arrived? How long did y'all stay there before you
21 went to Park Circle?

22 A. We may have been there for maybe an
23 hour and-a-half or so before we left to go to Park
24 Circle.

25 Q. In that time frame, Ricky, did you have

1 any kind of problems or arguments or anything along
2 those lines?

3 A. No.

4 Q. By the way, did you own at that time a
5 mobile phone?

6 A. Yes, sir.

7 Q. All right. So what happened when you
8 got to Park Circle and wanted to go for a walk?

9 A. Yes, she wanted to go to for a walk,
10 but when we got there she changed her mind and we
11 sat in the car, listened to music and talked.

12 Q. Did anything else take place while you
13 were there?

14 A. Yes, sir.

15 Q. What happened then?

16 A. We finished talking and then we ended
17 up having intercourse in the car.

18 Q. How long do you think, Ricky, that you
19 and Ms. Frazier stayed together at the Park Circle
20 area?

21 A. It may have been like two, two
22 and-a-half hours or so.

23 Q. Okay. And then what happened after
24 that?

25 A. We were talking and she was telling me

1 about she had a busted taillight so I told her we
2 would go to Wal-Mart and I can get some taillight
3 tape to fix her taillight so she didn't get pulled
4 over.

5 Q. And did y'all go to the Wal-Mart?

6 A. Yes, sir.

7 Q. What did you do -- by the way, what
8 Wal-Mart are we talking about?

9 A. The Wal-Mart in Tanger Outlet.

10 Q. So how far did it take you from the
11 Park Circle area to get to the Tanger Outlet
12 Wal-Mart?

13 A. Probably about ten minutes or so.

14 Q. And did you go inside the store?

15 A. Yes, sir.

16 Q. And did y'all do anything while you
17 were inside the store?

18 A. We walked around, looked at a few
19 costumes. We talked about getting costumes for the
20 kids and then we went to look at baby clothes and
21 then we went to get the auto taillight tape.

22 Q. Costumes for what, Ricky?

23 A. It was coming up to be Halloween. We
24 were talking about getting the kids costumes.

25 Q. Did y'all look at any Halloween stuff?

1 A. Yes, sir, we did.

2 Q. Do you remember what you all looked at
3 or came up with any decisions on anything?

4 A. We didn't make any decisions that
5 moment, but we looked at a few costumes.

6 Q. Then after you left the area where the
7 costumes where, what's the second part of the store
8 you went to?

9 A. I believe that's the time we went to
10 the baby section.

11 Q. And you went to the baby section. What
12 were you looking for?

13 A. We was just pricing things out, pricing
14 the clothes and cribs and strollers and things like
15 that.

16 Q. Things going okay for y'all?

17 A. Yes, sir.

18 Q. Any arguments inside the store?

19 A. No, not at all.

20 Q. At some point in time did you leave the
21 store?

22 A. Yes, sir.

23 Q. And what did you do after you left the
24 store?

25 A. We got in the parking lot. That's the

1 time that I fixed the light on her car, put the
2 tape over the taillight.

3 Q. By the way, Ricky, can you describe for
4 the jury, please, the weather conditions that day?

5 A. It was cool. It wasn't hot or cold.
6 It was cool. It wasn't wet out either.

7 Q. Now, do you remember what Ms. Frazier
8 was wearing that day?

9 A. Yes, sir.

10 Q. While you were at Wal-Mart?

11 A. Yes, sir.

12 Q. And do you remember what you were
13 wearing that day?

14 A. Yes, sir.

15 Q. What was Ms. Frazier wearing?

16 A. She had on some caprice pants and her
17 tank top and flip flops.

18 Q. What were you wearing?

19 A. I had on my jeans and a white shirt.

20 Q. Ricky, I previously showed you or had
21 you review a disk, a recording. Can you identify
22 Defendant's No. 13?

23 A. Yes, sir. This is the footage from
24 Wal-Mart.

25 Q. Can you identify images of you and Ms.

1 Frazier on this disk?

2 A. Yes, sir.

3 MR. SHAHID: Your Honor, I move
4 Exhibit 13 into evidence.

5 (Off-the-record conference.)

6 BY MR. SHAHID:

7 Q. Ricky, do you remember portions of the
8 tape, portions you see of the tape, what was
9 happening?

10 A. We were walking through Wal-Mart.

11 Q. Inside the store?

12 A. Yes, sir.

13 Q. Does it clearly show you and Ms.
14 Frazier?

15 A. Yes, sir.

16 Q. There is a second part of the tape as
17 well. What does that show?

18 A. Shows us walking towards the baby
19 section.

20 Q. I'm going to show you four more
21 pictures, Exhibit 14 and 15. Do you recognize
22 those two documents?

23 A. Yes, sir.

24 Q. What is Exhibit 14 and 15?

25 A. I believe this is the exit door to

1 Wal-Mart.

2 Q. Okay. Is that shown on the disk?

3 A. I believe so, yes, sir.

4 Q. And then Exhibit 16 and 17, do you
5 recognize images of you and Ms. Frazier in those
6 pictures?

7 A. Yes, sir.

8 Q. Is that an area where y'all were
9 walking down the aisle of a section of the store?

10 A. Yes, sir. This is the section where we
11 are going to the baby clothes.

12 Q. Does the images in Exhibit 14, 15, 16
13 and 17 also show a date and a time?

14 A. Yes, sir.

15 Q. And to the best of your knowledge those
16 dates and times are an accurate reflection of when
17 you and Ms. Frazier entered and were walking
18 through the store?

19 A. Yes, sir.

20 MR. SHAHID: Your Honor, I propose to
21 play the portions of the CD first and then
22 introduce the still pictures as well, very short
23 two clips.

24 MR. WETMORE: Judge, I have no
25 objection to the still images that are captured he

1 laid a foundation for. I object to foundation and
2 relevance as to the entire surveillance video.

3 THE COURT: Please approach.

4 (Following proceedings were held at the
5 bench.)

6 MR. SHAHID: What I propose to do is
7 just do a quick and these portions are shown and
8 they are just kind of grainy pictures. I want
9 to --

10 THE COURT: He is not asking to play
11 the whole video.

12 MR. WETMORE: I object to him playing
13 something that's not admitted in evidence.

14 THE COURT: He is not asking to play it
15 all.

16 MR. WETMORE: Well, I don't object to
17 just those clips. But if it's the entire
18 surveillance from the entire store, he is also
19 going to have to lay a foundation for that.

20 THE COURT: Why didn't you call the
21 person to corroborate taking it off the system?

22 MR. WETMORE: I have no objection to
23 these. The still images he has laid the
24 foundation.

25 MR. SHAHID: What if I just introduce

1 evidence --

2 THE COURT: I am sorry?

3 MR. SHAHID: I caught myself mid
4 sentence. Just all I wanted to do, I think I could
5 -- I did lay a foundation.

6 THE COURT: The person who made that
7 video who took it has to establish procedures how
8 they keep it. You need that person here. It is
9 not authenticated so he is not trying to show the
10 whole video.

11 MR. WETMORE: I understand, but I
12 object to him showing portions not in evidence.

13 THE COURT: That's why we are having
14 the conversation.

15 MR. WETMORE: He hasn't laid a
16 foundation.

17 THE COURT: I just need what the
18 State's position is.

19 MR. WETMORE: My position is that as to
20 the portions there has been no foundation laid and
21 as to the entire it is irrelevant.

22 THE COURT: That's not what he's
23 seeking to show. You are seeking to -- I don't
24 want to say you are missing the point, but you are
25 missing the point. It is Friday.

1 MR. WETMORE: Well, I understand.

2 THE COURT: What he is saying is he
3 doesn't want to play the whole video. He only
4 wants to play those clips.

5 MR. WETMORE: I understand.

6 THE COURT: I need to know if there is
7 any objection to that and what your objection will
8 be to those clips.

9 MR. WETMORE: My objection would be he
10 is publishing --

11 THE COURT: You are still getting ahead
12 of the cart. I am dealing with the first issue
13 which is the admissibility of those clips, not
14 playing them, whether you object to the
15 admissibility of the clips he seeks to play.

16 MR. WETMORE: My objection is he would
17 be publishing something that is not in evidence.

18 THE COURT: Still not answering my
19 question. We won't get to publication until we
20 deal with admissibility. He is seeking to admit
21 those isolated portions of the DVD. I need to know
22 if you have an objection to anything.

23 MR. WETMORE: I do as to foundation as
24 to relevance and to hearsay.

25 THE COURT: They are clearly relevant.

1 MR. WETMORE: Well, the entire disk is
2 not relevant. The portions on the rest of the
3 disk.

4 THE COURT: He is seeking to play
5 isolated portions to corroborate his testimony they
6 were, in fact, in Wal-Mart.

7 MR. WETMORE: If there was an item of
8 evidence that just had those clips.

9 THE COURT: I'm not going to require
10 that. That whole disk won't go back.

11 MR. WETMORE: Well, then my objection
12 would be he hasn't laid a foundation for those
13 clips and also that they --

14 THE COURT: Do you have some good faith
15 argument that it doesn't show what it is?

16 MR. WETMORE: Well, Wal-Mart gave it.

17 THE COURT: He already testified he
18 went and collected it.

19 MR. WETMORE: Right.

20 THE COURT: The video is the same so I
21 need some good faith argument that's not what it
22 purports to be, somehow they have altered it in
23 some way.

24 MR. WETMORE: Sure. Your plan is to
25 have them isolate --

1 THE COURT: I don't have a plan. His
2 plan is to play only those isolated portions. What
3 is my direction to him -- that's what I wanted to
4 know. He should have isolated those portions on
5 one continuous disk, the whole disk. I don't bring
6 jurors in. They have their own computer. They
7 can't deliberate in our presence.

8 MR. SHAHID: That's why I put it on
9 these to take back with them.

10 MR. WETMORE: He wouldn't be using that
11 disk which is not in evidence to publish them to
12 the jury.

13 THE COURT: He would have to redact it.
14 That's what would go into evidence. That would be
15 marked as a Court's exhibit.

16 MR. WETMORE: Well, my concern at this
17 point right now is he would be publishing something
18 that's not evidence.

19 THE COURT: He can't publish if I don't
20 admit it. I need to know --

21 MR. WARING: If I may, I don't think
22 that you can even get to the next analysis. You
23 have got to lay the foundation.

24 THE COURT: That's a technical
25 argument. Y'all gave him the disk, right?

1 MR. WARING: Yes and no.

2 THE COURT: Wal-Mart probably records
3 you in the dressing room.

4 MR. WARING: He still has to lay the
5 foundation.

6 THE COURT: I understand that. But I
7 mean it corroborates his testimony they were, in
8 fact, in Wal-Mart and I assume it is offered to say
9 they weren't arguing, they were getting along,
10 which doesn't really prove anything because they
11 could get in an argument 50 minutes later. That's
12 human nature.

13 MR. WETMORE: Judge, I think --

14 THE COURT: I don't know that it's
15 really particularly problematic.

16 MR. WETMORE: I thought it could be
17 shown though photos.

18 MR. SHAHID: I want the jury to take
19 this back. This is clean.

20 THE COURT: You are not seeking to
21 admit that?

22 MR. SHAHID: I was.

23 THE COURT: You can't admit it unless
24 -- now I understand -- unless it is admitted.
25 Maybe I was the one.

1 MR. SHAHID: I wanted to admit it for a
2 limited purpose so they can see.

3 THE COURT: You don't object to the
4 still photographs.

5 MR. WETMORE: No objection to the
6 stills.

7 THE COURT: What numbers are those?

8 MR. SHAHID: These are --

9 THE COURT: 14 Through 17.

10 MR. SHAHID: Yes.

11 THE COURT: I will admit those without
12 objection, but he is right. You can't play the
13 video unless it is admitted.

14 MR. SHAHID: I move to admit it.

15 THE COURT: You need people from
16 Wal-Mart to lay the foundation they kept that in
17 the ordinary course of business, how it was
18 recorded. While it is a technical argument it is
19 correct. You got the pictures in.

20 Defendant's 13 is marked for ID only.
21 14, 15, 16 and 17 come in without objection. You
22 may proceed.

23 (DFT. EXH. 14-17 in evidence.)

24 (Following proceedings were held in
25 open court.)

1 BY MR. SHAHID:

2 Q. Ricky, I'm going to show you Exhibit
3 No. 14. Do you recognize the two people shown here
4 and here?

5 A. Yes, sir.

6 Q. Whose this person right here?

7 A. That's to be me.

8 Q. This person right here?

9 A. And Malakia.

10 Q. This is 14. I zoomed in a little bit.
11 And I'm going to show you Defendant's Exhibit No.
12 15. And do you recognize this person right here?

13 A. Yes, sir.

14 Q. And this person here?

15 A. Yes, sir.

16 Q. And what do you appear to be wearing,
17 Ricky, in Exhibit No. 15 and in 14?

18 A. Short sleeved white shirt.

19 Q. And Ms. Frazier?

20 A. Tank top.

21 Q. And now I want to show you Exhibit
22 No. 16 and do you recognize these two people?

23 A. Yes, sir.

24 Q. Who are those two folks right there?

25 A. Malakia and I.

1 Q. And do you see on here the time frame,
2 that date and the time frame?

3 A. Yes, sir.

4 Q. Up here what date and time is reflected
5 on Exhibit No. 16?

6 A. Saturday October 10th, 2015, at 8:30.

7 Q. P.m.?

8 A. Yes, sir.

9 Q. And Exhibit No. 17, is that another
10 shot from Exhibit 16?

11 A. Yes, sir.

12 Q. Do you recognize these two people right
13 here?

14 A. Yes.

15 Q. And who are those two people right
16 there?

17 A. That's Malakia and I.

18 Q. And I forgot to ask you on Exhibit
19 No. 14 do you see the date and time reflected on
20 No. 14?

21 A. Yes, sir.

22 Q. What date and time is reflected on
23 that?

24 A. Saturday October 10, 2015, at 8:15 p.m.

25 Q. What section of the store if you can

1 remember are you and Ms. Frazier going to in
2 Exhibit No. 16?

3 A. We were going to the baby section.

4 Q. And do you recall at some point, Ricky,
5 that y'all left the store?

6 A. Yes, sir.

7 Q. About what time do you think that
8 occurred?

9 A. Maybe give or take close to nine.

10 Q. Okay. When you left the store where
11 did you go from that point?

12 A. We went to the parking lot so I could
13 fix the taillight on her car.

14 Q. Then what happened after that?

15 A. Once we fixed it we left and went back
16 to my house.

17 Q. What did you all do at your house?

18 A. We sat in the car and talked some more
19 and then she realized that she left Rylan's
20 medicine at her mother's house.

21 Q. Whose medicine?

22 A. Rylan.

23 Q. Your son?

24 A. Yes.

25 Q. Oldest son?

1 A. Yes.

2 Q. What did you do then?

3 A. We left and we went to her mother house
4 to get his medicine.

5 Q. Why did you need to get your son's
6 medicine?

7 A. Because it was close for time for his
8 medicine and he has seizures if he doesn't have it.

9 Q. Where was your son physically?

10 A. He was with my mother, my brother and
11 my oldest child.

12 Q. And did you retrieve the medicine at
13 Ms. Frazier's home on Alabama?

14 A. Yes, sir.

15 Q. What did you do after you got the
16 medicine?

17 A. We left and we headed back toward my
18 house.

19 Q. What happened then?

20 A. That was around the time that we -- I
21 believe we stopped at the corner store on Rivers
22 and Alvin.

23 Q. Which street?

24 A. Alvin Street.

25 Q. How far is that from your house?

1 A. Probably like ten minute walk from my
2 house.

3 Q. What did you do, anything there?

4 A. Yes.

5 Q. What did you do there?

6 A. I bought me a beer.

7 Q. Did Ms. Frazier want anything?

8 A. Actually I asked her, but she didn't,
9 no.

10 Q. And what happened after you got your
11 beer?

12 A. We went and sat back outside my house.

13 Q. When you got back home where were your
14 two children?

15 A. I believe they were still with my
16 mother. I believe that's the date they pulled up
17 shortly after.

18 Q. At some point did y'all administer the
19 medicine to your younger son?

20 A. Yes, sir.

21 Q. So were you and Malakia interacting
22 with your two children?

23 A. They were in the house. We were
24 sitting in the -- outside in the car, but Rylan
25 came outside shortly before when they pulled up.

1 Q. And then what occurred after you had
2 this interaction with your children and medicine?
3 What happened after what?

4 A. Rylan asked his mother could he stay
5 the night at my house and she told him yes.

6 Q. All right. What did you and Ms.
7 Frazier do after this encounter?

8 A. We were still sitting there for a while
9 talking, listening to the music. And around that
10 time my mother and my brother left to try to take
11 my older child home.

12 Q. He lives in what part of town?

13 A. Further out North Charleston close to
14 Goose Creek.

15 Q. At the time that you and Ms. Frazier
16 were sitting in your car at the time that your mom
17 left what kind of clothes were you wearing then?

18 A. The same clothes I had on all day, my
19 white shirt, my jeans and my shoes.

20 Q. And did anything significantly happen
21 with you and Ms. Frazier after your mom left to
22 take the children or your older son back?

23 A. After we were talking for a while she
24 thought that my phone rang and that's when the
25 argument broke out.

1 Q. So the jury is clear, at this
2 particular point is there anybody at the Harper
3 Street address besides you and Ms. Frazier?

4 A. No.

5 Q. Children are gone?

6 A. Yes.

7 Q. And your mom and brother are gone?

8 A. Yes, sir.

9 Q. By the way, how many bedrooms do you
10 have in that residence?

11 A. Three bedrooms.

12 Q. Is there a kitchen?

13 A. Yes, sir.

14 Q. And like a den, family room-type area?

15 A. Yes, it has a living room.

16 Q. Is that the extent of the size of the
17 house or the trailer?

18 A. Yes, sir.

19 Q. Assume it's got a bathroom as well?

20 A. Yes, sir, two.

21 Q. All right. So you had an argument?

22 A. Yes, sir.

23 Q. And what caused the argument? What
24 started the argument?

25 A. She believed that someone was calling

1 my phone and she thought it was another female.

2 Q. Was it?

3 A. No. No one called me.

4 Q. Were you two-timing her?

5 A. No.

6 Q. So you were there. What happened with
7 this argument?

8 A. Started to get heated and we started
9 cursing one another back and forth and that's
10 around the time she stormed out of the car.

11 Q. Did you hit her?

12 A. No.

13 Q. Did she hit you?

14 A. Not at that time, no.

15 Q. How long do you think this verbal
16 exchange was going on between the two of you before
17 she left the car?

18 A. I would say maybe 30 or so minutes.

19 Q. Now, had you and Ms. Frazier prior to
20 this day had these kind of verbal arguments before?

21 A. It was a while ago, but we had
22 arguments over this before, yes.

23 Q. What would happen when you had these
24 arguments? What typically would take place? How
25 would it resolve?

1 A. We would argue, few words get
2 exchanged, she get angry, call me a liar and storm
3 out.

4 Q. Did you call her names?

5 A. Yes.

6 Q. Not nice names I presume?

7 A. Not really, no.

8 Q. Not something you would say in church?

9 A. No.

10 Q. So she left the car?

11 A. Yes.

12 Q. What happened when she left the car?

13 A. I was still in the car and just waiting
14 around really.

15 Q. All right. Did she come back to the
16 car?

17 A. Yes.

18 Q. How long was she gone?

19 A. I would say maybe ten or so minutes.

20 Q. Do you know what direction she went?

21 A. I believe she walked toward the front
22 street. I'm not -- I don't remember the front
23 street name.

24 Q. I want to -- can we get that easel?

25 Ricky, come down for a second. And this is State's

1 Exhibit No. 1, an earlier photograph showed of your
2 trailer and the car was parked. Is that reflected
3 closeby where this pen is located?

4 A. Yes, sir.

5 Q. Switch places with me. Over here so
6 the jury can see and hear your voice. So you were
7 in the car right here. And you got out? This is
8 where the car was pointed where my pen is?

9 A. Yes.

10 Q. And when you got out and had that
11 argument what direction do you think she went?

12 A. She went away from the house toward
13 Piedmont Avenue.

14 Q. And so you stayed. What did you do
15 when she went toward Piedmont Avenue?

16 A. I stayed at the house.

17 Q. And you were in the car?

18 A. Yes, sir.

19 Q. And so was it daylight or dark at this
20 time?

21 A. It was dark.

22 Q. Now, she comes back. What happened
23 next?

24 A. That's when we continued arguing.

25 Q. So she came to the car?

1 A. Yes.

2 Q. Had the tensions gotten calmer at that
3 point or were you all still mad at one another?

4 A. It was calm and then it shortly again
5 escalated.

6 Q. What happened at that point?

7 A. We got back in the car. And that's
8 when she struck me with her car keys.

9 Q. Was there anything that was said or
10 done that you remember specifically as to why she
11 struck you with the car keys?

12 A. I called her a few names.

13 Q. Not church names?

14 A. No.

15 Q. Now, which side of the face did she hit
16 you on?

17 A. My left side.

18 Q. And which side -- excuse me one second.
19 Mr. Wetmore -- here they are. I found them. Thank
20 you. This is State's No. 48. State's Exhibit
21 No. 48. State's Exhibit 48. Mr. Short, do you
22 recognize the items in Exhibit No. 48?

23 A. Yes, sir.

24 Q. What are these things?

25 A. Those are Malakia's car keys.

1 Q. Are those the keys she hit you with?

2 A. Yes, sir.

3 Q. Stay right there for a few more
4 seconds. Now, so she comes back to this area and
5 y'all had an argument. She hit you with the keys?

6 A. Yes.

7 Q. Did you hit her back?

8 A. No.

9 Q. Did you threaten to hit her back?

10 A. No, sir.

11 Q. Did you want to hit her back?

12 A. No.

13 Q. Can you describe how you felt at that
14 point, Ricky?

15 A. It was kind of angry, but kind of
16 laughed it off also.

17 Q. Why is that?

18 A. Because I knew when I laugh sometimes
19 it bothers her so I was showing her that it wasn't
20 bothering me, but basically just trying to get at
21 her.

22 Q. Try to inflame her?

23 A. Not really, just to let her know that I
24 wasn't bothered by it.

25 Q. But you were?

1 A. Yes.

2 Q. Did that make the situation better or
3 worse when you did that?

4 A. Made it worse.

5 Q. Got the results you were looking for?

6 A. Yeah.

7 Q. So what happened at that point, Ricky?

8 A. We stayed there for a little while
9 longer, continued going back and forth, back and
10 forth and that's when she decided to leave.

11 Q. All right. Have a seat back in the
12 witness stand.

13 A. (Witness complies with request.)

14 Q. Ricky, I want you to explain what
15 happened to the jury at this particular point.

16 A. When she got out the car she left and
17 walked toward Railroad. I stayed outside the car.
18 I got out of the car and was sitting on the hood.

19 Q. Then what happened?

20 A. Shortly after I decided to go get a
21 drink and to also go check on her to see if she was
22 calmed down.

23 Q. Did you do that?

24 A. Yes, I attempted to, yes.

25 Q. All right. Now, Ricky, how much time

1 do you think passed from the time that Ms. Frazier
2 got out of the automobile and you made the decision
3 you wanted to go check on her and get something to
4 drink?

5 A. Maybe about seven or so minutes, maybe
6 five to seven minutes.

7 Q. Okay. Still dark outside?

8 A. Yes, sir.

9 Q. How would you describe, Ricky, the
10 lighting in the area between your house and
11 Railroad Street?

12 A. It's pretty lit.

13 Q. How about down Railroad?

14 A. It is lit, but toward Railroad and the
15 Harper side it gets a little darker.

16 Q. How about down towards Graham and Emden
17 Street?

18 A. That's where the street lights are more
19 so lit.

20 Q. By the way, Ricky, what is at the end
21 of Railroad Street?

22 A. There's a corner store.

23 Q. So take you back. You decide to go
24 check on her and get something to drink?

25 A. Yes.

1 Q. And so where were you going to get that
2 something to drink?

3 A. To the corner store at Railroad and
4 Montague.

5 Q. What happened next?

6 A. Once I got toward the corner of Harper
7 what's when I heard yelling coming out the houses.

8 Q. What direction was that coming from?

9 A. From my right-hand side.

10 Q. Is that down Railroad?

11 A. Yes, sir.

12 Q. And what did you do then?

13 A. Once I heard the yelling stop, stop,
14 stop, that's when I took off running.

15 Q. What happened when you took off
16 running?

17 A. Once I got down Railroad I saw a few
18 people pacing back and forth and someone was laying
19 on the ground.

20 Q. Who was that someone laying on the
21 ground, Ricky?

22 A. Malakia.

23 Q. Okay. What did you do, Ricky, when you
24 saw Malakia on the ground?

25 A. I ran up. Saw her. Immediately took

1 off my shirt and placed it under her head and
2 started asking for the address so I can call for
3 help.

4 Q. When you saw her on the ground can you
5 describe her condition? What did you see going on
6 with her when you saw her on the ground? Explain
7 that to the jury, please.

8 A. It was a lot of blood and she was just
9 laying there looking.

10 Q. Was she talking?

11 A. No.

12 Q. Could you tell whether she was
13 breathing?

14 A. Vaguely.

15 Q. Did you talk to her?

16 A. Yes.

17 Q. What did you say to her?

18 A. Malakia, hold on, hold on, hold on.

19 Q. Did you ever see the two people who
20 were there, ever see them before?

21 A. No.

22 Q. Do you know who they were?

23 A. No.

24 Q. Did you try to talk to them?

25 A. Yes, I asked them for the address. I

1 was asking for the address.

2 Q. Did they give you an address?

3 A. They didn't say anything to me. They
4 just standing there.

5 Q. Okay. And what happened then, Ricky,
6 after you took your shirt off and you put it under
7 her head? What happened next?

8 A. Around that time once I took off my
9 shirt it was a black lady who walked up who was
10 there and she gave me the address.

11 Q. Then what did you do?

12 A. I called 911.

13 Q. What happened after you called 911?

14 A. After I called 911 I was still by her
15 side holding the shirt under her head and I called
16 my mother.

17 Q. And then what happened?

18 A. I told my mother that she needed to
19 come because something happened to Malakia.

20 Q. Did you give her any more details?

21 A. No, I just said I think she dead, I
22 think Malakia is dead.

23 Q. Why did you think that?

24 A. She was just laying there.

25 Q. Were you standing, sitting, kneeling?

1 What were you doing at this point?

2 A. I was on my knees by her side.

3 Q. After did you call 911?

4 A. Yes, sir.

5 Q. What happened after you called 911?

6 A. After I called I was just there and
7 that's when I called my mother.

8 Q. After you called your mother what
9 happened next?

10 A. I was just there holding the shirt.

11 Q. Did help come?

12 A. Yes.

13 Q. Do you remember what happened? Who got
14 there first?

15 A. It was one of the younger officers.

16 Q. Police officer?

17 A. Yes.

18 Q. Then what happened?

19 A. He told me to back up and I moved and
20 he was there and he started radioing for help I
21 guess.

22 Q. Okay. Did you leave the area?

23 A. No.

24 Q. Did you stay there?

25 A. Yes.

1 Q. Then what happened?

2 A. Shortly after some more officers came
3 and was a lot of officers at that point afterward.

4 Q. Do you know if the EMS arrived?

5 A. Yes, they did.

6 Q. What were they doing? What was the
7 police and EMS doing to Malakia?

8 A. At that time the first officer, he
9 started CPR and by the time the ambulance came I
10 was still standing there, but then that's when one
11 officer placed me in handcuffs.

12 Q. Okay. Do you know why they placed you
13 in handcuffs?

14 A. No, I didn't.

15 Q. Did you ask?

16 A. Yes. We were talking and they were
17 asking me what happened. I told them we had an
18 argument and she stormed off. Shortly after that's
19 when they placed me in handcuffs.

20 Q. When they placed you in handcuffs did
21 they take you somewhere?

22 A. Yes, they took me to the back of the
23 police car.

24 Q. Now, I want to show you a couple
25 photographs, Ricky. Hand you what I have marked as

1 Exhibits 9, 10, 11 and 12, ask you if you can
2 identify these photographs?

3 A. Yes, sir.

4 Q. What appears to be on Exhibit No. 9?

5 A. That's Harper Street facing Railroad.

6 Q. Does that photograph accurately reflect
7 the Harper Street and the direction towards
8 Railroad?

9 A. Yes, sir.

10 Q. Picture No. 10?

11 A. This is the street name of Railroad and
12 Harper.

13 Q. Is that the intersection?

14 A. Yes.

15 Q. That accurately reflects that
16 intersection?

17 A. Yes, sir.

18 Q. Exhibit No. 11, do you recognize that?

19 A. That's at some point between Montague
20 and Railroad. It's on Railroad.

21 Q. Which direction are you looking
22 towards?

23 A. Facing Montague.

24 Q. And Exhibit No. 12?

25 A. This is the corner of Railroad and

1 Montague.

2 Q. And you see a sign, subdivision sign,
3 there?

4 A. Yes, sir.

5 Q. And do you recognize the area over here
6 where the car is located?

7 A. Yes, sir.

8 Q. What does that area look like?

9 A. It's the front of the corner store.

10 Q. Do these pictures also, 11 and 12,
11 reflect that area that we just described?

12 A. Yes, sir.

13 MR. SHAHID: Judge, at this point --

14 THE COURT: Show them to Mr. Wetmore.

15 MR. SHAHID: Move 9, 10, 11 and 12.

16 MR. WETMORE: No objection.

17 THE COURT: Marked and admitted without
18 objection, 9 through 12.

19 (DFT. EXH. 9-12 in evidence.)

20 BY MR. SHAHID:

21 Q. Ricky, what does this area right here,
22 Exhibit No. 9, reflect?

23 A. Harper Street facing Railroad Avenue.

24 Q. In relationship to this picture where
25 would your house be?

1 A. Back to the left side.

2 Q. Can you point your finger to that?

3 A. (Witness complies with request.) Back
4 over this way here.

5 Q. And where would Ms. Frazier's car have
6 been located?

7 A. Back in front of this vehicle here,
8 back over this side here.

9 Q. And do you see this thing right here?

10 A. Yes, sir.

11 Q. What is that?

12 A. Stop sign.

13 Q. Is that the intersection of Harper and
14 Railroad at that point?

15 A. Yes, sir.

16 Q. And looks like a railroad train is
17 going through there?

18 A. Yes, sir.

19 Q. And then Exhibit No. 10?

20 A. That's the Harper and Railroad sign.

21 Q. What about right here?

22 A. I am sorry?

23 Q. Sorry, this thing right here?

24 A. It's a house.

25 Q. Then on Exhibit No. 11?

1 A. That's Railroad looking toward
2 Montague.

3 Q. Now, looking at the two people in that
4 picture in relation to where Ms. Frazier was laying
5 where would you put Ms. Frazier in relationship to
6 where those two folks are standing? Is it closer
7 to or further away?

8 A. It's a little further down just this
9 way here.

10 Q. Past the person right here or closer to
11 this person right here?

12 A. It could be a little past, but I'm not
13 too sure.

14 Q. Okay. So as you were coming down this
15 intersection shown on Exhibit No. 10, at what point
16 at that intersection did you hear that noise, that
17 scream?

18 A. Like as soon as once I got to the back
19 of this house here.

20 Q. Okay. And can you show us and have you
21 seen in this picture No. 11, and do you know how to
22 erase those little red marks?

23 A. No, sir.

24 Q. Somebody is going to do it for us.

25 Thank you. Thank you, detective. At some point in

1 time when you came around this corner where did you
2 see anybody, if at all, at that point?

3 A. I could see a few people pacing back
4 and forth by the road.

5 Q. Okay. Exhibit No. 12, Ricky, is this
6 the store, the area that you were going to go to
7 get that drink?

8 A. Yes, sir.

9 Q. It was still open that hour of night?

10 A. Yes.

11 Q. So, Ricky, you are in handcuffs, right?

12 A. Yes, sir.

13 Q. In the back of the patrol car?

14 A. Yes, sir.

15 Q. What did you do then?

16 A. I was asking a few officers that they
17 know her condition, can they call and give me some
18 information.

19 Q. Okay. Did you at any point advise any
20 of the responders there about Ms. Frazier being
21 pregnant?

22 A. Yes.

23 Q. What did you tell them?

24 A. I keep telling them that she is six
25 months pregnant, she is pregnant, she is pregnant.

1 Q. And did the officers come back to talk
2 to you about your inquiry about her condition?

3 A. No, they didn't.

4 Q. Did you get a response from them?

5 A. More or less. They kind of blew me
6 off.

7 Q. Do you remember seeing Detective Bailey
8 that night while you were still at the area back of
9 the patrol car?

10 A. I don't remember.

11 Q. At some point in time were you
12 transported away from the area to another location?

13 A. Yes, sir.

14 Q. And where did you go?

15 A. We went to city hall.

16 Q. That's in North Charleston?

17 A. Yes, sir.

18 Q. And what happened when you got there?

19 A. I was sat in a room for a while.

20 Q. How were you dressed?

21 A. I just had on my jeans and my shoes.

22 Q. Were you bare chested?

23 A. Yes, sir.

24 Q. At that point were you made aware when
25 you first got there of Ms. Frazier's status?

1 A. No.

2 Q. Did you advise any of the law
3 enforcement officers before you were transported
4 that you had a relationship with Ms. Frazier?

5 A. Yes, sir.

6 Q. How did you describe it to them?

7 A. Told them that we were together and she
8 was six months pregnant.

9 Q. Did you describe whether or not you
10 were married to her, not married to her or
11 boyfriend, girlfriend?

12 A. No, not really, no.

13 Q. So you got to the police station. You
14 were in a room. What happens next?

15 A. I was in there for a while by myself
16 and then an officer came in.

17 Q. Detective Bailey?

18 A. I believe it was him, yes, sir.

19 Q. And what happened at that point?

20 A. I think he started questioning me.

21 Q. Okay. At some point in time you showed
22 him your hands?

23 A. Yes, later on that night.

24 Q. Were there other officers who came in
25 with Detective Bailey?

1 A. Yes.

2 Q. Do you remember being photographed?

3 A. Yes.

4 Q. And the State introduced some
5 photographs. Do you remember those?

6 A. Yes, yes.

7 Q. Did another officer come in and talk to
8 you as well?

9 A. A lady, yes.

10 Q. How about another gentleman, Detective
11 Riedel? Do you remember him?

12 A. The guy with the glasses.

13 Q. And a hat?

14 A. Yes.

15 Q. And then you mentioned a woman came in
16 to talk to you as well?

17 A. Yes. Later that night.

18 Q. Do you remember that woman's name?

19 A. I believe she was Ms. Johnson.

20 Q. Okay. Now, at some point in time,
21 Ricky, were you notified that you were under
22 arrest?

23 A. No.

24 Q. Were you, in fact, arrested that night?

25 A. Yes.

1 Q. Did you understand what you were being
2 arrested for?

3 A. Yes.

4 Q. What were you being arrested for?

5 A. They were charging me with the death of
6 Malakia.

7 Q. Anything else?

8 A. And the death of our unborn child.

9 Q. You weren't charged that night with the
10 death of the unborn child?

11 A. I believe they was saying it was an
12 attempt.

13 Q. At some point you were later charged
14 for the unborn child's death; is that right?

15 A. Yes. Later on they brought me
16 paperwork saying that it's no longer an attempt, it
17 is a murder.

18 Q. Now, do you remember how long you
19 stayed inside that room this night?

20 A. It was for a while.

21 Q. A while being five minutes?

22 A. It was hours. It was hours.

23 Q. Was it from 12 to 12, something like
24 that, or 1:00 to 12:00?

25 A. Something around there, yes. I believe

1 when we were leaving I glanced at a clock I believe
2 before we got into the elevator.

3 Q. What time was that?

4 A. It was after 12.

5 Q. And what time did the police come to
6 the Railroad Avenue where Malakia was?

7 A. That was maybe a little after 11.

8 Q. And how soon after that were you
9 detained?

10 A. Once the other officers got there it
11 was immediately after.

12 Q. Now, do you remember the questions that
13 were asked of you by these detectives, these law
14 enforcement officers?

15 A. When I got back to the city hall?

16 Q. Yes.

17 A. Yes, sir.

18 Q. Did you give them a response?

19 A. Yes.

20 Q. Were you trying to be deceptive to
21 them?

22 A. No.

23 Q. Did you try to hide anything?

24 A. Not at all.

25 Q. Do you remember ever being advised that

1 you were a suspect?

2 A. No.

3 Q. Do you remember asking any of the
4 officers if you were a suspect?

5 A. Yes, sir.

6 Q. And do you remember what type of
7 response you got back?

8 A. I believe one said no and kind of blew
9 it off and it wasn't no real answer.

10 Q. Did you sign this waiver of rights
11 form, Ricky?

12 A. Yes, I did.

13 Q. And even after you signed the wavier of
14 rights form, this is Exhibit No. 29, it's your
15 signature?

16 A. Yes, sir.

17 Q. After you signed that did you continue
18 to answer the questions of these officers?

19 A. Yes.

20 Q. And did you ever ask to speak to a
21 lawyer?

22 A. No.

23 Q. Did you ever say I'm tired of talking
24 to you guys, don't bother me no more?

25 A. No.

1 Q. Were you -- what were you trying to --
2 strike that, I'm sorry. Do you remember the
3 sequence of being interviewed by these officers?

4 A. Somewhat, yes.

5 Q. Initially it was Detective Bailey?

6 A. Yes.

7 Q. Do you remember at some point in time
8 there were two officers talking to you?

9 A. Yes.

10 Q. And do you remember just being
11 interviewed by one officer at a time?

12 A. Yes.

13 Q. Do you remember talking to them about
14 what happened that night?

15 A. Um-hmm, yes, sir.

16 Q. Did you try to answer their questions?

17 A. Yes, sir.

18 Q. Did it come up in a point in time with
19 the questions concerning your clothing?

20 A. Yes, sir.

21 Q. And particularly about a jacket?

22 A. Yes, sir.

23 Q. What did you tell the officers as best
24 you can remember about your jacket or jackets?

25 A. That I had a First Down jacket at home.

1 Q. Did you talk about another kind of
2 jacket?

3 A. Yes, sir. I believe it was Ms. Johnson
4 questioned me about the jackets.

5 Q. All right. Did you give her a response
6 about another kind of jacket?

7 A. Yes, sir, I told her that I did have an
8 Old Navy jacket, but I gave it away a few weeks
9 prior.

10 Q. Now, explain to the members of the jury
11 please, Ricky, about you giving that jacket away.

12 A. I was coming home one day from work
13 from the bus stop and it was a pretty cold day.
14 And this guy came up to me. He was always around
15 the area. And he just bugging me, bugging me. I
16 was tired. Kind of blew it off. Keep telling him
17 to leave me alone, but he kept asking me for money
18 saying he is cold. He's cold. So I just threw him
19 the jacket and keep on walking just to get out of
20 my face.

21 Q. How much did you spend for that jacket
22 when you got it?

23 A. It was on sale so I believe it was like
24 \$20.

25 Q. Did you have another jacket at home?

1 A. Yes.

2 Q. Did you ever see that person again?

3 A. No.

4 Q. All right. Ricky, I want you to come
5 back down for a second.

6 A. (Witness complies with request.)

7 Q. Are you generally familiar with the
8 area that's shown in Exhibit No. 1?

9 A. Yes, sir.

10 Q. We will switch places again one more
11 time.

12 THE COURT: Someone need a break?
13 Ladies and gentlemen of the jury, we are going to
14 take advantage of this break. During the break
15 please do not discuss the case, please leave your
16 note pads on your seats. Let me know when you're
17 done.

18 (Thereupon, the jury exited the
19 courtroom at 10:43 a.m.)

20 THE COURT: Sir, if you would take your
21 seat, please. We will be at ease for a moment
22 until the jury tells us that they are ready to go
23 forward.

24 MR. WETMORE: Judge, may I bring
25 something up real quick? This juror in the corner,

1 THE COURT: Especially in a
2 construction case or civil context. Sometimes they
3 do doze off a little, but I don't know that that
4 negates their ability to grasp the testimony. I'm
5 going to keep on watching him. If I get alarmed I
6 will take action, but at this point I'm not
7 particularly alarmed.

8 MR. WETMORE: Thank you, Judge.

9 (A recess transpired.)

10 (Whereupon the jury entered the
11 courtroom at 10:56 a.m.)

12 THE COURT: You may proceed.

13 BY MR. SHAHID:

14 Q. Thank you, Judge. Ricky, I'm going to
15 show you a couple of photographs. Do you recognize
16 the image of Exhibit No. 20?

17 A. Yes, sir.

18 Q. Who is that a mug of?

19 A. Me.

20 Q. Okay. And is this the side of the face
21 that you were hit with on the keys?

22 A. Yes.

23 Q. Not what is shown in Exhibit No. 19?

24 A. No, sir.

25 Q. Do you know what this is right here?

1 A. Looks to be blood.

2 Q. And do you know how the blood got
3 there?

4 A. Could have came in from when I was
5 touching my face when I was on the ground with her.

6 Q. Okay. That's not from an abrasion from
7 any keys hitting it?

8 A. No, sir.

9 Q. Looks like there's no mark on your face
10 in Exhibit 20; is that fair?

11 A. Yes, sir.

12 Q. I'm going to show you a series of other
13 photographs. Exhibit No. 26. Do you recognize
14 those hands?

15 A. Yes, sir.

16 Q. Those your fingers?

17 A. Yes, sir.

18 Q. And hands. Were those photographs
19 taken the night that you were at the detention
20 center or the -- I am sorry -- the police station?

21 A. Yes, sir.

22 Q. And is Exhibit No. 27 a close-up of
23 those?

24 A. Yes, sir.

25 Q. All right. Now, Ricky, it looks like

1 there is one, two and three cuts right there?

2 A. Yes, sir.

3 Q. On Exhibit No. 27; is that accurate?

4 A. Yes, sir.

5 Q. Would you explain to the members of the
6 jury how those three got there?

7 A. We were downtown one night. I believe
8 it was a Thursday night. We were walking and we
9 were walking through an alleyway and she saw some
10 flowers and she liked them.

11 Q. Who is she?

12 A. Malakia.

13 Q. Okay.

14 A. And Malakia saw some flowers in one of
15 the flower boxes that she liked so I decided to go
16 and grab a few of them.

17 Q. Did you?

18 A. Yes.

19 Q. What happened when you did that?

20 A. I got cut.

21 Q. Okay. And is that the result of these
22 three marks?

23 A. Yes, sir.

24 Q. In relationship to October the 10th of
25 2015 when did those cuts get on your finger?

1 A. Maybe like a few days prior.

2 Q. Okay. Ricky, can you explain to the
3 jury whether or not those cuts got on your hand
4 because you were stabbing Ms. Frazier with this
5 knife in Exhibit 58?

6 A. No, I wasn't.

7 Q. Appears to be another cut on your hand
8 on Exhibit No. 24. What hand is this?

9 A. My right hand.

10 Q. And this is shown a little bit better
11 in Exhibit No. 25. Can you explain to the jury
12 please, Ricky, how that cut got there?

13 A. Came with the other cuts that night we
14 were downtown.

15 Q. Ricky, what may appear on your hand,
16 what is this pointing to right now on your hand, do
17 you know?

18 A. Maybe dried up blood and dirt.

19 Q. Where did that come from?

20 A. When I was on the ground with Malakia.

21 Q. Do you remember whether or not while
22 you were being interviewed a police officer coming
23 in and taking a swab of your mouth?

24 A. Yes.

25 Q. Do you remember if anyone came in to

1 take a swab like that of your fingers and your
2 hands?

3 A. No.

4 Q. Likewise, in the photo shown in Exhibit
5 No. 26, this over here around these cuts, what is
6 that from?

7 A. Could have been blood, blood, and dirt.

8 Q. And where did that come from, what is
9 shown in Exhibit 26?

10 A. From when I was on the ground with
11 Malakia.

12 Q. Where did you put your hand in
13 relationship to where she was on the ground?

14 A. I was putting the shirt under her head,
15 it was behind her neck.

16 Q. Did you see blood?

17 A. Yes.

18 Q. Where that blood and dirt and fingers
19 shown in these photos, that came from while you
20 were on the ground with Malakia?

21 A. Yes.

22 Q. Ricky, you recognize these clothes in
23 State's Exhibit No. 11?

24 A. Yes, sir.

25 Q. And No. 12?

1 A. Yes, sir.

2 Q. And do you recognize the shoes down
3 here on the bottom part of Exhibit 12?

4 A. Yes, sir.

5 Q. Are these the boxer shorts you had on
6 that night?

7 A. Yes, sir.

8 Q. And the blue jeans you had on that
9 night?

10 A. Yes, sir.

11 Q. Are these the clothes you were wearing
12 when you were in Wal-Mart?

13 A. Yes.

14 Q. Absent the shirt?

15 A. Yes, sir.

16 Q. And, Ricky, is this the position of
17 your pants and boxer shorts when you were leaning
18 over Malakia that night?

19 A. It could have been, yes, sir.

20 Q. Now, it looks like the stuff right here
21 on your knees, what does that appear to be to you?

22 A. Blood and dirt.

23 Q. Where did that come from, Ricky?

24 A. When I was on the ground.

25 Q. On the ground where?

1 A. Kneeling with Malakia.

2 Q. It appears that there may have been,
3 those little white marks are right here, a little
4 cut or some sort. Can you explain that?

5 A. Yes. Those are my work jeans.

6 Q. What do you mean by that?

7 A. I wear them to work. I did
8 construction and landscaping.

9 Q. And what happened to that point over
10 here, looks like a rip?

11 A. Cut it one day at work.

12 Q. Ricky, do you recognize these clothing
13 and these other items as Exhibit No. 45?

14 A. Yes, sir.

15 Q. I'm going to stop at No. 18. What are
16 these things my pen is pointing at right now?

17 A. Malakia's car keys.

18 Q. This thing right here?

19 A. My phone.

20 Q. And this white item right here?

21 A. My white t-shirt.

22 Q. This stuff right here?

23 A. Blood.

24 Q. And around over here?

25 A. More blood.

1 Q. In relationship to where the keys and
2 the phone are where were you kneeling?

3 A. Right in between by her side.

4 Q. By this 17 and 19 area?

5 A. Yes.

6 Q. Over here, this area?

7 A. Yes.

8 Q. Ricky, do you remember this jacket?

9 A. Yes, sir, I had one just like that.

10 Q. Were you wearing that jacket on the
11 night of October the 10th, 2015?

12 A. No, I was not.

13 Q. This is Exhibit No. 53. This is
14 Exhibit No. 57. Were you wearing that shirt,
15 Exhibit No. 57, on the night of October the 10th?

16 A. No, I was not.

17 Q. 2015. Did you take this knife shown in
18 Exhibit 51 and stab Malakia Frazier 30 times?

19 A. No, I did not.

20 Q. Did you cause any harm to Malakia
21 Frazier or to your unborn baby on the night of
22 October the 10th, 2015?

23 A. No. No, sir. No, I did not.

24 Q. Ricky, do you remember the interview
25 you had with Ms. Johnson?

1 A. Yes, sir.

2 Q. Lot of a part of that night?

3 A. Yes, sir.

4 Q. What were you trying to explain to Ms.
5 Johnson, Lieutenant Johnson, at the time when she
6 was pressuring you about talking to Malakia's
7 family and Ms. Pat? What were you trying to say to
8 her?

9 A. I was trying to tell her that to tell
10 Ms. Patricia that I am sorry for everything that
11 happened. And that I did not -- could not give her
12 an explanation, that I honestly did not know what
13 happened, but I was sorry for her loss.

14 Q. That was a point in time when you make
15 some comment if I recall her testimony on that tape
16 about something being your fault or you are taking
17 responsibility for something. Can you explain that
18 to the jury as well?

19 A. I was simply telling her -- she asked
20 me did I believe it was my fault. I told her yes,
21 I told her it was my fault because if Malakia
22 didn't come around to be with me she wouldn't have
23 been there that night.

24 Q. Did you have any reason, Ricky, to kill
25 Malakia Frazier?

1 A. No, I did not.

2 Q. Now, before we took our break I asked
3 you to come down. And come on back and look at
4 this exhibit one more time for me, please.

5 A. (Witness complies with request.)

6 Q. Did you have time, Ricky, to leave this
7 area early that night around 11:00, 11:30 on
8 October the 10th chasing Ms. Frazier to this point,
9 stabbing her, killing her, coming back down, dump
10 those shirts and jacket here, run back to your
11 house and then come back here to where those people
12 were?

13 A. No, I didn't, no.

14 Q. You look pretty thin and trim. Are you
15 in good physical condition?

16 A. I appear to be.

17 Q. What happens when you run?

18 A. I get short winded.

19 Q. Did you do that? Did you stab her
20 here?

21 A. No, I didn't.

22 Q. Did you chase her down here?

23 A. No, I didn't.

24 Q. Do you come back around and dump these
25 clothes right here?

1 A. No, did not.

2 Q. Go back to your house?

3 A. No.

4 Q. Did it appear that you were coming back
5 down Railroad Avenue?

6 A. No.

7 Q. Did you kill her?

8 A. No, I did not.

9 Q. Did you take this knife and stab her in
10 the chest?

11 A. No, I didn't.

12 Q. In the neck?

13 A. No.

14 Q. In the abdomen?

15 A. No.

16 Q. Thank you, Mr. Short. Answer any
17 questions that Mr. Wetmore may have for you.

18 THE COURT: You may proceed.

19 CROSS-EXAMINATION

20 BY MR. WETMORE:

21 Q. So, Mr. Short, where is Wil Lou Gray
22 High School?

23 A. It's in West Columbia.

24 Q. In the interview the detective spelled
25 it wrong on the form?

1 A. I'm not sure. I didn't see how they
2 spelled it.

3 Q. It is Wil Lou Gray High School,
4 someone's name?

5 A. Yes, sir. It's a W-I-L and then it's
6 L-O-U and then it's G-R-A-Y.

7 Q. And that's up in Midlands; is that
8 right?

9 A. Yes, sir.

10 Q. That's not where you are from, right?

11 A. No, sir.

12 Q. That school, it was a military-type
13 school?

14 A. Yes, sir.

15 Q. Why were you attending school there?

16 A. I was attending there to get my GED.

17 Q. Why did you go there to do that?

18 A. Because it was a stable school and it
19 was more they could help me with my WorkKeys
20 certificate also.

21 Q. And so after that school you came back
22 home to North Charleston?

23 A. Yes, sir.

24 Q. What job were you doing when you were
25 arrested?

1 A. Construction.

2 Q. What was the name of the company that
3 you were working for?

4 A. I was working for a staffing agency
5 downtown named IES.

6 Q. And where did they send you to work?

7 A. They send me different places at times
8 and the last time they sent me I would be doing
9 work on they were building I believe it was the
10 auditorium downtown. The Gilliard auditorium.

11 Q. Sent you down there to do that?

12 A. Yes.

13 Q. What kind of work did you do for them?

14 A. Construction and then we did some
15 landscaping.

16 Q. What kind of construction did you do?

17 A. Moving bricks, shoveling and putting
18 pipes down, things like that.

19 Q. Just basic labor stuff; is that right?

20 A. Yes.

21 Q. How much were you paid for that?

22 A. That one was I believe it was \$9.50.

23 Q. Is that about what you usually made an
24 hour?

25 A. Yes.

1 Q. What were your expenses like about that
2 time in late fall of 2015?

3 A. Really didn't have too many expenses
4 other than giving Malakia and my older son's mother
5 money for whenever they need something for the kids
6 or paying my cell phone or whenever my mother asked
7 for a few dollars.

8 Q. Right. Did you live in your mother's
9 home?

10 A. Yes.

11 Q. And you gave some of your pay to the
12 two different mothers of your children?

13 A. When they asked, yes.

14 Q. When they asked?

15 A. Yes.

16 Q. Why didn't you give to the children
17 regularly?

18 A. It was for whenever they needed
19 something, when their mother told me that they
20 needed something.

21 Q. You didn't regularly give the children
22 money, just whenever they bugged you for it?

23 A. Yes or whenever I was out and I saw
24 something nice and I bought it for them.

25 Q. And did the family court order you to

1 make support payments?

2 A. No.

3 Q. Tell me about you and Malakia. That's
4 our story here this week. When did y'all begin
5 your relationship?

6 A. It was somewhere back in 2010 maybe,
7 2011.

8 Q. How did y'all meet?

9 A. She stayed across the street with her
10 mother from my grandmother's house.

11 Q. Where is that?

12 A. On Alabama Drive.

13 Q. That's also in North Charleston?

14 A. Yes.

15 Q. How did y'all meet? Tell me the first
16 meeting?

17 A. We were going out one night with my
18 cousin and she was with my cousins going out also.

19 Q. Okay. That was the first time that
20 y'all met?

21 A. Yes.

22 Q. And that sparked your romantic
23 relationship?

24 A. Yes.

25 Q. And what did you all do that night?

1 A. That night we went out to a nightclub.

2 Q. And then y'all just start dating after
3 that?

4 A. Shortly after, yes.

5 Q. Tell me about your relationship with
6 Malakia. How would you describe it?

7 A. It was a good relationship. It was on
8 and off.

9 Q. Meaning that y'all would date for a
10 while, then break up?

11 A. Yes. Well, we wouldn't break up. We
12 would date on and off, but we would then take a
13 break and then next thing we were back talking.

14 Q. When y'all would take breaks did each
15 one go and date somebody else?

16 A. Yes.

17 Q. But you always ended up back together?

18 A. Yes.

19 Q. How did you get along with her family
20 who has been here all week?

21 A. We got along all right. We didn't have
22 too many situations together, but when we were
23 together it was all right.

24 Q. If you and Malakia were off and on for
25 such a long time why weren't you around her family

1 more?

2 A. I honestly don't know. We just never
3 did go around them that much.

4 Q. Did you reach out to them and try and
5 make friends with them, maybe possible future
6 in-laws or --

7 A. Yes, we joked around from time to time,
8 but was nothing really serious.

9 Q. You joked around with her family?

10 A. Yes.

11 Q. They invite you to family functions?

12 A. Yes.

13 Q. Like what?

14 A. Like cookouts and things like that,
15 Christmas, things like that.

16 Q. And did they like you?

17 A. To my knowledge, yes.

18 Q. Think they approve of you being with
19 Malakia now?

20 A. I'm not sure. I don't know what they
21 think of me right now.

22 Q. You don't know what your relationship
23 with the victim's family is with you now?

24 A. No.

25 Q. Have you made any attempt to contact

1 them?

2 MR. SHAHID: Objection, Your Honor.

3 THE COURT: Excuse me. Basis?

4 MR. SHAHID: Approach?

5 THE COURT: You may.

6 (Following proceedings were held at the
7 bench.)

8 MR. SHAHID: I have to double check his
9 bond. That's one of the issues.

10 MR. WETMORE: You can ask him that on
11 redirect.

12 THE COURT: Why is it relevant?

13 MR. WETMORE: He has expressed no
14 remorse from day one.

15 THE COURT: Is that an element?

16 MR. WETMORE: It absolutely goes to the
17 fact that he did it. Absolutely.

18 MR. SHAHID: It's not an element of the
19 crime.

20 MR. WETMORE: He's been remorseless.

21 THE COURT: He did not contact them.
22 That means he was on bond. I don't think you
23 should have to ask him about his bond when you know
24 that's the case.

25 MR. SHAHID: I got to double check,

1 Judge.

2 THE COURT: Usually is.

3 MR. SHAHID: Usually is.

4 THE COURT: I can't imagine they would
5 have wanted to anyway.

6 MR. WETMORE: If he was remorseful
7 about this he should have reached out to them.

8 THE COURT: His bond said he couldn't
9 so maybe that's the answer. Move on. Sustained.
10 Relevance.

11 (End of sidebar conference.)

12 BY MR. WETMORE:

13 Q. So where did you and Malakia live,
14 together or separate?

15 A. We lived separate, but I spent nights
16 at her house.

17 Q. You spent some nights with her at her
18 house?

19 A. Yes.

20 Q. On Alabama?

21 A. No, she had her own place at one point
22 downtown.

23 Q. Downtown like downtown City of
24 Charleston?

25 A. Yes.

1 Q. Where was that?

2 A. On Alway Street.

3 Q. And then you lived with your mother; is
4 that right?

5 A. Yes, sir.

6 Q. On Harper Street?

7 A. Yes.

8 Q. But you all would spend the night with
9 each other sometimes?

10 A. Yes, I spent a good nights down there.

11 Q. Did she live with her parents?

12 A. She had her own place, but at the time
13 she was staying with her mother.

14 Q. So she lived with her mother, you lived
15 with your mother?

16 A. Yes.

17 Q. And you mentioned the child Rylan. Who
18 took care of Rylan?

19 A. We both did.

20 Q. You both take care of Rylan?

21 A. Yes.

22 Q. And did you and Malakia have a
23 relationship where y'all would get into fights?

24 A. No, we had arguments at times before,
25 but nothing serious.

1 Q. What kinds of things did y'all fight
2 about?

3 A. It was other times where she thought I
4 was dealing with other females also.

5 Q. So she thought you had other girls on
6 the side?

7 A. Yes.

8 Q. And whenever you would stop dating one
9 another you would have girls on the side?

10 A. Yes. After we stopped dating I would
11 see other females, yes.

12 Q. So you were very careful in the
13 relationship with Malakia and then started another
14 girl on the side?

15 A. Yes.

16 Q. Then once you got back with Malakia you
17 would stop that?

18 A. Yes. I would stop talking to all of
19 them, yes.

20 Q. But Malakia was always fighting with
21 you about having other girls in sight?

22 A. Yes.

23 Q. That was something she was upset about?

24 A. Yes.

25 Q. You had a child in common and she was

1 pregnant with another child?

2 A. Yes.

3 Q. And made her mad whenever you'd talk to
4 other girls, right?

5 A. Whenever she felt I was talking to
6 other females, yes, it would.

7 Q. How often would you say y'all would
8 fight?

9 A. Not often.

10 Q. Tell me how often, once a day, once a
11 week, once a month?

12 A. I would say maybe once every other few
13 months.

14 Q. Every other few months?

15 A. Yes.

16 Q. Other than that y'all's relationship
17 didn't have any disagreement whatsoever?

18 A. No, not at all.

19 Q. So once every few months you would have
20 a disagreement. Other than that no problems?

21 A. That's correct.

22 Q. And when y'all got into these very rare
23 fights as you have described them what would take
24 place?

25 A. We would argue, we would call each

1 other names and she'd get real upset and just walk
2 away to cool off.

3 Q. Y'all would scream at each other?

4 A. Yes.

5 Q. Scream nasty things at each other?

6 A. Yes.

7 Q. How intense were these fights?

8 A. It was just most back and forth with
9 words, nothing serious.

10 Q. Were your voices raised with each
11 other?

12 A. At times.

13 Q. And you were cursing?

14 A. Yes.

15 Q. And the subject of these fights was you
16 having other girls?

17 A. Yes.

18 Q. And y'all didn't fight about anything
19 else?

20 A. No.

21 Q. How long would these fights last?

22 A. I will say maybe for a few minutes.

23 Q. Few minutes and then it was smooth
24 sailing for another couple months?

25 A. Yes.

1 Q. Let me take you back a few weeks before
2 Malakia was stabbed to death. You told the police
3 that you gave your black Old Navy brand jacket to a
4 homeless person. Tell me about that.

5 A. I was coming home from work one day. I
6 was coming from the bus stop. And this guy was
7 over that way and he was constantly asking me for
8 money because he was saying he was cold, he was
9 cold. Asked me for money. So I just threw him the
10 jacket. I was tired and I just wanted him off my
11 face so I just threw the jacket and kept going.

12 Q. Now, was this the first time you had
13 ever come in contact with that guy?

14 A. I seen him around, but that was the
15 first time that we had interactions, yes.

16 Q. So you saw him before, you saw him on
17 days previous to giving him this jacket?

18 A. Not soon days, but I seen him in the
19 area before.

20 Q. Okay. What area did he hang out in?

21 A. Between the Ferndale community and the
22 Russelldale community.

23 Q. And you had seen him in that community
24 before the day when you gave him your jacket?

25 A. No, I didn't see him at all that day

1 prior to that. That was the only time I saw him
2 that day.

3 Q. Okay. In the day's time period before
4 you gave him your jacket you had seen him off and
5 on a few times?

6 A. A few times.

7 Q. And had you -- you knew his general
8 area where he would hang out?

9 A. Yes.

10 Q. And he would kind of you beg for stuff?

11 A. Yes.

12 Q. People give him stuff?

13 A. At times.

14 Q. If you knew this guy where he hung out
15 why couldn't you tell the police where to find him?

16 A. He doesn't stay in one specific area.

17 Q. Right. Why did you not give the police
18 a general area of where he was?

19 A. I told them that he was like around
20 Rivers, he was on Rivers.

21 Q. So it's your testimony that you told
22 the police where to find this homeless guy?

23 A. I told them that he be on Rivers, yes.

24 Q. Had you ever given him anything
25 previous to your black Old Navy brand jacket?

- 1 A. No.
- 2 Q. He ever ask you for anything?
- 3 A. Yes, a few times.
- 4 Q. He did?
- 5 A. Yes. Asked me for a few dollars a few
6 times before.
- 7 Q. Right. You didn't give him anything?
- 8 A. No.
- 9 Q. Why wouldn't you give him anything
10 previously?
- 11 A. I don't know. I just didn't. He was
12 constantly asking me. I would just walk away, walk
13 away, walk away.
- 14 Q. Why didn't you give him your black Old
15 Navy brand jacket previously?
- 16 A. Because he didn't see me with it on
17 before and he was not complaining about being cold
18 before.
- 19 Q. Okay. So this would have been what,
20 like, September when you gave it to him?
- 21 A. September or October.
- 22 Q. Well, Malakia was stabbed to death on
23 October 10th. You said that was several weeks
24 before that?
- 25 A. Maybe a week or two prior.

1 Q. So this would have been into September,
2 beginning of October?

3 A. Yes.

4 Q. And in North Charleston he was cold in
5 September?

6 A. Yes.

7 Q. You weren't cold?

8 A. No.

9 Q. So this homeless man was cold in
10 September, but you were not so you gave him your
11 jacket?

12 A. Yes.

13 Q. And at that time you said you were
14 making ten bucks an hour?

15 A. Between 9 to \$10, yes.

16 Q. And you were financially stable enough
17 to give away your clothing?

18 A. I had a jacket at home, but the jacket
19 didn't cost that much.

20 Q. Right. So you didn't mind giving it to
21 him?

22 A. No.

23 Q. Just out of your generosity give him
24 your black Old Navy jacket?

25 A. Yes.

1 Q. Just happened to be a few weeks before
2 it was involved in this case?

3 A. Yes.

4 Q. So you would agree that was certainly
5 the jacket that was found by the police?

6 A. It's apparent that it had to be. It
7 has my DNA on it so it has to be that jacket.

8 Q. So you would agree that was your jacket
9 that the police found involved in this case?

10 A. Yes.

11 Q. No question about that?

12 A. No.

13 Q. Black Old Navy jacket brand, that's
14 your jacket?

15 A. It has to be. It has my DNA on it.

16 Q. It does have your DNA, you are exactly
17 right. That's the jacket that you just happened to
18 give to this unknown homeless person?

19 A. Yes.

20 Q. A few weeks before this thing happened?

21 A. Yes.

22 Q. And you said you had seen this homeless
23 person in the area?

24 A. Yes.

25 Q. Before you gave him your jacket?

1 A. Yes.

2 Q. Okay. Have you seen him after you gave
3 him the jacket?

4 A. No.

5 Q. So you saw this man before, once you
6 gave him the jacket you never saw him again?

7 A. No, not after that day, no.

8 Q. And you were not able to locate him,
9 help the police locate him?

10 A. No.

11 Q. But it is your testimony that was your
12 jacket found in this case?

13 A. It had to have been, yes.

14 Q. All right. Did you give that -- you
15 didn't know this guy's name, the homeless person?

16 A. No.

17 Q. The homeless person, did you give him
18 your white long sleeved thermal shirt?

19 A. I didn't have on a thermal shirt that
20 day.

21 Q. Did you give him one of your white long
22 sleeved thermal shirts?

23 A. No, I did not, no.

24 Q. Did you give anybody else one of your
25 white long sleeved thermal shirts?

1 A. I never gave anyone a thermal shirt,
2 no.

3 Q. Did you have a white long sleeved
4 shirt?

5 A. I may have in the past, but not prior
6 to that, no.

7 Q. You say you may have in the past, but
8 not prior to that. I don't understand what that
9 means.

10 A. I may have had a thermal before but --
11 before the night that that happened I did not have
12 a thermal, no.

13 Q. So you had in the past, but didn't have
14 it the night that happened?

15 A. Yes.

16 Q. But you have had a white long sleeved
17 thermal shirt in the past?

18 A. Yes.

19 Q. Just not that night?

20 A. No.

21 Q. When you gave this unknown homeless
22 your black jacket did you also give him a steak
23 knife from your house?

24 A. No, I did not.

25 Q. Didn't give him that too?

1 A. I didn't give him nothing else.

2 Q. Did you give anybody else --

3 A. No, I did not.

4 Q. -- in the area a steak knife from your
5 house?

6 A. No, I did not.

7 Q. Did you have steak knives in your mom's
8 house where you lived?

9 A. Yes, we have knives in there, yes.

10 Q. What do they look like?

11 A. Some black, some all metal, some brown,
12 some gray, different variety.

13 Q. So do you have knives in your mom's
14 house that have brown handles?

15 A. Yes, we did.

16 Q. Brown wooden handles?

17 A. I believe so, yes.

18 Q. So before this incident happened in the
19 house trailer where you lived with your mom there
20 were knives with brown handles?

21 A. Yes.

22 Q. But you never gave one to anybody else?

23 A. No.

24 Q. Now, I'm going to fast-forward a couple
25 of weeks to just a few days before she was stabbed

1 to death. You told the police you told us today
2 that y'all were downtown, historic downtown
3 Charleston?

4 A. Yes.

5 Q. What were y'all doing?

6 A. Just walking along the waterfront and
7 the Battery.

8 Q. Like the Battery where all those old,
9 big homes are?

10 A. Yes.

11 Q. What time was that?

12 A. Maybe around 10:00 at night, nine or
13 ten or night.

14 Q. And the stabbing happened on Saturday
15 night. So that would have been a few days before
16 that?

17 A. Yes.

18 Q. And that was -- this would have been
19 like Thursday night?

20 A. Yes.

21 Q. And again the time was what?

22 A. Between nine and ten.

23 Q. What were y'all doing, just hanging
24 out?

25 A. Just going for a walk, yes.

1 Q. Just walking?

2 A. Yes.

3 Q. Malakia was six months pregnant?

4 A. Yes.

5 Q. She wasn't tired at nine or 10:00 at
6 night?

7 A. No.

8 Q. She was up for walking around downtown?

9 A. Yes.

10 Q. So you were at the Battery. How did
11 you get to the Battery from [REDACTED] Harper Street?

12 A. You have to get on the interstate I-26.

13 Q. Tell me the exact route y'all took to
14 get from Harper Street to the Battery.

15 A. We would take a left off of Harper on
16 to Piedmont. Once we get on Piedmont we will take
17 a right. I'm not sure what the name of that front
18 street is, take a right on that street and proceed
19 to Rivers. We'd get on Rivers, take a right, go
20 down to the second stop light and get on the
21 interstate.

22 Q. From the interstate how did you get to
23 the Battery?

24 A. You ride the interstate down I-26. Get
25 off at Meeting Street and ride Meeting Street on

1 down.

2 Q. From Meeting how did you get to
3 Battery?

4 A. Once you ride down Meeting or you can
5 go down East Bay area, ride your street to the
6 Battery.

7 Q. Okay. Were you driving that night?

8 A. No.

9 Q. Who was driving?

10 A. No, I was driving. I was driving her
11 car that night.

12 Q. So you were driving?

13 A. Yes.

14 Q. And was Malakia with you?

15 A. Yes.

16 Q. And so you go down either Meeting or
17 East Bay going south, right? How did y'all get to
18 the Battery?

19 A. We parked by the waterfront that night
20 and we walk to the Battery and walked back toward
21 the waterfront.

22 Q. So where did you find these thorny
23 flowers that cut your hand?

24 A. It was in a walkway between the houses
25 and like a window-type box.

1 Q. What part of downtown was that? Was
2 that at the Battery?

3 A. Coming from the Battery.

4 Q. You were coming back towards Waterfront
5 Park?

6 A. Yes.

7 Q. Back towards East Bay?

8 A. Yes.

9 Q. You are telling me that it was 10:00 at
10 night?

11 A. Yes.

12 Q. You went in one of these old historic
13 homes and in their yard?

14 A. It wasn't in the yard. It was at the
15 house, that windowsill along the street.

16 Q. It was just kind of on the road?

17 A. Yes, windowsill sits along the road.

18 Q. That's on Broad Street or what?

19 A. I believe that to be East Bay Street.

20 Q. East Bay Street. You believe there's a
21 home on East Bay Street that has a window box
22 hanging in the road?

23 A. Yes, along the sidewalk.

24 Q. And you believe that there are -- these
25 are somebody's homes, right?

1 A. Yes.

2 Q. Not a business, but a home?

3 A. No.

4 Q. And it's your testimony one of these
5 homes on East Bay Street had a flower box sticking
6 out into the sidewalk I guess?

7 A. Yes. They had a flower box on the --
8 by the sidewalk and then you turn down an alleyway,
9 they had more boxes along the alleyway.

10 Q. So you turned on East Bay down an
11 alley?

12 A. Yes.

13 Q. So you went down an alley into a
14 private like neighborhood?

15 A. No. Alleyway take you toward
16 Waterfront. You can walk the sidewalk to get there
17 or you can take the alley.

18 Q. And so when you saw these flowers tell
19 me exactly how that played out.

20 A. She said that they were nice, she liked
21 them and I decided to grab a few.

22 Q. So she noticed them and you said I'm
23 going to be romantic, I'm going to grab them?

24 A. Yes.

25 Q. What did they look like?

1 A. I believe some were purple and some
2 were red.

3 Q. And it is your testimony they had some
4 pretty nasty thorns on them?

5 A. Yes.

6 Q. And you stuck your hand down in that
7 box?

8 A. Yes.

9 Q. Which hand did you stick down in there?

10 A. My right.

11 Q. Did the flowers get you right away
12 or --

13 A. Once I got to the bottom of the flower
14 bed, yes, they did.

15 Q. And did you actually get the flowers
16 out?

17 A. Yes.

18 Q. Thorns and all?

19 A. Yes.

20 Q. You got them out. How many did you rip
21 out of the flower box?

22 A. Two, three.

23 Q. Yes?

24 A. Yeah.

25 Q. You didn't see anything wrong with

1 tearing somebody's flower box up like that?

2 A. Not at the time I didn't, no.

3 Q. You didn't think they probably prefer
4 to keep those in the flower box?

5 A. I really didn't thought about it. I
6 know she liked them and I just decided to go get
7 them.

8 Q. So did you give them to her?

9 A. After I had cleaned it up some, yes.

10 Q. How did you clean them up?

11 A. Took a key and continued to file the
12 thorns off of them.

13 Q. You didn't want them to get her like
14 they got you?

15 A. No.

16 Q. That was just done simply just to be
17 romantic with the victim, Malakia Frazier?

18 A. Yes.

19 Q. Now, let me go a couple of days after
20 that, October 10th. This was the day when she was
21 stabbed. You said you just pretty much watched TV
22 all day?

23 A. Yes.

24 Q. At some point in time in the afternoon
25 Malakia came over to your house?

1 A. Yes.

2 Q. And when she came over to your house
3 were y'all playing with the children?

4 A. They weren't there. They were with my
5 mother.

6 Q. With Rylan. You and Malakia have one
7 child?

8 A. Yes.

9 Q. Why weren't y'all playing with Rylan?

10 A. He wasn't there.

11 Q. Why didn't y'all have him with him?

12 A. He was going somewhere with my mother.

13 Q. So did your mother usually keep Rylan?

14 A. At times, yes, she would, yes.

15 Q. He wasn't there when this took place?

16 A. No.

17 Q. And I believe you said first place you
18 all went was Park Circle and were beginning to take
19 a walk, but you didn't?

20 A. Yes. She changed her mind.

21 Q. Why did she change her mind?

22 A. I don't know. She just was tired I
23 guess and we just decided to sit in the car and
24 listen to the radio and talk.

25 Q. She was tired and didn't feel like

1 taking a walk around the park?

2 A. Yes.

3 Q. She felt like having sex in the car
4 with you?

5 A. It wasn't something planned. It was
6 just something that happened.

7 Q. Right. Six months pregnant, tired out,
8 she said man, let's just have sex right here in the
9 car?

10 A. Yes.

11 Q. And was that in her car?

12 A. Her car.

13 Q. After y'all finished having sex was she
14 ready to take a walk or still too tired?

15 A. No. When we finished she was telling
16 me about her taillight so we decided to go to
17 Wal-Mart.

18 Q. Okay. And you looked at how many
19 costumes?

20 A. I'm not sure. We didn't really pick
21 out many. We just looking at them along the
22 display.

23 Q. You were looking at them?

24 A. Yes.

25 Q. Why didn't you take Rylan with you to

1 look at Halloween costumes? It was his costume?

2 A. He wasn't with us.

3 Q. Why didn't you wait and go take him?

4 A. Because we really didn't go there for
5 the costumes. We were going there for the
6 taillight. We just stopped by and we saw the
7 costumes.

8 Q. So he wasn't -- Rylan wasn't with
9 y'all?

10 A. No.

11 Q. Then y'all went to the baby section?

12 A. Yes.

13 Q. What were you doing there?

14 A. Looking at clothes and cribs and
15 strollers, pricing things up.

16 Q. Pricing things out. Set up a nursery?

17 A. Something like that, yes.

18 Q. For the baby that was later named
19 Miracle Frazier?

20 A. Yes, sir.

21 Q. Where was that nursery going to be?

22 A. We didn't know yet. We were talking
23 about moving in together so we really didn't know
24 yet.

25 Q. You were just doing some initial

1 shopping?

2 A. Yes.

3 Q. And that was to be for the child that
4 she was carrying that was yours?

5 A. Yes.

6 Q. Y'all never got to set up that nursery,
7 did you?

8 A. No, we did not.

9 Q. And we have seen some photos of you in
10 the Wal-Mart with Malakia, right?

11 A. Yes.

12 Q. Just shopping around Wal-Mart, nothing
13 unusual?

14 A. Yes.

15 Q. In those photos we see what you are
16 wearing?

17 A. Yes.

18 Q. Dark jeans and a white shirt?

19 A. Yes.

20 Q. Do you have any photographs of y'all
21 just happy together at about 11:00 p.m. that night?

22 A. Not that I know of, no.

23 Q. Do you have -- you don't know of any
24 photos of y'all together at 11:30 that night. What
25 about any photos of what you were wearing at that

1 time about 11:00, 11:30?

2 A. No.

3 Q. So there's no way you can show the jury
4 that y'all are happily together or what you were
5 wearing at the time of the stabbing?

6 A. I had the same thing on prior to that I
7 had on all day.

8 Q. And after the Wal-Mart is that when you
9 go back to your mom's house where you were living?

10 A. Yes.

11 Q. And you said that your son wanted to
12 stay at that trailer?

13 A. Yes. My mother and my brother pull up
14 shortly after and Rylan came and asked his mother
15 can he stay over.

16 Q. So your mom had your child with Malakia
17 and your child with another mother?

18 A. Yes.

19 Q. She was taking care of both of those
20 children?

21 A. Yes.

22 Q. And also she had your brother with her?

23 A. Yes.

24 Q. She was taking care of everybody sounds
25 like?

1 A. Yes, they were in the car with her.

2 Q. And your son wanted to stay at your
3 trailer that night?

4 A. Yes.

5 Q. What time was this?

6 A. Somewhere after -- I think was maybe
7 about 9, 9 or so. It was after 8:00.

8 Q. It's definitely bedtime, right?

9 A. Yes.

10 Q. But he didn't go to bed right there and
11 then at the house?

12 A. No.

13 Q. Where did he go?

14 A. He went with my mother. They were
15 going to take my oldest son home.

16 Q. So they were going to take your other
17 child back to his mother's house?

18 A. Yes.

19 Q. Why did Rylan go with them? Why didn't
20 you just put him down at your house?

21 A. We just let him ride with them.

22 Q. And that wasn't past his bedtime?

23 A. No.

24 Q. So your mother took the child from
25 another lady, child with Malakia and your brother

1 at 9:00 or so and where she did go?

2 A. She was going to take the oldest son
3 home.

4 Q. You didn't do that?

5 A. No.

6 Q. You asked her to do it?

7 A. Yes. He was with her the whole day so
8 she was going to drop him back off.

9 Q. So when this argument took place the
10 night of October 10th it was just you and Malakia
11 at the house?

12 A. Yes.

13 Q. And the actual argument itself took
14 place appeared to be around 11:00 at night, sound
15 right to you, or am I off?

16 A. Late ten, early 11:00, yes.

17 Q. And your mom wasn't back with your two
18 children or your one child and your brother yet?

19 A. She came there and then she left again.
20 She wasn't there when we were arguing, no.

21 Q. So let me take you to the argument.
22 Were you all sitting in her car?

23 A. Yes.

24 Q. It was at your house or your mom's
25 house?

1 A. Yes.

2 Q. All right. Where were you sitting?

3 A. In the passenger seat.

4 Q. And was she sitting in the driver's
5 seat?

6 A. Yes.

7 Q. Tell me what were the details of this
8 first argument, that first round, I guess probably
9 of the same argument?

10 A. Yes.

11 Q. I will call it the first round. What
12 were the details of the first round of the
13 argument?

14 A. She thought someone was calling the
15 phone. She thought it was another female.

16 Q. And sounds like the flowers and the
17 romance were over at that point? She was
18 frustrated at you?

19 A. She was starting to get upset, yes.

20 Q. She was six months pregnant with your
21 child?

22 A. Yes.

23 Q. Y'all just had sex in the car?

24 A. Yes.

25 Q. She thought you had another girl on

1 your phone?

2 A. Yes.

3 Q. Tell me exactly how the argument went?
4 What did y'all do?

5 A. We were going back and forth arguing,
6 cursing of that nature and using each other,
7 calling each other names and she got out of the car
8 and walked.

9 Q. So you are arguing with a six-month
10 pregnant woman?

11 A. Yes.

12 Q. Who is carrying your child?

13 A. Yes.

14 Q. And why did she think there was another
15 girl on your phone?

16 A. Because she thought she saw a number
17 that called me earlier that day.

18 Q. And y'all are cursing at each other?

19 A. Yes.

20 Q. Were you all yelling at each other?

21 A. At times, yes.

22 Q. And how long did y'all cuss back and
23 forth at each other?

24 A. Twenty, 25 or so minutes.

25 Q. On your direct you said 30 minutes so

1 that's about right?

2 A. Yes.

3 Q. Thirty minutes is a pretty long time to
4 be yelling and cussing at somebody, isn't it?

5 A. It can be, yes.

6 Q. Is that how y'all's fights usually
7 went, that length of time, that intensity?

8 A. Not all the time, but sometimes, yes.

9 Q. So this was a particularly worse fight
10 than y'all usually had?

11 A. A little.

12 Q. If y'all usually have a relatively
13 short fight, this one was yelling and cussing for
14 30 minutes long, how is this not a much more
15 significant fight that y'all usually had?

16 A. When we argue before we curse and do
17 call each other names and it's basically the same
18 thing.

19 Q. But this one was a long one?

20 A. A little longer, yes.

21 Q. This one was a little bit more heated?

22 A. Yes.

23 Q. Because y'all had just had sex and she
24 saw another girl on your phone?

25 A. There was no one on the phone.

1 Q. She thought she had?

2 A. Yes.

3 Q. Why did she think that?

4 A. Because she saw a number in the phone
5 and she thought it was a female number.

6 Q. That's obviously a sore subject for
7 you, isn't it?

8 A. Yes.

9 Q. Got her mad?

10 A. Yes.

11 Q. Y'all had a long fight?

12 A. Yes.

13 Q. Were you yelling and cussing at a
14 six-month pregnant woman?

15 A. Yes.

16 Q. You know that's not good for them,
17 right?

18 A. Okay, yeah. I was told that, yeah.

19 Q. All right. So at the end of this first
20 round what did she do?

21 A. She left out the vehicle and walked
22 around the corner.

23 Q. How do you know which way she went?

24 A. I was still sitting in the vehicle.

25 Q. And so where was she going?

1 A. She just took a walk around the corner.
2 I didn't know where she was going.

3 Q. All right. Did she do that pretty
4 typically, walk off like that?

5 A. Yes.

6 Q. Walk off and cool off?

7 A. Yes.

8 Q. Sounds like a good plan. What did you
9 do at the end of this first round of this
10 30 minutes of arguments?

11 A. Stayed in the car and was finishing
12 drinking my beer that we had obtained earlier.

13 Q. How long did you stay in the car?

14 A. Probably about ten minutes or so.

15 Q. Then she came back?

16 A. Yes.

17 Q. Why did you tell the police that you
18 went inside after she left?

19 A. I did shortly, yeah.

20 Q. Which it is? Did you stay in the car
21 or did you go inside?

22 A. Stayed in the car and then went in
23 shortly.

24 Q. After she left you stayed in the car
25 for a while, then went inside for a while?

1 A. Yes, shortly.

2 Q. You mean you were inside for a short
3 period of time?

4 A. Yes.

5 Q. Did you tell the police that you
6 changed your clothes when you went inside?

7 A. No, I did not.

8 Q. You didn't tell them that?

9 A. No, I didn't change clothes.

10 Q. But did you tell them you changed your
11 clothes?

12 A. No, I did not.

13 Q. Did you pick up one of those brown
14 handle steak knives when you were inside?

15 A. No, I did not.

16 Q. There's no question you went inside the
17 first time she left?

18 A. Yes, peaked inside the door, yes.

19 Q. Just peaked your head inside the door?

20 A. Stepped in the door, stepped in the
21 door.

22 Q. So you went inside the trailer?

23 A. Yes.

24 Q. How long did you stay in there?

25 A. No more than two minutes.

1 Q. Why did you tell the police that you
2 changed your clothes or your shoes?

3 A. I didn't change clothes.

4 Q. Changed your shoes?

5 A. Yes.

6 Q. You didn't really mention that just
7 then?

8 A. Yes.

9 Q. But now you are telling me that you did
10 change your shoes when you went inside there?

11 A. Yes, I had my brown Perry Ellis, but
12 they were hurting my feet.

13 Q. That's when you put on those brown duck
14 boots?

15 A. Yes, they were sitting in the front
16 room, yes.

17 Q. So you did go inside?

18 A. Right by the door, yes.

19 Q. On direct you said you stayed in the
20 car?

21 A. I was in the car and then I got out and
22 went into the house.

23 Q. You didn't mention coming into the
24 house on direct examination, did you?

25 A. No.

1 Q. Why not?

2 A. You didn't ask.

3 Q. I wasn't asking the questions, Mr.

4 Short. All right. So you went in the house and
5 changed your shoes?

6 A. Yes.

7 Q. You did not change your clothes?

8 A. Not at all.

9 Q. Didn't add any clothes to the mix?

10 A. No.

11 Q. Wasn't getting chilly out, you didn't
12 put on a long sleeve shirt and jacket?

13 A. No, I didn't.

14 Q. Kept on your short sleeved white
15 T-shirt?

16 A. Yes, I did.

17 Q. That's it. And you surely didn't pick
18 up a steak knife?

19 A. No, I did not.

20 Q. Now, did Malakia come back to where you
21 were?

22 A. Yes.

23 Q. Where were you when she came back to
24 that house?

25 A. On the porch.

1 Q. Sitting on the porch?

2 A. Yes.

3 Q. She comes walking up or --

4 A. I didn't really see when she came. She
5 came from the Railroad way and she was walking
6 toward the car.

7 Q. She came from Railroad walking towards
8 the car?

9 A. Yes.

10 Q. You are on the porch?

11 A. Yes.

12 Q. All right. So what did you do?

13 A. I approached her to see if she was
14 calmed down and we got back in the car and finished
15 talking and it consumed into an argument again.

16 Q. So she came back in the car?

17 A. Yes.

18 Q. Why didn't you all talk on the porch?

19 A. I don't know. We just always sat in
20 the car.

21 Q. Why didn't y'all talk inside the
22 trailer?

23 A. We just sat in the car.

24 Q. All right. So when she first came back
25 y'all got in the car together. She still mad?

1 A. Not initially, no.

2 Q. She was calmed down? She was okay?

3 A. Yes.

4 Q. Why did you tell the police that she
5 wouldn't speak to you for a long period of time
6 when she first got back?

7 A. She wasn't talking and then that's when
8 she started questioning me again.

9 Q. Just then you said that y'all talked
10 about it and then it turned into an argument again?

11 A. Once we got back in the car.

12 Q. You told the police that she gave you
13 the silent treatment?

14 A. For a short period of time, yes.

15 Q. And then when she started talking to
16 you again what did y'all talk about?

17 A. She started questioning me asking me if
18 I was lying.

19 Q. Lying about what?

20 A. About dealing with the other females.

21 Q. Again that time were y'all yelling at
22 each other?

23 A. Not initially, no.

24 Q. Did you at some point start the
25 yelling?

1 A. Yes.

2 Q. Y'all cussing at each other?

3 A. Yes.

4 Q. On direct examination you said that you
5 were angry?

6 A. Somewhat upset.

7 Q. On direct examination you said you were
8 angry, angered?

9 A. Somewhat upset.

10 Q. But yet you said that you were laughing
11 at her?

12 A. Yes.

13 Q. Why were you trying to antagonize a
14 six-month pregnant woman?

15 A. I wasn't really trying to antagonize
16 her. I was just trying to show her that I wasn't
17 bothered by it, which I was.

18 Q. So you were bothered by it?

19 A. A little.

20 Q. Just a little bit?

21 A. Yes.

22 Q. And you were trying to set her off,
23 make her mad?

24 A. Not really, no, just trying to laugh it
25 off to blow the situation off.

1 Q. You were trying to diffuse it?

2 A. Yes.

3 Q. Because on direct you had said you were
4 trying to laugh because you knew that made her mad?

5 A. I knew it made her mad, but when I
6 laughed she would just leave, calm down, situation
7 dials down.

8 Q. Why would you take the situation and
9 try to do something that would make her mad, even
10 madder than she already was?

11 A. When she gets mad she leaves and calms
12 down and situation is over.

13 Q. So your strategy was to make her madder
14 than she already was so she would leave?

15 A. I really did not think about making her
16 mad, just kind of laughed and blew it off.

17 Q. But you did that to make her mad?

18 A. I knew it made her mad, but I didn't
19 think about making her mad.

20 Q. She tried to tell you something like
21 this isn't even your baby?

22 A. No.

23 Q. She never said anything like that?

24 A. No.

25 Q. Was that even a question in your mind?

1 A. No. We were going to get a DNA test
2 though. We already talked about it before.

3 Q. Why would you get a baby DNA tested if
4 there was no question in your mind that it was your
5 baby?

6 A. Because we talked about it before and
7 she said she just wanted to do it, did not want any
8 problems about it. So she talked about it and we
9 said we were going to do it.

10 Q. You didn't have any question that was
11 your baby she was carrying?

12 A. No.

13 Q. But did she have a question about it?

14 A. Not to my knowledge, no.

15 Q. Why did she want a DNA test to be done?

16 A. Just something that we agreed upon.

17 Q. So the fatherhood of the baby was
18 somewhat of a question mark; is fair to say?

19 A. It can be because we were going to do a
20 DNA test, yes.

21 Q. So who the father of the baby was still
22 a question at this point?

23 A. A little.

24 Q. I imagine that was kind of a sore
25 subject?

1 A. No.

2 Q. No, that wasn't a big deal?

3 A. No.

4 Q. She didn't say anything about that when
5 she came back the second time?

6 A. No.

7 Q. All right. You said that she hit you
8 with that big set of keys; is that right?

9 A. Yes.

10 Q. Tell me exactly how that took place?

11 A. We were sitting in the car and I called
12 her a few names and she just reached out and struck
13 me with the keys.

14 Q. She had them in her hand and popped you
15 with them?

16 A. Yes.

17 Q. And that would have been on the left
18 side of your face?

19 A. Yes.

20 Q. Right above your eyebrow?

21 A. Somewhere in that area, yes.

22 Q. And so she hit you hard enough to give
23 you a little, small cut?

24 A. It could have.

25 Q. Did it?

1 A. I'm not sure.

2 Q. You don't remember?

3 A. No.

4 Q. Did it hurt?

5 A. It did hurt.

6 Q. Did it make you mad?

7 A. No.

8 Q. You didn't care she just smashed her
9 keys in your face?

10 A. I cared, but it didn't bother me.

11 Q. So you cared, but not a whole lot?

12 A. Yes.

13 Q. So did she leave again?

14 A. Shortly after, yes.

15 Q. Where was she going that time?

16 A. She proceeded to walk toward Railroad.

17 Q. Did she say where she was going?

18 A. No, she never said where she is going,
19 just leaves.

20 Q. Hits you with the keys and takes off?

21 A. Yes.

22 Q. Why didn't she say get the heck out of
23 my car and drive off?

24 A. I don't know. She just got out and
25 left.

1 Q. Seems like if she was that frustrated
2 she would have just driven off and left you on the
3 side of the road? You are at your home, right?

4 A. Yes.

5 Q. She didn't tell you why she was on foot
6 and not using her car?

7 A. No.

8 Q. Did she ask you to get out of her car?

9 A. No.

10 Q. At that time were y'all still waiting
11 on your child to come back?

12 A. At that point he was still with my mom
13 taking the oldest child home.

14 Q. 11:30 at night?

15 A. Yes.

16 Q. He's still out?

17 A. Yes.

18 Q. Was Malakia waiting on him to come
19 back?

20 A. No, because he asked her can he stay
21 with my mother to spend the night.

22 Q. So she wasn't waiting on your child to
23 come back?

24 A. No.

25 Q. You don't know why she didn't just

1 drive away or leave you at your house?

2 A. No.

3 Q. So she walked off toward Railroad. Did
4 she take a right or left?

5 A. I believe she took a right.

6 Q. Was she like storming off real fast or
7 just kind of --

8 A. Just casually walking.

9 Q. All right. And how long did you wait
10 before following her?

11 A. Maybe five to seven minutes.

12 Q. What did you do in that five to seven
13 minutes?

14 A. I was just sitting on the car.

15 Q. On the car?

16 A. On the hood.

17 Q. So the hood of the car?

18 A. Yes.

19 Q. Sitting by yourself for five to seven
20 minutes?

21 A. Yes.

22 Q. What were you doing?

23 A. Just sitting there.

24 Q. Just sitting?

25 A. Yes.

1 Q. You didn't go in the house and grab a
2 steak knife?

3 A. No, I didn't.

4 Q. You didn't?

5 A. No.

6 Q. You just sat there by yourself doing
7 absolutely nothing for five to seven minutes?

8 A. That's correct.

9 Q. And at some point did you decide to
10 follow her?

11 A. Yes, I was going to the corner store to
12 get a drink and also see if she was okay, check and
13 make sure she calmed down.

14 Q. Okay. And so you were walking to
15 follow her to Railroad?

16 A. Yes.

17 Q. You take a right or left on Railroad?

18 A. A right.

19 Q. And right at that corner is that when
20 you heard her screaming?

21 A. Once I got to the middle of the houses
22 where the houses separate.

23 Q. Right. So it is your testimony that in
24 the middle of this heated two round argument with
25 you somebody else stabbed her?

1 A. I didn't.

2 Q. So it is your testimony that some other
3 person stabbed her 30 times while she was in the
4 middle of an argument with you?

5 A. Shortly after we did argue, yes.

6 Q. So you had one round of the argument,
7 round two of the argument, then some other unknown
8 person stabbed her 30 times?

9 A. Yes, sir.

10 Q. And you didn't see them?

11 A. No.

12 Q. You didn't chase him down and stop him?

13 A. No, I did not. I didn't see anyone.

14 Q. I thought you just said on direct you
15 saw some people milling around?

16 A. It was an Hispanic female and a
17 Hispanic guy.

18 Q. There is no question that they didn't
19 do this, did they?

20 A. I don't even know. They were just
21 standing there.

22 Q. So it is your testimony some unknown
23 person attacked her and what did you do?

24 A. Once I reached down that where Railroad
25 where they were and I saw what was going on I just

1 jumped on the ground by her and tried to call for
2 help.

3 Q. Is there anybody else that had a
4 problem with Malakia?

5 A. Not that I know of, no.

6 Q. She get in fights with other girls or
7 guys, anything like that?

8 A. Not that I know of, no.

9 Q. Anybody looking for her for drugs or
10 money?

11 A. No, she didn't do drugs.

12 Q. She had no enemies?

13 A. No.

14 Q. Who in the world would have stabbed her
15 30 times while she was arguing with you?

16 A. That's what I want to know.

17 Q. That's why we are here. Did you hear
18 her yelling?

19 A. Yes.

20 Q. What was she yelling?

21 A. Stop it, stop, stop.

22 Q. Stop, stop, stop? No question she was
23 yelling that?

24 A. No.

25 Q. If some random unknown person was

1 attacking her doesn't it make sense she would be
2 yelling Ricky, help, Ricky, help me?

3 A. I wasn't right by so she couldn't yell
4 my name.

5 Q. Doesn't it make sense she would be
6 yelling help, help?

7 A. It could, yes.

8 Q. Isn't stop something that you would
9 yell at someone you are close to you are hoping
10 they will come to their senses?

11 A. No.

12 Q. It's not?

13 A. You can yell anything.

14 Q. You can yell anything you want. She
15 was yelling stop, wasn't she?

16 A. Yes.

17 Q. She wasn't asking you for help? She
18 wasn't saying help me, Ricky, some unknown person
19 is stabbing me?

20 A. No. But I believe she was trying to
21 run and get back towards me coming back my way.

22 Q. She was coming back to her car?

23 A. Towards me and her car, yes.

24 Q. She didn't yell for help?

25 A. No.

1 Q. She yelled stop?

2 A. Yes.

3 Q. All right. You didn't see anybody
4 other than the Hispanic people?

5 A. I didn't see no one right except for
6 them.

7 Q. You don't know of anybody else that had
8 a problem with Malakia?

9 A. Not to my knowledge.

10 Q. You know for a fact she had no enemies?

11 A. Yes.

12 Q. And yet you believe -- you would have
13 the jury to believe someone else stabbed her 30
14 times while she was in the argument with you?

15 A. She just had an argument with me, but I
16 was still at my house.

17 Q. So did you run up to the spot where she
18 was lying on the ground?

19 A. Yes. Yes, I did.

20 Q. Did you ask the people oh, my God, what
21 happened? Who did this?

22 A. No. Once I got there and I saw her, my
23 first thing was just to get her help so I started
24 asking them for their address.

25 Q. Your first response at the scene your

1 girlfriend of five or six years, mother of your
2 children, response was to coolly try and find the
3 address?

4 A. To get her help. I was trying to call
5 911, yes.

6 Q. And you weren't overcome with emotion?

7 A. Not immediately, but shortly after,
8 yes.

9 Q. So when you first got there you were
10 relatively calm?

11 A. Somewhat.

12 Q. Calm enough that your first response
13 was to try to get the address and try and make a
14 phone call?

15 A. Yes.

16 Q. You didn't -- you weren't upset?

17 A. I was upset.

18 Q. You didn't ask anybody what happened,
19 who did this? Oh, my God, what happened?

20 A. I didn't talk to them, to the Hispanic
21 people, no. I just was asking for the address.

22 Q. So you asked them for the address, but
23 you didn't ask them what just happened to my
24 girlfriend?

25 A. I don't even know if they were there or

1 not so it didn't dawn on me.

2 Q. That wasn't a natural response out of
3 you?

4 A. First response was to get her help.

5 Q. So did you ever leave her side after
6 you found her?

7 A. No.

8 Q. You didn't leave her side and go hide
9 your knife and jacket and shirt?

10 A. No, I did not.

11 Q. You have been here all week. You heard
12 that the Hispanic witness gave the police a
13 description of a black male, black jacket stabbing
14 the victim?

15 A. Yes.

16 Q. And then later on they saw you coming
17 up?

18 A. Yes.

19 Q. How is that timing? Can you explain
20 that timing? They could see a black male, black
21 jacket stabbing the victim. They could come back
22 later and then you come back later.

23 A. They said that they were driving
24 around, but I didn't see any vehicles on Railroad
25 when I was running down Railroad. Once I got on

1 Railroad they were just walking back and forth
2 right there.

3 THE COURT: Let me interrupt you.
4 Ladies and gentlemen, you all have been sitting a
5 little over an hour. Does anyone need to go to the
6 restroom? Why don't y'all stand up for me. Thank
7 you.

8 (Brief pause.)

9 BY MR. WETMORE:

10 Q. It is your testimony that the Hispanic
11 witnesses saw Malakia being stabbed by a black male
12 in a black jacket and they drove around somewhere
13 and came back and then that's when you came upon
14 her?

15 A. I don't know if they drove around. I
16 just saw them walking back and forth.

17 Q. You just said they drove around?

18 A. No, I didn't see any vehicles. I saw
19 them walking back and forth.

20 Q. So tell me now how is it that you
21 became covered in Malakia Frazier's blood?

22 A. Because I was down there holding her.

23 Q. You put your shirt under her head,
24 right?

25 A. Yes.

1 Q. It was her blood on that shirt?

2 A. Yes.

3 Q. How did her blood get on that shirt?

4 A. I placed the shirt under her head.

5 Q. It wasn't on there before you put it
6 under her head, was it?

7 A. No.

8 Q. So you didn't have any of her blood on
9 your shirt before you put it underneath her head?

10 A. No.

11 Q. How did you get scratched on the right
12 side of your face that we see in the photographs?

13 A. I don't think those were scratches.
14 Those may have been blood and dirt from when I was
15 touching my face.

16 Q. So you think that the photo Mr. Shahid
17 showed you shows just blood that's wiped on you? I
18 will show it. This is 19. That is just dried
19 blood that you got wiped on there?

20 A. Yes, sir.

21 Q. It looks like this dried blood to you?

22 THE COURT: Please refer to the exhibit
23 number.

24 A. Yes, sir. It would be, yes, sir, blood
25 and dirt.

1 Q. So 19 looks to you just like dried
2 blood that got wiped on there?

3 A. Yes, sir.

4 Q. That doesn't look like a fingernail
5 scratch to you?

6 A. No, not at all.

7 Q. And the cut on your hand that the
8 police noticed, that was from the thorny flowers?

9 A. Yes.

10 Q. So you were there with the victim,
11 Malakia Frazier?

12 A. Um-hmm.

13 Q. When the police showed up?

14 A. Yes, sir.

15 Q. Wearing jeans and boots, that's it?

16 A. Yes.

17 Q. And when they arrived they indicated
18 you weren't upset, you were standing there with
19 your hands like this on your head?

20 A. No, I was not. I was kneeling.

21 Q. Okay. Were you upset?

22 A. Yes, I was. I was terribly upset.

23 Q. Terribly upset?

24 A. Yes.

25 Q. They characterized it as not upset.

1 You just were --

2 A. Something that they said.

3 Q. That's not true? You were very upset?

4 A. Yes.

5 Q. They just didn't notice how upset you
6 were?

7 A. They really didn't even pay any
8 attention.

9 Q. Right. Who were they paying attention
10 to?

11 A. Malakia.

12 Q. And when the police or I guess you said
13 you told the police that she was six months
14 pregnant?

15 A. Yes, told them that multiple times.

16 Q. Multiple times?

17 A. Yes.

18 Q. And you told them that y'all had had an
19 argument?

20 A. Yes. They asked me what was happening
21 and I told them we had an argument, she stormed off
22 and walked around the corner.

23 Q. They very naturally detained you as a
24 person who might have some information about this?

25 A. That's what they said.

1 Q. You told them that she is six months
2 pregnant, you're her boyfriend, you all had an
3 argument and she stormed off, you are standing
4 there and she is on the ground stabbed to death?

5 A. Yes.

6 Q. Does it make sense they would detain
7 you to talk to you about that?

8 A. They could have talked to me about it,
9 but detaining, that was more like an early arrest.

10 Q. Early arrest? And you didn't tell them
11 hey, you have got the wrong guy here?

12 A. Yes, I kind of mentioned that.

13 Q. You mentioned that?

14 A. I said what was going on. You
15 arresting me for us having an argument? He was
16 just blowing it off while he put cuffs on.

17 Q. Didn't strike you to scream at the top
18 of your lungs, whoa, I didn't do this? You got the
19 wrong guy?

20 A. Really didn't think about it. I was
21 mostly thinking about her. I really wasn't
22 focusing on them.

23 Q. So you were thinking about her, that's
24 good. You didn't think to tell them whoa, you got
25 the wrong guy?

1 A. I did told them that.

2 Q. And then at some point they took you to
3 city hall?

4 A. Yes.

5 Q. And did they treat you badly at the
6 city hall interview room?

7 A. They didn't treat me nice.

8 Q. What did they do that was bad?

9 A. Cursing, things of that nature,
10 degraded me, calling me a liar and I was sitting
11 there clearly telling them the truth.

12 Q. Clearly?

13 A. Clearly.

14 Q. And they were cussing at you? You
15 don't like to hear cussing, do you?

16 A. Doesn't bother me.

17 Q. Why did it bother you when they were
18 cussing at you?

19 A. Because they are telling me that I was
20 lying and about something about my kids' mother.

21 Q. The cursing didn't bother you, it was
22 the fact they didn't believe you?

23 A. Yes.

24 Q. That made you mad?

25 A. It upset me, yes.

1 Q. Did they give you an opportunity to
2 have food, drink, anything like that?

3 A. Later on that night, yes.

4 Q. They didn't offer you food and drink
5 the moment you stepped in that room?

6 A. No, they didn't.

7 Q. They didn't?

8 A. No.

9 Q. Did you ever ask for it and they said
10 no?

11 A. No, never asked for it. I just
12 constantly asked them what was going on with her.

13 Q. They gave you your rights pursuant to
14 the Constitution?

15 A. Later on that night, yes.

16 Q. And you understood those rights?

17 A. Yes.

18 Q. Initialed them?

19 A. Yes.

20 Q. Signed your name?

21 A. Yes.

22 Q. And you waived those rights and you
23 talked to them?

24 A. Yes, I did.

25 Q. You told them the whole truth?

1 A. Everything that I knew, yes, I did.

2 Q. So when you told them about the story
3 you have told today about giving an unknown
4 homeless person your black Old Navy jacket, that
5 was 100 percent true?

6 A. Yes, it was.

7 Q. When you told them the story about
8 cutting your hand on flowers that was completely
9 true?

10 A. Yes, sir, yes, it was.

11 Q. And when you told them that you just
12 were in an argument and all of a sudden randomly
13 somebody else stabbed her that was all true?

14 A. Yes, sir.

15 Q. All right. Now, are you aware that the
16 police found your black Old Navy jacket, your white
17 thermal shirt and the knife like those in your
18 house less than a block from where this happened?
19 Are you aware of that?

20 A. I was told that they found an Old Navy
21 jacket that she had asked me about prior to. But I
22 never had on a thermal or no knife. That's not
23 mine.

24 Q. But you are aware today they found
25 those pieces of evidence right by where this

1 happened?

2 A. Yes, they told me that it was maybe a
3 block and-a-half away.

4 Q. Not a great hiding spot?

5 A. I don't know where it was hiding.

6 Q. So did you hide these items?

7 A. No, I did not.

8 Q. Did you rip your jeans jumping that
9 chain link fence?

10 A. I don't know what chain link fence you
11 are talking about.

12 Q. The fence where these things were
13 hidden?

14 A. No, I did not.

15 Q. You didn't?

16 A. No, I did not. Those are my work
17 pants.

18 Q. You didn't rip those work pants at
19 work?

20 A. Few weeks prior to that, yes.

21 Q. Okay. How did you rip them at work?

22 A. Messing around with some bricks and
23 things.

24 Q. You cut your jeans with bricks?

25 A. Yes.

1 Q. How did that happen?

2 A. We were using some cement saws cutting
3 bricks. And some of the bricks were very sharp and
4 snagged my jeans. Cut it. Bust the knee open.

5 Q. Right. How did that happen? Did the
6 -- were you handling the brick or what?

7 A. Yes.

8 Q. And you just got caught on your jeans?

9 A. Snagged it, yes.

10 Q. And you didn't fix the tear?

11 A. I tried to.

12 Q. You just continued to wear the torn
13 jeans?

14 A. Yes.

15 Q. Why didn't you try another pair of
16 jeans on?

17 A. I don't know.

18 Q. Why were you still wearing ripped up
19 jeans that night?

20 A. It was just the jeans I had on. I
21 wasn't doing anything.

22 Q. Did you have other jeans that you could
23 have worn?

24 A. Yes.

25 Q. You chose to wear ripped up jeans?

1 A. I had them on earlier that day, yes.

2 Q. You didn't rip that on the fence?

3 A. No, I didn't.

4 Q. You ripped it on the sharp bricks?

5 A. Yes, sir.

6 Q. Now, how did you get so muddy as you
7 were when the police saw you?

8 A. I guess when I was down on the ground
9 with Malakia.

10 Q. Why was it so muddy right there?

11 A. Because there was a lot of blood and
12 mixture and dirt and things like that.

13 Q. Had it been raining earlier that day?

14 A. No, it wasn't.

15 Q. Wasn't raining earlier that day?

16 A. No.

17 Q. Yet the ground was muddy?

18 A. Yes.

19 Q. How was the ground muddy if it hadn't
20 rained?

21 A. It was a lot of blood down there.

22 Q. All right. These items the police
23 found in that spot a block from where this
24 happened, they found a steak knife, brown handle
25 similar to those you have in your house. And on it

1 they found the victim's blood and your blood. How
2 do you explain that, Mr. Short?

3 A. I believe they didn't say it was my
4 blood. It was touch, so I don't believe it was no
5 blood of mine on there.

6 Q. How do you explain the fact that her
7 blood and any part of your DNA is on that knife
8 that was found at the scene of the crime?

9 A. I can't explain it. I don't know. I
10 cannot explain it.

11 Q. What's your best guess?

12 A. Someone else did it and trying to -- I
13 don't know.

14 Q. Trying to frame you?

15 A. That's what it appears to be. I'm
16 here. They're not.

17 Q. Who has a grudge against you to try to
18 frame you?

19 A. I have no clue.

20 Q. Surely there must be somebody that's
21 really after you to frame you for this double
22 murder?

23 A. I don't know.

24 Q. You have any enemies that would do
25 something like that?

1 A. Not to my knowledge, no.

2 Q. You don't have any enemies, then why
3 would someone be trying to frame you for a double
4 murder using your items?

5 A. I don't know. They have the jacket
6 that I gave away also.

7 Q. I'm going to get to that. All right.
8 Black Old Navy jacket that was mentioned, they
9 found that and you already admitted that was the
10 one that was your jacket?

11 A. Has to be, it has my DNA on it, yes.

12 Q. It has the victim's blood on it, too?
13 How did that get there?

14 A. I have no clue.

15 Q. You have no clue?

16 A. No, I do not.

17 Q. You have no explanation for how the
18 victim's blood got on your jacket?

19 A. It was my jacket.

20 Q. I know it was your jacket, Mr. Short.
21 How did her blood get on your jacket?

22 A. I do not know.

23 Q. Did she hurt herself badly in the past
24 and get it all over that jacket?

25 A. Not that I can remember, no.

1 Q. Did she have another horrible bloody
2 injury while you were wearing that jacket?

3 A. Not that I remember, no.

4 Q. So how does her blood get on your
5 jacket?

6 A. I don't know.

7 Q. Do you think this is part of the same
8 plot to frame you?

9 A. It's something. I don't know exactly
10 what it is. But it's something.

11 Q. You think somebody put all this
12 together to frame you?

13 A. I don't know what they are trying to
14 do, but I'm here. They're not.

15 Q. You don't know any enemies you have
16 that would be this bent on framing you, do you?

17 A. No.

18 Q. All right. Next item they found was
19 your white long sleeved thermal shirt and on it
20 there is the victim's blood and your DNA. How do
21 you explain this to the jury?

22 A. I have no clue. They said they found
23 my DNA and her DNA under the armpit area. I do not
24 know.

25 Q. They found her blood on it and it's

1 your shirt that's got your DNA on it. How is that
2 possible?

3 A. I have no clue.

4 Q. Were you wearing that white long
5 sleeved shirt another time when she had a horrible
6 bloody injury?

7 A. I don't know. I don't remember that
8 thermal.

9 Q. You don't remember?

10 A. No.

11 Q. How did your DNA get on it?

12 A. Could have been mine some time ago.

13 But really wasn't mine nowhere near this time.

14 Q. So it was yours a while ago?

15 A. Could have been.

16 Q. Back in the past?

17 A. Yes.

18 Q. It stopped being yours somehow at the
19 time it became involved in this crime?

20 A. I don't know where it came from.

21 Q. How did it get your DNA on it?

22 A. It had to be mine a while ago.

23 Q. All right. So now it is your testimony
24 that the white long sleeved thermal shirt was yours
25 at some point?

1 A. It probably was.

2 Q. There is no probably about DNA. If it
3 has your DNA on it isn't it true it's yours?

4 A. Yes.

5 Q. So you admit that it is your shirt.
6 How did it get her blood on it?

7 A. I have no clue.

8 Q. You don't remember another injury where
9 she would have been bleeding like this?

10 A. No.

11 Q. Around you?

12 A. No.

13 Q. As to this item as well, this is just
14 part of the plot to frame you?

15 A. I don't know what to honestly call it.
16 I don't know.

17 Q. You don't know of any reason why
18 somebody would want to do this to you?

19 A. No.

20 Q. But you feel like it's being done?

21 A. Yes.

22 Q. All right. The lab also tested some
23 other things that were important. I think they
24 tested Ms. Frazier's left fingernails and they
25 found your DNA in an amount that they characterize

1 as large indicating a heavy content. How do you
2 explain that?

3 A. We were together the whole day and she
4 was touching me while we were having intercourse.
5 Could have came then. I don't know.

6 Q. Was she scratching your skin while you
7 were having intercourse?

8 A. Somewhat.

9 Q. That's your explanation for how your
10 DNA got on her fingernails?

11 A. Has to be. She'd had to scratch me
12 hard.

13 Q. She was scratching you hard?

14 A. She wasn't scratching me hard.

15 Q. She was not?

16 A. No.

17 Q. Then how did large amounts of your DNA
18 get underneath her fingernail?

19 A. Had to have been from sweat because
20 after she scratched me my neck -- under her nails
21 would have my skin, my blood, something.

22 Q. Right.

23 A. And it doesn't.

24 Q. You think your sweat got underneath her
25 fingernails somehow?

1 A. Yes.

2 Q. But you don't think that's your skin?

3 A. It is not my skin, nor my blood.

4 Q. It was you DNA though?

5 A. Yes.

6 Q. You think it's just from sex?

7 A. It has to be.

8 Q. And I just showed you that picture
9 again, No. 19 for the State, that's not from that
10 right there, Mr. Short?

11 A. No, it was not.

12 Q. You don't think that's how your DNA got
13 under her nails?

14 A. No. If that was that like I said, my
15 skin and my blood would be under her nails.

16 Q. So the police come and tell you that
17 they had found all this stuff.

18 A. Yes. Later on that night, yes.

19 Q. And do you remember talking with
20 Captain Johnson?

21 A. Yes.

22 Q. What did you tell her?

23 A. I was telling her I was sorry and
24 telling her majority of this was maybe my fault.

25 Q. You told her the majority of this was

1 your fault?

2 A. Yes.

3 Q. I won't doubt you there. All right.

4 It is just you and her in the room?

5 A. Yes.

6 Q. And did she offer you something to eat
7 and drink?

8 A. Yes.

9 Q. Was she treating you well?

10 A. She came in a lot, yes.

11 Q. Do you remember telling her that you
12 don't remember what happened?

13 A. Yes.

14 Q. Is that true?

15 A. Yes, it is.

16 Q. Do you remember a lot of details about
17 the Park Circle, the Wal-Mart, you don't have any
18 details about the actual time that happened. How
19 do you explain that?

20 A. Because I do not know what happened.

21 Q. You didn't say you didn't know?

22 A. I did told her I don't know.

23 Q. Did you tell her that that you don't
24 remember what happened?

25 A. I told her I don't know and I don't

1 remember anything that happened, yes.

2 Q. You told her you don't remember what
3 happened?

4 A. Yes.

5 Q. How do you remember Halloween costumes
6 and baby furniture and taillight tape, how do you
7 remember all those details, but not the details of
8 what happened when she was stabbed?

9 A. Because those are things that I did.

10 Q. Which are things that you did?

11 A. The baby clothes, the costumes, the
12 argument.

13 Q. But you don't remember the stabbing?

14 A. No, I do not.

15 Q. Do you remember telling Captain Johnson
16 that you were sorry and you were sorry that Malakia
17 got involved with you?

18 A. Yes.

19 Q. How do you explain that comment?

20 A. I am sorry that she is gone now and I
21 am sorry that she ever got involved with me because
22 if she never did get involved with me she wouldn't
23 have been around me that night to get harmed. So
24 the majority of this I feel it is my fault. She
25 was dealing with me.

1 Q. So your logic is that you are sorry she
2 got involved with you, to you that means because
3 that put her in your neighborhood?

4 A. With me, yes.

5 Q. Where this unknown person stabbed her
6 30 times?

7 A. Yes.

8 Q. So that's what you meant by sorry she
9 got involved with you?

10 A. That's exactly what I meant, yes.

11 Q. And you put her in that place which was
12 the wrong place at the wrong time?

13 A. Yes.

14 Q. Where y'all were in a heated argument?

15 A. Yes.

16 Q. And somebody else stabbed her 30 times?

17 A. Yes.

18 Q. Okay. Do you remember telling Captain
19 Johnson that you don't deserve forgiveness?

20 A. Yes.

21 Q. Why did you tell her that?

22 A. Because God allowed me to meet and he
23 gives you someone, he expect you to protect them,
24 do your best and I didn't do that.

25 Q. So you have some remorse for not

1 protecting her?

2 A. I got a lot of remorse for that.

3 Q. And so you don't deserve forgiveness
4 for letting someone stab her?

5 A. Yes.

6 Q. That's what you're talking about there
7 is that you have some remorse that she was stabbed,
8 you should have done something?

9 A. Got a lot of remorse for that, yes.

10 Q. You don't feel like you deserve
11 forgiveness for what happened to her?

12 A. No.

13 Q. All right. Do you recall telling
14 Captain Johnson you are not the first person to
15 make a mistake and you won't be the last?

16 A. Yes.

17 Q. Why did you tell her that?

18 A. Make a mistake arguing with her and
19 continuing the argument and her getting mad and
20 leaving and that was a big mistake on my part.

21 Q. So the mistake you are referring to is
22 the argument with her letting her leave?

23 A. Yes.

24 Q. Do you remember telling Captain Johnson
25 you can be sorry all day, it's not going to make a

1 difference?

2 A. Yes.

3 Q. What does that mean?

4 A. I can say sorry, but as far as knowing
5 and giving the reason, answer why she's not here, I
6 can't do that. So I can say sorry, but it is not
7 going to bring her back. I can say sorry all day,
8 but she is gone now.

9 Q. Do you remember telling Captain Johnson
10 about the argument saying it's petty?

11 A. Yes.

12 Q. You don't know why the argument
13 happened?

14 A. Yes.

15 Q. You told us today why the argument
16 happened. Why didn't you tell Captain Johnson what
17 happened?

18 A. I told her everything that happened,
19 but what I meant by I don't know why it happened, I
20 don't know why the argument escalated. It was no
21 one calling my phone and we just got into it. I
22 don't know why.

23 Q. This is a petty argument?

24 A. Yes.

25 Q. You said that escalated?

1 A. Yes.

2 Q. And escalated so that both of y'all
3 were mad?

4 A. We were upset, yes.

5 Q. For thirty minutes, a long argument?

6 A. Yes.

7 Q. Escalated?

8 A. Yes.

9 Q. All right. Told Captain Johnson you
10 were sure it was all your fault?

11 A. Yes.

12 Q. What does that mean?

13 A. All my fault, like I said, if she
14 wasn't dealing with me she wouldn't have been
15 there. She came around there to spend time with
16 me.

17 Q. So again you find fault with yourself
18 for putting her in your neighborhood?

19 A. Yes, I do.

20 Q. Where someone else stabbed her?

21 A. Yes.

22 Q. Do you remember telling Captain Johnson
23 you don't know why you followed Malakia?

24 A. Yes.

25 Q. You told us exactly why you followed

1 her, didn't you?

2 A. I told her that, too.

3 Q. Do you remember telling Captain Johnson
4 that you don't know how you got on top of the
5 victim?

6 A. No. No, I never told her that.

7 Q. Never told her that?

8 A. No, she asked me was I on top of her
9 and I told her no.

10 Q. You told her no or you don't remember?

11 A. By that time I was distraught and when
12 I get down I shut down. I was just throwing
13 answers, just throwing things at her. I never told
14 her I was on top of her.

15 Q. You were just throwing out words?

16 A. Yes.

17 Q. Do you remember telling her to pass
18 along regrets to the victim's mom?

19 A. Yes, I do.

20 Q. Do you remember telling her tell the
21 victim's mom, I'm sorry, I don't remember what
22 happened?

23 A. Yes.

24 Q. You don't remember what happened or you
25 don't know what happened?

1 A. I told her I don't know. I told her I
2 don't know and I can't remember anything else.

3 Q. You don't remember the details right
4 around the stabbing?

5 A. I was on Harper, turned off Harper onto
6 Railroad and find her laying on the ground.

7 Q. So you told Captain Johnson that you
8 don't remember?

9 A. Yes.

10 Q. Did you tell her that it bothers me
11 that you have no explanation for the events?

12 A. Yes.

13 Q. Tell me how to understand that comment.

14 A. It bothered me that I have no
15 explanation for her being gone. It bothers me.

16 Q. You wish you knew?

17 A. Yes, I do.

18 Q. What happened?

19 A. Yes, I do.

20 Q. But you have no explanation for what
21 happened?

22 A. No.

23 Q. Towards the end do you remember telling
24 her that you never meant to bring on this terrible
25 situation?

1 A. Yes.

2 Q. Why did you say that to her?

3 A. Because again if Malakia was not
4 dealing with me she wouldn't have been around this
5 area at this time of night. So she was dealing
6 with me. She came around there to be with me to
7 spend time with me and just this happened to her.

8 Q. That goes back to the location, not
9 anything that you feel bad about doing?

10 A. No.

11 Q. Just put her in a bad spot?

12 A. Yes, terrible spot.

13 Q. Put her in a terrible spot. Do you
14 remember telling Captain Johnson there is nothing
15 you can do about it now?

16 A. Yes.

17 Q. So you admit to saying those things to
18 Captain Johnson?

19 A. Yes.

20 Q. And if you weren't the one that did
21 this why would you say things like that?

22 A. Because I feel a great deal of it is my
23 fault for being around there that night.

24 Q. Just for the location only, right?

25 A. For everything. If we weren't arguing

1 she wouldn't never stormed off and left me. If she
2 didn't want to come around and spend time with me
3 she would have never been there to get in an
4 argument with me.

5 Q. At any point in this conversation with
6 Captain Johnson, and we have the video in evidence,
7 did you say you got the wrong guy?

8 A. We didn't even talk about that. She
9 just questioning me and by this time I was starting
10 to shut down and I just sitting there asking her
11 questions.

12 Q. Did you at any time say I didn't do
13 this?

14 A. Yes.

15 Q. In that clip to Captain Johnson you
16 told her you didn't do it?

17 A. Yes. When she first walked in I said I
18 don't know. I didn't know who do this.

19 Q. That will be on this clip?

20 A. Should be, yes.

21 Q. Should be?

22 A. Yes.

23 Q. Why weren't you repeating that over and
24 over and over?

25 A. I don't know. I was just listening and

1 by that time already appeared to me that they were
2 charging me with this and they already tell me she
3 was gone and I started shutting down.

4 Q. So you never said I didn't do this?

5 A. I did say that, yes.

6 Q. Is it going to be on the video clip
7 when the jury listens to it back in their jury
8 room?

9 A. Should be, yes.

10 Q. Should be?

11 A. Yes.

12 Q. If it's not that means you didn't say
13 it?

14 A. Yes.

15 Q. Why during this interview with the
16 police, it's a long interview, no question about
17 it. Off and on. Why didn't you show any emotion?

18 A. I'm not really too emotional, but when
19 I do get emotional I start to shut down. That's
20 how I show my emotions.

21 Q. So your long-time girlfriend, mother of
22 your children being stabbed horribly like this
23 doesn't cause any emotion?

24 A. It did.

25 Q. Why do we not see any emotion in your

1 interviews?

2 A. I shut down a great deal part of my
3 interview.

4 Q. You shut down?

5 A. Yes.

6 Q. You didn't express emotion?

7 A. That's how I express my emotions.

8 Q. By not expressing them?

9 A. By shutting down. Just something I do.

10 Q. And similarly this has been a long week
11 for trial. I have been busy, but I haven't seen
12 any emotion on you this week?

13 MR. SHAHID: Objection, Your Honor.

14 THE COURT: Basis?

15 MR. SHAHID: Totally irrelevant.

16 THE COURT: Approach.

17 (Following proceedings were held at the
18 bench.)

19 MR. SHAHID: This is irrelevant and
20 puts himself in the position of being a witness.

21 THE COURT: He's not putting himself as
22 being a witness.

23 MR. WETMORE: I am asking him if he has
24 been upset this entire week because he hasn't.

25 THE COURT: Then ask him that.

1 MR. SHAHID: It is still irrelevant.

2 THE COURT: He says this is his
3 demeanor. He is entitled to hear the story.
4 Overruled.

5 (End of sidebar conference.)

6 BY MR. WETMORE:

7 Q. Mr. Short, have you been emotional this
8 week of trial?

9 A. Very much so.

10 Q. How have you displayed that emotion
11 this week here in the courtroom?

12 A. Just down my head and taking a lot of
13 things in and just being quiet. I get quiet when I
14 get emotional.

15 Q. So again you express your emotions
16 by --

17 A. Shutting down.

18 Q. Not showing any emotion. This has been
19 an emotional week?

20 A. Very much so.

21 Q. I think everybody in here has felt some
22 emotion. We don't see emotion from you, right?

23 A. You see it by me shutting down.

24 MR. WETMORE: If I may have just a
25 minute, Your Honor.

1 THE COURT: Um-hmm.

2 (Off-the-record conference.)

3 MR. WETMORE: I have no further
4 questions.

5 THE COURT: Redirect?

6 MR. WETMORE: Yes, ma'am.

7 THE COURT: You may proceed.

8 (DFT. EXH. 18-19 were marked for
9 identification.)

10 REDIRECT EXAMINATION

11 BY MR. SHAHID:

12 Q. Do you remember the CD that was played
13 earlier in this week on the police officer's
14 cameras?

15 A. Yes.

16 Q. Which has been marked as Defendant's
17 Exhibit No. 4. Have you viewed that prior to
18 trial, those cameras, those videos?

19 A. Yes.

20 Q. I'm going to hand to you two documents,
21 photographs Exhibit No. 18 and Exhibit No. 19. Can
22 you identify those two?

23 A. Yes.

24 Q. Do you recognize the figure shown, the
25 person with no shirt on on Exhibit No. 18?

1 A. Yes.

2 Q. And also right here, No. 19?

3 A. Yes.

4 Q. You see a time shown roughly on here
5 somewhere?

6 A. I don't.

7 Q. Do those images shown in Exhibit 18 and
8 19 accurately reflect what transpired at this
9 particular hour on this particular day in October?

10 A. Yes.

11 MR. SHAHID: I would like to move
12 Exhibit 18 and 19 into evidence.

13 THE COURT: Show them to Mr. Wetmore.

14 MR. WETMORE: No objection.

15 THE COURT: Without objection marked
16 and admitted 18 and 19.

17 (DFT. EXH. 18-19 in evidence.)

18 BY MR. SHAHID:

19 Q. Ricky, I know it is kind of grainy.
20 This is Defendant's Exhibit No. 18. You see down
21 here a time?

22 A. Yes.

23 Q. What does the time reflect?

24 A. 2328.

25 Q. And the date?

1 A. 10-10-2015.

2 Q. And this person right here the pen is
3 on, who is that?

4 A. That would be me.

5 Q. And these two people over here?

6 A. Hispanic people.

7 Q. This Malakia on the ground?

8 A. Yes, it is.

9 Q. What are you doing on the ground,
10 Ricky?

11 A. Kneeling beside her.

12 Q. Then in photograph No. 19 you see the
13 time on that as well?

14 A. Yes, I do.

15 Q. What's the time reflected on that?

16 A. 2328.

17 Q. The second next to that?

18 A. 14.

19 Q. And the date?

20 A. 10-10-2015.

21 Q. And this person right here?

22 A. Officer.

23 Q. And this is Malakia on the ground?

24 A. Yes, it is.

25 Q. Two folks over here?

1 A. Yes, two Hispanic people.

2 Q. This you right here?

3 A. Yes, it is.

4 Q. Where is your hand, Ricky?

5 A. On my head.

6 Q. Why is your hand on your head?

7 A. Emotional. I was putting my hands on
8 my head.

9 Q. Ricky, the interview that you had with
10 Captain Johnson, do you remember what time that was
11 taking place?

12 A. It was later that night. I'm not sure
13 what time it was.

14 Q. Later towards the end of the time you
15 had been in the officer's room?

16 A. Yes, sir.

17 Q. Was that around like 11:30 in the
18 morning?

19 A. Somewhere around there, yes.

20 Q. At that point in time how long -- how
21 many hours had you been in that bay, that room,
22 that interview room?

23 A. Going on maybe 12 and-a-half.

24 Q. What?

25 A. Hours.