VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenwood County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

RECEIVED
DEC 05 2019
SC Court of Appeals

V.

DEMORRIS OCTSWAVIOUS ANDREWS,

APPELLANT.

APPELLATE CASE NO. 2018-001395

RECORD ON APPEAL

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administration of the law and inimical to a fair and impartial trial to give over-prominence to any portion of the testimony. And I think, Your Honor, your standard charge on the credibility of witnesses covers everything. It's very thorough. It tells them to take into consideration all the facts and circumstances, any hope of reward.

The other thing, Your Honor, I would be worried about is I think it borders on a comment on the facts. You're basically telling the jury at that point that this witness should be considered differently from every other witness because he is an informant. I mean, they can figure that out on their own. And I'm sure Mr. Henderson is going to argue that to them, but I don't think the Court needs to say that there's some sort of difference that needs to be put -- some different emphasis on this guy just because he's sitting in jail when he gives the statement.

THE COURT: Which is similar to the reasoning -- I can't remember the name of the case, but I think it came out last year. Judge Benjamin tried it in Richland County where the Supreme Court indicated that the instruction that in a CSC case, even though the victim's testimony is uncorroborated you can believe the victim and that's enough evidence. So basically the Supreme Court of South Carolina has ruled that that's a comment on the facts and a comment

on credibility, which obviously we should not do. I can't remember the name of that case, though. But --

MR. THOMAS: And I would agree with Your Honor. I think it cuts both ways. And if the State isn't allowed an instruction that says the victim should be considered differently than I don't think the Defense is entitled to instruction that says the informant should be considered differently.

THE COURT: Mr. Henderson, you want to elaborate? I probably should have turned to you first. But do you want to elaborate the basis and the grounds for that request?

MR. HENDERSON: Your Honor, clearly here its Mr. Sanders. He's the one that's in jail. And obviously I know Mr. Jackson's now in jail, but that wasn't his issue then. So this is basically pointed at Mr. Sanders giving this statement saying that my client said this while they were allegedly incarcerated together here in the jail. We know he's got some benefit from it. He gained some personal benefit. Whether or not he's a paid informer, he got personal benefit from it. At least the jury can infer that because he got a life without parole charge dropped, pleading to a 30 day misdemeanor in city court for time served. And, of course, he's got a definite interest in it. And so much of what he's saying is uncorroborated. And we know it's uncorroborated because we know it's not true. We

know that Jason Logan wasn't there. We know that Barry Warren was shot two times, not probably three times. We know that Barry Warren was shot in the bedroom, not by his sofa or couch. Two different rooms. So the stuff that he's feeding the police is uncorroborated. We know it's not true. The police know it's not true, and yet they put this guy on the stand. And he's gotten out of a life without the possibility of parole charge. And again, he's got a definite personal interest. It might not be a money interest, but he's got a life interest, and that's my concern. And that's why I think Luck deals with that. I'm not sure that's a comment on the facts, because the jury's heard there is an informant out here.

THE COURT: In Luck it seems to be uncontradicted that the individuals -- the two individuals who are allegedly making buys from Luck, that they were paid informants, and Judge Gregory goes to great length to explain the lack of corroboration. And again, that was a narcotics case. It was a paid informant. There was supposed to be an audio recording, but apparently in that case it was to muffled or too unclear, so there was no corroboration by an audio recording of the buy that the two informants did. The Fourth Circuit also stated, quote, "There was literally no corroborating evidence for Thompkins' claims that he was buying cocaine base from Luck.

MR. HENDERSON: And that kind of goes back to there's no evidence here of a robbery but for the fact of that Mr. Sanders said there was a robbery.

THE COURT: I understand. Here's sort of what I was struggling with. I looked at the Luck case, Mr. Henderson, and what I was trying to find is some case that they cite to. And again, I haven't reviewed all those cases in detail. But they don't seem to say that this is a substantive due process type of an issue in terms of failing to give this instruction. Again, Luck is being presented in the context of a federal post-conviction relief action. And obviously the federal rules of evidence and the rules of evidence from state to state can differ, and they can differ between the state and the federal government so long as due process -- substantive due process or procedural due process, I guess, is not implicated. And we have guidance from the South Carolina Supreme Court in precedent which, to my mind, or at least in my knowledge, has not been overturned. I'm hesitant to say you need to judge credibility of a particular witness with more of a jaundiced eye than you should some other witness. I get your point though. And perhaps in a narcotics case when we're dealing with a paid informant where there is a lack of corroboration, maybe this instruction would be a little bit closer to being on point. I think the issues that you

raised are proper considerations and proper argument for you to make to the jury as opposed to an instruction of the law for the Court to give.

MR. HENDERSON: And I plan to.

THE COURT: Of course. I'm going to decline to give your instruction. What I will do though is I've printed out -- I think the record -- I'm not going to bother printing it out, because I said exactly what the instruction is that you want from Luck.

MR. HENDERSON: Right.

THE COURT: Did I state that correctly, Mr. Henderson?

MR. HENDERSON: You did. You read it, I think, verbatim, Your Honor.

THE COURT: All right. So your objection to the Court's failure to give that instruction is noted, but I'm going to incline to give the instruction.

I don't believe -- in speaking with you yesterday, Mr. Henderson, after we broke, you indicated that you did not intend to present a case; is that correct?

MR. HENDERSON: We do not, Your Honor.

THE COURT: Okay. Mr. Andrews, you understand that Mr. Henderson is telling me that you do not wish to present a case. You don't want to testify in this case; is that correct, sir?

THE DEFENDANT: Yes, sir.

jury. Okay?

MR. HENDERSON: That's good.

THE COURT: Let's have the jury, please.

(Whereupon, the jury entered the courtroom at 10:36 a.m.)

THE COURT: The jury is back and seated. Ladies and gentlemen of the jury, thank you for your continued patience. At this point in time, Mr. Henderson?

MR. HENDERSON: Your Honor, the Defense rests.

THE COURT: All right. Ladies and gentlemen, we've reached that portion in the trial where we've received all the evidence in order for you to judge this particular case, and logistically going forward what my intention is -- I know I informed you about a doctors appointment, or a dental appointment that I've got this afternoon. If y'all are okay to do so, I'm fine to continue to work today and just sort of skip that or rearrange that. Does anyone have -- make any firm plans for this afternoon that absolutely must be kept? No? Okay. I'm not seeing any hands. I'm not seeing any objections. So at this point in time ladies and gentlemen, what we will do is we'll proceed with the attorneys closing arguments, and then I'll instruct you on the law and you can begin your deliberations at that point in time. Okay?

I'll remind you what I said on Monday. Of course, what

the attorneys say during their closing is not evidence. It's normal for them to refer to testimony or evidence or exhibits during the course of their closing to you. However, if at any time what the attorneys say about the evidence differs from your recollection of the facts or the evidence, you should go with your recollection because obviously you are the judges of the facts. Okay? The order that we'll proceed in is Mr. Thomas will close on behalf of the State and then Mr. Henderson will close on behalf of Mr. Andrews.

Solicitor, you are recognized for your closing, sir.

CLOSING ARGUMENT

BY MR. THOMAS: Ladies and gentlemen of the jury, on October 25th, 2016 Demorris Andrews went into Barry Warren's house at [redacted] Gilliam Court, he walked up behind him and pointed a .380 caliber handgun at his neck and pulled the trigger and killed Barry Warren. That's the basic facts of this case. It's a little more complicated than that. There's a lot more that you've heard, but that's what the evidence in this case shows. That's what the basic facts are. How do we know that those are the facts? We know those are the facts because that's what the testimony from this witness stand told you, and that's what the physical evidence that you're going to get to take back in the jury room and consider for yourself. The evidence in this case

doesn't come from the questions and the name calling and the grandstanding of the attorneys. It doesn't come from anything that we say. It comes from what those people up there say and it comes from what these things right here show you.

So let's talk about what the physical evidence shows. The evidence shows that Barry Warren died on the floor of his house in Gilliam Court in October 2016. He died from a gunshot wound. A .380 bullet pierced his carotid artery, fractured his hyoid bone and came out of his chin. He bleed out right there on the floor. The physical evidence shows us that he was killed, or initially shot in his bedroom. The blood starts here, it moves this way (indicating), and it goes back into the living room. The physical evidence shows us that that shooting happened in the bedroom, because right here on those markers, number one and two, is where the police collected these two shell casings, .380 caliber shell casings. A .380 is a medium sized caliber gun. Not a big gun, not a little gun, but it corresponds with the bullets, at least one of which was located in this entertainment center. State's 38. We don't know if this is the bullet that killed Barry Warren or this is the bullet that killed Barry Warren. We just know that one of these bullets went through his neck and caused him to bleed out.

The evidence that we don't have. Mr. Henderson asked

one witness -- he asked all of them about it, is blood splatter analysis and bullet trajectory analysis. I'm going to be completely honest with you, ladies and gentlemen, I'm not sure I know what either of those things actually are, because as most of those detectives told you, it's not something that's done. Judge Addy told you when we started this trial that it's not like TV. In fact, TV is about 100 percent fiction. There's no magic little laser that we can stick in the side of that TV stand and tell you what hand the shooter used, what direction the shooter was shooting from. And in this case, ladies and gentlemen, it doesn't matter. This bedroom is probably the size of that jury box.

Barry Warren was standing somewhere over near that TV stand. The shooter was somewhere on the other side of this door. He was six to 12 inches away and he pulled the trigger. Dr. Woodard told you he was six to 12 inches away and that it was a close range gunshot and it's execution style. How does somebody that intends to shoot somebody get six to 12 inches away from them? Somebody that they know, somebody that they trust, and somebody they're willing to turn their back on. The bullet comes in the back of his neck. He's got his back to him.

I would propose to you that what's a like scenario, based on the fact that we know Barry Warren used this TV stand to store his drugs and his money and is contraband. A

likely scenario is that Barry Warren was reaching over to put his drugs back. He's bent down. He's got a bullet wound to his hand. He's got his hand on the TV stand. He's bent down and he shot him in the neck. That's a likely scenario, but we don't know that's what happened. All we know is that he was shot in that room, he went to the front of the house, he opened the door and called for help. Passed out behind the door and died.

We don't have any DNA evidence. DNA doesn't matter. They told you this. Every single witness told you this, they wouldn't expect to find any DNA. Detective Moore and Detective Blackwell and Detective Collins, they've worked enough gun cases, enough shootings, and they tell you -- they told you, we swab every cartridge case for DNA and never got anything back on it. I don't know why that is. I imagine maybe it's possible to get some DNA off of it, but I don't know. The firearms lady from SLED said those things get really hot when you shoot them. Maybe that's what -- maybe it burns it off. I don't know. But I know that it wouldn't matter even if we found DNA at this crime scene. And how do I know that?

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

The Defendant kept telling the police officers, my DNA's going to be in that house. I was over there all the

time. We were friends. We were partners at one point. We used to hang out together. If we find his DNA on the scene -- it's a fun game we play between defense attorneys and prosecutors. If the DNA isn't there, well, we don't have the evidence. If the DNA is there, oh, well, of course it's going to be there. He was there all the time. The DNA. It's a red herring. It doesn't tell us anything. We know that Barry Warren was shot in that room. We know that based on that physical evidence. So the question in this case isn't was the shooter left-handed, was he right-handed. The question is who's the shooter. The only way we're ever going to know what happened in that bedroom is if there's a camera in there recording it or if somebody in that bedroom tells you what happened. Barry Warren can't tell you what happened. Somebody that was in that bedroom told us what happened. He told Dwayne Sanders what happened. I'm going to get back to Dwayne in a second. But other witnesses corroborate on that story.

The first witness we put up to corroborate -- let me talk to y'all a little bit about witnesses. I understand a couple of those guys were in jumpsuits. A couple of them had criminal records. All of them probably do more drugs than is healthy for you. I wish that I could have paraded a bunch of school teachers and church deacons up here to tell you what happened on Gilliam Court. The fact of the matter

is, those people weren't out there. I didn't pick those witnesses. Demorris Andrews picked his witnesses. When he shot Barry Warren and came running out of that house, he's the one that decided who was going to testify against him. And he made a calculated decision to commit that crime -- to wait and commit that crime when he knew the only people that were going to see him were a guy that goes by the name of Train Head, somebody named Ms. Helen. I don't think we ever got her real name. She's apparently a local celebrity over on Gilliam Court that the police have never talked to about anything, gotten permission from her. Maybe Blade, Kelsey Watson, maybe Nicole Reid. He knows those are the people that they're not going to come to court and get on that stand and testify. And y'all saw Keith Jackson, Train Head. Mr. Brown had to -- it was like pulling teeth to get him to testify. He didn't want to be here. He told you himself. He's been to prison. You go to prison, you see shit and you don't say shit. He doesn't want to be a snitch. Nobody wants to be a snitch. Nothing good happens to somebody who's called a snitch. Mr. Jackson got on that stand. He told you what he saw, and he's the only witness. How do we know he's the only witness? The Defendant told you, there was nobody out there.

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

The people that stay out there were in their house. They probably came out after it happened. I don't know. I wasn't there to find out. He knows people came out, but he knows that when it happened nobody was out there except Train Head and Ms. Helen. Ms. Helen don't know nothing. Train Head told you what he told you. He told that same story to law enforcement back in November of 2016. Train Head wasn't under arrest in 2016. He didn't have any pending charges. He didn't have any hope of reward. He didn't have any expectation that something good was going to happen to him. They brought him in. I don't know nothing, I don't know nothing, I don't know nothing. They finally show him -- show him the picture of his friend. A guy he's grown up with, probably bought drugs from him. A guy that he hung out at his house, played cards. That's your friend. You didn't see nothing? That's when I had a change of heart. I told them to stop recording. Start the recording over. And what's the first thing he says on the recording that y'all listened to? I'm not taking the stand. I'm never going to get in court to testify to this. He tried. He tried to not take the stand and testify. Mr. Brown had to pull it out of him. How do we know that what Train Head saw is actually what happened? How do we know Train Head actually saw Mr. Andrews running out?

(Whereupon, excerpt of State's Exhibit No. 50 published

for the jury.)

See how his voice rises a little bit when they mention Train Head? Detective Collins, he got a little -- he asked the questions sometimes to gauge a reaction. They didn't know at that point that Train Head was going to come forward. They just bluffed him a little bit. I told you Train Head said he saw you. Because he knows when he came out of that house Train Head saw him. So he sees him run out towards Dallas Court and then he waits. This is Train Head. Train Head waits until the coast is clear. If it's anybody's fault other than Demorris Andrews that Barry Warren is dead, Dr. -- Dr. Woodard told you that. If somebody had come up to him and helped him pretty quickly he might have been okay. Might have stopped the bleeding. Train Head sat there and waited. He waited until Mr. Andrews was gone and he walks over to Nicole Reid, or Blade, Kelsey Watson -- and again, I'm not real clear about whether Train Head went to them or whether he called them over to him. I don't know how that distinction -- if it makes a difference. But Kelsey Watson and Nicole Reid both testified also. They gave you, I want to say, probably the two most consistent stories we've heard from any two witnesses. They had one inconsistency. She said she ate chicken, he said she ate a hamburger. Everything else. We're there. We see Demorris. He's over by the tree. We go

get some food. We come back. We sit down and we're eating. We're eating on the north end of Barry's house, past number 9, kind of near the path where it -- back to Dallas Court. We're eating. We're enjoying our lunch. We hear something that we don't think anything of. She said it sounded like a door slamming. Mr. Watson probably knows a little bit more about gun than she does. He says, yeah, it's definitely a gunshot. But didn't think anything of it because it's Gilliam Court, Dallas Court. They set off fireworks. People shoot all the time, I guess. I don't know. Didn't think anything of it. A little while later Train Head says, I think Smiley just killed Barry. Train Head says to them, Smiley shot Barry. He says it because he saw Smiley running out of the house. He saw Mr. Andrews running out of the house.

Mr. Watson also added something to the story that, you know, I think is a little bizarre in my opinion. He says he saw Mr. Andrews with his clip. A magazine with bullets in it. I think that's strange, because if Mr. Watson was getting on this stand and lying to you people and trying to throw Mr. Andrews under the bus or trying to curry favor with somebody, he would have got up there and said I saw him with a gun. He didn't say gun. He said he saw him with a clip. He said Mr. Andrews was showing off a clip. That's a strange thing to make up if you're trying to make up a

story. Make up that he had a gun. But he didn't. He said he saw him with a clip. Not a big clip, not a little clip. Medium sized, maybe a bigger. I don't know. You know what these were loaded into before they were fired in that bedroom of the house? They were loaded into a clip. These shell casings had bullets in them. They were in a clip. It was in a semiautomatic handgun. They were fired. They were ejected. They were left in the bedroom there.

The detectives also told you that every story they get generally has a little kernel of truth in it. Suspects will tell them a little bit so that the story sounds a little more believable, and then they'll try to do a little something to give them a little misdirection, send them off on something else. How do we know that Kelsey Watson, Blade, was there that day?

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

Ms. Childs didn't know that Barry had started selling crack again, had drugs or anything at that time. He probably kept her in the dark about a lot of stuff. She knew about it a little bit. She knew enough to tell you that he kept it in a Crown Royal bag and it was in that TV stand. Mr. Andrews knew that he was selling drugs again. Got out of jail and two days later he's selling drugs again. What's that consistent with? It's consistent with the

statement that Mr. Andrews gave to Dwayne Sanders. I'm not going to speculate on how much of that statement was true. I mean, we already know that there's some stuff that Mr. Andrews told law enforcement that wasn't true. There's probably some stuff that he told Dwayne Sanders that wasn't true. But what does he tell Dwayne Sanders? I planned to come up with Jason Logan. And, you know, Jason Logan has a alibi. He wasn't there. Tells Mr. Sanders Jason was there, and then he wasn't. We planned it. I looked out the door, Jason wasn't there doing what he was supposed to do. There's some kernel of truth in that. That's what he says. He says I planned to come up. I'm assuming that's a robbery or something like that. And we planned to do it off of Barry. Because Barry had just gotten out of jail. He announced to the neighborhood I'm back in business, and he's selling again. Barry spent the weekend in jail. I don't -- Mr. Andrews apparently must fancy himself a little small time drug dealer himself. Maybe while Barry was in jail that weekend Mr. Andrews said I got the run of Gilliam Court. I'm the only game in town, and now Barry's back and he's selling again. I'm not going to speculate on his motives, ladies and gentlemen. The only information we have as to why he killed Barry Warren, what Dwayne Sanders said from this stand. I'm just telling you what he told me. The only information we have is what he told Dwayne Sanders.

Dwayne Sanders, another example of somebody that didn't want to take the stand. Didn't want to testify. Didn't want to be labeled a snitch. But he told you. I was in there with him. He came to me. He gave me information. I wasn't planning on using it. Going to anybody, telling anybody about it. But then what did he say? He said one day Mr. Andrews came back to his cell, put up a picture of my dead friend. Because again, everybody that lives over here knows everybody. These older guys all grew up together. They've been out there forever. But I knew -- I knew Barry. He was my friend. One day Demorris came back, put up a picture of him in our cell. And at that point I said, huh-uh. I'm going to somebody and telling on him. How do we know that's true?

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

He asked the detectives for a picture to go hang up in his cell. It's a little while later. That interview happened in November of 2016. March or April when Dwayne Sanders comes forward. And eventually he gets his picture. He hangs it up and Blade says I couldn't look at that and not tell the truth. Yeah, I was facing a burglary charge, but apparently -- I don't know anything about that burglary charge other than what he told us. It sounds like he got drunk and went in the wrong house and fell asleep. That's a

burglary. It meets the elements of burglary. Probably not a burglary. I don't know. I don't know what happened with that charge. I don't know how it got resolved. I didn't do it, Mr. Brown didn't do it, and we certainly didn't do it in exchange for any of this testimony. He told you that. He told you I went to them and I said I don't need anything from y'all. I got it worked out with the victim. I'm just telling you what I know because that's my friend and this man did it, and he told me he did it, and I can't abide that. He told you he didn't want to take that stand today. He walked in that backroom earlier and told us he wasn't doing it. Wasn't no way, no how. We were going to have to kick him -- drag him kicking and screaming. And he said walked in here and he saw Barry's sister sitting over there, or he saw her when he was on a smoke break, came back and he said I've got to have the courage to stand up here and tell you people what I know. He said I don't know if he did it. I just know that he told me he did it. He had the courage to take that stand and tell you what he heard.

I want to talk to y'all briefly about the law in this case. Judge Addy is going to charge you on the law. He's been doing this a long time. He's a lot smarter than I am. He's going to give you a whole lot of details about it and it's going to be your all's job to go back there and see how that applies to what you've heard. In this case Mr. Andrews

is charged with murder. You guys know what murder is. The legal definition is that he killed another person with malice aforethought. Malice, you know, you always here about it on TV, which, again, TV's not right all the time. Premeditation. First degree murder, premeditation, lying in wait. That's basically what malice is. Malice is did you have hatred, ill will or hostility towards another person. It's the intentional doing of a wrongful act without a just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent. We know Barry Warren's dead. Sonny Cox told you I got there and he was dead. Martin Harralson, the first police office on the scene, he's not medical expert, but he said I got there and I knew he was dead. Killing of another. Malice aforethought. Hatred, ill will, intent to inflict an injury, evil intent. If you point a gun at somebody, you use a deadly weapon, pull the trigger, that's malice, ladies and gentlemen. When you do it because you're going to rob somebody of a piddley amount of drugs and a little bit of money, if you want to rob them and you want to take something that's not yours, that malice.

He's also charged -- let me back up. We talk about deliberation. Malice aforethought doesn't require -- aforethought is kind of a misnomer. It doesn't require that you -- any particular time before the act is committed you

planned it. In this case we've got some evidence that it's planned, but that's not required. The second you point the gun at somebody and decide to pull the trigger, that's aforethought. It happened in the blink of an eye.

He's also charged with armed robbery. Armed robbery, again, you guys know what it is. It's taking something that doesn't belong to you and being armed with a deadly weapon when you do it. The intent to permanently deprive somebody. And the only reason you take something from somebody with a gun is because you're never giving it back to them. So it is taking the personal property from the personal residence of another person, carrying away with the intent to permanently deprive, doing it with violence or putting the owner of the property in fear of violence, and being armed with a deadly weapon when you do all that. You take a gun, point it at somebody, shoot them, take their drugs. It's an armed robbery. You can rob somebody of drugs. You can rob them of money. You can rob them of a Crown Royal bag. You can take a tissue from them. Somebody else's tissue and you point a gun at them and you take it from them, it's a robbery. Property doesn't have to mean it's anything of value or significance. It's just something that belongs to somebody else.

He's also charged with possession of a weapon during the commission of a violent crime. Ladies and gentlemen, if

you have a gun and you commit a violent crime, you're guilty of possession of a weapon during a violent crime. Murder is a violent crime. Armed robbery is a violent crime. They're statutorily defined that way by our legislature, but you can use your own commonsense and know that it's violent.

The law requires us to present to you, to prove the elements of those crimes. Evidence is two types. It's direct and it's circumstantial. Direct evidence is what somebody sees, what they hear, what they say, what they do. Circumstantial evidence is the inferences that you can draw from what somebody says or does or hears. It's the deductions that you draw from the facts and circumstances. So direct evidence is, hey, Dwayne, I shot Barry. That's direct evidence. Circumstantial evidence is I was -- I wasn't on Gilliam Court. I was playing video games and smoking a blunt with my home boy over on the other side of town. Well, you weren't. You were getting a ride to the other side of town. Why are you lying? You're lying because you were over on Gilliam Court killing somebody, not playing a video game, not smoking a blunt. That's circumstantial evidence. And that evidence to you that we present has to be beyond a reasonable doubt. We can't prove something beyond ever doubt. The law doesn't require it. It's not beyond every conceivable doubt. It's not beyond a shadow of a doubt. It's not any and all doubt. It's a

reasonable doubt. You can go back in the jury room and you can debate this, you can go back and forth, and that doesn't mean that there's a reasonable doubt just because there's some questions. It means that you're firmly convinced. When you go back in the jury room and you get ready to sign off on the verdict you're all -- you're not hesitating. You thought about it, you talked it over, and you're firmly convinced that Demorris Andrews pulled the trigger that day. It's not beyond all doubt. It's not beyond any doubt. And I'll give you an analogy, or a little story that I sometimes try to use to explain that to a jury. It's this, and it also kind of goes back to that circumstantial evidence. I've got a dog at home. He's an 80 pound Lab. He thinks he's eight pounds. He's spoiled. My mother does it to him. She comes and gets him every day. If I go home one day and there's a pack of crackers -- a wrapper and a pack of crackers sitting beside the couch, crumbs everywhere and the wrapper's been torn open, a possibility is that my dad came over and had a pack of crackers and just left the wrapper sitting there. The other possibility is when I go to pick it up and sweep up the crumbs and I look over and Hampton's peering around the corner and he sees me looking at him and he goes scurrying off to his crate, the other possibility is that Hampton climbed up on the counter, got the crackers off, took them over there and ate them. The pack of

crackers laying there is circumstantial evidence. Don't know how they got there, nobody saw him. But I know from the fact that they're there on the floor and not in the trash can. Crumbs everywhere, hadn't bee cleaned up. It's soggy wet because he slobbered on it, and when he sees me picking it up he goes off running. That's circumstantial evidence that the dog ate the crackers. It's the same thing here. Nobody saw Demorris Andrews shoot Barry Warren. Somebody saw him come running out of the house. Somebody saw him come up to their house, a seven, six, or five minute walk away and say, hey, I need a ride. I need a ride. Insisting on getting a ride. He tells the police, oh, I was over there the whole time. He wasn't. He tells Dwayne Sanders I shot him. That's the evidence you've got to work with, ladies and gentlemen.

So what do we know for a fact in this case that we can -- nobody can even debate? Mr. Henderson can't even poke any holes in it. He can't muddy the water. He can't try and throw any red herrings out there. We know that Nicole Reid called 911 at 5:03. We know that. Jill Boland told you the dispatch log said it's 5:03. We know that Martin Harralson was the first officer on scene. He left the City Hall over here at 5:06. We know, and there's no debate on this issue, that some amount of time passed between the 911 call and the shooter. They said it could have been 10

minutes. Could have been more, could have been less. Nobody is real clear on that. But we know that after the shooting and someone running out of the house, Train Head waited before he told Nicole Reid and Blade to call 911. We know that it's a five or six minute walk at most -- walk, not a run, not a sprint, but a walk, a leisurely stroll, no matter which way you go to get from Gilliam Court over to Perrin Avenue. We know that sometime before 5:00, before the sirens started heading towards Gilliam Court, that Demorris Andrews shows up on Zykerious Searles' front doorstep, hey, man. I need a ride. His word was he's insistent on a ride. He says he's not sweating. He's not out of breath. He's not -- I mean, he had to run over there clearly. But he comes strolling the path. He sees him. He knocks on the door. Hey, I need a ride to the westside. Okay. Well, he hangs out for a second. Maybe he steps in the house, maybe he doesn't. But Zykerious ends up giving him a ride. And you notice nobody asked him if he was lying about that. Dwayne Sanders, oh, you're lying, you're lying, you're lying. Train Head, you're lying, you're lying, you're lying. You didn't see him. Dwayne Sanders, you didn't -- he didn't tell you that. Zykerious Searles, what color clothes was he wearing? Not was he there for 20 minutes smoking a blunt, playing a video game. No. Was he wearing blue or black? And there's some discussion with

Train Head about was he wearing a black hoodie or a blue shirt. Is that a black hoodie? It looks like a Henley shirt with pockets on it. Is it a blue tee shirt? It's a red herring. It doesn't matter what he was wearing. He could have changed. Could have thrown on a hoodie, could have thrown it off. They didn't find one. But again, lots of places he could have gone. Lots of directions he could have been. Why is what color clothes he was wearing a red herring?

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

Are those the same clothes? Huh-uh. You sure? No. About 15 minutes later after they've explained to him GSR and blood and DNA, oh, actually, my the way, I've been wearing these clothes for a week. I've been wearing them for a week. Hadn't changed. I've been living in abandoned houses. Ain't got no phone, got no watch. This shirt that's in evidence, that's not the same shirt he was wearing the day he killed Barry Warren. It's not. And the argument that, well, there's no blood on that shirt. There's no DNA on that shirt. It doesn't matter. It's something to distract y'all from the rest of the case.

The other person that was Perrin Avenue that day was Kevin Watson. Zykerious Searles' cousin. He says the same thing. He said, came up to the door. Wanted a ride. He

wasn't out of breath. Didn't -- he was quiet. I mean, he looked maybe a little nervous and fidgety, but nothing suspicious. But he just showed up and wanted a ride and they left.

Demorris Andrews statement tells you he saw Zykerious Searles that day. He lies to you about where he was with him and what he was doing, but he says I saw him. But then in that second statement when they go back and say we talked to Kevin Watson, I don't know who Kevin Watson is. I've never seen Kevin Watson. Kevin Watson wasn't there that day. You know why he didn't see Kevin Watson? When he goes knocking on that door he's ready to get out of town. He's trying to get across Main Street back over here. He's not paying attention to the other guy that's sitting on the couch in there, because all he's focused on is Zykerious and you're going to give me a ride. I need a ride. Let's get out of here. That's why he said I don't know how Kevin Watson is. He didn't see Kevin Watson that day.

And that, ladies and gentlemen, is why the timeline doesn't really matter. He was very insistent in his statement I can't give you times. I don't know times. I don't have a phone. I don't have a watch. And they kept saying, well, that's okay. Just tell us where you were generally and we'll go talk to those people. Well, I don't know what time I was there. I don't have a phone. It's a

lie designed to trick you. And you know how we know it's a lie?

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

We're on Facebook talking. He's hiding out in abandoned houses, wearing the same clothes, doesn't have a phone. He says he's a drug dealer. Sells a little dope. I've never a met drug dealer that doesn't have at least one phone, sometimes two. He doesn't have a phone. Hiding out in abandoned houses. Wes McClinton said I called you. Told you to come talk to us. You didn't show up. You stood me up like a bad date. Kept calling you. Kept looking for you. He doesn't have a phone, but he's on Facebook. He's in an abandoned house with no phone but he's on Facebook talking to Jason. He's trying to send them off in a different direction. Trying to give them something. Trying to come up with a story that's going to help him. He's banking on somebody vouching for him. He thinks his buddy Zykerious is going to do it.

(Whereupon, excerpt of State's Exhibit No. 50 was published for the jury.)

You hear that pause when they say what's his name? That's the wheels turning in his head. I've had seven days to work on this story. I've got it down to a T. I went down Sumter. I went up New Market. I went over on Dallas

and went through Gilliam Court. I went back up Sumter, back down, back through Gilliam Court over to New Haven, but I don't remember -- I don't remember the details. He had it down pat. Over and over same story, same story. Well, whose the guy you went over to on Perrin? He hadn't thought about that yet. He hadn't thought about who's going to be my alibi at the time of the shooting. That's a calculated risk he's taking right there. He says I'm going to name Zykerious and I'm going to hope he's going to be like everybody else that I know's involved in this case and he's either going to say I don't know nothing about nothing, or he's going to say, well, we were playing video games, smoking a blunt. He's banking on Zykerious bailing him out. He says I don't want to talk to y'all. They say, well, you're not in trouble. Okay. Well, he showed up. Kevin Watson corroborates that. The only story in this case that even remotely adds up with the physical evidence is the story that Demorris Andrews told Dwayne Sanders. Are there some inconsistencies in it? Absolutely. He can't keep his story straight. But that's the one thing that he tells Dwayne Sanders and he's adamant about is I planned to rob him. Barry was selling drugs again. Barry was vulnerable. He didn't have his gun. The cops took his gun. He found some more drugs. Hadn't found another gun yet. He knows he doesn't have a gun anymore. Can't defend himself. Ms.

Childs finally left. She'd been hanging out the whole time. Train Head and Ms. Helen are the only people hanging out outside. Now's the time I go in. He goes in. We sit down for a little while. We talk. Got up off the couch. He didn't say he shot him in the livingroom. He says he got up off the couch, went around. He went around from the couch. Well, what's around from the couch? What's around from the couch? The bedroom's around from the couch. He gets up off the couch and goes around. His words, not mine. And I said fuck it and I shot him two or three times. Two shell casings, two bullets. One of them through the neck. I walked to Perrin. I walked and got a ride. I lied to the investigators. I told them I was sleeping in abandoned houses. I wasn't. That's the story that makes sense, ladies and gentlemen. The defense to that story is, well, I'm really bad at keeping time. I don't know what time I was anywhere. And, I mean, you can't believe a word that Train Head says because he's charged with a burglary right now. Wasn't charged with a burglary back when he gave his statement. But he's charged with a burglary, so you can't believe a word he says, and you can't believe a word that Dwayne Sanders says because he was charged with a burglary and pled to a misdemeanor. The State, the government, must have cut a deal with him. Mr. Brown and Mr. Thomas must have said y'all get up there and say what I want you to say

and we'll help you out. If that's the testimony that I get from cutting somebody a deal, I'm an awful negotiator. We had to pry it out of Train Head. We had to make him listen to his statement again. I had to yell at Dwayne Sanders in the back to even get him to come out here. I didn't expect him to be as forthright and honest as he was when he got up here. I did not expect that, ladies and gentlemen. But if that's the testimony that I get from cutting deals, I need to go work somewhere else, because that was not -- that was not clear cut, adamant, forthright. I had to pry it out of him. And it's because nobody wants to be a snitch. You're all familiar with the old philosophical question, if a tree falls in the forest and no one's around to hear it, does it really make a sound? The correlator to that is, if a drug dealer gets killed in the ghetto, does anybody really care enough to come to court and testify. Demorris Andrews is banking on the answer to that question being no. Luckily Train Head, Nicole Reid, Kelsey Watson, Dwayne Sanders had the courage to get in here and get on that stand.

You've got all the evidence you need. You've heard the testimony. You've got the physical evidence. After Mr. Henderson is finished giving you his argument, after the judge has charged you giving you the law that you're going to take back there with you, you're going to go back to the jury room and you're going to do what Mr. Brown asked of you

earlier and that's you're going to take your commonsense, you're going to take the evidence, you're going to take the law, you're going to talk it out, and you're going to come to a conclusion in this case.

Barry Warren, for all his faults, he's got a family that loves him, died in a pool of his own blood behind the door of his house, because that man right there, Demorris Andrews, pointed a gun at him, used the confidence -- used the fact that Barry was his friend and would let him get up close. Let him in the house. Turned his back on him. He said I'm going to rob Barry. I'm going to shoot him. Fuck it, I'm going to shoot him. Pulled the trigger. Killed him. Took whatever drugs and money was in that Crown Royal bag.

I'm going to ask of you now what Mr. Brown asked of you on Monday. Use your common sense, put it altogether, go back in that jury room and have the courage to find him guilty. Thank you.

THE COURT: Thank you, Mr. Thomas. Mr. Henderson, you're recognized for your closing, sir.

MR. HENDERSON: Thank you, Your Honor. If it pleases the Court.

THE COURT: Yes, sir.

CLOSING ARGUMENT

BY MR. HENDERSON: Ladies and gentlemen, this is going

to be the last time that you hear from me. The last time that you hear from Mr. Andrews. And I'm going to be showing some stuff here, but I'm going to be talking to you from here because I'm going to put up some pictures and some stuff I want you to see, some stuff I want you to think about.

Now, ladies and gentlemen, His Honor has gone into it with you. Y'all took an oath. You call took an oath on Monday that you can only determine whether or not the State has proved it's case beyond all and any reasonable doubt based upon the evidence and the testimony that's been presented in this courtroom on that witness stand, these documents right here. That's all you can base your decision on. You can't use any outside information to determine whether or not the government has proved it's case beyond all and any reasonable doubt. You took an oath. So I'm asking you to please remember that while you deliberate.

Ladies and gentlemen, I'm going to put up a photo here. You heard from Officer Harralson. He was the first uniform officer on the scene that day. You actually got to watch his in-car video. And actually it's in evidence. So if you want to see it again, it's one of these pieces of evidence over here that you're going to be able to watch again. You'll just have to let His Honor know that you want to see it again. But this is a screenshot from that video, and who

do we see here on the left? That's Train Head. He's the one that's wearing the jersey that says the 88. Who's that on his right? That is Blade. That's Kelsey Watson. So why is this important, folks? This is where they're getting together to get their stories together for the first time. This is where the conjuring starts. You notice that the government cut off this video shortly after this, because shortly after this you saw Detective Collins, who testified. He actually comes and gets Train Head and walks him off the video, and they stop the video. But the entire video was in the evidence. Why is that important? Y'all want to keep watching it. Several minutes later guess who congregates again together? Train Head and Blade. Folks, they're getting their story together about what happened that night. Who wasn't interviewed that night by the police? Blade. Police knew he was out there. They talked to Nicole Reid that night. She said I'm here with Blade. They didn't talk to him. Who knows why. He talked to everybody at the crime scene that night, they didn't talk to him. Folks, I just want y'all to think about this, and I'm going to discuss some other stuff with you. I don't know who killed Barry. The burden's on the government to prove it beyond all and any reasonable doubt about who killed Barry. See, and I'm not accusing anyone of killing Barry. That's not what I'm here for. That's not the Defense's job. But ladies and

gentlemen, I will represent to you, think about this, that has it relates to the evidence that the government's been hammering my client with, there's at least as much evidence, if not more evidence, that one or both of those two guys did the killing.

MR. THOMAS: Objection, Your Honor. May we approach?

(Whereupon, a sidebar was held.)

THE COURT: Mr. Henderson, please do move on. Please continue.

MR. HENDERSON: Yes, sir. Folks, I want to cover the evidence in the order that the government presented it to you, because I think that's just -- I think sequentially. So I'm sure y'all just keep that in mind in the order that the government called these witnesses. The first person, Ms. Boland, talked about this 911 call. No doubt that Nicole Reid called 911. Actually the time called is somewhere between 5:02 and 5:03. I know the Solicitor said 5:03, but it's actually 5:02 and a half or something. It's in that same timeframe. No doubt that she called 911. And she tells the 911 operator -- you heard it. It's in the evidence. If y'all want to hear it again it's going to be there. That he collapsed, or this shooting happened 10 minutes ago. So if you back off 10 minutes of that that, it's about 4:52ish. I just want you to keep that in the back of your brain. That's the only evidence in the record

about when this shooting allegedly -- well, the shooting did happen. But when this shooting happened is this Nicole Reid saying 10 minutes ago. So that's around 4:52, 4:53. And she's saying that when she gets up on the porch -- and again, this is on statement. This isn't her courtroom testimony. This is the statement from the 911 call. She says the door was closed when I got on the porch. Now, I've just been thinking. How does a deceased person close a door. She says there's a guy on the porch. And she says I don't know this dude, and this dude leaves while she's on the phone with the 911. You heard it, and you can hear it again. But of course she knows who that dude is. It's Train Head. It's Keith Jackson, because you're going to hear in a little bit when I talk about her trial testimony, yeah, Train Head was on the porch before I was. I didn't see him get up there. So he was on the porch when I got there. So she's fibbing to the 911 operator. There's just no other way to get around that. She knows Train Head. There must be a reason why she wouldn't tell the 911 folks that it's Train Head on the porch.

The next person that testified, Ms. Childs. Wynekia Childs. She is Barry's girlfriend, fiancee. And she talks about the house being raided four days ahead of this killing. It happened on Friday. And she talks about everything being seized. You heard her testimony. If you

want to hear her testimony again, Madam Court Reporter can play it back for you. It's all going to be here. You don't have to always rely on your memory. Keep in mind Madam Court Reporter here can play back stuff for you if there's a dispute in your mind about what somebody said. Now, Ms. Childs said the cops when they came in they took all the guns, they took all the drugs, they took all the money, and they took Barry. They took Barry to jail. And I assume they disposed of everything else or used it at evidence when they were going to prosecute him for that. Barry spent a couple of days in jail. You heard his girlfriend say he got out of jail. He bonded out that Sunday afternoon on October 23rd. That's when he got out of jail. And you've heard testimony that my client was over at his house that night talking about glad to hear you're out of jail. And even according to the girlfriend, Barry tells me client, hey, man, they cleaned me out. I ain't got nothing. No drugs, no money, no guns, no nothing. I've been cleaned out. And I think the girlfriend said -- Ms. Childs said when Barry was killed he had a couple dollars on him. That was my notes on the testimony. He had a couple dollars on him. Yeah, he didn't have anything. And you heard his girlfriend say after she got him out of jail, draw your own inferences, she watched him like a hawk for the next two days. Face it, all adults. Y'all have lived relationships. You know, I

guarantee you, she watched him like a hawk for the next two days. And she said he didn't re-up. That he didn't get back into the drug business. You heard her testimony. That she was keeping a close eye on him for the next two days. Unfortunately he got murdered. But you heard Ms. Childs also say that on the afternoon of the shooting, that Tuesday, October 25th, she said I left the house at two o'clock. And you know, the house over at Gilliam Court. We're looking at it right there. Number [redacted] Gilliam Court. It's on up the hill a little bit. I left there about two o'clock. I'm going over to Edgefield Street. I've got to get -- it sounded like some child support money for her child. That's what I gathered anyway. But again, what I think -- what I gather doesn't make a difference, ladies and gentlemen. It's what you gather. But she went over there. And you know Edgefield Street. We're right next to Edgefield Street over here in the courthouse. So she left over there around two o'clock. You know, said gone for 10 minutes, but didn't get back until after five o'clock. When she comes up on the scene and she learns that Barry has been shot. You know, said the police was there when she got back. You know, it just -- she's just not clear about time either, folks.

And this is the point you have to keep in mind. Nobody is clear about the time in this case. So many people don't

wear watches. So many people don't have cell phones. So many people don't have a 9:00 to 5:00 job. There's no need to keep up with time, like folks who have a 9:00 to 5:00 job have to keep up with time. Timing is an issue here. Going back to that 911 call and Nicole Reid. She's not sure. She says 10 minutes. Maybe it's 10 minutes. But that's the only measure of time that we have is that 10 minutes.

And I think Ms. Childs also testified, too, that she ran up the hill when she got there. When her friend brought her back from Edgefield Street, that she ran up the hill to meet Nicole and Blade. And you can kind of see there, folks. There is an incline there on that hill. There's an incline up to where they would park up to Barry's apartment.

Folks, now we -- let's talk about Train Head. Again, that's Train Head right there to the left. He's wearing number 88. He's the one wearing that jersey. And ladies and gentlemen, you heard me asking about the first two stories. The first two recorded statements that he gave, where he didn't see nothing, didn't see nobody going in the house, didn't see nobody coming out of the house, didn't see nothing at all. And those statements are recorded. Why the government didn't want to put them into evidence, you draw your own conclusions to that. Because it undercuts their theory of the case. He basically says hey, I didn't see nothing, didn't hear nothing. I'm not even sure I was

there. But of course he's there, folks.

During the second interview, the second recorded statement, you heard me cross him on it the other day on some stuff that was asked to him. And I was reading verbatim from a transcript of that second interview, and where the cops are talking to him, where they're questioning him. And the police say, nobody's talking over there and that makes everybody an accessory. Everybody over there that says they didn't see anything, that's accessory because they saw a murder. And you remember Mr. Jackson says I don't remember that. Mr. Jackson also asked the police. Well, let me ask you a question. If somebody's going to shoot somebody, why would they show them a clip? Good point. Darn good point, you know. And I'm going to talk about that in a little bit. Mr. Jackson says this nonsense about seeing a clip. You know, just in passing. And again, folks, conjuring just didn't work out completely. And then one of the detectives tells him in his second interview, once they get an confession they're going to say who all was out there. And when they say I go off the damn porch and Train and Ms. Helen was sitting out there playing cards, we're going to charge you. So the police are basically telling Train Head, bud, you fixing to be arrested. We know you're out there. You know, if you don't do the little song and dance for us we're going to arrest you. We're going to

make you an accessory to this execution of here. Then they tell him there's way too many people out there and here's the scenario that's going to kill you in the long run. One of these folks that was out there, that was out there with you finally tells us this is what I seen, and they're going to put you on trial. They're telling that to Train Head. The police didn't play you that statement. I had to bring that up to you, ladies and gentlemen. No. And the next statement is where he starts singing the song that the police want him to sing. Ladies and gentlemen, it's not because of being heavy hearted or -- he's worried -- he's worried about I'm going to be put on trial for being an accessory a murder. I'll say any darn thing you want me to say if you don't put me on trial for accessory to murder. Use your common sense on that, ladies and gentlemen. And then he gives these other story -- another recorded statement that's different from his third recorded statement he gives. But again, let's talk about the third recorded statement where he actually starts throwing my client under the bus. And in it he said -- and this is a -- the government actually put this statement into evidence. So again, you're going to be able to listen to this one if you want to. He says I didn't see Demorris enter Barry's house. I've never known Demorris to carry a gun. Demorris wouldn't have a motive to kill Barry. And then he said I didn't -- I

didn't tell Ms. Helen that I saw Demorris running from Barry's house. Then he says Demorris didn't show me a clip. Demorris didn't show me any bullets. I mean, this is all in his statement. You know, he's singing the government's dance -- song and dance halfway but not whole -- all the way, thank goodness.

And, ladies and gentlemen, that statement's into evidence and that's there for you to hear if you want to. And again, don't hesitate to ask to hear any of these statements.

But going back to Train Head. You know, he was in -- he was in his jail uniform the other day. Admitted that he broke into a church. Found his DNA there. Ladies and gentlemen, I don't care that that arrest happened after any other statements he gives to the police. If somebody is low enough to break into the house of the Lord, you shouldn't believe a darn thing they have to say, period. Somebody who is that low will lie about anything, will make up anything. It's all for their own self-preservation. Ladies and gentlemen, I'd say I don't know how you can believe somebody that will admittedly break into the house of the Lord. You know, and he's facing 15 years. You heard him say he's facing 15 years for the charges he's got now. He said I can make bond. I'm just not. Folks, if he could make bond he'd be out of here. He'd be out of jail. The government's got

the clamps in him. That's why he's not going anywhere. Use your own good logic on that. Train Head says when he sees my client earlier in the day, or sometime of the day -- he's not sure of the times either, folks. He said my client was wearing a blue shirt and no hoodie. And then low and behold the person who comes running out of the house is wearing a black hoodie and a black hat. The first person's not wearing a hoodie. The second person is. The first person not wearing a hat. The second person is. Folks, I mean, he's winging it. How on earth is somebody allegedly changing clothes. When did it happen? Where did it happen? Folks, that story is just incredulous. It just didn't happen. He talks about that he sees somebody. He says Demorris. He says -- at one point he says somebody running around the corner of the house. Ladies and gentlemen, I'm showing you what's been marked as State's Number 2. This is into evidence. Up there in the top left of that picture, that's unit number 9. You know, that's -- there's be 9. You come back a little bit there'd be unit number 8. Actually you can see the steps right there coming out of unit number 8. If you look over that moped, those are the steps to unit number 8. Train Head said he saw somebody run down those steps -- had to run own those steps, run around where that garbage can is at, run around the corner of number 9. That's what his testimony was, ladies and

gentlemen. And you've heard some of the other folks talk -- describe that when you round that corner there's another path that takes you over to Dallas Court. Train Head was clear that whoever ran down the steps ran around the corner of number nine there. And that's Exhibit No. 2. I want to show you Exhibit No. 5 that the government -- again, all this stuff is into evidence. These are the steps to number 8. Whoever shot Barry had to come down these steps. I think everybody in the courtroom is going to agree with that, folks. Had to come down these steps. And this is State's Exhibit No. 4. You know, this shows, you see apartment number 9 right there. You can see it on the railing. And apartment 8 to the left. That's just another shot there. But that's who -- those are the steps the person had to come down and run around the corner of number 9. Again, that's what Train Head says. And you heard Train Head testify, too. That he had to run up the path to get Nicole and Blade, or Kelsey, to let them know about the shooting, because they'd gone to the Try Me restaurant to get some lunch, dinner, and they were walking back. That he -- that he came around -- or saw him coming down the path and he ran to go get him. I think his testimony was that Nicole had chicken in her hand. I'm thinking that -- I recollect that being his testimony. That he had to actually go get them to let them know that this killing had taken

place. And, ladies and gentlemen, I'll talk to you a little bit about it here. But you've heard from Blade and Nicole, oh, no. We're already back. We're sitting over there by the side of that house. I'm eating. There's some dispute about whether or not Kelsey's eating. We're there. So Train Head -- Train Head's concocting that story. Why on earth would he tell you that he had to go run after somebody? Why would he make that up? Use your good common sense about why he'd make that up. I had to go run to get him. And also after Train Head said that whoever ran out of that house around corner number 9, that's the way either, according to Train Head, that Kelsey - that Blade and Nicole were walking, or according to Blade and Nicole they were already there in that area. If somebody ran around that corner, ladies and gentlemen, Blade and Nicole's going to see them. I mean, it's just physically impossible not to see one another around the corner of that house getting on that path. It's in impossibility. And Blade and Nicole said, hey, we didn't see anybody. And Train Head said, hell, they had to see somebody run around that corner. Why on earth would Train Head be making that story up, ladies and gentlemen.

I want to talk a little bit about the next person to testify was Blade. Kelsey Watson. Nicole's boyfriend. You know, he's the one that's in federal custody up there.

Actually the only person that we've heard from that anybody's ever put a gun in his hand. The only person's that been up there that he put a gun in their hand. He's Nicole's boyfriend. Yeah, I remember him testifying that -- he was very clear, too, that we were back -- Nicole and he were back from the Try Me and Train Head came to tell them about the shooting. And Kelsey said, oh, I had hot dog. I've got a hot dog. Nicole had a hamburger. We were already eating when Train Head came over to me and told me about Barry being shot. Again, that's Train -- that's Blade telling y'all him and Nicole were sitting here on the side of number 9 eating and that Train Head came over to them and said, hey, Barry's been shot. D did it. Demorris did it. Okay. But Kelsey said I didn't see anybody running away. And again, folks, based upon the direction that Train Head said the perpetrator ran had to see him. I mean, there's just no ifs, ands or butts. I mean, because you'd run right into one another. And this -- and then Blade's saying that he saw my client show a clip to Train Head. A magazine clip. Nobody else saw this. People out there playing cards or doing whatever they're doing. Hell, not even Train Head saw this. You know, Blade is saying I saw Demorris over there showing this clip. Nobody sees this except Blade. I'm like hmm. And if I recollect, Blade said it was big clip, or kind of a big clip. And, ladies and gentlemen, I

think the testimony you heard there, that Mr. Warren was shot with a .380. That ain't a big clip. That ain't a kind of big clip. So I don't know if this is being conjured by Blade. Don't have a clue. Don't have a clue why he'd say something about this. But him describing an alleged clip is not consistent with a clip from a gun that shot Barry Warren. Just not.

And then I had Madam Court Reporter here actually transcribe some of Blade's testimony for me the other day. I'm going to read it to you. I'm going to read my question to him and his answer to me, because I couldn't believe the answer. And this is me asking Blade. This is me asking the questions, this is Blade doing the answer. You heard this the other day. "Did he say anything at that point in time?" "Not until he got to me." That was Blade's answer. My question, "Okay. So you're telling this jury that he went to you before he went to check on Barry?" Answer, "Yeah. He came to me first." Question, "He came to you first to say that my client had shot somebody and he hadn't even gone up there to confirm somebody had been shot? Is that what you're telling me?" And his answer, "That's what I'm telling you." Me, "Okay, again, that just -- that just sounds kind of bizarre." And it did sound kind of bizarre, that's why I said that sounds kind of bizarre. The State objected and the Judge said that's kind of argumentative.

Okay. So my question, "Again, let me -- I want to play this out and make sure I'm understanding this. Again, Mr. Watson, you're saying that Train Head is over here. He stands up, comes over to you and says Smiley has shot Barry?" His answer, "Yeah." My question, "Before he actually goes up to the house to see that Barry has been shot?" His answer, "Yes." Folks, now that just doesn't make any sense. How on earth is Train Head going over to tell somebody that Barry's been shot when he doesn't know Barry's been shot?

VOICE FROM GALLERY: Barry hollered out the door.

THE COURT: All right. We need to avoid that. Ladies and gentlemen of the jury, you'll please disregard that. And if that happens again it's going to be a big, big problem for whoever does it. Mr. Henderson, please do continue, and if you need to back up, feel free.

MR. HENDERSON: Thank you, Your Honor. Like I said, it just doesn't make any sense. Train Head's premonition just don't make any sense. You use your own logic and deductions and inferences about why Train Head is saying something like that.

And you know, my client, during his testimony during those statements that you heard, that he said that Blade sold drugs to Barry. You heard that. That he came over there and brought drugs to him. I guess they were dealing

buddies. Folks, now all the testimony y'all have heard about my client is pothead. Smokes pot, sells pot. I think the testimony you heard about Barry, he's a crack guy. He's a pill guy. Different -- different segments of the community, folks. You know, you talk about all this -- you hear all this testimony about how Barry and my client were friends. That my client would come over there to sell pot. Of course, they weren't competitors. One sells pot and one sells crack. The twains don't meet. They're not competition, ladies and gentlemen. And also Blade says that my client was wearing a blue shirt that day when he saw him out there, because there all there together at one point during the day. He says my client is wearing a blue shirt.

Talk about Nicole Reid. You know, she talked about that they -- she and Blade had gone down to the Try Me to get some of that good fried chicken. And she said they ordered two chicken plates. Folks, is was somewhat of a traumatic day for everyone involved and nobody agrees on anything. Didn't hear Kelsey -- didn't hear Blade say anything about getting chicken plates. Hamburger and hotdog. But as they're walking back -- but Nicole agrees with Blade about the time we get back, that we do get back and sit down on the side of number 9 there, Nicole says I ate my meal. I think she said I ate half my meal. She says Kelsey, Blade doesn't eat any of his meal. He's standing up

the whole time. They talk about when they're walking back down the path that they see my client over behind one of those houses, behind 8 and 9. Y'all saw that great big dog. It's in one of these photos over here. That great big dog sitting back there. The police officer even says it's aggressive. And you heard my client's statements. I ain't going back behind there with no dog. So Nicole said that Train Head motioned to Blade to come over here. Something along those lines. I guess give the little finger wag. Come over here.

Now, ladies and gentlemen, I tried to scope it out the other day. The government didn't present a diagram showing any of this. So I'm trying to do the best I can to kind of paint this picture for you. That if you look at the path over here to Dallas Court, you know, you'd be behind on the side of number 9 over here. And then over here Train Head is playing cards. So Nicole said that Train Head does this little number (demonstrating) and waives Kelsey over. Nicole says Kelsey gets up, walks over there, he says Barry's been shot. Okay. So Nicole's saying Train Head waived him over. Blade said oh, no. Train Head came up and walked to me. Train Head said, oh, no. I had to walk up the path and grab them and let them know he'd been shot. Folks, we get the stories by the three people that were there. But Nicole says I didn't see anybody running away,

you know. And then she says that when she finally figured out -- I think her testimony was that she didn't see Train Head get up and get on the porch. That's my recollection of her testimony. And again, if I'm wrong, ladies and gentlemen, trust your memories, or have Madam Court Reporter play it back for you. This is that important. Have it played back if you need to. She didn't see him get up there on the porch. But it came a time where she ran around to get on the porch and she said -- what you see up there? Train Head's already on the porch. Have you called 911? No? So Nicole Reid calls 911.

Folks, Nicole put the shooting about 4:52, 4:53, 10 minutes prior to the 911 call. You heard Dr. Woodard say yesterday that upon the shooting he would have collapsed a minute to a minute and a half after the shots. So assuming Train Head is somewhat telling the truth that he comes up to the door, he's at the door 4:53ish, maybe 4:54. Nicole calls 911 at 5:02 after she learns he hasn't called 911. Folks draw your efforts there. Train Head let him die. Train Head didn't call 911, or at least Train Head didn't do anything to save -- save the man, because Train Head said he heard the collapse. And we know it had to be 4:53 or 4:54. Yet he didn't call 911? What sort of human being would not call 911? I'm telling you the type of human being. The one that breaks into the house of the Lord and leaves his DNA.

And he was already on the porch when Nicole got up there. The door was closed, because I think on that 911 call you can hear that Nicole says that she opened the door. The dispatchers wanted her to try to open the door, but it turns out, I guess, the body was there. So the door was shut. Again, it just puzzles me why somebody who runs to the door that says they've been shot closes the door behind them. I didn't hear an explanation for that. I don't think y'all heard an explanation for that.

Then we heard from Officer Harralson. That's where this picture this came from. The one showing Train Head and Blade up there talking. Then we heard from the Coroner, Sonny Cox. You know, Coroner Cox told a little bit about what the Coroners do. And he said, you know, as far as like blood splatter analysis and bullet trajectory analysis, he says we don't do that. The police department does that. You know, a long time ago Mr. Cox, Coroner Cox, was a deputy. He knows what law enforcement does. It's different than what the Coroner does. You know, the next person we hear from is Officer Kenya Griffin. Now, she's the evidence guru over at the Greenwood Police Department, and I heard that she had some type of special training in Tennessee. I think Detective Moore called it the Body Farm. I'm not sure if I heard that right, but that's what it sounded like. But, you know, Officer Griffin, she collected stuff out

there that night and missed that bullet they found later. I'm still wondering about that -- you know, that throw or blanket on the front porch with all the blood on it that's not into evidence. I don't know. Just -- they could have been a lot more thorough, folks. But we do know this, and Officer Griffin --

THE COURT: Pause one -- hold on one second. Sorry.

MR. HENDERSON: And you heard Officer Griffin agree, ladies and gentlemen that no DNA was found. Folks, DNA is found everywhere. I mean, it's just -- we're made up of DNA. It's going to be found. My client's DNA wasn't found there on anything. His fingerprints weren't there. His shoe prints, feet prints. None of that was there. And folks, Officer Griffin confirmed that's only one way to enter and exit that house. It's through the front door there, because y'all saw pictures of that back door, back window. They're nailed up, boarded up, you know. Whoever did this went in that front and came out that front door. Ain't no doubt about that. No doubt at all about that. Officer Griffin talked about that aggressive dog in the backyard. Y'all saw pictures. I couldn't put my hands on it. Y'all saw pictures of the dog in the backyard. She said yeah, it's an aggressive dog. My client said I ain't going behind that house. So these people talking about seeing my client behind the house with the mean dog. And

Detective Griffin -- Officer Griffin said she doesn't do this blood splatter analysis, but she knows it can be done. You know, I can call SLED and get it done, or bullet trajectory. She said I'm not trained to do that either. But could call SLED. Didn't call SLED, you know. There's no blood found on my client's clothes or shoes, period. My client said he was wearing those clothes. They tested them for blood. Not there. It's hard to get rid of blood evidence. You heard Officer Griffin say that. But kind of skipping ahead, you also heard that my client had other clothes over at his sister's. Law enforcement didn't try to go get those. The family probably would have consented for that clothing to be tested. If not, they could have got a search warrant. Law enforcement didn't do it. Almost makes you wonder how serious they were about catching the culprit in this matter. Officer Griffin just didn't call SLED. And you heard her say that she doesn't know what was under that great big ole pile of clothes. One of these pictures -- I think it's this one. State's No. 20. Exhibit 20. Those are the pile of clothing in that entertainment center. She said I didn't look under it. I guess she didn't look under it. She didn't look on the bed where they found that other shell casing. She just didn't do a lot of -- didn't do a lot of looking at all, ladies and gentlemen. And Barry Warren's family deserves better than that. Officer Griffin

didn't say she looked for a Crown Royal bag or said that she found a Crown Royal bag. No mention of that at all. No mention of that at all.

And then I want to talk about Detective Collins, Detective Blackwell, and by proxy, Detective McClinton, because he's the other detective's voice that you hear. And he's off serving his country -- serving our country this week. That's way he's not here. These other detectives stepped in. But we get to hear him. And ladies and gentlemen, y'all heard three hours or so of my client's testimony. Y'all heard it. He was lied to. He was called a liar. He was cussed, bullied, harangued. Everything that you can think of. Like I told the detective, y'all did everything except hold him down and beat him, or waterboard him. They did everything possible thing they could to intimidate him, to bully him, lie to him. Guess what, he didn't -- all along, I didn't do it, folks. I wasn't there. You know, and you heard my client's statement, you know, where he says, hey, Blade's uncle is saying that he's 99 percent sure that Blade did it. Okay. We're just not going to worry about going to look for Blade's uncle. You heard him say we didn't go followup on that. Heck, they didn't even talk to Blade that night of the shooting. I guess what makes you think we expect enough of them to go out there and talk to his uncle. They didn't.

You know, you heard -- heard this talk about the traffic light videos. They're saying, oh, there's no video up there. Fine, so be it. But this path that Zykerious described goes by the Post Office, it goes by banks, it goes by The Inn on the Square. It goes by places that you know, folks, have video. Trying to pinpoint a time. These folks aren't interested in pinpointing a time. You know, we accuse somebody of shooting, killing Barry Warren. Hey, we don't care about anything else. Time is irrelevant. But no, that here. We've got these videos. At least look for them, because those videos are going to have time stamps on them, like that in-car video. If you look over -- you can't see it on this. It's got a time stamp on it. All these videos have time stamps on it. And you can figure out what time that trip was actually made by Mr. Searles, or whether that trip was made by Mr. Searles.

You know, they offered to give my client a polygraph. He said he'd take it. They didn't give him one. Oh, we're just bluffing. Okay. Then why on earth, if he calls your bluff, by golly I want to take it. I'll take it. Give him one. Didn't do it. No, no gunshot residue test. They say oh, no. It's off our hands in six hours. Well, folks, how about his clothing? They didn't test that clothing they took from him. How about the clothing over at sister Shady's house. He said all the other stuff I have is over

there. You heard Detective Moore saying I think I was there, you know. She probably -- his sister probably would have consented for that clothing to be taken and tested for gunshot, for blood, for DNA. You name it. Did they ask for it? No. Did they try to get a search warrant? No. No, we got somebody arrested. We really don't care from now on, you know. So -- and you hear this -- you hear my client talk about -- in fact, I think it's one of the statements the Solicitor just played about my client even commenting on his own stinking clothes. That his clothes stick. I've been wearing them for a while. Okay.

You know, it sounds like that when the government got Train Head's third statement they're fact-checking stopped. You remember one -- you remember detectives are telling my client, hey, we're just glorified fact-checkers. Okay. By golly, if you're gloried fact-checkers, check ever darn last fact. Don't just pick on some kid that's got no watch, no phone, doesn't know what day of the week it is. Hey, we're going to hem him up. We're going to stop fact-checking. No, that's not what a fact-checker does. A fact-checker turns over every stone. A fact-checker turns over every pile of clothes. A fact-checker walks down every path. Between two addresses. That's what a fact-checker does.

And ladies and gentlemen, if I've said it once on my cross to these detectives I'll say it 100 more times. My

client never cracked. Folks, everybody in this world has been grilled by a parent, by a sibling. Everybody in this world has grilled somebody. You got a child. You got somebody that you're responsible for. You can make the guilty crack. We know that as human beings. We know that. Guess who didn't crack? Demorris Andrews. He told them repeatedly I didn't do it. I wasn't there. Barry's my friend. Oh, it could have been an accident. Tell us it was an accident. No, it's not accident. I wasn't there. Maybe it's self-defense. No, it's not self-defense. It didn't happen. I wasn't there. Oh, but he's got to be lying because he doesn't know what time it is. Ladies and gentlemen, I'd hate to be on the end of a murder rap because I didn't know what time it was. I think everybody would hate to be on the end of a murder rap because they didn't know what time it was, or where they'd been on a particular day a week ago.

Dwayne Sanders. You remember the snitch. Folks, you know, he was in jail for breaking into number [redacted] Gilliam Court. Let's go back to State's No. 4. You see number 9 right there to the right of the video. That's why Mr. Dwayne Sanders was in jail. He broke in next door to Barry. So we know somebody who breaks in places in this neighborhood. Charged with burglary first, carries up to life imprisonment. Had a horrible record. You heard him

say that. Guess what? Somebody with a horrible record convicted of burglary first, probably going to the penitentiary. Probably going for a long time. No. He comes up with this story that, hey, Demorris Andrews comes and tells me, you know, he shot Barry he planned it all out with Jason Logan. It was Jason's idea. Jason was standing in the front. He was kind of the lookout man. He was kind of blocking people from seeing. You know, Jason ran off. Then we hooked up back behind the corner of the house here after the killing. Folks, this statement was given in April of last year, you know, five or six months after this killing. The police are sitting there listening to this guy taking down his story, taking his notes, and they know it's not true. They had already excluded Jason Logan as from being on premises, period. He wasn't on Gilliam Court. He was at work somewhere across town. They had video of that. No ifs, ands or butts. They did their fact-checking on him. I'm sure Mr. Logan is glad they actually fact-checked him. He wasn't there. And I think, according to Mr. Sanders, my client told him I shot him two or three times. Probably three times. Folks, y'all heard the evidence. It wasn't probably three times. It was two times.

And then this sofa or a couch. And I was listening to his testimony, too. And again, when I hear what I think is crucial testimony I ask Madam Court Reporter to transcribe

it for me after we got out of court each day. So let me talk to some of -- tell you about a little bit of my examination of Dwayne Sanders. Again, this is me asking the questions. This is Mr. Sanders' answer. Question, "Again, Mr. Sanders, thinking back through it, didn't you say I was listening to the Solicitor's questions and thinking about your statement that Barry was shot at his couch, at his sofa?" Answer, "I don't recall." Question, "You just don't recall?" Answer, "Huh-uh." So question, "So I'm asking you didn't you tell the police that my client allegedly said that he shot Barry at the sofa on the couch?" Answer, "I think I might have said that. I think I might have said that." Question, "And you think it was at the sofa that he was shot?" Answer, "Whatever he told me." Folks, you've heard all this. Everybody knows that Barry Sanders was shot in his bedroom. There ain't no sofa in his bedroom. The sofa's in the livingroom. It just -- you can only surmise that Dwayne Sanders is hearing bits and pieces of stuff, concocting a story. Trying to get himself out of a life in prison sentence. That's all it is. And I'm somewhat ashamed that the police fall for this nonsense. But here they're using this evidence in an attempt to prosecute my client when they know this guy is giving a story that he's pulled out of his hinny. That's the only place he got it from because it just didn't happen. The facts don't bear it

out and the policy know that when he gives them this statement. And yet here a month down the line after that he gets a life in prison charge dismissed for a time served sentence in City Court. Yet everybody says, oh, there was no deal. There as no deal. I did it because I cared. Yeah, he did it because he cared that he didn't want to spend the rest of his life in prison. I think he -- I think that's a fair assessment of why he cared.

Zykerious Searles. And again, when I'm looking to witnesses testimony and I think it's important I ask Madam Court Reporter to transcribe it for me. She transcribed a few things. And again, this is me asking the questions. This is Mr. Searles answering me. You remember Zykerious. He and Demorris known each other several years. Demorris goes over to his house occasionally. And I'm asking the question. "The first statement to the police you told the police that Demorris got to your house, or this Perrin Street house, about four o'clock to 4:30. Do you remember telling them that?" "Uh-huh." "Is that --". "Yes, sir. Yes, sir", because remember I'd previously gotten on to him. I said hey, you got to answer yes or no. Don't say uh-huh or huh-uh because Madam Court Reporter has a hard time taking it down and it's crucial that we preserve a record. So before I could get onto him he said, "Yes, sir. Yes, sir." He knows what time Demorris got to his house. In

that ballpark, 4:00 to 4:30 that afternoon of the 25th. And then I asked him, "When did Kevin Watson get to the house on Perrin?" "Approximately around that same time, because I just got there, too, between 4:00 and 4:30." "Okay, between 4:00 and 4:30, you think?" His answer, "Yes, sir." So you've got Zykerious Searles and Kevin Watson putting my client over on Perrin Street at 4:00, 4:30. In that ballpark. Again, I think Zykerious would be the first one to admit, you know, not looking at his watch. Nobody has a reason to look at their watch or think back seven days ago about what time. But he said after the kids got home from school, or the bus ran through the neighborhood, around 4:00, 4:30 he's over to my house. Ladies and gentlemen, that's darn important. I think I heard the Solicitor say the timeline doesn't matter. That man's life matters. Barry Warren's life matters. If he's over here on Perrin Street at 4:00, 4:30, how on earth is he .4 miles away, five or six minutes away over on Gilliam Court killing somebody. I just want you to think about that. Zykerious said he wasn't running. He didn't look scared. Zykerious -- Zykerious has got him in shorts. Basketball shorts. Gym shorts and some sort of dark colored shirt. Saying that Demorris didn't tell him anything. Didn't ask him to, you know, get rid of a gun. Get rid of a clip. You know, he just asked him for a ride over to his grandmother's house.

Said he wasn't looking around like he was scared. Didn't have blood on him. Folks, y'all have seen all these pictures with the blood. Blood all over this house. You heard Detective Moore say blood everywhere. Folks, whoever walked up to Barry Warren and executed him is going to have blood on him. There's two shots there. And, again, these folks don't know how he was shot. They could care less. They hadn't looked. We've got some fellow that's paranoid that doesn't know his time. We're going to pin it on him. He's an easy target, you know. And I think -- and I think Searles said that Demorris was there at the house for a while. They're not keeping track of time, folks. And said when we left to give them a ride -- when I left to give him a ride that's when we heard the sirens. And if you're looking at Kevin Watson's testimony, me asking him a question, him answering. Question, "Do you remember telling my investigator it might have been that y'all could have been over on Perrin Street up to 15 minutes before Zykerious gave the ride?" Answer, "Maybe. Like I said, I wasn't looking at the phone or my time, so I really can't say how long it was." Folks, none of these folks know the time. And again, think about this. Let's just use mathematics as best we can in this case. They hear the sirens when they're leaving out. Sirens probably start at about 5:04, 5:05. Okay. Back off 15 minutes. They've all been chilling

around the house for 15 minutes after Demorris got there, 4:50. It would take five, six minutes to walk over there, 4:44, 4:45. So Demorris is walking from someplace allegedly over to Perrin Street before the murder ever happens. Folks, time is everything here. Time is everything here. Again, this isn't my -- these words coming out of the witness' mouth. And you heard Kevin Watson say, too, he didn't have anything on him. Wasn't carrying a bag, no bulges, no nothing. I mean, he is traveling with his clothes and his shoes. No blood on him. It doesn't look like he's been in a fight. Not winded, not sweaty. Folks, think about it. If you had gone out here and killed somebody and you're leaving on foot, guess what, you're hauling tail. Ain't going to be no strolling around the neighborhood and I'm running as far away as I can. Ain't going to be no strolling up the street or strolling through a path. Folks, that just doesn't make any sense.

And then you heard Dr. Woodard testify. And in between that we heard the nice young lady from SLED. I don't really think she added too much to it other than to confirm that it was a .380 that killed Barry Warren. And again, a .380 clip is not a big clip. Kind of a medium clip. You remember Blade saying, oh, this clip I saw was a big clip. Kind of a big clip. So Dr. Woodard said that Barry was shot between six and 12 inches away. And folks, if you're shot between

six and 12 inches away, that's an execution. There is no other way to describe it but that. Somebody has executed you. You heard Dr. Woodard say after that shot was fired, which Nicole Reid puts it at 4:52ish, maybe 4:53, the person is going to lose consciousness and collapse in a minute to a minute and a half. So again, around 4:54ish, in that neck of the woods, Barry Warren hit the floor. He collapsed. That's what Train Head said he heard. So this man, Barry Warren, a human being just like all of us, hits the floor 4:54ish. Train Head doesn't do anything. He doesn't call 911. He runs over allegedly to these folks and say hey -- or calls them over. Hey, I think Smiley shot Barry. He didn't see anybody running.

Folks, I don't know whether or not a prompt 911 call would have saved this man's life. I don't think any of us would know that. But Train Head, Keith Jackson, sure went out of his way not to call 911, you know. That's a horrible human being that does that to another human being. But again, we don't expect a lot of somebody who breaks into the house of the Lord. You just don't.

Then, you know, you heard me cross-examine Detective Moore this morning. I talked to him about all this stuff. You know, he said he walked these trails and roads between Gilliam Court and Perrin Avenue. He said three or four times -- or he actually walked three or four different

paths. Folks, there's several different routes between the two. He said each time it's going to take five and a half to six minutes to do that. See, that's where I'm getting my five and a half to six minutes. You know, back that off any time, because if the government believes Demorris is leaving Gilliam Court it's going to take that long to get over to Perrin. So any arrival time, back off five and a half or six minutes. Because again, the government I think is stuck with him walking because he's not sweating. He's not winded. He's not out of breath. So yeah, he just killed somebody, executed them, he just kind of strolls for five and a half to six minutes to come on over here to his buddies house. Folks, that just doesn't make any sense. But again, you heard Detective Moore say they didn't find any evidence on any of these trails or roads, abandoned houses. I don't know how hard they looked. But again, they should have been scouring everything. If they're wanting to be fact-checkers, by golly you check every fact. Barry Warren doesn't deserve any less. Demorris Andrews doesn't deserve any less you get up there and you turn over every stone. You turn over everything. You find this gun. You find this clip. You find the person that when you -- if you want to raise Cain with them as the police that will confess to you. Barry Warren's killer needs to be found. I'm the first one to tell you he needs to be found and he needs to

be prosecuted, ladies and gentlemen. It's not this man over here.

Detective Moore talks about Officer Griffin and all the training she got. She's their evidence guru. He talked about all the blood there. You know, these folks didn't call in SLED to do anything or any assistance. I don't know if it's an ego thing. I don't know if it's a money thing. I don't know if it's a time thing. But folks, we're dealing with human beings' lives here. Time shouldn't be an issue. Money shouldn't be an issue. Ego shouldn't be an issue. If we're serious about solving Barry Warren's murder you do every humanly possible thing you can. And I heard Detective Moore say, oh, we did the best we could. Well, keep trying. Keep trying. There's lots more that needs to be done on this case. You know, they arrest Demorris Andrews and say, oh, we quit fact-checking. No need to go do anymore of this stuff. You know, Detective Moore agreed they didn't go out here looking for any videos. They didn't get a search warrant for the clothes at the house, or his sister's house, or ask for consent to get it. Just didn't do it. Didn't followup on Blade's uncle who said he was 99 percent sure Blade did it. Folks, I'm Barry Warren's family, I'm banging down the police department's door to go talk with these people, to go search these clothes, to go do this stuff. To fact-check, to turn over every stone. They didn't do it.

There's probably doing to be a lot of times you don't sleep, you don't eat, you don't go home. But by golly, if you sign up to do this detective work, by golly you need to do it right. You need to do it thoroughly. You need to be a fact-checker.

And I want to end on Demorris. You know, I was talking a good bit about Demorris the other day, and I think you know a good bit about Demorris now from testimony you've heard on those two statements. Yeah, Demorris sells some marijuana. He smokes some marijuana. Everybody in the neighborhood knows him as a pothead. He's going to sell a little pot. I think everybody knows Barry as a crack dealer. As a pill dealer, you know. There's just not competition. You know, Demorris tells the police, I hear, that Blade and Barry might be some competition. It sounds like they just didn't do anything about that, you know. They didn't talk to Blade that night at the scene.

I just want to cover a little bit again about what I covered with you on Monday on Demorris. You know, he was 25-years-old at this time. Had a ninth grade education. He was essentially homeless. And you heard him describe to the police I just kind of couch service -- surfs. Stay some in abandoned houses. He's a street person. He has few clothes. Folks, knowing his condition, and I think y'all got a good fair sense of what his condition in life is like.

Probably only owns one pair of shoes. If he does only own one pair of shoes, that pair of shoes was tested for blood. Ain't no blood there. No blood on him. You heard Detective Griffin say you can't get rid of blood. If blood's on your clothing, on your shoes, it's there. Our science is that good. You can't hide the blood. Can't do it anymore. You heard Demorris say no watch. No cell phone. No job. He doesn't keep up with time. I mean, he roams around the neighborhood every day. That's what he does. That's his life. He doesn't get up and go to work. He gets up from wherever he wakes up at and knocks around all day. He goes over to Barry's. you heard him say that. He's going to sell some marijuana, smoke some marijuana. And again, you heard him say multiple times that Barry was his friend. And that man was a mentor to him. Sounds like Barry was a good man to lots of people around. He might have had some other bad hobbies or whatnot, but everybody seems to suggest he was a good man. He looked after people. Demorris says he looked after him. Folks, Demorris knows he got cleaned out during that police raid. And yet he wants to go over there and rob his buddy, kill his buddy that's been so good to him when he knows his buddy's been cleaned out. And the girlfriend over here says he hadn't gone back in business. Folks, that just doesn't make any sense. This sounds like a turf war. It sounds like a drug war. It sounds like a

territory war. This was up close and personal folks. This was a vengeance. This isn't your buddy who comes over to your house every day to smoke marijuana. No, it's not that. This is up close and personal.

You know, you heard Demorris' two interviews. Like I told you, one was about an hour and 50 minutes. One was about an hour and 13 minutes. This young man, you heard me ask Detective Collins, you heard my client say on the video, he's paranoid. He's got paranoia. Folks, y'all understand what paranoia is. You're suspicious of other peoples' motives. You think everybody's out to get you. Your nervous. That type stuff is paranoia. I mean, it is a medical or mental condition. He's paranoid. So what. You know, he's paranoid about the police. He's paranoid about living on the streets. He's paranoid about people shooting up his sister's house. He worries about all this stuff. And as I told, I think it was Detective Collins the other day, thank goodness, Detective Collins, I'm glad y'all browbeat him enough to get him over his paranoia so he can start cooperating with you and taking your test. Giving you his blood -- giving you his DNA. You know, giving you his clothes. I'm glad. You heard it. He's reluctant. I mean, he thinks they're trying to alter his DNA or plant DNA on him. Folks, we know that's not true. I mean, we know that. We're not paranoid. We understand that. But I'm glad they

got it through to him to get over his paranoia to do this stuff. Thank God. And not his blood on those clothes. Not his DNA a the scene. When they finally got him to take a polygraph and he agreed to take a polygraph, oh, we're just not going to worry about doing it. Got him to finally agree to take a gunshot residue test on his hands and presumably clothes. Decided we're not going to do it, you know. He is the epitome of cooperation. Did it take a little bit to get there? Yeah. But it takes a while to get through peoples' paranoia. And again, folks, there's just no physical or forensic evidence at all linking Demorris to this crime. You heard the officers saying, hey, your DNA is at the scene. That's a lie. Oh, it's bluffing. We learned about that at school. No, it's a lie. Two people saw you running from that house that day. That's bluffing. No, folks, that's a lie. I don't care if somebody with a uniform and badge is doing it. It's a lie, period. Lied to him left and right. You heard it. Bullied him, threatened him, cussed him. No, I didn't do it. It wasn't me. I wasn't there. I want a trial. And by golly, this is his trial. This is his day in court. This is his week in court.

Ladies and gentlemen, the Court's -- the Court -- His Honor is going to go into a lot more detail about the law than I am. I'm not trying to step on the Judge's toes. Plus I agree with the Solicitor. He knows more about the

law probably than I'll ever know about it. So we're going to let him explain the law to you. But we're going to hear a lot about reasonable doubt. He's going to give you the fancy -- the Judge is going to give you the fancy, you know, legal definition of it. Beyond all and any reasonable doubt. But let me tell you just from a layperson's perspective how I've always looked at reasonable doubt. Reasonable doubt is giving somebody else the benefit of the doubt. That's all it is. That's all it is. Folks, we give people the benefit of the doubt every day. Why was somebody late to a meeting. Why was I late getting home. All sorts of stuff. You understand instinctively what giving people the benefit of the doubt is. You know if there's any doubt, if there's any reasonable doubt, Demorris is entitled to the benefit of it. It's as simple as that. The government's got to prove all this stuff beyond all and any reasonable doubt. They've got to prove that it was Demorris Andrews in that apartment number 8 that killed Barry. They've got to do it beyond a reasonable doubt. Again, think of it as benefit of a doubt. If some of this stuff doesn't make sense to you, witness A says this, witness B says that. I'm not quite sure who to believe, you know. The law says you've got to give Demorris the benefit of the doubt. We think he did it maybe. We think he didn't do it maybe. The law says you've got to give Demorris the benefit of the

doubt. He didn't do it. That's what beyond all and any reasonable doubt is. He's entitled under our constitution of this great country and this great state. He's entitled every benefit of the doubt. And ladies and gentlemen, I'm asking you to give it to him.

Just thinking, too, folks, this armed robbery. The only person that testified about anything being stolen was Dwayne Sanders who said my client said something was stolen. Folks, I've listened to the testimony pretty close. I think y'all have, too. Ain't heard no other testimony about anything being stolen. But again, don't rely on my version of events. Think back through your notes and think back through the testimony. You know, just on the scope of that, you know, that's an easy not guilty. Because I think anybody that gives any credence to anything that Dwayne Sanders says is nuts. Same reason anybody that gives any credence to anything Keith Jackson says, you know. Despicable people to put this young man in this position over here.

Folks, y'all know what to do. All I ask is you go back there in that room here in a little bit and do it. This man needs to be home tonight. Thank you for your time.

THE COURT: Thank you, Mr. Henderson. Now, ladies and gentlemen, what I'm going to do is, before I instruct you on the law, we're going to take about a 10 minute break and the

Clerk's going to go back and offer you lunch. Okay? It takes about an hour to get the lunch to you, and hopefully there's some crackers out back there that you can use to kill your -- tell me there's some crackers back there that they can use to kill the acid in their stomach? There's not? There is. Good, okay. So we're going to let y'all order lunch. The County's picking up the tab. The two alternates, if you want to order lunch, that's fine. You'll just have to -- after the jury starts deliberating, after I instruct them on the law, once they start deliberating I'll bring you two out and you won't participate in the deliberations. So you'd have to hang around to get your sandwich, but I'm more than happy to buy you a sandwich for the trouble we put you through the last three and a half days. Okay? So you want a sandwich, fill out your menu.

Go to the back. The Clerk will meet you back there. Place your order. We will get those faxed over to Howard's on Main. That's where we're ordering the sandwiches from, and don't discuss the case yet. All right? We'll be at ease for 10 minutes.

THE BAILIFF: Bring your pencils in -- back here with you, too.

THE COURT: Yeah, bring your pens or pencils.

(Whereupon, the jury exited the courtroom at 12:46 p.m.)

(Whereupon, a recess was held from 12:46 p.m. to 1:03 p.m.)

THE COURT: I assume the jury's placed their orders. I will proceed with instructing them. Let us have them, please.

(Whereupon, the jury entered the courtroom at 1:03 p.m.)

JURY CHARGE

THE COURT: All right. The record will reflect that the jury is back and seated. Ladies and gentlemen of the jury, it now becomes my obligation to instruct you on the law that applies in this particular case. And I will let you know that when I first started practicing law 25 years ago the traditional way that most judges instructed the jury on the law was that they would sit up here and read to you basically, in this case, about 18 pages of legal theory, 18 pages of the law, and the jury was supposed to sit there and kind of get it all on the first hearing, and I always found that a little unreasonable and perhaps a little bit silly. I think that tradition arose when most of our population probably was not able to read. Now days, obviously the exact opposite is true. Most people can read. So long story short, ladies and gentlemen, I'm going to give you a copy of these instructions that you can refer to if you need to during the course of your deliberations. Okay? Of

course, please follow the instructions as a whole. Don't pay attention to some portion of the instructions to the detriment of some other portion of the instructions. If you have any questions about the law that applies in this case, Madam Forelady, simply write out a note, let me know what it is that you're struggling with in terms of the law, and I'll try and clarify that for you or give you a better explanation. Okay? So if you have any question about the law, odds are I'm going to be able to help you. However, at this point in time understand that the record is closed. There's no way to introduce any additional evidence. So if you have a factual question, odds are -- odds are I'm not going to be able to help you with any factual question because it's not possible to reopen the record, take additional testimony or introduce any additional evidence. Okay? You've got everything that you're going to have in order to decide this case.

Now, ladies and gentlemen, I instruct you, as I did on Monday, that the indictments charge the Defendant, Mr. Andrews, in this case with the offenses of murder, armed robbery and possession of a weapon during the commission of a violent crime. I'll remind you that the fact that Mr. Andrews was arrested, charged and indicted is not evidence of guilt and cannot be considered by you as evidence of guilt, nor do the indictments create any presumption or

inference of guilt. These documents are merely the formal written instruments which contain the charges against the Defendant. They're the formal documents by which these cases are brought to Court. In this case the Defendant has pled not guilty to these charges, and that plea puts the burden on the State to prove the Defendant guilty. I instruct you that a person charged with committing a criminal offense is never required to prove himself innocent. Its an important rule of law that the Defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictments were issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt. Ladies and gentlemen, this presumption of innocence does not end when you begin your deliberations, rather it accompanies the Defendant throughout the trial unless or until you reach a verdict of guilt based on evidence satisfying you of his guilt beyond a reasonable doubt. Ladies and gentlemen, the presumption of innocence is not merely a legal theory. It's not just a legal phrase. It's a substantial right to which every citizen is entitled unless you, the jury, are satisfied from the evidence of his guilt beyond a reasonable doubt.

Well, what is a reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a

reasonable person to hesitate to act. The State has the burden of proving the Defendant's guilt beyond a reasonable doubt. And some of you may have served as jurors in civil cases where you were told that it's only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence. In criminal cases the State's proof must be more powerful than that. It must be proof beyond a reasonable doubt. Proof beyond a reasonable doubt it proof that leaves you firmly convinced of the Defendant's guilt. Now, there are very few things that we know in this world with absolute certainty, and in criminal cases the law does not require proof that overcomes very possible doubt. If based on your consideration of the evidence you're firmly convinced that the Defendant's guilty of the crimes charged, you should find him guilty. If, on the other hand, you think there's a real possibility that the Defendant is not guilty, you should give him the benefit of the doubt and find him not guilty.

Now, ladies and gentlemen, I remind you that during this trial you and I have certain duties to perform. As the trial judge it's my responsibility to preside over the trial of this case and I have the obligation to rule on the admissibility of evidence. You are to consider only the competent evidence before you. So any testimony or any

statements that were ordered stricken from the record or you were ordered to disregard, you have to disregard that testimony because you are to consider only the competent testimony which has been presented from the witness stand, as well as any exhibits which have been made a part of the record. The additional duty to charge the law, and as the presiding judge I'm the sole judge of the law. Understand that it's your duty as jurors to accept and apply the law as I state it to you. So if you already have any idea as to what the law is or what it should be and this idea differs from what I tell you the law is, you have to abandon that idea because you're sworn to apply and accept the law as I state it to you know. Again, you are the sole and exclusive judges of the facts in this case. Understand that a trial judge cannot intimate, state, comment on or make any statement to a jury about the facts in a case. Since you're the sole judges of the facts, you're not to infer from what I've said during the progress of this trial in ruling upon the admissibility of evidence or otherwise, or anything that I say to you now that I have any opinion about the facts in this case. Ladies and gentlemen, the law does not permit me to have any opinion about the facts. This is a matter solely for you to determine. As jurors it's your duty to determine the effect, value, weight and truth of the evidence presented during this trial.

Now, ladies and gentlemen, there are typically two types of evidence which are presented during a trial; direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does require deduction, such as testimony by an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances which indicate the existence of a fact. I instruct you that crimes may be proven by circumstantial evidence, and the law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the state relies on circumstantial evidence, all the circumstances must be consistent with each other, and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If the circumstances merely portray the Defendant's behavior as suspicious, then the proof has failed. I instruct you that the State has the burden of proving the Defendant's guilt beyond a reasonable doubt, and this burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or some combination of the two.

Now, as I alluded to earlier this week, necessarily you must determine the credibility of witnesses who have testified, and again, credibility simply means believability. It becomes your duty as jurors to analyze

and to evaluate the evidence and determine which evidence convinces you of its truth. In determining the believability of witnesses who have testified you can believe one witness over several witnesses, or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in it's entirety or reject it in it's entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case, and you may also consider the appearance and manner of a witness while on the witness stand. I further instruct you and emphasize that the fact that the Defendant in this case did not testify is not a factor to be considered by you in any way in your deliberation and in your consideration of the question of the guilt or the innocence of the Defendant. It must not be considered by you in any manner whatsoever. A Defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath you're to draw no conclusion whatsoever from the fact that the Defendant in this case did not testify. The fact that he did not testify shouldn't even be discussed in the jury room. As I've said to you, the burden of proof is on the State and the

Defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Now, in this case there has been evidence presented that witnesses have made prior statements which are not consistent with the witnesses present testimony. You may use this evidence to decide whether to believe the witness. You may also use evidence of earlier contradictory statements to determine the truth of those statements. It's up to you to decide whether to believe the earlier statements or the testimony given at trial. If a witness has shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness' testimony as to other matters. You may reject all the testimony of that witness or give all or part of the testimony the weight you think it deserves.

I further instruct you that a person who has a past criminal history, or a past criminal record is competent to testify during a trial. A past record does not effect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witness' believability. Remember, you're the sole judges of the facts in this case and of the believability of any and all of the witnesses who have testified.

Now, as I alluded to you yesterday, ladies and gentlemen, normally the rules of evidence don't permit witnesses to testify as to opinions or conclusions, but an exception to this rule exists for expert witnesses. A witness who my education and experience has become an expert in some art, science or profession may give an opinion as to the subject the witness claims to be an expert in, and they may also give the reasons for their opinion. You should consider any expert opinion given by a witness in this case, and like any other evidence, give it the weight you think it deserves. If you decide that an expert witness' opinion is not based on sufficient education and experience, or if you decide that the reasons given in support of their opinion aren't sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert's testimony is to be given no greater weight than that of any other witness simply because the witness is an expert, and you do not have to accept an expert's opinion, even though it's uncontradicted.

Now, an issue in this case, ladies and gentlemen, is the identification of the Defendant as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the Defendant before you can convict him.

Identification testimony is an expression of belief or impression by a witness. You must determine the accuracy of the identification of the Defendant. You must consider the believability of each identification witness in the same way as any other witnesses. You may consider whether the witness had an adequate opportunity to observe the offender at the time of the offense. This will be effected by things like how long or short a time was available, how far or close the witness was, lighting conditions, and whether the witness had the chance to see or know the person in the past. Once again, I instruct you that the burden of proof is on the State and it extends to every element of the crime charged. This specifically includes the burden of proving beyond a reasonable doubt the identity of the Defendant as the person who committed the crime. If after examining the testimony you have a reasonable doubt as to the accuracy of the identification, you must find the Defendant not guilty.

Now, ladies and gentlemen, you've heard evidence that the Defendant was convicted of a crime other than the one for which the Defendant is now on trial. As I instructed you, I believe on Tuesday, you must not consider the Defendant's prior record as any evidence of the Defendant's guilt of the charge that we are trying today.

The Defendant, ladies and gentlemen, is charged with the offense of murder and I'm about to define that for you.

In order to prove murder the State must prove beyond a reasonable doubt that the Defendant killed another person with malice aforethought. Malice is hatred, ill will or hostility towards another person. It's the intentional doing of a wrongful act without just cause or excuse and with an intent to inflect an injury or under circumstances that the law will infer an evil intent. Malice aforethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the Defendant just before and at the time the act is committed. Therefore there must be a combination of the previous evil intent and the act. Malice aforethought may be expressed or inferred. Now, these terms express and inferred don't mean different kinds of malice but merely the manner in which they may be shown to exist. That's either by direct evidence or by inference from the facts and circumstances which are proven. Expressed malice is shown when a person speaks words which express hatred or ill will for another, or when the person prepared beforehand to do the act which was later accomplished. For example, laying in wait for an individual or any other acts or of preparation going to show that the deed was within the Defendant's mind would be expressed malice. Malice may also be inferred from conduct showing a disregard for human life.

Now, the Defendant in this case is also charged with

the offense of armed robbery. In order to prove armed robbery the State must prove beyond a reasonable doubt that the Defendant took personal property from the person or presence of another person. Property is in the presence of a person if it's within the person's reach, inspection, observation or control so that the person could, if not overcome with violence or prevented by fear, keep possession of their property. The State must also prove beyond a reasonable doubt the Defendant carried the property away intending to permanently deprive the owner of the property and to keep the property for the Defendant's own use. The slightest removal of the property, or the complete possession of the property, even for an instant by the Defendant, is sufficient to show a taking and carrying away of that property. The taking and carrying away of the property must have been done with violence or by putting the owner of the property in fear of violence.

Finally, the State must prove beyond a reasonable doubt the Defendant was armed with a deadly weapon during the robbery. A deadly weapon is any article, instrument or substance which is likely to cause death or great bodily harm. Whether in instrument has been used as a deadly weapon, of course, depends on the facts and circumstances of each case. The State must prove beyond a reasonable doubt that the weapon furthered, advanced or helped in the

commission of the crime.

Finally, the Defendant is charged with possession of a weapon during the commission of or attempt to commit a violent crime. Therefore, the State must prove beyond a reasonable doubt that the Defendant was in possession of a firearm during the commission of a violent crime. A firearm under the laws of this State is defined as any machine gun, automatic rifle, revolver, pistol or any weapon which will, is designed to, or may be readily converted to expel a projectile. In order to find the Defendant guilty of possession of a weapon during the commission of a violent crime you must first find the Defendant guilty of committing a violent crime. A violent -- under South Carolina law, ladies and gentlemen, both murder and armed robbery are classified as violent crimes.

Now, ladies and gentlemen, there are six possible verdicts which you may find in this case. And, Madam Forelady, I've prepared this verdict form to help you deliver the verdict in this case. This is about as self-explanatory as I can make it, but the law still makes me go over it with you. Okay? I don't think you're going to have trouble understanding it. Okay? Again, these are mutually exclusive options. The first statement on the verdict form says, "We the jury in the above-captioned case on the charge of murder unanimously find Demorris Andrews,"

and then there are two, again, mutually exclusive options, either guilty or not guilty. Okay? If based upon your consideration of the evidence you find that the State has met its burden of proving the Defendant's guilt beyond a reasonable doubt on the charge of murder, you would simply initial next to guilty and then move on to the armed robbery question. Okay? Which is identical to the first question. Okay. If, however, you find the State has failed to meet it's burden of proof beyond a reasonable doubt with regard to the armed -- or with the murder charge, you would initial next to not guilty and then go down to the armed robbery charge, consider it. Okay? Only if you find the Defendant guilty of both murder and -- or armed robbery, you can find him guilty of murder or armed robbery. Only if you find him guilty of one of those two or both would you ever consider the third one, possession of a weapon during the commission of a violent crime. Okay? So you only get to the third question -- or the third statement if a guilty verdict is returned on one of the first two statements. Okay? I think you're clear on that.

Now, ladies and gentlemen, again, if you have any questions concerning the law, or you otherwise need to communicate with the Court, simply write your question down, give it to one of the bailiffs. They'll bring it to me. I'll discuss it with the attorneys and I'll try and help you

as much as I can. All right? However, at no time, Madam Forelady, should you ever indicate any sort of numerical division. If y'all are back there and you're deliberating and the vote is 6-6 or 11 to 1, or 10-2, I don't want to know any number. Okay? So never give me the numbers. Never give me where you are in terms of your deliberations as far as that's concerned, please.

Now, ladies and gentlemen, your verdict has to be a unanimous one in this state. That means all 12 of you have to agree. Other states do not have unanimous verdicts. In other states it's okay to have majority verdicts. Other states are doing it wrong. All right? All 12 of you must agree on the ultimate verdict in this case before any verdict can be rendered with regard to any of the three charges.

Madam Forelady, again, when the jury has agreed on the verdict, simply initial as appropriate on the verdict form, sign it, knock on the door, let the bailiff know, and I'll get everybody reassembled here in the courtroom. Okay? So once you've decided on your verdict just knock on the door. Let the bailiff know. We'll get you back in here as quickly as possible.

Now, ladies and gentlemen, I remind you that you've been chosen as fair and impartial individuals. In other words, you have no friends to reward, you have no enemies to

punish in this particular case. Your job is to render a verdict based solely on the evidence presented and the law as I've instructed you, and your verdict cannot be based upon passion, caprice, prejudice or any consideration which is not in the record in this case.

Now, I'm going to ask that you return to the jury room in just a moment, but don't start your deliberations yet. Okay? Your cue to begin the deliberations will be receipt of this verdict form, receipt of this -- these instructions, and receipt of all the evidence which has been introduced into the record in this case. When you get all of that back there, and I ask the two alternates to step out, that's when you can begin your deliberations. Okay?

There are a couple of audio recordings which have been introduced into the record. Because there's no mechanism to play those back there, if you decide that you want to play them, if you want to play those, just let me know. I'll cue up the recording. We'll bring you back out here and we'll play those for you again if you need to hear those again. Okay? I'm not saying whether you do or you don't, but if you do need to hear it just let me know what portion you're interested in hearing. Kind of what you're -- what you're struggling with, because some of those are a little bit long. So if you can maybe narrow it down a little bit as far as what you're -- what you're seeking for, maybe we can

-- we can get to it a bit more quickly. All right? But again, because there's no mechanism to play those back there, let me know if you want to hear them again. All right?

With that, adjourn to the jury room. Don't start your deliberations yet. Cue to begin will be receipt of the evidence and my asking our two alternates to step out. Okay? Thank you, Madam Forelady.

THE BAILIFF: Take your notebooks with you.

THE COURT: Do take your notebooks with you this time. Two alternates, y'all go back there. Say goodbye. Okay? Because I'll be bringing you out shortly, I think.

(Whereupon, the jury exited the courtroom at 1:29 p.m.)

THE COURT: Let's stay on the record if we could for just a moment. One point of clarification. Ms. Scott has informed me that inadvertently there were two State's No 52s marked. The map has been kept as No. 52, and she changed the Advise of Rights sheet to State's 55. Okay? So just for the record, because we had that small mistake, I wanted that to reflect -- I think both of those were in evidence without objection, so that should not pose a problem.

With exception of the Court's failure to charge the informant instruction requested by the Defense, any other exceptions or additions?

MR. HENDERSON: No, sir.

THE COURT: Any exceptions from the State?

MR. THOMAS: Nothing, Your Honor.

THE COURT: Gentlemen, if y'all would make sure we're good as far as the evidence is concerned we'll get it back to the jury and we'll get the alternates out.

MR. HENDERSON: Your Honor, I've got to run to a mediation.

THE COURT: Very good.

MR. HENDERSON: So I know y'all can get me if y'all --

THE COURT: Let me make sure I've got your -- we're off the record, Tara.

(Whereupon, a recess was held from p.m. 1:31 to 2:38 p.m.)

(Whereupon, Jury notes, Court's Exhibit Nos. 3 and 4 were marked for identification.)

THE COURT: We'll go back on the record. Over the break we did receive two notes. First they want to hear Dwayne Sanders' interview. I believe that was the informant from the jail. I think that you've got that ready to go, correct, Solicitor?

MR. THOMAS: Your Honor, that's State's --

THE COURT: 51.

MR. THOMAS: -- 51. I've got it cued up and ready to roll.

THE COURT: All right. The second note that I've got

is -- and it's been marked as Court's 4, "We would like to read the transcript of Blade's testimony. I think -- there was never a recorded statement given by Blade, correct?

MR. THOMAS: There were, but they're not in evidence.

THE COURT: They're not in evidence.

MR. HENDERSON: They're not in evidence, and they really weren't referenced either.

THE COURT: Okay. What I'll have to do is simply explain to them that we can't provide them with a transcript but we're happy to replay if it they would like to. I don't recall, he -- Blade, what was his Christian name? I was looking for --

MR. THOMAS: Kelsey Watson.

MR. HENDERSON: Kelsey Watson.

THE COURT: Kelsey, okay.

MR. THOMAS: He was the first witness Tuesday morning.

MR. HENDERSON: Your Honor, what some of the confusion may be, I actually had the court reporter transcribe a couple of pages of his testimony for me that I was telling the jury that, hey, I'm reading from that partial transcript.

THE COURT: Right.

MR. HENDERSON: And I do have a partial transcript, but that's it, so...

THE COURT: So what we'll do is tell me that we can

simply replay Mr. Watson's testimony. What we'll -- I'll explain that to them. And I don't think Mr. Watson testified for more than, what, 15, 20 minutes?

MR. THOMAS: Twenty minutes, maybe.

MR. HENDERSON: It was short.

THE COURT: All right. I'll -- we'll replay -- we'll play State's 51 first for them, and then we'll -- I'll just ask my court reporter -- since we'll be off the record at that point in time, I'll just tell the jury that we're going to play 51 first and then we're going to go automatically into Blade's testimony. That way she can have it cued up and she won't have to go back on the record and jump through all those hoops. Let's have the jury, please.

(Whereupon, the jury entered the courtroom at 3:25 p.m.)

THE COURT: The jury is back and seated. Ladies and gentlemen of the jury, I did receive your notes earlier. Again, sorry about the delay in getting lunch to y'all. Apparently Howard's was slammed today, and so the order took a little bit longer. But at least y'all had something to eat now. What we're going to do, ladies and gentlemen, is at it relates to the first notes where you're -- the first note where you're asking to hear Dwayne Sanders' interview, the Solicitor has that cued up and he'll play that in just a moment. You also sent a second note that that you want to

hear the testimony of Blade. Kelsey Watson, aka Blade testified at 9:45, according to my notes, and it lasted roughly 30 minutes. That testimony roughly 30 to 40 minutes. It's not possible what -- Mr. Henderson referenced a transcript. He asked yesterday for my court reporter to expedite just a portion of that testimony. Okay? And it's not possible for her to produce a transcript in real time, because what she has to do is go back through her notes, and then she has a secondary system where she listens to the testimony to make sure that what she writes down is accurate. Okay? So what we're going to do is just have her, after we finish playing the 15 minutes of Mr. Sanders' interview with the police, I'm just going to let her cue up and play his testimony from the beginning. And once you've heard -- you know what you're looking for. I don't know what you're looking for. So once you've heard what it is that you're struggling with, or what it is that you're looking for just wave me off. Okay? Get my attention and we'll cut it off. If you want to hear the whole 30 to 40 minutes, that's perfectly fine, too. I'll just assume if you're not waving that you haven't heard it yet. Okay? So we'll just start at the beginning of his testimony and let it roll. All right?

Solicitor, with that, if you'll play State's 51 for the jury, please.

(Whereupon, State's Exhibit No. 51 was published for the jury.)

THE COURT: Ladies and gentlemen, I think that's what you were asking for. So if you'd return to your deliberations and let us know if we can help you or when you have a verdict. Okay, please? Thank you.

(Whereupon, the jury exited the courtroom to resume deliberations at 4:24 p.m.)

THE COURT: All right. We'll be at ease.

(Whereupon, a recess was held from 4:24 p.m. to 5:46 p.m.)

(Whereupon, Court's Exhibit No. 5 was marked for identification.)

THE COURT: If we may, we're going to go back on the record. I have received another communication from the jury that's been marked as Court's 5. My Clerk has shared it with counsel. The first part of the note says, "Can the Court answer the following question. Is there a time stamp on the Walmart, and which Walmart?" And I'm assuming that that's referring to maybe some question about the alibi or somebody was working at Walmart. Is that what that perhaps could be referring to, or do y'all have any other --

MR. THOMAS: That's what he's getting at, Your Honor.

MR. HENDERSON: It would have to be, Your Honor, because the police did go to one of the Walmarts and

actually grabbed video that confirmed Mr. Logan was there either picking his girlfriend up from work or dropping her off from work and confirming the time stamp and his car. So yes, he had an airtight alibi.

THE COURT: Okay.

MR. THOMAS: I don't -- I was looking back through my notes. I don't know that anybody testified to the time, and we definitely didn't put the video into evidence or anything.

THE COURT: Unless y'all are able to work out a stipulation I'm going to be limited to simply telling the jury that, again, we cannot reopen the record and we can't produce additional evidence, so that's where we are, unless -- and I'm happy to afford y'all a few moments to see if y'all could agree potentially to something, because --

MR. THOMAS: The time is 17:10 is what they've documented, but I don't know that that came into evidence. I don't remember that coming out of anybody's mouth.

MR. HENDERSON: It didn't, Your Honor. And obviously having some dealings with Walmart videos, you know, again I'm not sure how -- not that the times are too terribly inaccurate, but I don't know how accurate it might be, you know, unless law enforcement may have called in, you know, dispatch or something that would -- that would be a truer time.

THE COURT: Okay. Well, what's the opinion of counsel as far as how the Court should deal with this then? Do y'all have a position? What's --

MR. THOMAS: I mean, as much as I would love to give them a stipulation that says 5:10, I mean, I don't know that -- I think a stipulation is evidence and the record is closed at this point. So I think we're just kind of stuck telling them you got to -- the video's not in evidence. You've got to rely on the testimony that you heard from the stand.

THE COURT: That's -- I mean, I'm happy to tell them that.

MR. HENDERSON: I would agree with that.

THE COURT: Okay. The second notation further down on the sheet states, "We are deadlock," and then it has a question mark. And I really don't know if that refers to whether the first question is what they're deadlocked on, or if they're not using that deadlock correctly. But clearly the question mark indicates that maybe deadlock in the strict legal sense isn't exactly what they are. I'm going to give the jury, since we're pushing, you know, six o'clock here, the option that I usually do, that if they want to go home for the evening, we certainly can and resume sometime tomorrow morning if they're fatigued. I know they started deliberations around 1:30 today and perhaps they're getting

a little bit fatigued, perhaps they have some obligations they have to attend to on a personal level. I'm a little hesitant to give an Allen charge with the question mark next to the word deadlock. So I'm not going to do that at that point in time. I'm just going to throw that option out there for them. Okay?

Let's have the jury, please.

(Whereupon, the jury entered the courtroom at 5:50 p.m.)

THE COURT: All right. The record will reflect that the jury is back. Madam Forelady, I received your most recent communication where you ask is there a timestamp on the Walmart and which Walmart. And in discussing this with the attorneys I'm assuming that you're -- you're talking about that portion of the testimony concerning the alibi issue or whatever. The long story short though is that because the record is closed, as I mentioned a moment ago, it's not possible to reopen it at this point in time and answer that question. Okay? So is there a timestamp on the Walmart and which Walmart, there might be a timestamp. There might not be. There's no way for me to tell you, and there's no way for me to tell you which Walmart. Okay?

Additionally, ladies and gentlemen, I wanted to mention to you -- and I noted the second note here, and clearly, clearly y'all are doing your duty and working through this

case and working hard on this case, but I neglected when we initially came out here to tell you a hard and fast rule that I have. Once a case is submitted to a jury we are on your schedule. Okay? We're on your schedule 100 percent. And it's my experience in doing this, and I've had this job for about eight years full-time now, but it's my experience that sometimes if folks get fatigued or if maybe the day drags on, sometimes it's beneficial to take a break for the evening and come back the next. Whether you deliberate one hour, five hours, four hours, 10 hours, 10 days, 10 weeks -- I hope it's not 10 days or 10 weeks. But however long you deliberate is completely up to you guys, and however late you want to go tonight is also completely up to you. And if you feel like maybe breaking for the evening and reconvening tomorrow morning at a convenient time, if you feel like that would be beneficial, I'm happy to do that. That is what we will do if that is what y'all want to do. Okay? So I forgot to mention that to you, because clearly you're continuing to do your obligation to look at this case seriously, look at this case objectively and work through this case, but sometimes a break is perhaps what people need.

So with that, please do return to your deliberations, and if you need to communicate with me either about breaking or any other matter or any other thing I can help you with,

you know how to do it. You've been doing it perfect. Okay?

(Whereupon, the jury exited the courtroom to resume deliberations at 5:54 p.m.)

THE COURT: We'll remain at ease.

(Whereupon, a recess was held from 5:54 p.m to 6:00 p.m.)

THE COURT: We'll go back on the record. I've received another communication from the jury, and much to the chagrin of my law clerk, the jury has stated, quote, "We would like to meet tomorrow." So we'll reconvene tomorrow morning and allow their deliberations to continue. Let's have the jury, please.

(Whereupon, the jury entered the courtroom at 6:00 p.m. Jury note marked Court's Exhibit number 6.)

THE COURT: The jury is back and seated. Madam Forelady, I did receive your communication that y'all would like to take a break for the evening. I think that's a wise move. Sometimes things just seem clearer in the morning once you've had a chance to reflect. Okay? So two things for the evening. Like I've said before, don't discuss the case with friends, family members, anyone you share a roof with tonight. And secondly, understand that I've released the two alternates, so I need all 12 of you back tonight, which means make sure that you drink some vitamin C tonight, do not get ill, because I have to have a jury of 12. I

cannot have a jury of 11 or less. So I need all of you back. All right? So please don't let anything bad happen to you over the evening, for your own personal welfare as well as my own.

With that, enjoy your evening. Okay? If you could reconvene at 9:30. When you get here at 9:30, of course, I'll be here, but you can start your deliberations. The evidence will be secured for the evening. The tablets that you've been using will also be secured for the night. And as soon as the evidence goes back into the jury room, that's when you can start your deliberations. Okay? But the evidence has to be secured with the court reporter and the law -- and the Clerk of Court. And once that's back there, that's when you can start talking again. Okay?

So with that, enjoy your evening. Possibility of rain tomorrow morning. Bring an umbrella and have a great night. Take care. Thank you.

(Whereupon, the jury was released for the evening at 6:04 p.m.)

TRIAL DAY 5: 7/20/2018

(Whereupon, deliberations resumed at 9:30 a.m. upon the arrival of all jurors and exhibits delivered to the jury room. The Court did not go on the record.)

(Whereupon, the jury indicated by note to the Court marked Court's Exhibit number 5 that they had reached a verdict at

11:39 a.m.)

VERDICT

THE COURT: I have received information that the jury has, in fact, reached a verdict in this case. Anything prior to the jury being received back into the courtroom from the State?

MR. THOMAS: Nothing from the State, Your Honor.

THE COURT: From the Defense?

MR. HENDERSON: No, sir, Your Honor.

THE COURT: Let me remind everyone who has been in attendance this week. We had a slight situation, shall we say, yesterday. This Court does have the authority - Which I've only had to mercifully exercise sporadically -- this Court has the authority to hold anyone in contempt and put you in jail for up to six months. There will be no, I repeat, no disruptions. Once the verdict is read there will be no outbursts. There will be no emotion shown from anyone in attendance. If there is that's going to be a problem for you. If you find yourself unable to control your emotions or unable to contain what you're feeling you are welcome to quietly, politely, and respectfully stand up and exit through the back of the courtroom, but there is to be absolutely no outburst of any kind. This jury was asked to do this. They were summoned to do this. They did not want to do this. Nothing is going to disrespect their decision

in this case. With that, let's have the jury, please.

(Whereupon, the jury entered the Courtroom at 11:48 a.m.)

THE COURT: The record will reflect that the jury is back in and seated. Madam Forelady, I'm told that a verdict has been reached in this case. Is that correct?

MADAM FORELADY: Yes, Your Honor.

THE COURT: And all twelve of you agree?

MADAM FORELADY: Yes, Your Honor.

THE COURT: Hand the verdict form, if you would, please to Mr. Willingham.

Madam Clerk, if you will publish, please.

CLERK OF COURT: State of South Carolina, County of Greenwood, State of South Carolina vs Demorris Octavia Andrews, we the jury in the above captioned case on the charge of murder unanimously find Demorris Andrews guilty. We, the jury in the above captioned case, on the charge of armed robbery, unanimously find Demorris Andrews guilty. We, the jury in the above captioned case on the charge of possession of a weapon during the commission of a violent crime unanimously find Demorris Andrews guilty.

THE COURT: Ladies and gentlemen, if this is your verdict please indicate by raising your right hand.

(Whereupon, all members of the jury raised their right hands.)

sincerely do. I want to thank you. You are free now to discuss this case with anyone that you choose to. As a general rule though, a jury room is a little bit like Las Vegas. What happens in the jury room stays in the jury room. But if anybody wants feedback on how they did as an attorney or if you want to talk to anybody about how you felt the evidence was presented, you are now free to do so. With that, I'm not going to keep you any longer. If you want to stay that's perfectly fine. The Bailiffs will help get you to the area where you can sit and be here for sentencing. Otherwise, you are free to go. With that, thank you again for your service. You are free to leave. Thank you. Ms. Cartledge, I need you to sign the actual --

(Whereupon, there was a pause in the proceedings from 11:54 a.m. to 12:06 p.m.)

SENTENCE OF THE COURT

THE COURT: We'll go back on the record in the State v Demorris Andrews. Mr. Henderson, I presume that you do, in fact, move for a new trial and you also renew all prior motions and objections; is that correct, sir?

MR. HENDERSON: I do, Your Honor. Obviously, it's our firm position that the verdict is not supported by the evidence presented at trial.

THE COURT: I understand your position. Mr. Andrews, the Court does find that there is sufficient direct and

circumstantial evidence to support the jury's finding in these particular cases and so your motion is respectfully denied, sir.

MR. HENDERSON: Thank you, Your Honor.

THE COURT: Solicitor, I'm more than happy to hear first concerning any prior record that Mr. Andrews may have and then I'll be happy to hear anything that his family may want to say to me.

MR. THOMAS: Your Honor, his prior record, he has a 2009 conviction for possession of cocaine base or crack, pled down from a PWID. At that time he also pled to a possession or distribution within proximity to a school, got a suspended sentence on that. In 2014 he pled to another PWID crack cocaine charge and a burglary third first offense and got five years suspended to probation on that. I think he's still got a probation warrant hanging over his head that they'll resolve after this. Your Honor, I don't think I really need to say a whole lot in sentencing here. It's just another one of those senseless killings that we have from time to time in Greenwood. It's good to know that this hopefully will send a message to the community that we're not going to sit around idly while this goes on. We're going to prosecute these if we need to in this. Just because you may kill somebody who doesn't have a great record or doesn't live in the best part of town we're not

going to seek justice for you. And with that, Your Honor, I'll let the victim's family speak.

THE COURT: Ma'am if you could, I know that you testified the other day, but for the record give us your name again, please.

MS. CHILDS: Wynekia Childs.

MS. SARAH PARRIS: I'm going to speak for Wynekia. She just wanted the Court to know that this has taken a toll on her. She's had two heart attacks since this has happened. You know, the biggest thing is why, because Demorris was like family. One night she even woke up and had no clue, going to the bathroom, and he's on the couch asleep. Barry had let him spend the night on the couch, you know. Treated him like family. Cooked for him. You heard on one of the statements where he was going down to Barry's house and his girlfriend was there and was going to cook and he was going to go down there and eat. This has just been very hard for her and she misses Barry greatly.

THE COURT: Ms. Childs, I'm very sorry. Yes, ma'am?

MS. DUNLAP: My name is Wanda Dunlap. I'm Barry's sister. Barry was the oldest of 27 children that my father had. My mother had 7 and my father had 27 total, but he was the oldest brother of the whole family. I just want to give my heart out to Mr. Andrews, because I know -- I'm a Christian person. I believe in God. With help, he can get

help. I have to be the one that looks from this side and that side, because you never know when you have to end up being in the family defense of another person. The sentencing that I would wish is whatever y'all feel fair for him. That's what I'm good with, because in the long run we could never bring our brother back. He was the life of the party. Everybody loved him. He lived with me. He was the only person in Greenwood County that Davita told me that ever beat being on dialysis. He beat being on dialysis a year and a half before getting shot. They took his ports out. They took him off all the medicine. He was getting his life together. He stopped drinking. He couldn't give up the cigarrettes and stuff, but he stopped drinking. Even though he did what he did to make ends meet, he didn't deserve to die. And the family truly misses him very dearly because, like I said, he was the life of our party. And I'm sorry that this happened to Mr. Andrews because he was a person that my childrens -- he grew up with my daughters and my sons and they went to school. My daughter, two hours prior to this happened was just with Mr. Andrews. You understand what I'm saying? So, it takes a toll out of me. I have childrens. I have grandchildrens. I have nine childrens and 22 grandchildrens and I know it's going to take a toll of their family as well as it took a toll of our family. So, you know --

THE COURT: I understand, Ms. Dunlap.

MS. DUNLAP: -- I miss my brother.

THE COURT: I'm sorry, ma'am. Anything further from the State?

MR. THOMAS: Your Honor, you sat through the entire trial. You heard the evidence that was presented. We just ask you to render a just sentence in this case.

THE COURT: Very good. Mr. Henderson, certainly happy to hear from you and Mr. Andrews.

MR. HENDERSON: Very briefly, Your Honor, and I don't think my client is -- he may say something. Let me -- my client is 27 years old now, 25 on the date of arrest. You heard that he has a ninth grade education. He's got two children. He's been supported by his family this week in the courtroom, Your Honor. He's got a lot of family support. You've kind of gotten an idea of how Demorris lived his life out here, somewhat homeless. Somewhat couch to couch. All these kind things these ladies said about Barry, my client agrees with. He was the life of the party. Obviously, my client still vehemately denies having anything to do with this. We understand the jury has spoken and we respect that judgement, but I'm hoping that the Court -- you've sat through and you've heard the case. I'm hoping that for sentencing purposes you'll consider the minimum of thirty and run it all concurrent.

THE COURT: Mr. Andrews, I'm happy to hear anything that you may want to say, sir.

DEFENDANT: I just wanted to tell you that the crime that happened I was never a part of a crime. I wasn't nowhere around the crime. I get found guilty for no reason. No one ever -- there wasn't evidence to say that I was a person that shot that man. They didn't say I shot him. Nobody seen him get shot. Understand I got found guilty. I'm a person who didn't do it. Like his girlfriend said, I used to hang with the man. He alright people to me. I hate to get locked up and get convicted for something I had nothing to do with. I see that I done made guilty, and not one person can say I shot the man. I just ask can, like -- I know I have to be sentenced. I just don't want to get sentenced to life sentence. Like thirty. I ain't -- I ain't even have anything to do with it. I wasn't in that house. Nobody say I was in the house. I got found guilty and I got arrested for no reason, sir. I ain't ever robbed -- he was a person, like a family to me, sir. Like, family. I hang with him every day. If I was in the house with him, I would've been the person probably would've got shot and killed too at the time, 'cause every time I would hang with him. I just don't want to do life for something I didn't have anything to do with.

MR. HENDERSON: I don't think he has anything further to

say.

DEFENDANT: I want to ask one more thing. I understand that people catch a lot of time for stuff like this, sir. Can you, like, please help me. I didn't do it. I didn't do it. I didn't have nothing to do with it. People just brought my name. One person said that he -- one person told him that I wasn't there, and then he said that I wasn't there and then he went back and said that I was there, and I got convicted off his word. I just don't want to get sentenced for a long time for something I didn't do.

THE COURT: I understand your position, Mr. Andrews. Mr. Henderson, he's been in jail since what date?

MR. HENDERSON: November 3, 2016.

THE COURT: Solicitor, correct me if I'm wrong. The armed robbery charge carries a mandatory minimum of ten years, maximum of thirty years?

MR. THOMAS: Ten to thirty.

THE COURT: Ten to thirty? Yes.

MR. THOMAS: Both most serious and violent offenses. He had that prior proximity, so this would be his second strike.

THE COURT: Mr. Andrews, I've taken everything into consideration and, of course, I have sat through five days of this trial with you and I've heard the same exact evidence that the jury heard. Candidly, sir, your

protestations of innocence, they're falling on deaf ears because you did it, you know you did it, and you got caught doing it. So, I have very little sympathy for you. I am, however, in light of your youth trying to be as generous as I can with you. Of course, the offense of murder carries a day-for-day sentence. I will also note that throughout this trial it's been alluded to that you are primarily a marijuana dealer. I find that somewhat suspect, especially in light of your prior convictions in 2009 and 2014 for possessing cocaine and possessing it with the intent to distribute it. Mr. Andrews, what I'm saying is the jury reached the correct verdict in this case. You can disagree with it all you want. It doesn't matter. You're guilty.

On the sentence of murder, Mr. Andrews, I've sentenced you to thirty-five years. On the armed robbery charge I've sentenced you to thirty years. On the firearms charge I've sentenced you to five years. The murder and armed robbery charges will be concurrent with each other, however, the firearms charge, which you never should have possessed in the first place, Mr. Andrews, and perhaps if less people who have criminal records were walking around with guns we wouldn't have problems like we have in this community. That charge, that five-year-sentence, will be consecutive to the thirty-five year sentence.

So, you've got forty years to serve, Mr. Andrews. I

don't know if you'll actually have a chance to breathe free again, but I do wish you luck, sir. The record on this case is closed.

(Whereupon, the trial concluded at 12:14 p.m.)

---END OF REQUESTED TRANSCRIPT OF RECORD---

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF GENERAL SESSIONS

STATE VS.
DEMORRIS OCTSWAVIOUS ANDREWS
AKA:
Race: Black Sex: M Age: 27
DOB: [redacted] SS#: [redacted]
Address: 441 James Street
City, State, Zip: Greenwood, SC 29646
DL# SID#
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2018GS24-0046
A/W: 2016A2420100951
Date of Offense: 10/25/2016
S.C. Code §: 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder / Murder
In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Joshua L. Thomas, Assistant Solicitor 100777 SC Bar # | Defendant | CARSON HENDERSON 15348 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 35 (thirty-five) days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 18-65-24-48

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. time 11-3-2016

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: $_____ plus 20% fee: _____ $_____ _____ day/hours Public Service Employment
Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS: _____ Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Recipient: _____ Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____
$_____ Paid to Public Defender Fund

*Fine:		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Prob)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$3.75
TOTAL		$128.75

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Chastity Copeland
Court Reporter: Tara Scott
Presiding Judge: [signature]
Judge Code: 1259
Sentence Date: 1/30/18

SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF GENERAL SESSIONS 615

STATE VS.
DEMORRIS OCTSWAVIOUS ANDREWS
AKA: _____
Race: Black Sex: M Age: 27
DOB: [redacted] SS#: [redacted]
Address: 441 James Street
City, State, Zip: Greenwood, SC 29646
DL# _____ SID# _____
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2018GS24-0047
A/W: 2016A2420100952
Date of Offense: 10/25/2016
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death
In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Joshua L. Thomas, Assistant Solicitor 100777 SC Bar #

Defendant

CARSON HENDERSON Attorney for Defendant 15348 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 ~~days/months~~/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 16-65-24-48 and 46

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Since 11-3-18

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: $_____ plus 20% fee: _____ $_____ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Recipient: _____ Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐

*Fine:		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$_____
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Prob)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$_____
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____
$_____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Chastity Copeland
Court Reporter: Tina Scott

Presiding Judge: [signature]
Judge Code: 2169
Sentence Date: 11/20/18

SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF GENERAL SESSIONS

STATE VS.
DEMORRIS OCTSWAVIOUS ANDREWS
AKA: _____
Race: Black Sex: M Age: 27
DOB: [redacted] SS#: [redacted]
Address: 441 James Street
City, State, Zip: Greenwood, SC 29646
DL# _____ SID# _____
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2018GS24-0048
A/W: Direct Indictment
Date of Offense: 10/25/2016
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon
In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Joshua L. Thomas, Assistant Solicitor 100777 SC Bar # | Defendant | CARSON HENDERSON 15348 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 18-GS-24-46

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Since 11-3-2016

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing
Total: $_____ plus DP&P fee: _____ $_____
Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$_____
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Prob)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$_____
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (If paid in installments)	$	$_____
TOTAL		$_____

Clerk of Court/Deputy Clerk: Charlotte Cook
Court Reporter: TQ & Scott

☐ Ordered PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____
$_____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: [signature]
Judge Code: 285
Sentence Date: 3-20-18

SCCA/217 (07/2016)

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

January Term, 2018

Indictment #2018GS24-0046

THE STATE

vs.

DEMORRIS OSCWAVIA ANDREWS

INDICTMENT FOR

Murder

SC Code: § 16-03-0010

CDR: 0116

WITNESSES

Mike Dixon

Greenwood Police Department

WARRANT NUMBER

2016A2420100951

Julie Wideman

Foreman of the Grand Jury

Date: 1-16-18

VERDICT

TRUE BILL

Julie Wideman

Foreman

Verdict: Guilty

Edward N. Collins

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

Murder
§16-03-0010

At a Court of General Sessions, convened on the 16th day of January, 2018, the Grand Jurors of Greenwood County present upon their oath:

That Demorris Oscwavia Andrews, on or about on or about October 25, 2016, in Greenwood County, did willfully, feloniously, and with malice aforethought kill Barry Warren by means of shooting, and that the victim did die that same day in Greenwood County as a proximate result thereof, in violation of Section 16-3-10 of the South Carolina Code of Laws, and the common law.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

Joshua L. Thomas
Assistant Solicitor

WITNESSES

Mike Dixon

Greenwood Police Department

WARRANT NUMBER

2016A2420100952

Julie Wideman

Foreman of the Grand Jury

Date: 1-16-18

VERDICT

TRUE BILL

Julie Wideman

Foreman

Verdict: Guilty

Kelsey N. Carlisle

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

January Term, 2018

Indictment #2018GS24-0047

THE STATE

vs.

DEMORRIS OSCWAVIA ANDREWS

INDICTMENT FOR

Possession Of A Weapon During The Commission Of A Violent Crime

SC Code: § 16-23-0490

CDR: 0549

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

Possession Of A Weapon During The Commission Of A Violent Crime §16-23-0490

At a Court of General Sessions, convened on the 16th day of January, 2018, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Demorris Oscwavia Andrews, did on or about October 25, 2016, in Greenwood County, while committing the violent crime of Murder and/or Armed Robbery (or any lesser-included violent offenses), possess a firearm in furtherance thereof, in violation of Section 16-23-0490, South Carolina Code of Laws.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

Joshua L. Thomas
Assistant Solicitor

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

January Term, 2018

Indictment #2018GS24-0048

THE STATE

vs.

DEMORRIS OSCWAVIA ANDREWS

INDICTMENT FOR

Armed Robbery

SC Code: § 16-11-0330(A)

CDR: 0139

WITNESSES

Mike Dixon

Greenwood Police Department

WARRANT NUMBER

Direct Indictment

Julie Wideman

Foreman of the Grand Jury

Date: 1-16-18

VERDICT

TRUE BILL

Julie Wideman

Foreman

Verdict: Guilty.

Felicia N. Collett

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

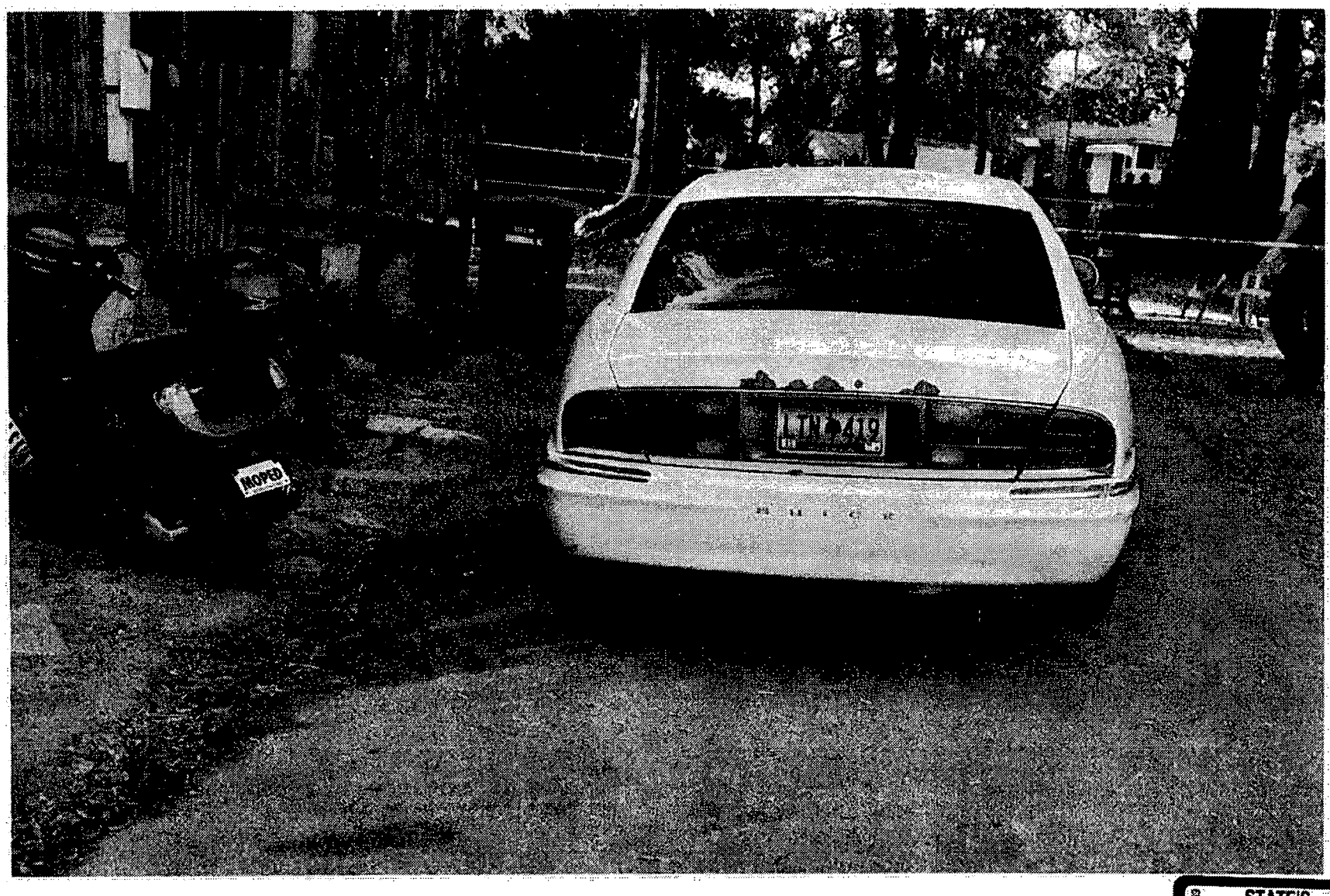
Armed Robbery
§16-11-0330(A)

At a Court of General Sessions, convened on the 16th day of January, 2018, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Demorris Oscwavia Andrews, did on or about October 25, 2016, in Greenwood County, while armed with a deadly weapon, take by means of force, threats, or intimidation, goods or monies from the person or presence of Barry Warren, in violation of Section 16-11-0330(A) of the South Carolina Code of Laws.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

Joshua L. Thomas
Assistant Solicitor



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228

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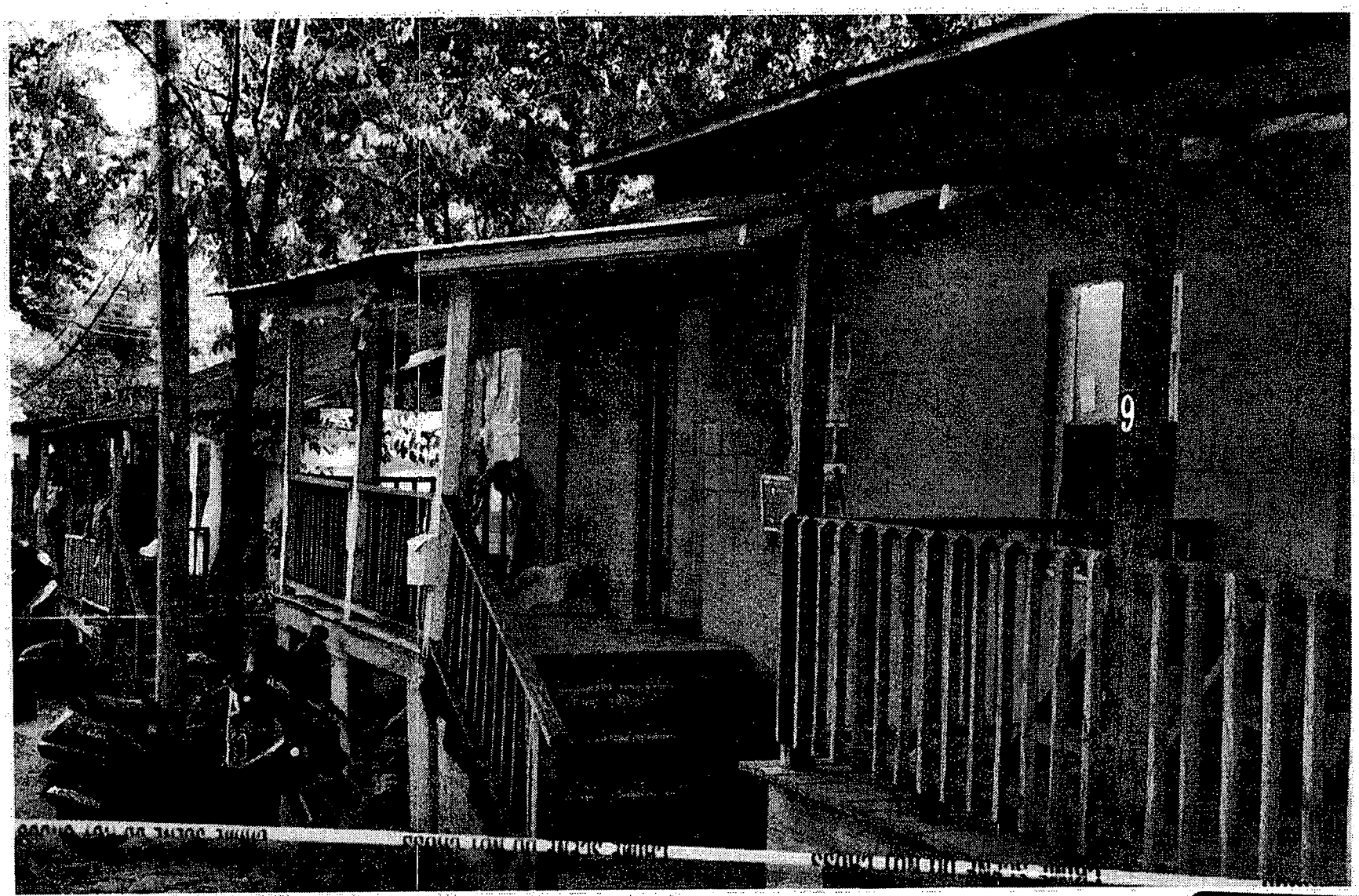
STATE'S EXHIBIT
3
228



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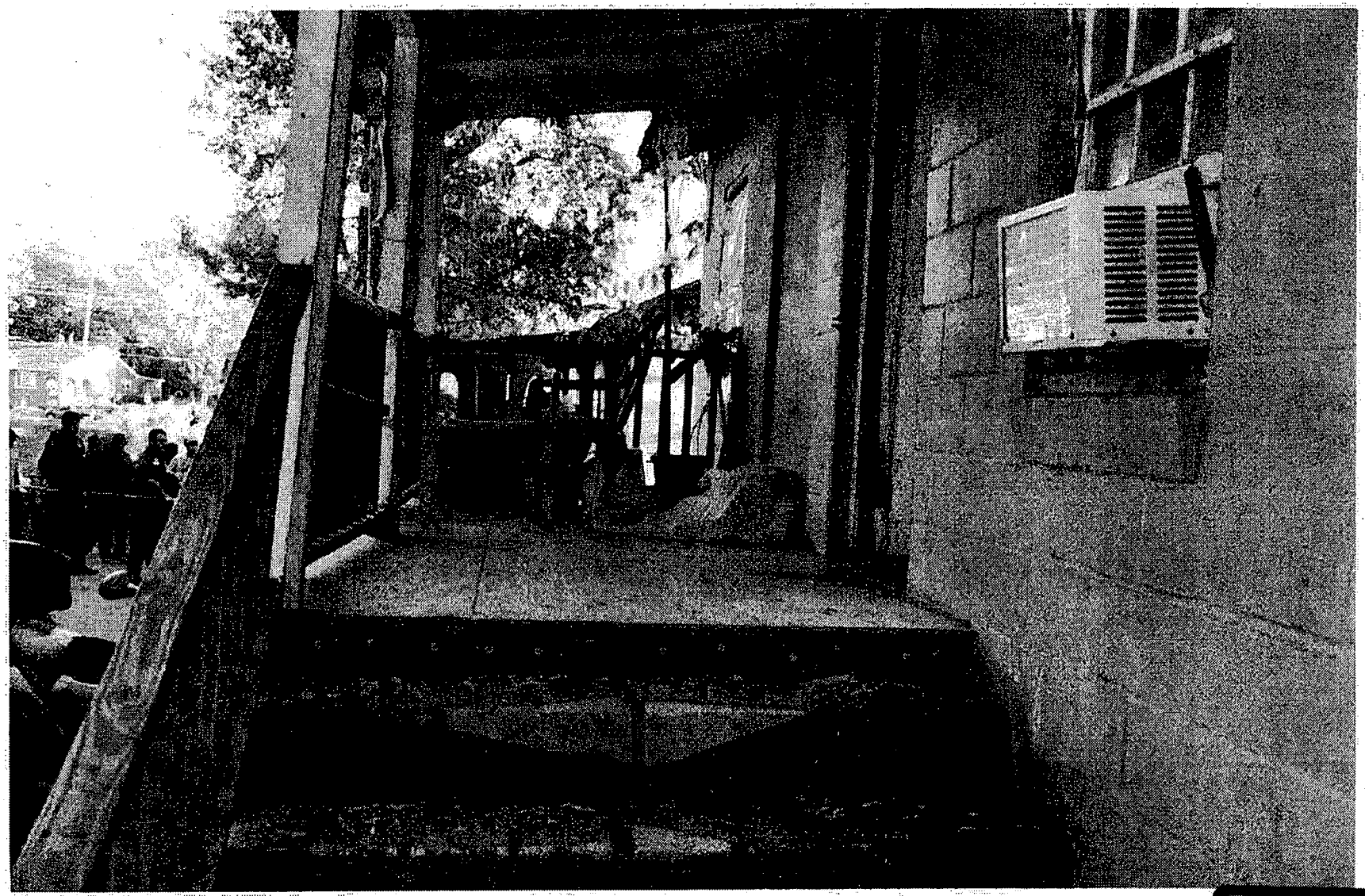

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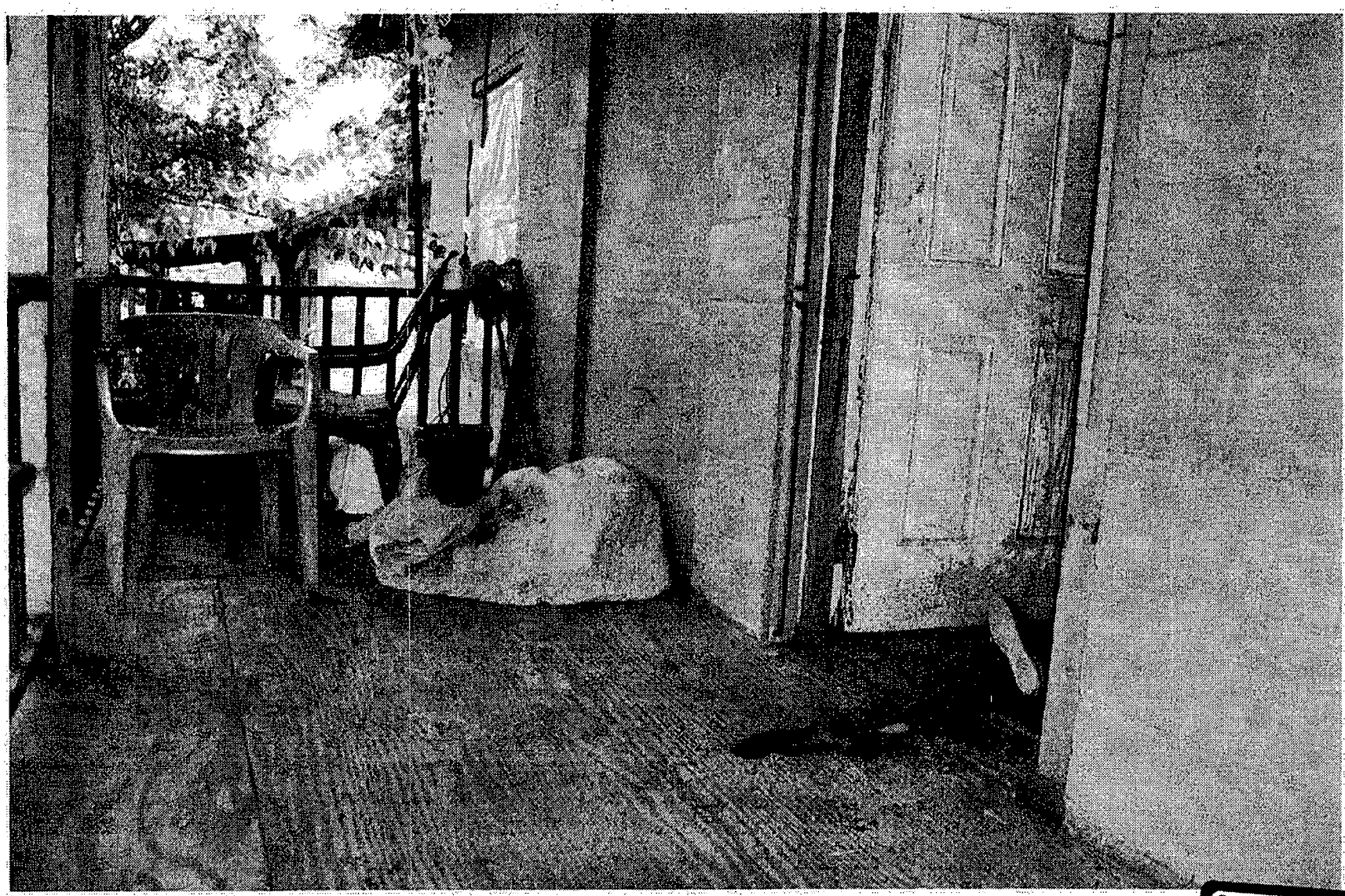

PEARSON 800-431-5899
STATE'S EXHIBIT
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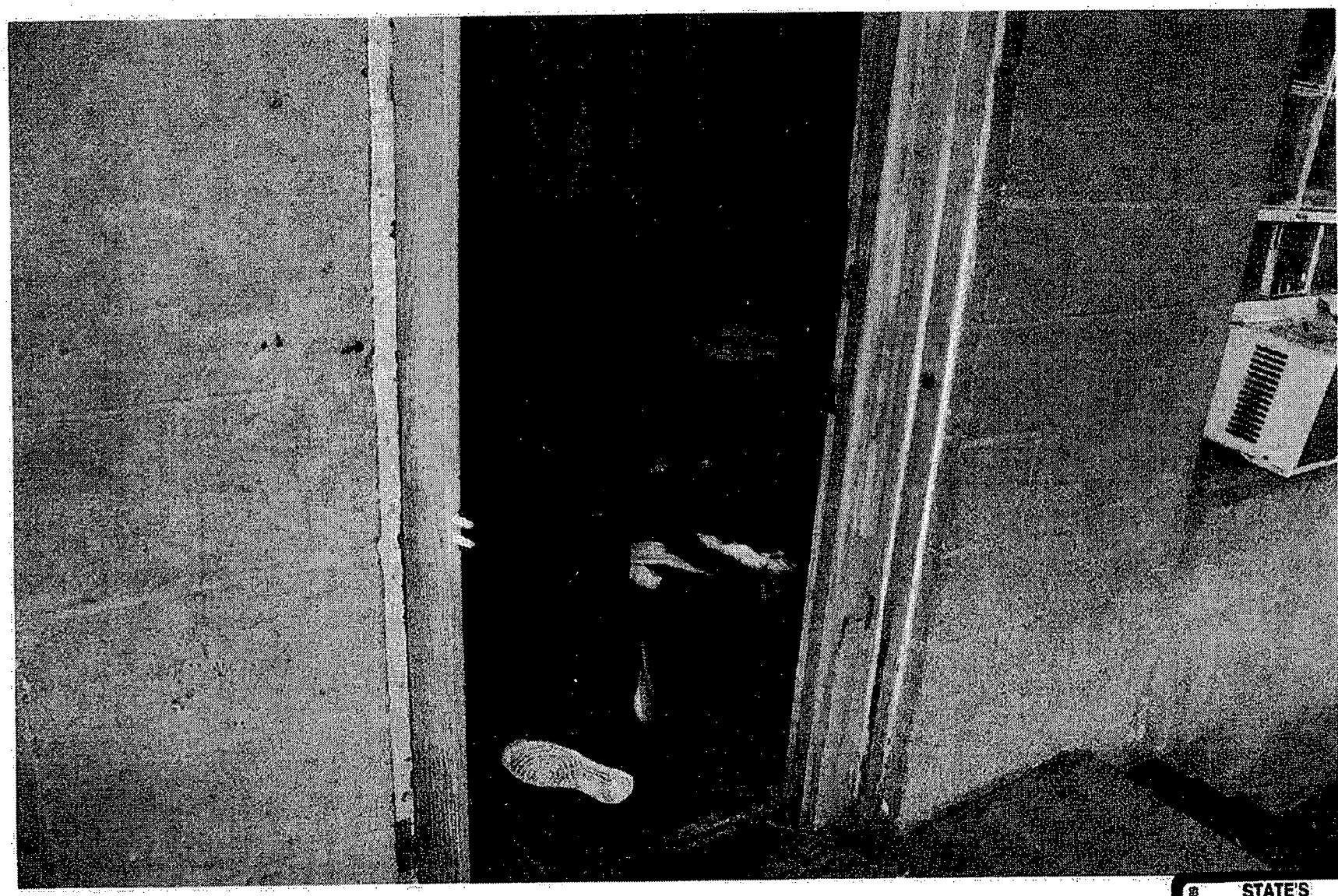

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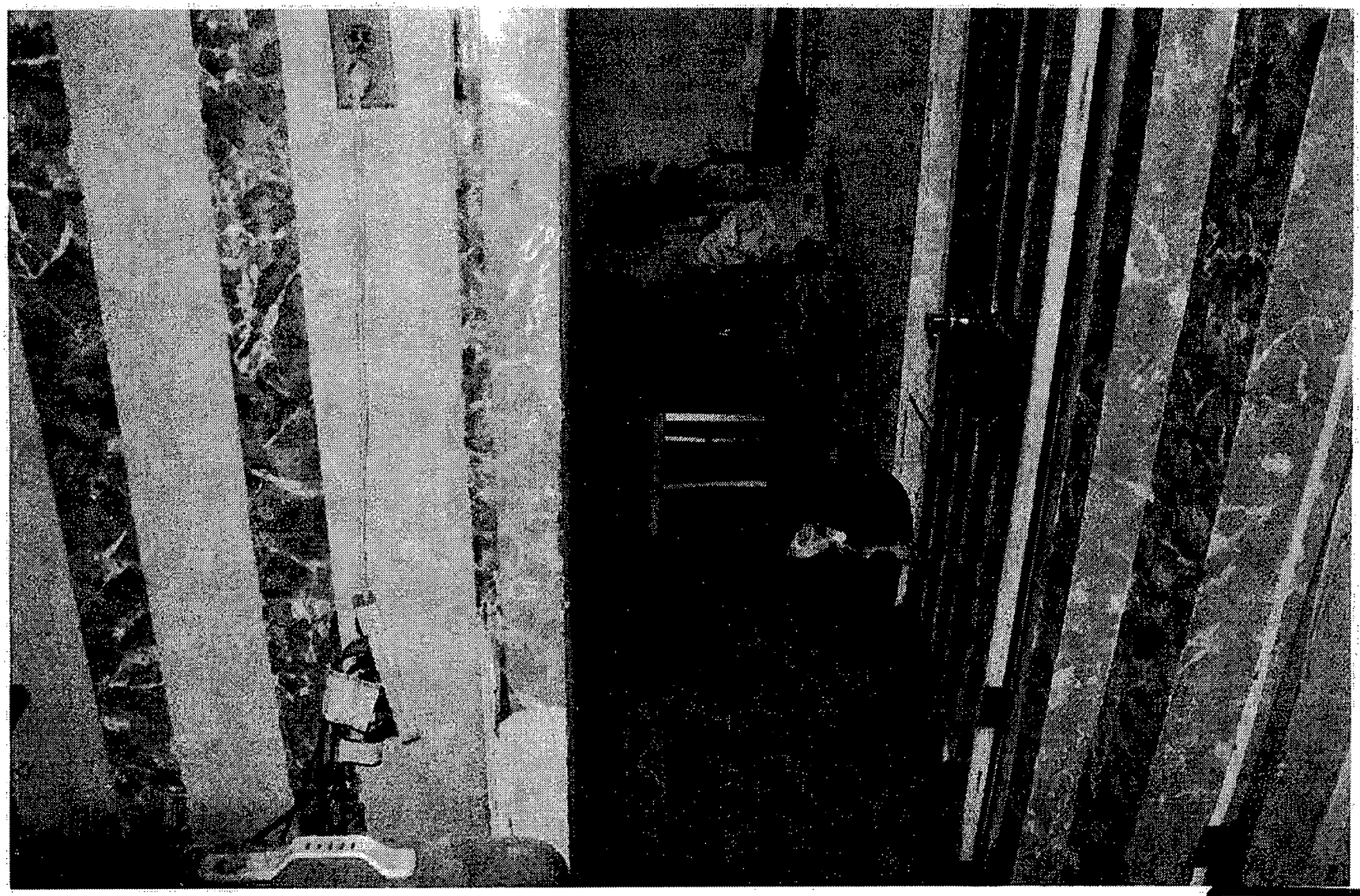

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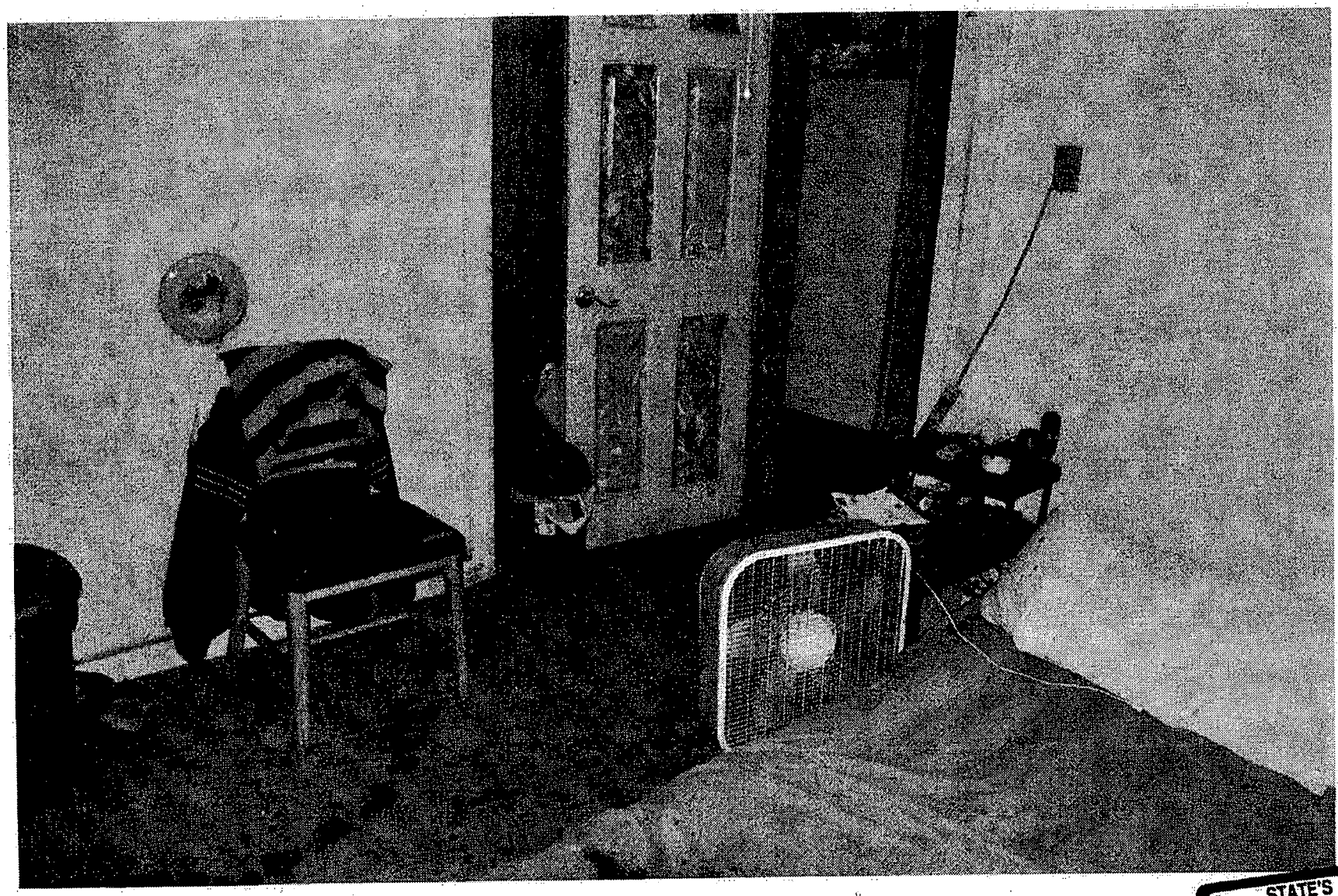

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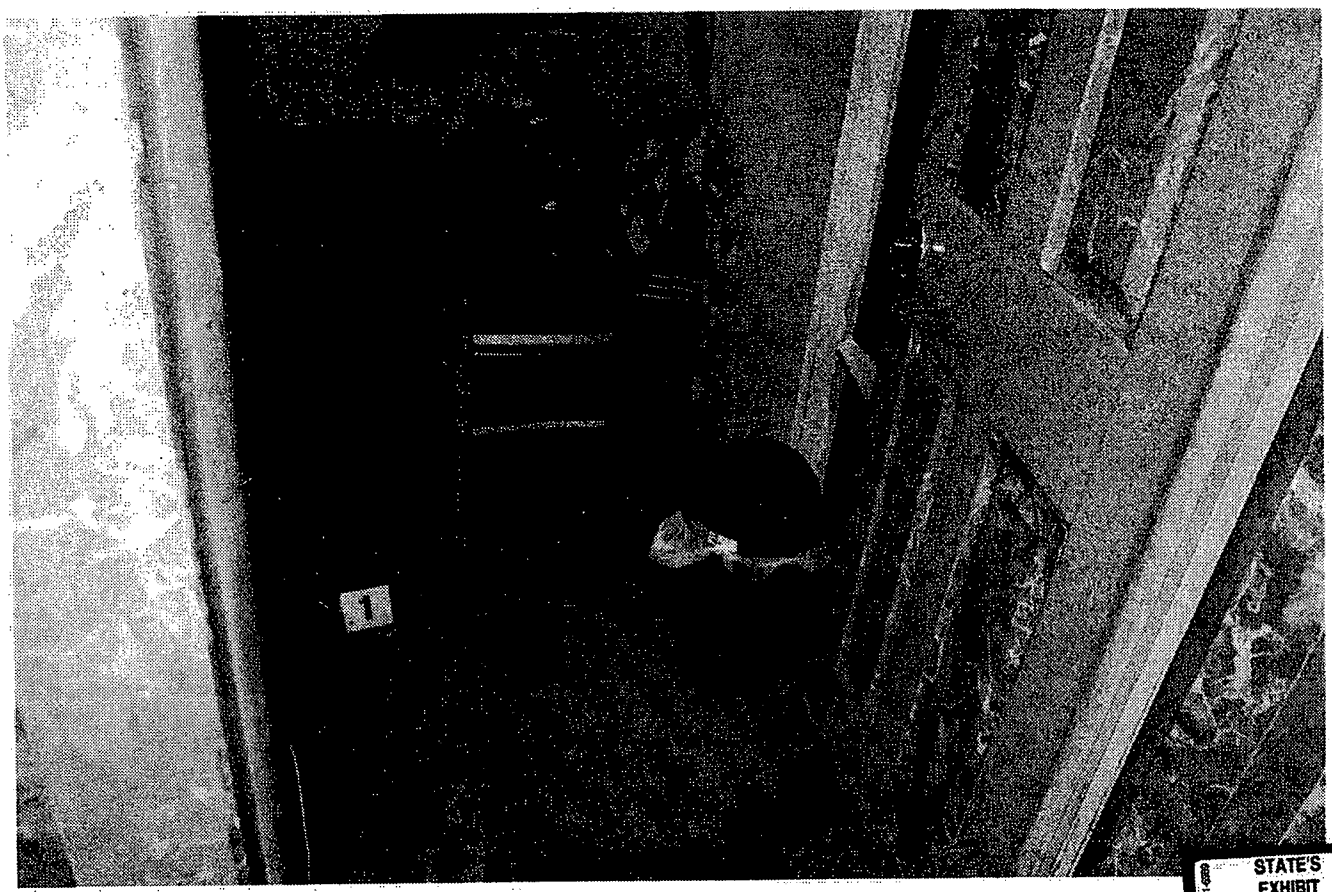

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STATE'S EXHIBIT 15

STATE'S EXHIBIT
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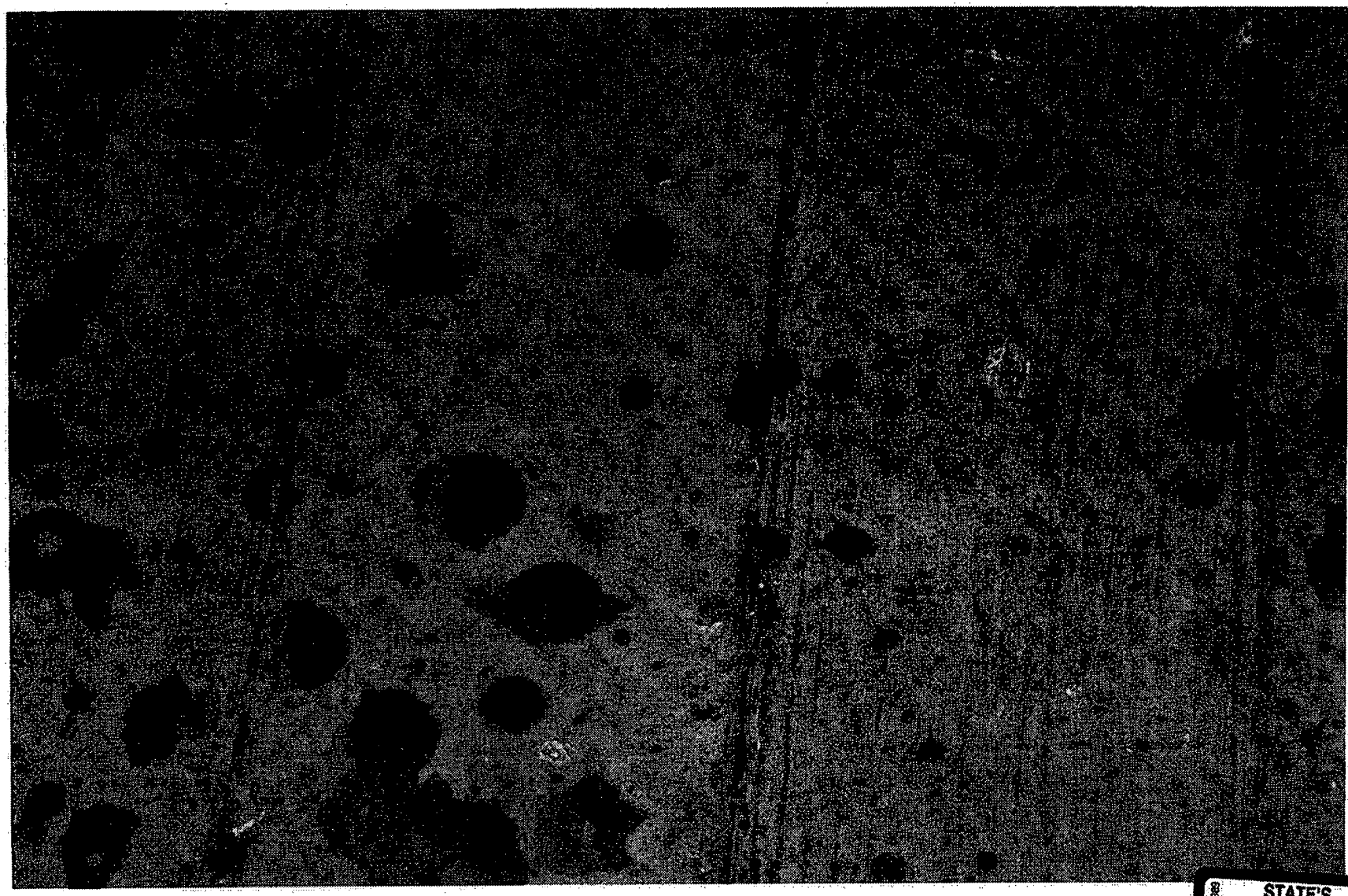

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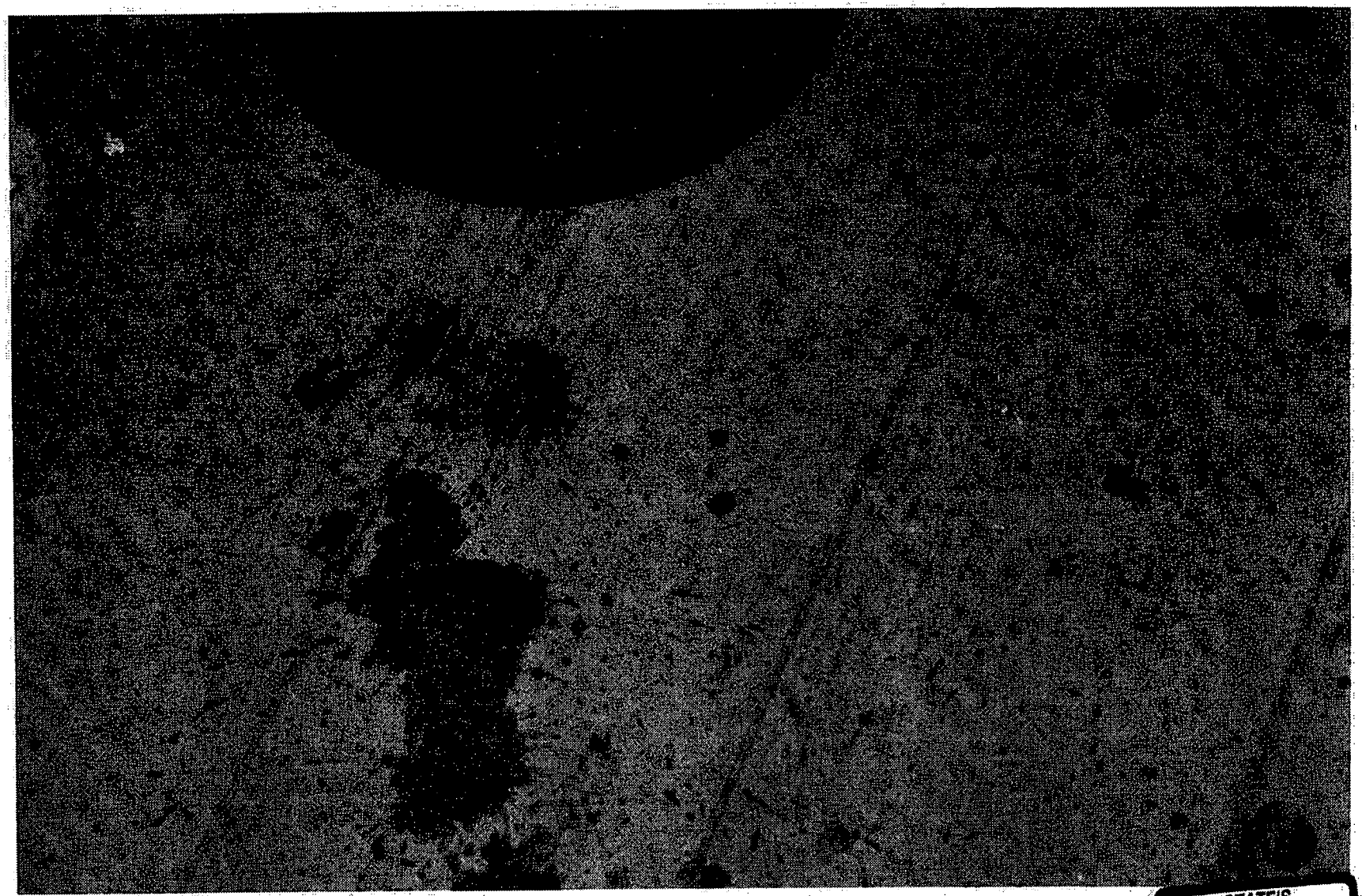

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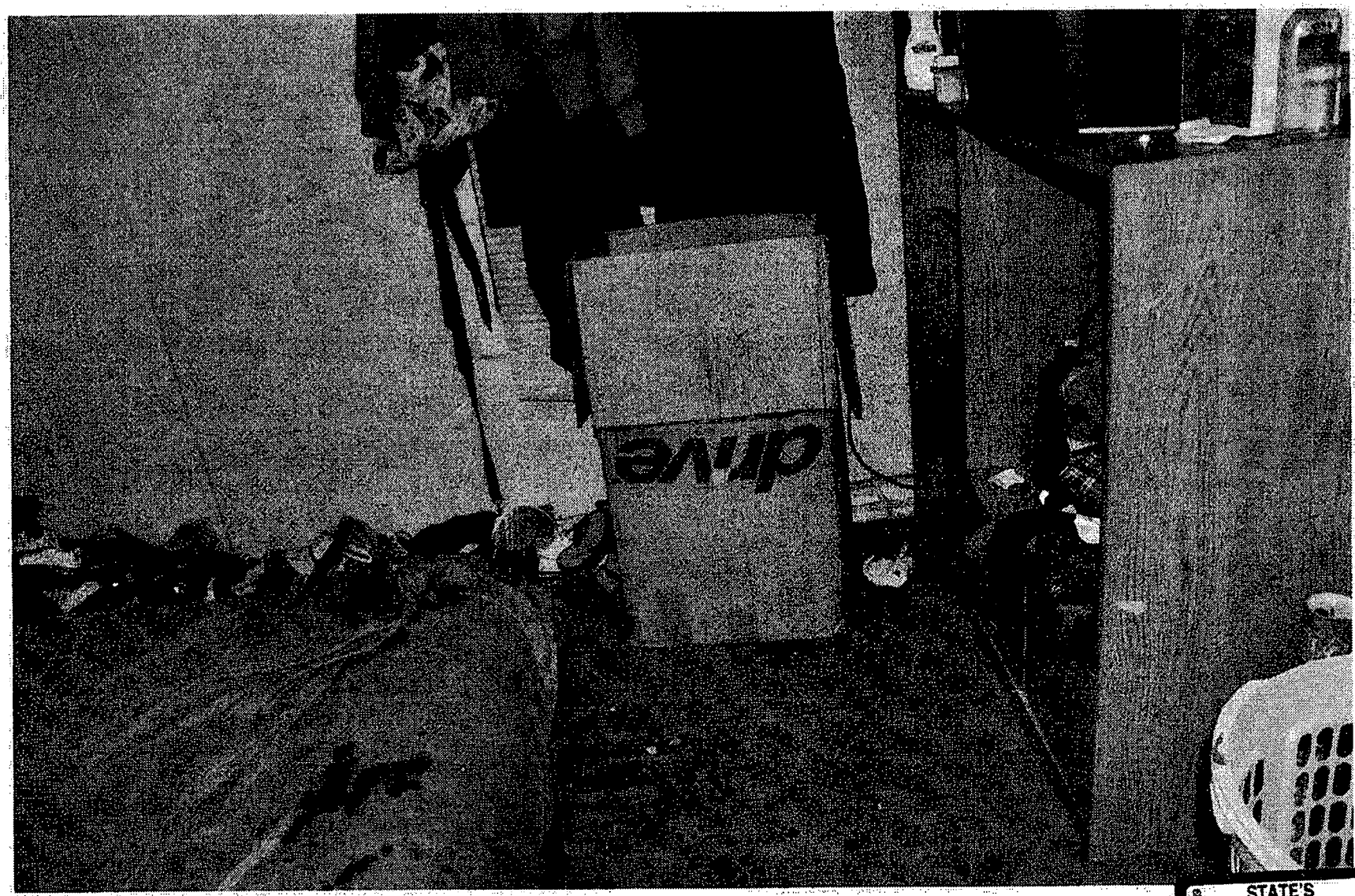

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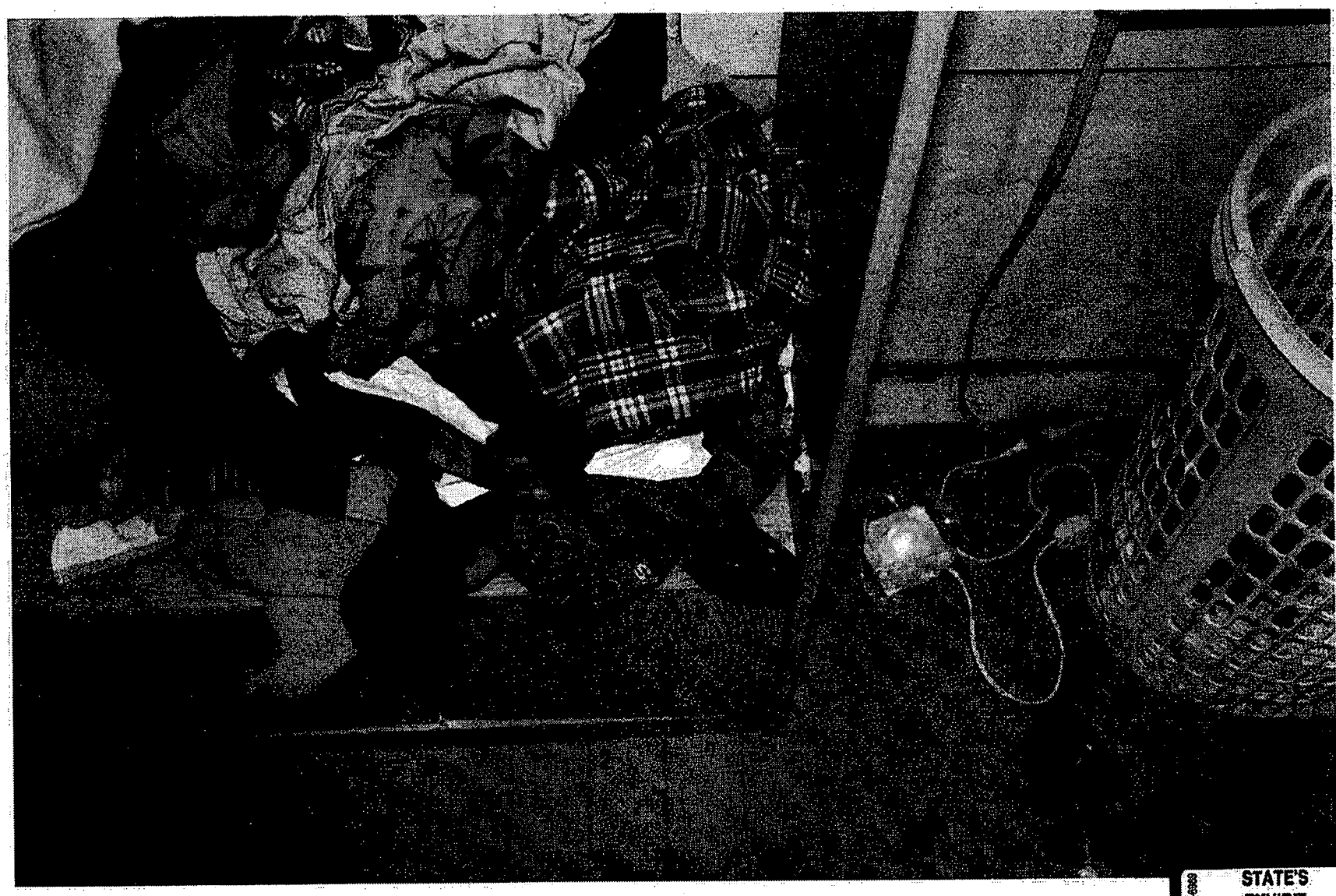

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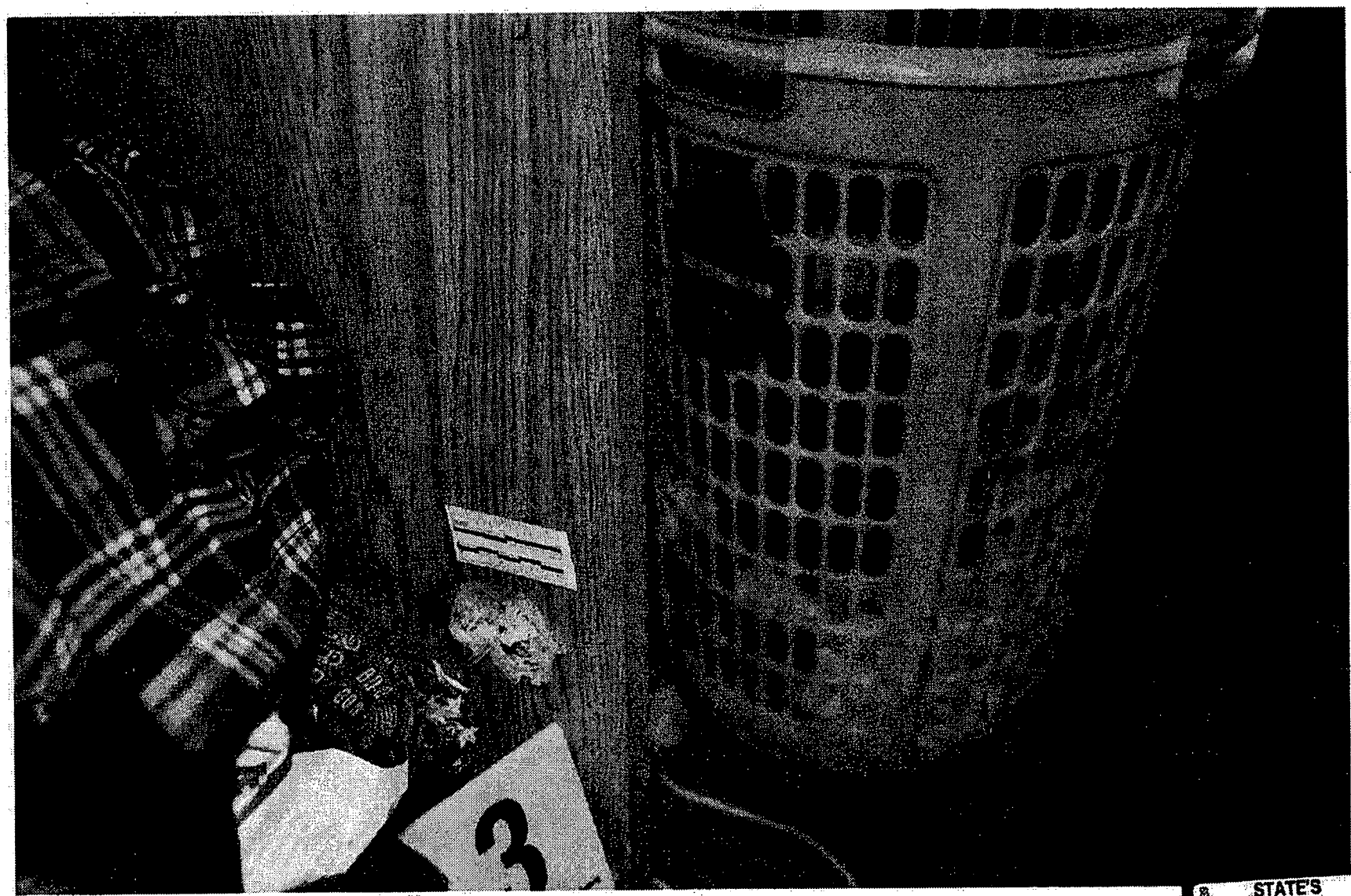

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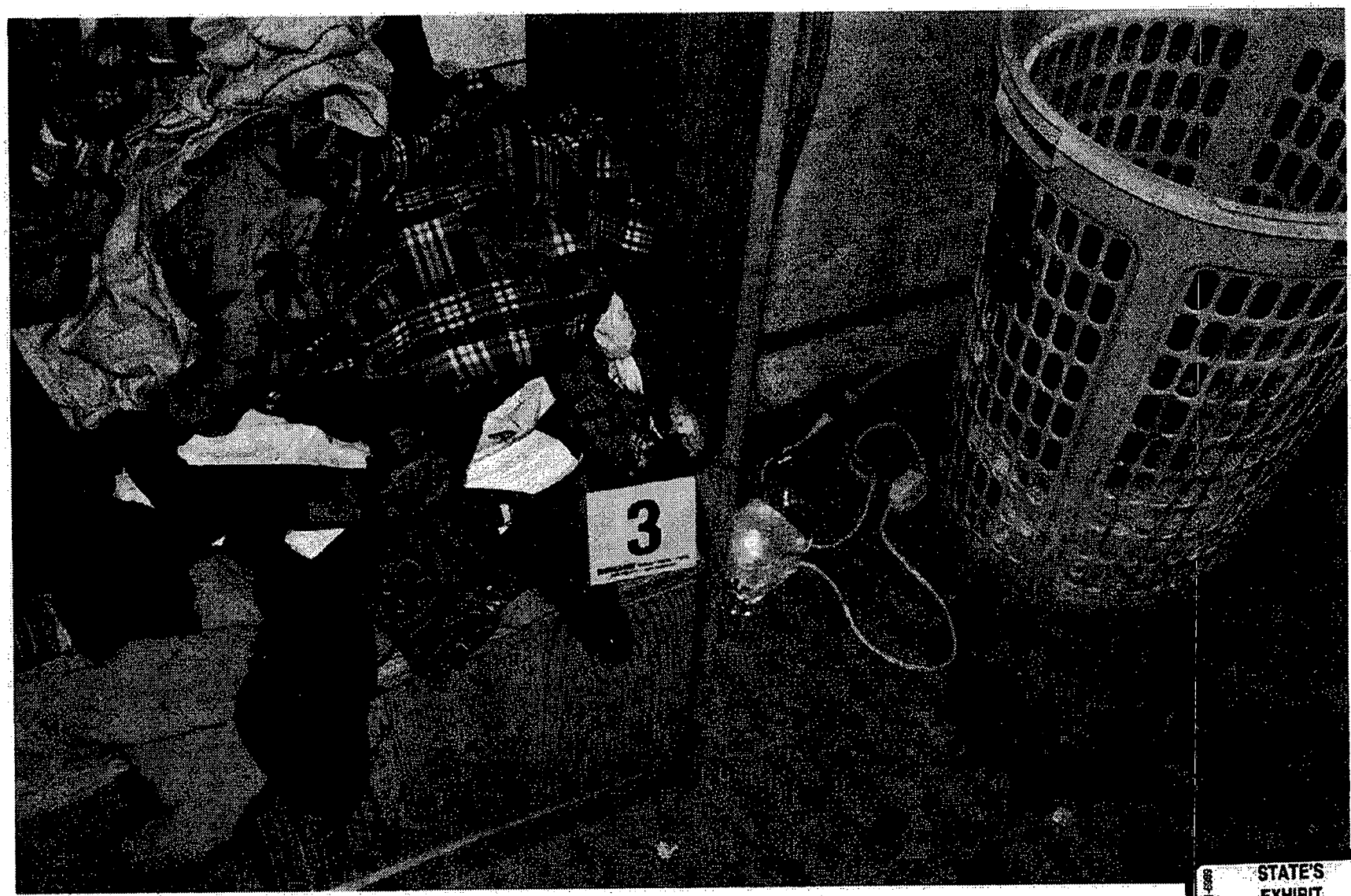

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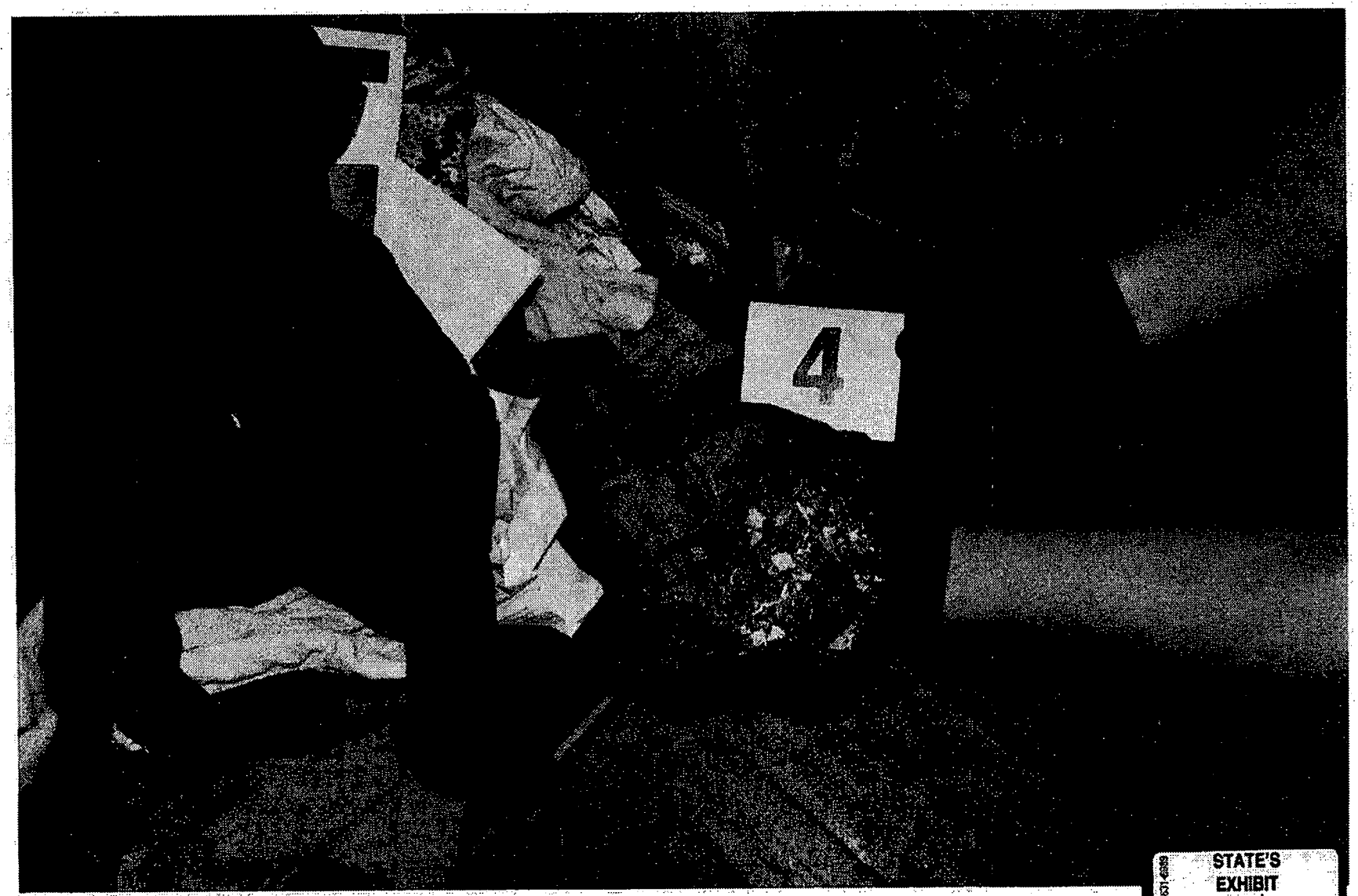

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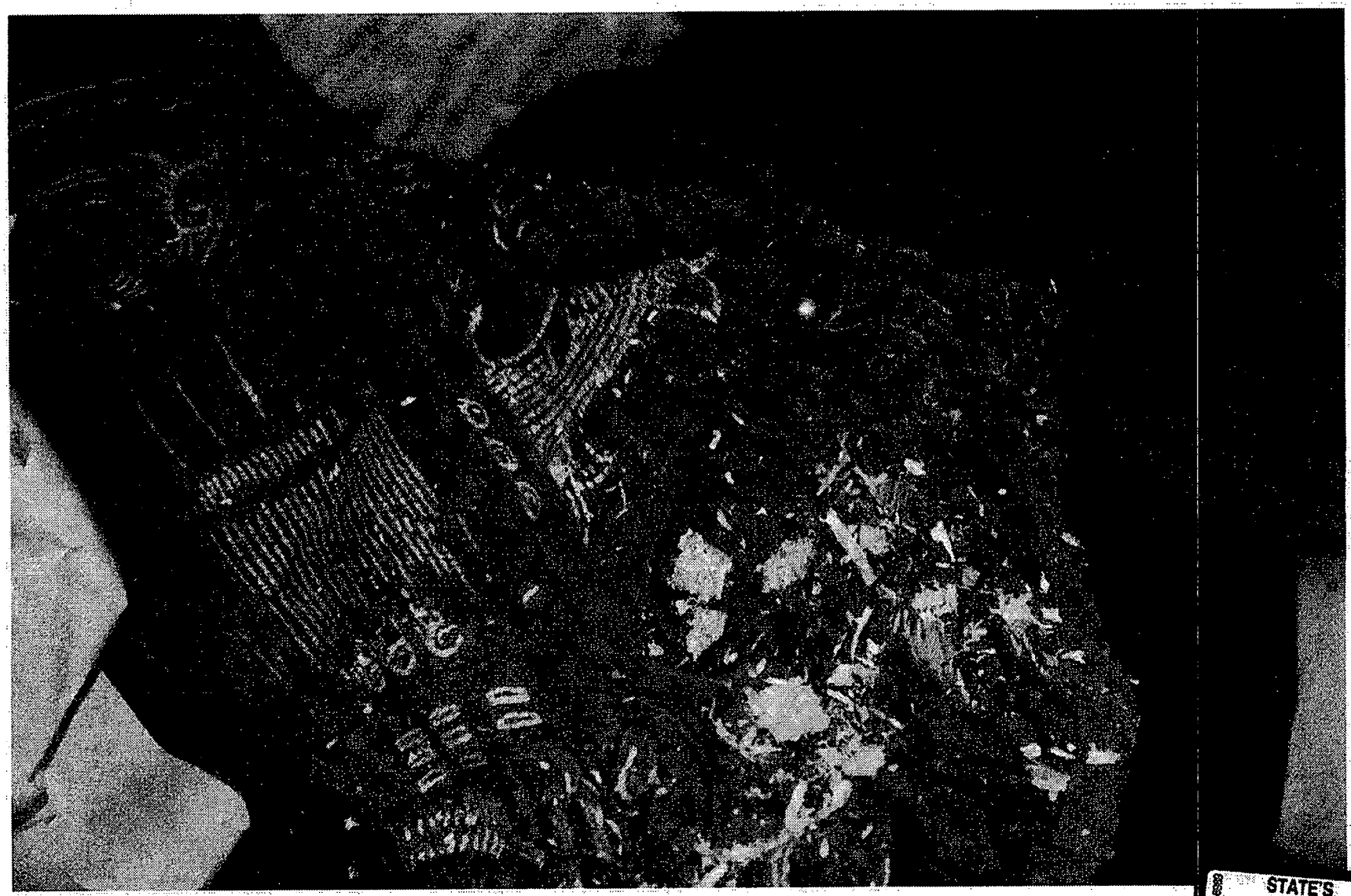

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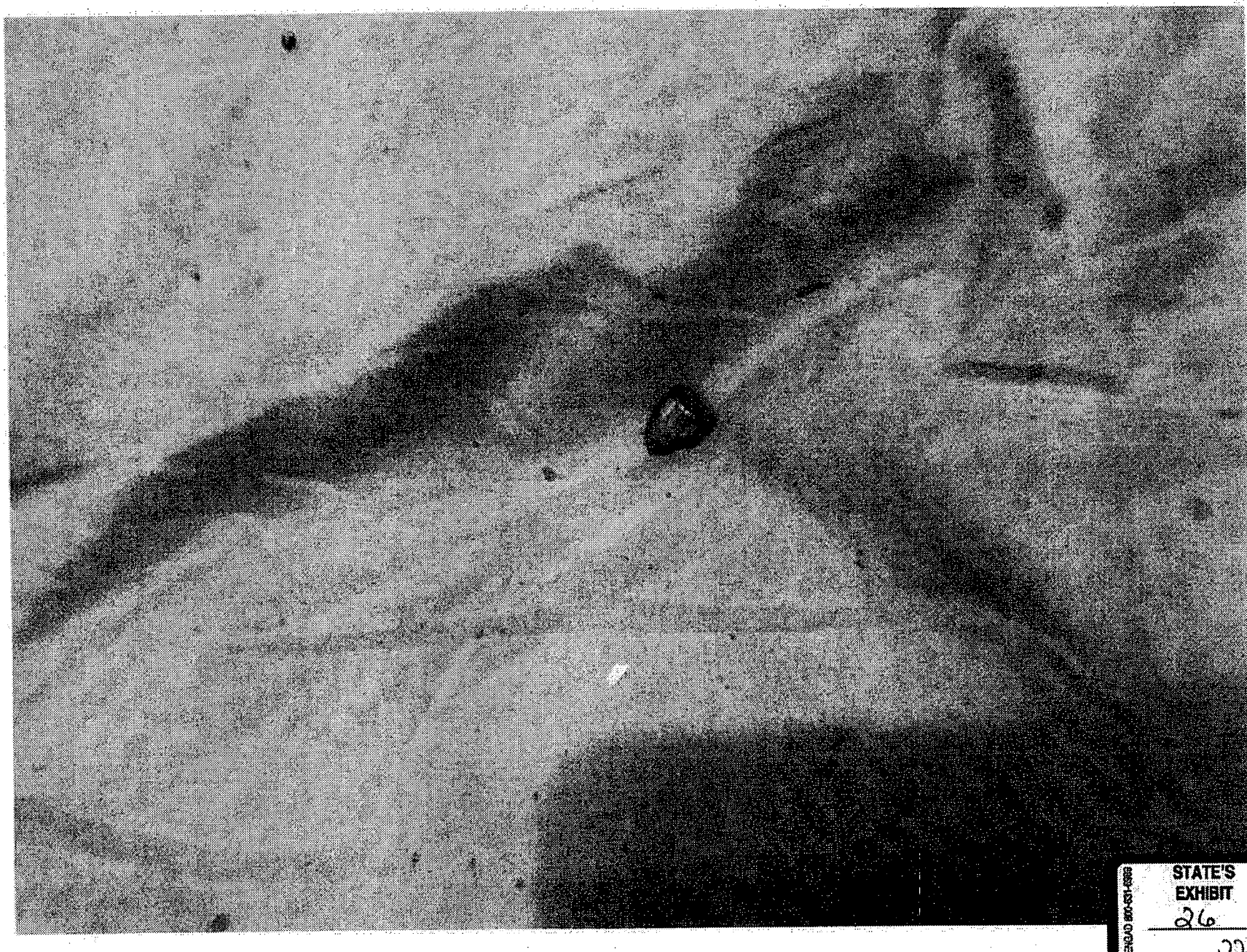

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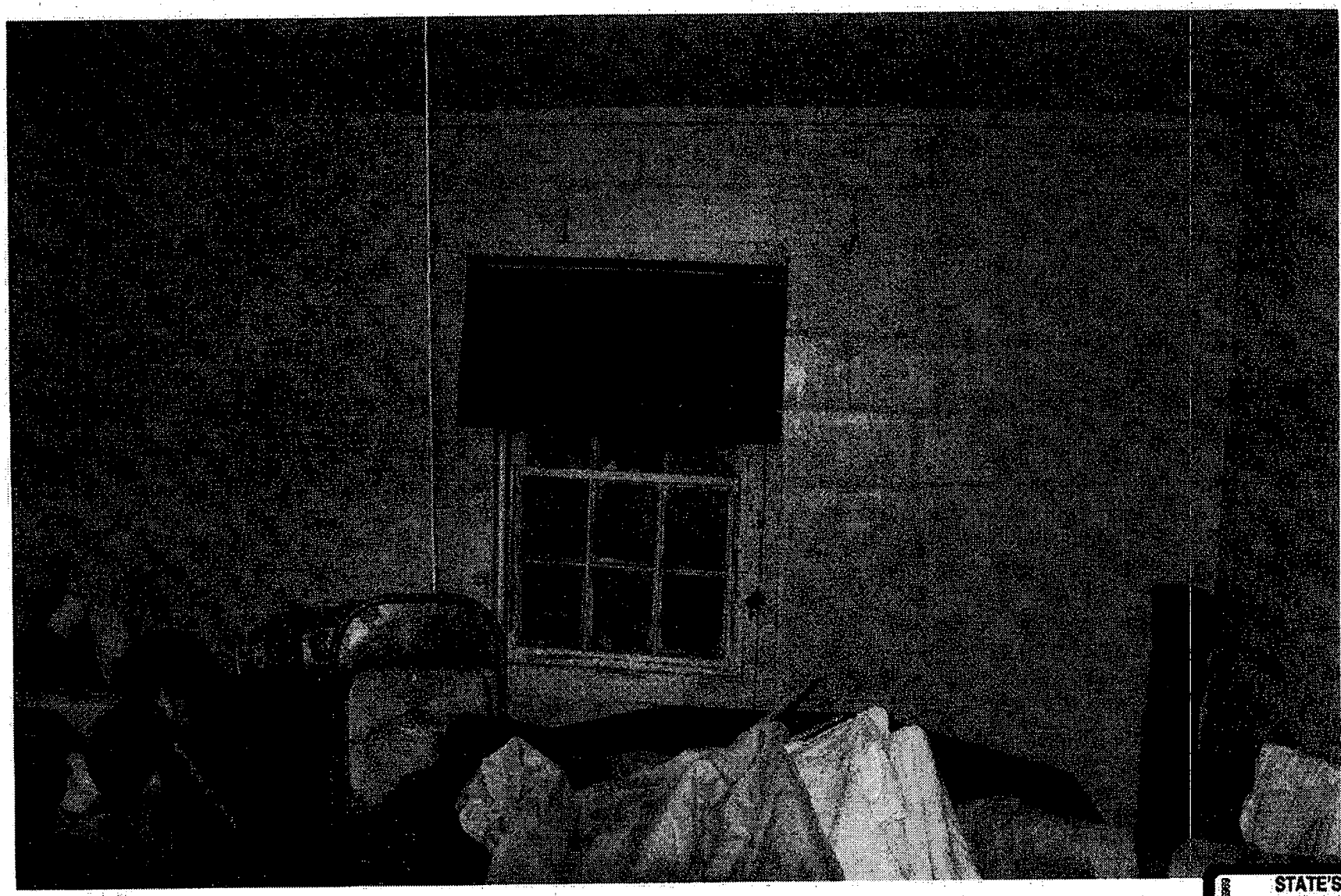

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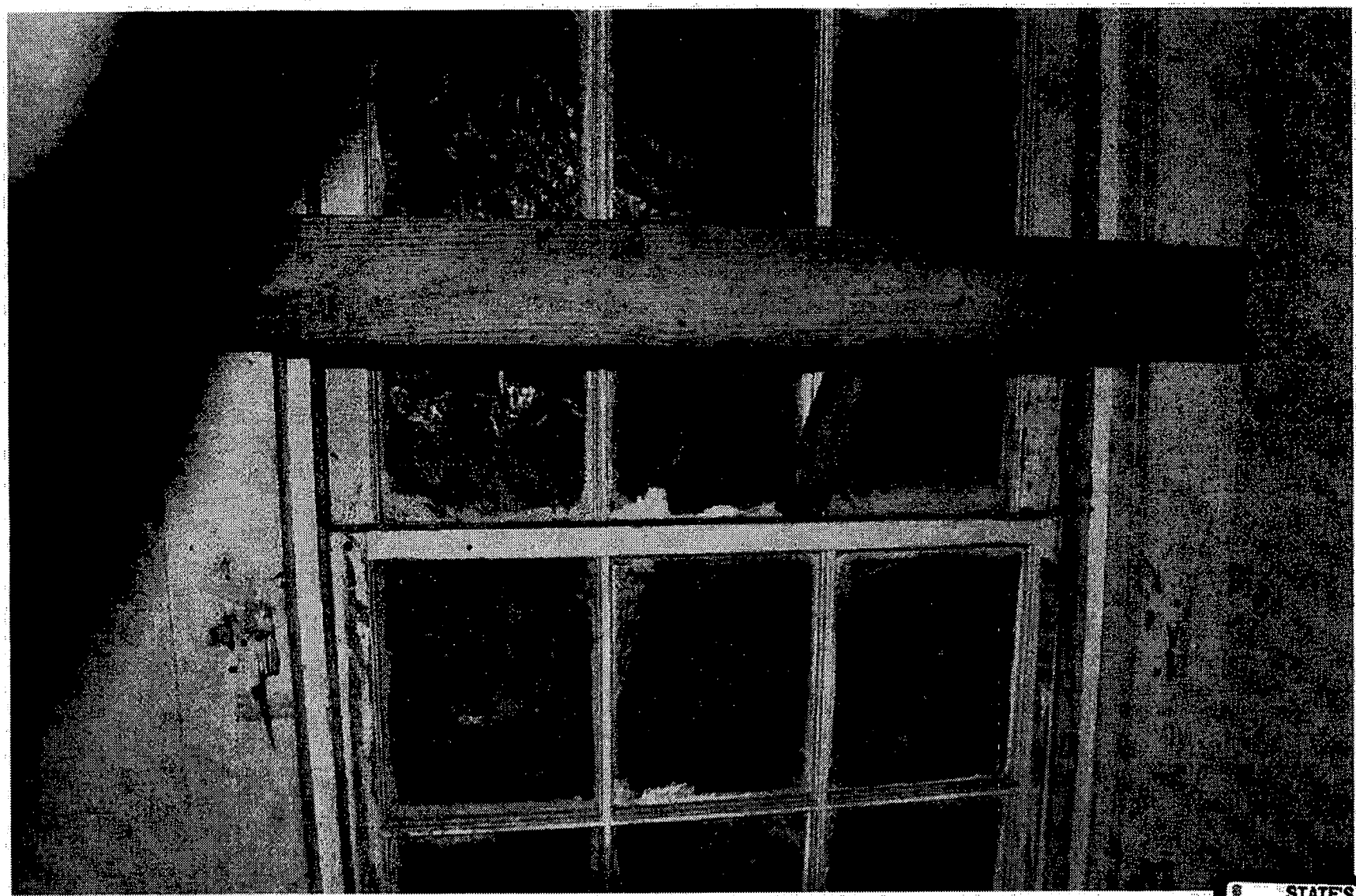

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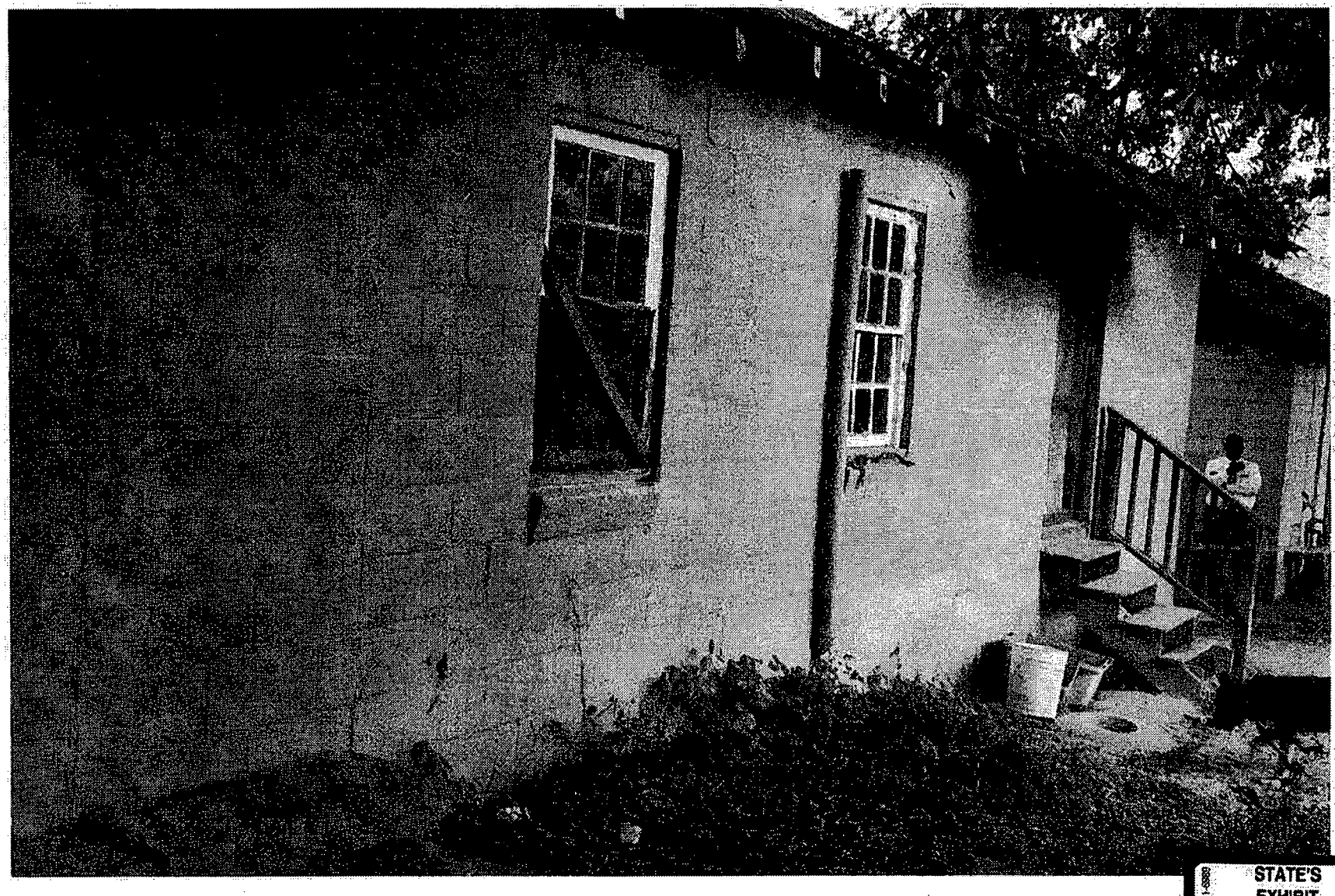
STATE'S EXHIBIT 29



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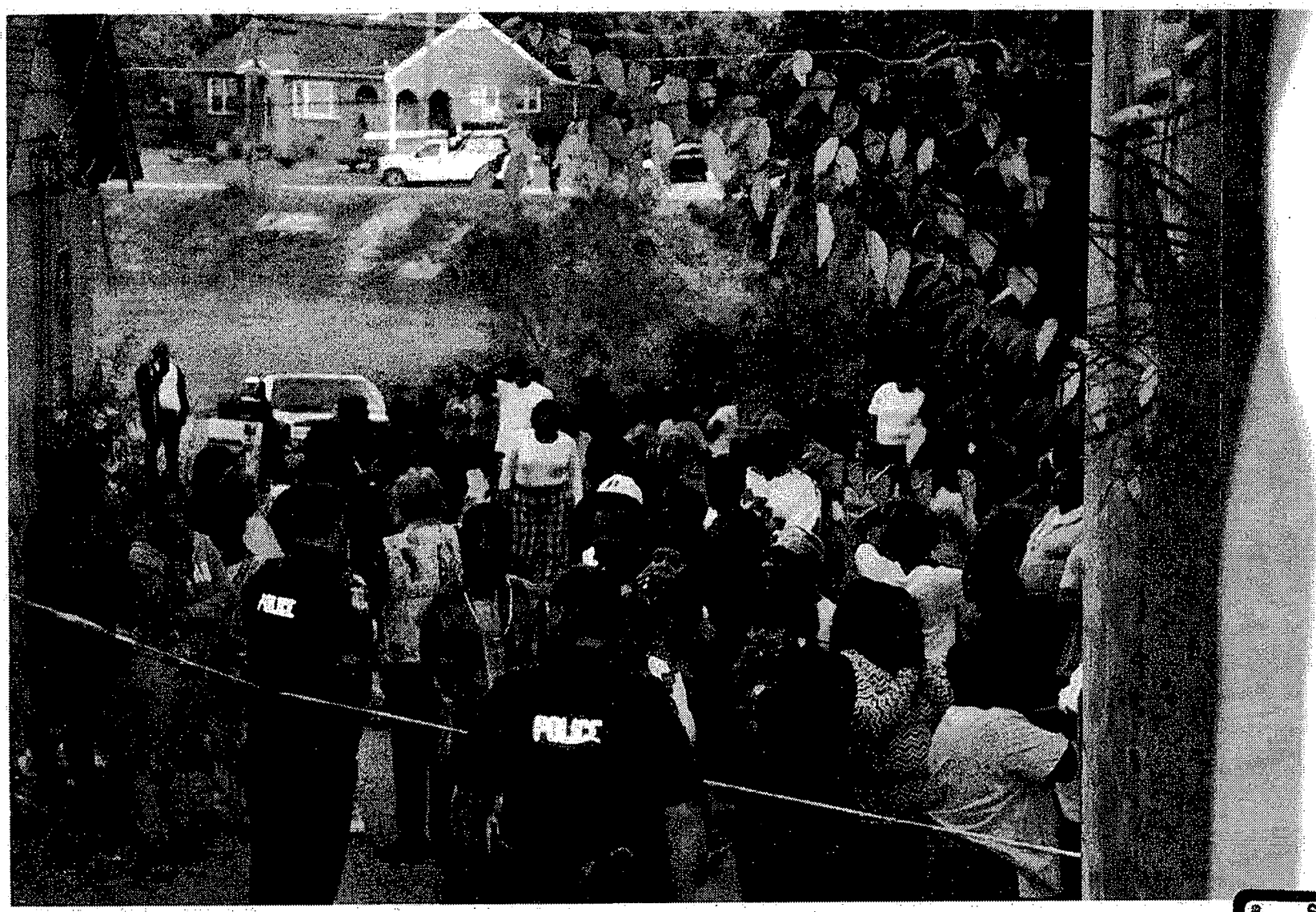

PENGAD 800-631-6989
STATE'S EXHIBIT
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DDS

PENGAD 800-631-6989

STATE'S EXHIBIT

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653

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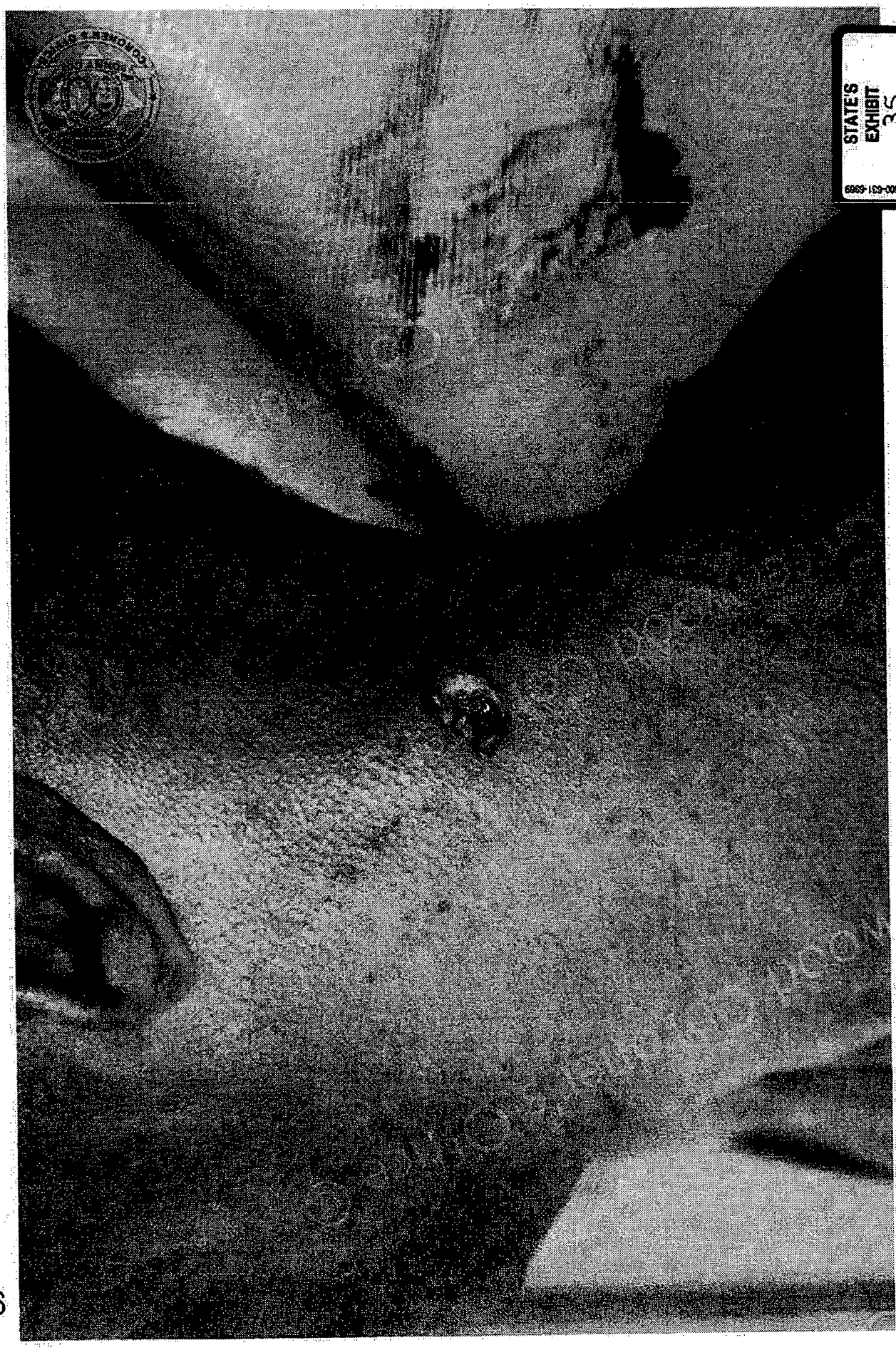
STATE'S EXHIBIT 33 224
PENGAD 800-631-6989

GREENWOOD COUNTY
CORONER
JOHNNY COX
CORONER'S OFFICE
STATE'S
EXHIBIT
34
225



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STATE'S EXHIBIT
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GREENWOOD COUNTY
CORONER'S OFFICE
STATE'S EXHIBIT
37
PENGAD 800-631-6989

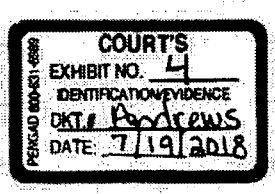
102

~~We would like to hear Dwayne's Sander's interview~~

We would like to hear Dwayne's Sanders interview

COURT'S
EXHIBIT NO. 3
IDENTIFICATION/EVIDENCE
DKT.# Andrews
DATE: 7/19/18
FEIN/AD 800-631-6989

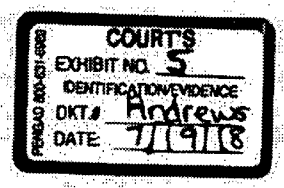
We would like to read the transcript Blade's testimony



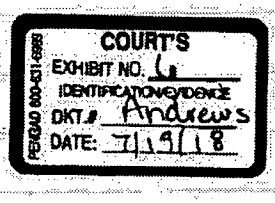
Can the court answer the following question?

Is there a time stamp on the walmart & which Wal-mart?

We are dead lock?



We would like meet tomorrow.



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of December, 2019.

RECEIVED
DEC 05 2019
SC Court of Appeals