

VOLUME I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Beaufort County

Honorable Thomas A. Russo, Circuit Court Judge

HAROLD LEE JACKSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001089

APPENDIX

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ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) COURT OF GENERAL SESSIONS

State of South Carolina,)
))
PLAINTIFF,) TRANSCRIPT OF TRIAL
) 2007-GS-07-174
-VS-) 2007-GS-07-175
) 2007-GS-07-176
Harold Lee Jackson,)
))
DEFENDANT.) PART ONE OF TWO
))
_____)

BEFORE THE HONORABLE CARMEN TEVIS MULLEN, JUDGE
APRIL 20, 21, 22, AND 23, 2009
BEAUFORT, SOUTH CAROLINA

A P P E A R A N C E S:

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For the State

Donald Christopher Colongeli, Esq.
For the Defendant

REMA K. GANTT THOMAS
CIRCUIT COURT REPORTER

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1 Monday, April 20, 2009

2 (The defendant,
3 together with counsel, was personally present in the
4 courtroom.)

5 THE COURT: Solicitor, do you want to call
6 your case?

7 MS. TANNER: Thank you, Your Honor. May
8 it please the Court?

9 THE COURT: Yes, ma'am.

10 MS. TANNER: The State is ready in
11 Indictment 2007-GS-07-174, the State of South
12 Carolina versus Harold Lee Jackson, charging him
13 with one count of murder.

14 The State is ready in 2007-GS-07-175, the
15 State of South Carolina versus Harold Lee Jackson,
16 charging him with one count of assault and battery
17 with intent to kill.

18 And the State is ready in 2007-GS-07-176,
19 the State of South Carolina versus Harold Lee
20 Jackson, one count of assault and battery with
21 intent to kill.

22 THE COURT: Thank you. If you'd go ahead
23 and swear in this jury panel --

24 CLERK OF COURT: Yes, ma'am.

25 THE COURT: -- the jury panel in this case.

11

1 (The petit jury
2 panel was sworn.)

3 THE COURT: Ladies and gentlemen, I'm going to
4 go ahead and empanel the jury in the case that's
5 going to be tried in front of me, what I believe to
6 be over the next few days. Respectfully, ladies and
7 gentlemen, we continually swear you in as panels.

8 As I'm sure you understand, it is vitally
9 important that you respond to the questions if
10 necessary. You've just taken an oath. And if for
11 some reason you sat on my jury and I later found out
12 that you did not respond to a question and you
13 needed to, we could up having to mis-try the entire
14 case.

15 So I want you to understand how absolutely
16 important it is that you answer these questions
17 truthfully, honestly, and fully. And err on the
18 side of caution, ladies and gentlemen. If you think
19 you maybe need to respond, go ahead and respond, all
20 right?

21 So with that said, ladies and gentlemen,
22 we are about to begin the case of the State of South
23 Carolina versus Harold Jackson, who is charged in
24 the bill of indictments by the Grand Jury of
25 Beaufort County with the offenses of murder and two

1 counts of assault and battery with intent to kill.

2 Now, ladies and gentlemen, the State in
3 this case is being represented by Ms. Angela McCall
4 Tanner and Meredith Bannon. If you both would stand
5 and please face the jury panel.

6 (Counsel complied.)

7 Thank you.

8 Ladies and gentlemen, Mr. Harold Jackson
9 in this case -- sir, if you stand and face the
10 panel.

11 (The defendant complied.)

12 Thank you, Mr. Jackson.

13 Mr. Jackson is being represented in this
14 matter by Mr. Don Colongeli.

15 Mr. Colongeli? Thank you.

16 Ladies and gentlemen, my questions are
17 this. Is there any member of the jury panel related
18 by blood or connected by marriage with the defendant
19 in this case, Mr. Harold Jackson? If so, please
20 stand.

21 No one is standing.

22 Is there any member of the jury panel a
23 close personal friend of share a special
24 relationship with the defendant, Mr. Jackson, in
25 this case? If so, please stand.

1 No one is standing.

2 Ladies and gentlemen, I also introduced
3 you to the attorneys in this case, and my question
4 is the same. Is there any member of the jury panel
5 related by blood or connected by marriage with any
6 of the attorneys trying this case? If so, please
7 stand.

8 No one is standing.

9 Is there any member of the jury panel a
10 close personal friend or share a special
11 relationship with any of the attorneys trying this
12 case? If so, please stand.

13 No one is standing.

14 Ladies and gentlemen, potential witnesses
15 in this case are as follows. And, again, my
16 question will be the same: Are you related by blood
17 or connected by marriage to any of these witnesses,
18 or are you a close personal friend or share a
19 special relationship with any of these potential
20 witnesses?

21 No one is standing.

22 And bear with me. The list is somewhat
23 long. The first is Sgt. Eric Calendine; Dr. Clifton
24 Cannon; Sgt. Ramona Cooper; Cpl. Henry Chris;
25 Timothy French; Cpt. John Keow; Ms. Nazarene

1 Laurent, or also known as Rene; Sharon Powers; Dr.
2 Aaron Rittershaus; Scott Rodriguez; Joe Scheafer;
3 Shella Laurent; Joshua Pringle; Deputy Sheriff
4 Nieler; Detective Lester Williams; Sgt. Christine
5 Wilson; Eileen Rios; Staff Sgt. Brian Baird; Master
6 Sgt. Jeff Purdy; Cpl. Thompson; Ernest Walker; Ms.
7 Dubose; Officer Shelton; Cpl. Ashby; Henry Chris;
8 Deputy Jonah Jenkins; Kim Forrester; Manuel Ortuno;
9 Mosha Billig, M.D.; Dr. Donna Schwartz-Watts;
10 Cynthia Allen; John Laurent or Jean Laurent; Sheree
11 Wright; Mr. and Mrs. Theodore Washington; Jean
12 Tandy; Keith King; Hercules Washington; Tracy King;
13 Pamela Jenkins; or Ashley Twombly.

14 Ladies and gentlemen, the question again
15 is, is there any member of the jury related by blood
16 or connected by marriage or a close personal friend
17 or share a special relationship with any of these
18 potential witnesses? If so, please stand.

19 No one is standing.

20 Ladies and gentlemen, is there any member
21 of the jury panel or members or your immediate
22 family or close personal friends ever been a victim
23 of a crime? And if so, what type of crime? Again,
24 the question is, is there any member of the jury
25 panel or a member of your immediate family or a

15

1 close personal friend ever been a victim of a crime?
2 If so, please stand.

3 No one is standing.

4 We're going to start over. Sir, if you'll
5 give me your name and juror number.

6 MR. CAHILL: Stephen Cahill, fifty-seven.
7 I have an aunt in North Carolina that was murdered.
8 It's an unsolved mystery.

9 THE COURT: Okay, thank you, Mr. Cahill.
10 How long ago was that, sir?

11 MR. CAHILL: Probably eight years ago.

12 THE COURT: All right, Mr. Cahill, thank
13 you. You may be seated.

14 Yes, sir, your name and juror number?

15 MR. BETHEA: Harvey Bethea, thirty-two.
16 It was a burglary, theft by taking.

17 THE COURT: Was it of your home?

18 MR. BETHEA: Yes, ma'am.

19 THE COURT: Okay, thank you, sir. Has
20 that case been resolved?

21 MR. BETHEA: Oh, yes.

22 THE COURT: How many years ago was it?

23 MR. BETHEA: Probably ten years ago.

24 THE COURT: All right, Mr. Bethea, thank
25 you, sir.

1 Yes, ma'am, your name and juror number?

2 MS. DASTOLI: Marianne Dastoli, juror

3 number 92. Two years ago, while I was on vacation

4 in Italy, my sister-in-law was assaulted, and

5 attempted robbery.

6 THE COURT: Okay, thank you.

7 Sir, your name and juror number?

8 MR. WHITAKER: Michael Whitaker, 353.

9 THE COURT: Yes, sir.

10 MR. WHITAKER: My daughter was molested.

11 THE COURT: Thank you, sir.

12 Yes, ma'am?

13 MS. BARRETT: I'm Laura Barrett, juror

14 number 23. We had a burglary in January.

15 THE COURT: Okay, thank you.

16 Yes, ma'am?

17 MS. RAULERSON: Sharon Raulerson, 284. I

18 had a close friend of mine who was burglarized.

19 THE COURT: Thank you.

20 Yes, ma'am?

21 MS. DAUGHERTY: Grace Daugherty, 93. My

22 daughter this year was involved in that.

23 THE COURT: Thank you, ma'am.

24 Yes, sir?

25 MR. HOWELL: Mike Howell, 183. Fifteen

17

1 years ago, my wife was robbed at gunpoint. No shots
2 were fired or anything like that.

3 THE COURT: Thank you, Mr. Howell.

4 Yes, ma'am?

5 MS. OLMSTEAD: Two sixty-two, just auto
6 theft, cousin's car.

7 THE COURT: Okay, thank you, ma'am.

8 Anyone else? Is there any member of the
9 jury panel a former deputy, police officer, or
10 security guard? If so, please stand.

11 Sir, your name and juror number?

12 MR. PORTERFIELD: Jonathan Porterfield.

13 THE COURT: Yes, sir.

14 MR. PORTERFIELD: Two seventy-nine, deputy
15 sheriff.

16 THE COURT: Where at, sir?

17 MR. PORTERFIELD: Richland County and the
18 City of Newberry Police Department.

19 THE COURT: How long ago, sir?

20 MR. PORTERFIELD: It's been nine years.

21 THE COURT: Nine years ago. Thank you,
22 sir.

23 Anyone else? Is there any member of the
24 jury panel related by blood or marriage to any law
25 enforcement officer, state constable, or any other

1 person having authority to enforce the laws of the
2 state, country, city, or any place other than the
3 state of South Carolina? If so, please stand.

4 MR. COCHRANE: Did you say other than the
5 state of South Carolina?

6 THE COURT: Other than the state of South
7 Carolina. And, ladies and gentlemen, we can err on
8 the side of caution. It can be in South Carolina as
9 well, all right?

10 Sir, your name and juror number?

11 MR. COCHRANE: My name is Clyde Cochrane.
12 My juror number is 74. My wife is the County
13 Magistrate, Charlene Smith.

14 THE COURT: Yes, sir, very good to meet
15 you. Well, I appreciate that. You can go ahead and
16 take a seat.

17 Yes, sir?

18 MR. CAHILL: Stephen Cahill, fifty-seven.
19 My grandfather is a retired Beaufort County
20 Sheriff's Deputy, and I have a cousin that was a
21 state trooper.

22 THE COURT: Okay.

23 MR. CAHILL: He's no longer with the State
24 Trooper Division.

25 THE COURT: It was your grandfather, you said?

1 MR. CAHILL: Yes, ma'am.

2 THE COURT: What last name did he go by,
3 sir?

4 MR. CAHILL: Cahill.

5 THE COURT: Cahill as well, all right.
6 Thank you, sir. I appreciate that.

7 Yes, sir?

8 MR. BETHEA: Harvey Bethea.

9 THE COURT: Yes.

10 MR. BETHEA: My father, who is deceased,
11 was a retired South Carolina Highway Patrolman.

12 THE COURT: Okay, thank you, sir.

13 Yes, sir?

14 MR. HARRIS: Marshall Harris. My brother
15 retired from the Beaufort County Sheriff's
16 Department.

17 THE COURT: Thank you, sir.

18 MR. HILTON: Don Hilton, 169. My father
19 was a deputy sheriff in Illinois.

20 THE COURT: In Illinois? Thank you, sir.

21 Yes, ma'am?

22 MS. BARRETT: Laura Barrett, 23. My
23 husband is a federal prosecutor.

24 THE COURT: Thank you, ma'am.

25 Yes, sir?

1 MR. REAMY: Jeff Reamy, 285. My
2 stepbrother is a police officer in El Paso.

3 THE COURT: From El Paso?

4 MR. REAMY: Yes.

5 THE COURT: Thank you, sir.

6 Yes, ma'am?

7 MS. GERMAN: Lauren German, 137. My uncle
8 is a narcotics task force member.

9 THE COURT: In Beaufort County. What is
10 his name, ma'am?

11 MS. GERMAN: Joe (Inaudible).

12 THE COURT: Thank you. Is there any
13 member of the jury panel a personal acquaintance or
14 related by blood to anyone that works in the
15 Solicitor's Office here in the Fourteenth Circuit,
16 which includes Beaufort County? If so, please
17 stand.

18 MR. WHITAKER: What was the question,
19 again?

20 THE COURT: Is there any member of the
21 jury panel a personal acquaintance or related by
22 blood to anyone that works in the Solicitor's Office
23 here in Beaufort County? If so, please stand.

24 MR. WHITAKER: Solicitor's Office?

25 THE COURT: Solicitor's Office, yes, sir.

21

1 And let's just err on the side of caution, sir. Who

2 --

3 MR. WHITAKER: Elizabeth Smith.

4 THE COURT: You are related to Elizabeth,
5 or a friend?

6 MR. WHITAKER: Friend.

7 THE COURT: All right, sir. Again, would
8 you give me your name and juror number?

9 MR. WHITAKER: Michael Whitaker, 353.

10 THE COURT: Thank you. Anyone else?

11 Yes, sir?

12 MR. CAHILL: Stephen Cahill, fifty-seven.
13 I'm a friend of Caper Vaux.

14 THE COURT: Okay, sir, I appreciate that,
15 thank you. Anyone else? Is there any member of the
16 jury panel who would believe the testimony of a
17 police officer over that of a defendant simply
18 because that person is a law enforcement officer?
19 If so, please stand.

20 Ladies and gentlemen, I know you know very
21 little about this case. All that has been read to
22 are the indictments. But this concerns a case that
23 involves assault and battery with an intent to kill
24 against two alleged victims, as well as a murder
25 against another alleged victim.

1 And this occurred in Beaufort County on or
2 about January 3, 2007. Ladies and gentlemen, is
3 there any member of the jury panel that has seen,
4 heard, or read anything about this case or have any
5 knowledge about this case whatsoever? If so, please
6 stand.

7 Is there any member of the jury that has
8 formed or expressed an opinion as to the guilt or
9 innocence of the defendant, Mr. Jackson, in this
10 case? If so, please stand.

11 Is there any member of the jury panel that
12 is conscious of any bias whatsoever against Mr.
13 Jackson? If so, please stand.

14 Is there any reason whatsoever, ladies and
15 gentlemen, that any of you cannot give both the
16 State and the defendant, Mr. Jackson, in this case,
17 a fair and impartial trial? If so, please stand.

18 Are there any further questions you'd like
19 asked of this panel, from the State?

20 MS. TANNER: Nothing from the State.

21 MR. COLONGELI: None, Your Honor.

22 THE COURT: All right. Ladies and gentlemen, I
23 will ask you one other question. Is there any
24 member of the jury panel who is a member of or
25 contributor to any group which has as its primary

1 concern the promotion of law enforcement or victims
2 rights? And these groups would include things like
3 MADD, Mothers Against Drunk Driving; or CAV, which
4 is Citizens Against Violent Crime.

5 Again, the question is, is there any
6 member of the jury panel a member of or contributor
7 to any of these types of organizations? If so,
8 please stand.

9 MS. BUGGIE: MADD.

10 THE COURT: Yes, ma'am. Your name and
11 juror number?

12 MS. BUGGIE: June Buggie, 52.

13 THE COURT: Ms. Buggie, are you a member
14 of MADD or a contributor?

15 MS. BUGGIE: Contributor and member.

16 THE COURT: Thank you, I appreciate that.

17 Yes, ma'am?

18 MS. CLARK: Kelli Clark, juror number 71,
19 MADD, contributor.

20 THE COURT: Thank you -- a contributor,
21 too.

22 Yes, ma'am, your name and juror number?

23 MS. DUNLAP: Jolynn Dunlap, 109.

24 THE COURT: Yes, ma'am.

25 MS. DUNLAP: MADD.

1 THE COURT: Thank you, ma'am. Are you a
2 contributor to or member of?

3 MS. DUNLAP: Contributor.

4 THE COURT: Okay. Anyone else? Very
5 well.

6 Any further questions from the State?

7 MS. TANNER: Nothing from the State, Your
8 Honor.

9 THE COURT: From the defense?

10 MR. COLONGELI: None, Your Honor.

11 THE COURT: All right. Strikes are ten
12 and five. Do you all have a list?

13 MS. TANNER: Yes.

14 THE COURT: Okay.

15 CLERK OF COURT: Juror number 250,
16 Jacqueline Mitchell.

17 THE COURT: Ms. Mitchell, come on forward,
18 ma'am. Just bring your purse with you.

19 What you're going to do, ladies and
20 gentlemen, is you're going to come right up to the
21 front and just turn around and face the panel, okay?

22 So, Ms. Mitchell, come on around.

23 CLERK OF COURT: What says the State?

24 MS. TANNER: Please present the juror.

25 CLERK OF COURT: What says the defense?

25

1 MR. COLONGELI: Please swear Ms. Mitchell
2 for the trial of this case.

3 CLERK OF COURT: Juror number 273, John
4 Perz. What says the State?

5 MS. TANNER: Please present the juror.

6 CLERK OF COURT: And what says the
7 defense?

8 MR. COLONGELI: Please swear Mr. Perz for
9 the trial of this case.

10 CLERK OF COURT: Juror number 23, Laura
11 Barrett. What says the State?

12 MS. TANNER: Please present the juror.

13 CLERK OF COURT: What says the defense?

14 MR. COLONGELI: The defense would strike
15 for cause, Your Honor.

16 THE COURT: Okay, approach. If I could
17 see the attorneys.

18 (Conference at the bar.)

19 MR. COLONGELI: Could I please have this
20 juror's number again, please?

21 THE COURT: Two thirty.

22 MR. COLONGELI: Please excuse Ms. Barrett
23 from the trial of this case.

24 MS. BARRETT: This way?

25 THE COURT: Yes, ma'am. If you don't

1 mind, just go sit over there on the opposite side.

2 Thank you.

3 CLERK OF COURT: Juror number 74, Clyde
4 Cochrane. What says the State?

5 MS. TANNER: Please present the juror.

6 CLERK OF COURT: What says the defense?

7 MR. COLONGELI: Please excuse Mr.
8 Cochrane.

9 CLERK OF COURT: Juror number 67, Janette
10 Cherry. What says the State?

11 MS. TANNER: Please present the juror.

12 CLERK OF COURT: What says the defense?

13 MR. COLONGELI: Please swear the juror.

14 CLERK OF COURT: Juror number 126, Michael
15 Fleischbein. What says the State?

16 MS. TANNER: Please excuse this juror.

17 CLERK OF COURT: Juror number 19, Deborah
18 Barber. What says the State?

19 MS. TANNER: Please present the juror.

20 CLERK OF COURT: What says the defense?

21 MR. COLONGELI: Please swear Ms. Barber
22 for the trial of this case.

23 CLERK OF COURT: Juror number 229, John
24 McKinlay. What says the State?

25 MS. TANNER: Please excuse the juror.

1 CLERK OF COURT: Juror number 231, Gerold
2 McDougall. What says the State?

3 MS. TANNER: Please present the juror.

4 CLERK OF COURT: What says the defense?

5 MR. COLONGELI: Please excuse Mr.
6 McDougall from the trial of this case.

7 CLERK OF COURT: Juror number 234,
8 Kathleen McGill. What says the State?

9 MS. TANNER: Please present the juror.

10 CLERK OF COURT: What says the defense?

11 MR. COLONGELI: Please swear Ms. McGill
12 for the trial of this case.

13 CLERK OF COURT: Juror number 93, Grace
14 Daugherty.

15 MR. COLONGELI: The juror's number again,
16 please?

17 CLERK OF COURT: Ninety-three. What says
18 the State?

19 MS. TANNER: Please present the juror.

20 CLERK OF COURT: What says the defense?

21 MR. COLONGELI: Please excuse the juror.

22 CLERK OF COURT: Juror number 309, Annie
23 Smalls. What says the State?

24 MS. TANNER: Please present the juror.

25 CLERK OF COURT: What says the defense?

1 MR. COLONGELI: Please swear the juror.

2 CLERK OF COURT: Juror number 127, Gregory
3 Ford. What says the State?

4 MS. TANNER: Please present the juror.

5 CLERK OF COURT: What says the defense?

6 MR. COLONGELI: Please excuse Mr. Ford
7 from the trial of this case.

8 CLERK OF COURT: Juror number 279,
9 Jonathan Porterfield. What says the State?

10 MS. TANNER: Please present the juror.

11 CLERK OF COURT: What says the defense?

12 MR. COLONGELI: We strike for cause, Your
13 Honor.

14 THE COURT: Approach.

15 (Conference at the bar.)

16 MR. COLONGELI: Please excuse the juror.

17 CLERK OF COURT: Juror number 285, Charles
18 Reamy. What says the State?

19 MS. TANNER: Please present the juror.

20 CLERK OF COURT: Okay. And what says the
21 defense?

22 MR. COLONGELI: Please excuse the juror
23 from this case.

24 CLERK OF COURT: Juror number 57, Stephen
25 Cahill. What says the State?

1 MS. TANNER: Please present the juror.

2 CLERK OF COURT: What says the defense?

3 MR. COLONGELI: The defense would move to
4 strike for cause.

5 THE COURT: Approach. Mr. Cahill, you can
6 step over. Thank you, sir.

7 CLERK OF COURT: Juror number 353, Michael
8 Whitaker. What says the State?

9 MS. TANNER: Please present the juror.

10 CLERK OF COURT: What says the defense?

11 MR. COLONGELI: With all due respect, Your
12 Honor, we move to strike for cause also on him.

13 THE COURT: Approach.

14 (Conference at the bar.)

15 MR. COLONGELI: Please excuse the juror.

16 CLERK OF COURT: Juror number 186, Brian
17 Hykes. What says the State?

18 MS. TANNER: Please present the juror.

19 CLERK OF COURT: What says the defense?

20 MR. COLONGELI: Please excuse the juror.

21 CLERK OF COURT: Juror number 20, Ronald
22 Barnard. What says the State?

23 MS. TANNER: Please present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. COLONGELI: Please swear the juror.

1 CLERK OF COURT: Juror number 109, Jolynn
2 Dunlap. What says the State?
3 MS. TANNER: Please present the juror.
4 CLERK OF COURT: What says the defense?
5 MR. COLONGELI: Please swear the juror.
6 CLERK OF COURT: Juror number 306, Sharon
7 Simmons. What says the State?
8 MS. TANNER: Please present the juror.
9 CLERK OF COURT: What says the defense?
10 MR. COLONGELI: Please swear the juror.
11 CLERK OF COURT: Juror number 32, Harvey
12 Bethea. What says the State?
13 MS. TANNER: Please present the juror.
14 CLERK OF COURT: What says the defense?
15 MR. COLONGELI: Motion for cause, Your
16 Honor.
17 THE COURT: Approach.
18 MR. COLONGELI: Please swear the juror.
19 CLERK OF COURT: Juror number 175, Louis
20 Holliday. What says the State?
21 MS. TANNER: Please present the juror.
22 CLERK OF COURT: What says the defense?
23 MR. COLONGELI: Please swear the juror.
24 CLERK OF COURT: Juror number 96, Ronald
25 Degler. What says the State?

1 MS. TANNER: Please present the juror.

2 CLERK OF COURT: What says the defense?

3 MR. COLONGELI: Please swear Mr. Degler
4 for the trial of this case.

5 THE COURT: Okay. We're going to go with
6 two alternates.

7 CLERK OF COURT: Juror number 169, Donald
8 Hilton. What says the State?

9 MS. TANNER: Please present the juror.

10 CLERK OF COURT: What says the defense?

11 MR. COLONGELI: Please excuse the juror.

12 CLERK OF COURT: Juror number 125, Anthony
13 Fidrych. What says the State?

14 MS. TANNER: Please present the juror.

15 CLERK OF COURT: What says the defense?

16 MR. COLONGELI: Please excuse the juror.

17 CLERK OF COURT: Juror number 52, June
18 Buggie. What says the State?

19 MS. TANNER: Please present the juror.

20 CLERK OF COURT: Any challenges for cause,
21 Mr. Colongeli?

22 MR. COLONGELI: No. Please swear the
23 juror.

24 CLERK OF COURT: Juror number 366, Ricky
25 Witter. What says the State?

1 MS. TANNER: Please present the juror.

2 CLERK OF COURT: What says the defense?

3 MR. COLONGELI: Please swear the juror.

4 THE COURT: Is there any motions we need
5 to take up in regards to the jury selection process,
6 from the State?

7 MS. TANNER: Nothing from the State.

8 THE COURT: Mr. Colongeli?

9 MR. COLONGELI: Nothing from the defense,
10 Your Honor.

11 THE COURT: Thank you.

12 Ladies and gentlemen, those of you that
13 are still sitting out there in the gallery,
14 obviously you have not been chosen as jurors in the
15 trial of this first case. So I am going to have to
16 ask you to call back tonight after 6:00.

17 And there will be a prompt, and it will
18 tell you whether or not your services will be needed
19 either tomorrow or Wednesday. It may just say don't
20 call us back until Tuesday night after 6:00.

21 I will tell you that if you call before
22 6:00, there won't be a message there, because we
23 never know what's going to happen usually until
24 about five minutes before six. So with that said, I
25 want to thank you all for being here today.

1 I'm going to go ahead and excuse you. And
2 please just make sure you call after 6:00, and we
3 may or may not see each other again.

4 Yes, sir?

5 UNIDENTIFIED JUROR: Your Honor, how late can
6 you call? You say after six till --

7 THE COURT: After six until 9:00 in the
8 morning, because it may say be here at 9:00.

9 UNIDENTIFIED JUROR: Thank you.

10 THE COURT: It's a recorded message, okay?
11 Thank you.

12 (Whereupon, the petit jury panel was
13 excused for the day.)

14 THE COURT: Welcome, ladies and gentlemen. As
15 you know, my name is Carmen Mullen, and I'm the
16 trial judge in this first case that you're going to
17 begin tomorrow morning.

18 I want to give you a few ground rules,
19 though, just to explain to you what's going to
20 happen during the trial of this case, and then I'm
21 going to go ahead and let you go for the rest of the
22 afternoon.

23 I will also tell you, ladies and
24 gentlemen, that the good news from these attorneys
25 is that they believe this case will at the longest

1 go through Thursday, all right? So you can plan on
2 being with me Tuesday, and Wednesday, and possibly
3 Thursday.

4 So for scheduling purposes, I want you to
5 know and understand that. I will tell you that I
6 typically run my court somewhere around 9:30 or
7 10:00 in the morning, which is when we start.

8 Tomorrow morning, we're going to have a
9 10:00 start, which just means that you're going to
10 be required to come and all be here by 10 a.m.
11 tomorrow morning.

12 When I excuse you for the day, I will send
13 you back to your jury room. So the Bailiffs are
14 going to show you where you are to report tomorrow.
15 You're not going to come into the main courtroom.
16 You're going to go back to your jury room.

17 Ladies and gentlemen, I'll also tell you a
18 few other things. To begin with, the attorneys, and
19 the parties, and any potential witnesses in this
20 case have been instructed not to speak to you in any
21 way.

22 And the reason why is even if you pass
23 them in the hall with a smile or a greeting, that
24 could be misconstrued, and we wouldn't want that
25 ever to happen. So please understand if you happen

1 to pass any of these people coming or going from the
2 courthouse or in the parking lot, and they don't
3 even say hello, don't be offended.

4 They're following my orders, and I want
5 you all to know that. Additionally, ladies and
6 gentlemen, I know you all know very little about
7 this case. However, it would not be appropriate for
8 you to begin discussing this case, not only with
9 family members or friends, but with each other.

10 At the conclusion of this case, after
11 you've heard all the evidence, you've heard the
12 attorneys' arguments, and my charge on the law, then
13 and only then is it appropriate for you to begin
14 discussing this case.

15 So, with that said, when you go home
16 tonight or you go back to work this afternoon, and
17 they ask you, "What are you doing up at the
18 courthouse?" all you are permitted to say is that
19 you have been sat by a criminal jury trial, and that
20 is it, all right?

21 You're not even allowed to tell them what
22 the charges are or anything else involved with it.
23 So please understand this is a very strict rule that
24 we follow.

25 Lastly, ladies and gentlemen, there may or

1 may not be something about this case in the
2 newspaper tomorrow or possibly even on the news
3 tonight or in the morning. Out of an abundance of
4 caution, ladies and gentlemen, if you happen to open
5 the newspaper and you see anything about this case,
6 you are to disregard it and not read it.

7 Go to the stock page, go anywhere else you
8 want in that newspaper, but do not read anything
9 that you may see there. Again, ladies and
10 gentlemen, you are going to get everything you need
11 to determine this case right here in this courtroom.

12 And it would be improper for you to be
13 influenced by any outside sources. So,
14 additionally, ladies and gentlemen, that's another
15 reason why I don't want you talking about what
16 you're doing up here, because inevitably someone may
17 know something about the case or may want to give
18 you their opinion.

19 And, again, you don't need anyone else's
20 opinion. I need you as my 14 jurors to decide this
21 case, all right? So with that said, ladies and
22 gentlemen, lastly, I don't know if any of you got in
23 today with cell phones.

24 But out of an abundance of caution,
25 tomorrow morning, when you sit on a jury, we are

1 actually required to take your cell phones from you.
2 And the reason why is that you could access
3 information on cell phones nowadays.

4 Additionally, you cannot bring a computer.
5 I will tell you, if you'd like, you can bring a book
6 or something along those lines, because there may be
7 breaks during the trial of this case where I have to
8 discuss a matter of law with the attorneys and you
9 all may be waiting on us.

10 So just understand that and know that.
11 Again, ladies and gentlemen, I want to thank you for
12 being here. As I said, I know that there are many
13 other things you'd probably prefer to be doing this
14 week. But, again, your service is needed, and we
15 are grateful.

16 So with that said, ladies and gentlemen, I
17 will excuse you to go back to your jury room. And
18 then Bob's going to let you for the remainder of the
19 day. I just look forward to seeing you all at 10
20 a.m. tomorrow morning.

21 Yes, ma'am?

22 JUROR: How late do you usually run in the
23 afternoon?

24 THE COURT: I will typically run five, five-
25 thirty, six. However, if any of you have a specific

1 place you need to be or children to pick up, just
2 let me know ahead of time, and I can accommodate
3 that. Does anyone have a problem tomorrow night
4 specifically?

5 Yes, sir?

6 JUROR: My daughter has a softball game.

7 THE COURT: What time?

8 JUROR: Six o'clock. I live in Hilton Head.

9 THE COURT: I'll get you home in time. If I
10 have to, I'll carry you home myself, all right? I
11 live over there, too, and I know how long it takes
12 door to door. So I appreciate that, sir, and I
13 assure you you will be at your daughter's softball
14 game. All right, anyone else?

15 Ma'am, Ms. Mitchell, I want to make sure
16 that your son is covered as well, and I'd like to
17 talk to you about that. I understand that
18 specifically. I have a special child as well.

19 So I know that help are wonderful, but I
20 want to make sure that your husband or someone else
21 is able to get him. If you have any conflict or
22 problem whatsoever, you make sure you tell me first
23 thing tomorrow morning, okay?

24 MS. MITCHELL: Yes, ma'am.

25 THE COURT: We really need you to arrange that,

1 all right?

2 MS. MITCHELL: Yes, ma'am.

3 THE COURT: Thank you. Anyone else? All
4 right, you all are excused. We'll see you tomorrow
5 morning at 10 a.m.

6 (Whereupon, the jury was excused for
7 the day to return at 10 a.m. Tuesday.)

8 THE COURT: I understand we have some pre-trial
9 matters that we do need to take up. It is 1:30, and
10 I know my deputies would probably love to go get
11 something to eat.

12 I also understand that there's something
13 else, Solicitor, that you would like me to take a
14 plea or something?

15 MS. TANNER: Yes, ma'am.

16 THE COURT: We have some pre-trial
17 motions, Mr. Colongeli?

18 MR. COLONGELI: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. COLONGELI: Your Honor, I believe the
21 State also had some motions.

22 THE COURT: Okay, Solicitor?

23 MS. TANNER: I had the one motion, Your
24 Honor, regarding -- it's been brought to my
25 attention that defense counsel has subpoenaed the

1 record of one of the investigators who originally
2 worked on this case, who has since been terminated
3 from the Beaufort County Sheriff's Office.

4 The State is not calling this individual
5 as a witness, and it's my understanding -- I don't
6 know if defense counsel is calling him or not. But
7 we don't intend to call him. And the case that we
8 are going to present, there's no bearing on anything
9 he did as part of the investigation.

10 There's nothing really related to him. So
11 the State would make a motion that defense counsel
12 be prohibited from asking other officers on the
13 stand or obviously in opening or closing to the jury
14 bringing it to their attention that there was an
15 officer involved in the investigation at some point
16 who has been terminated for the reason for his
17 termination.

18 I believe that the issues he would present
19 go to the credibility of that person. He is not
20 going to testify. Therefore, his credibility is not
21 an issue. And there is nothing that he did as part
22 of this investigation that the State was relying on
23 to present its case.

24 Therefore, his credibility would not be an
25 issue in this case and would only be something that

41

1 the defense would throw out to be prejudicial with
2 absolutely no relevance to the case.

3 THE COURT: All right. And just for the
4 record, it's my understanding that we're talking
5 about the ex-deputy, Detective Lester Williams -

6 MS. TANNER: That's correct, Your Honor.

7 THE COURT: -- who was terminated for
8 possession for cocaine use, is that correct?

9 MS. TANNER: Yes, ma'am. He tested
10 positive during one of the department's random drug
11 tests.

12 THE COURT: Okay, and was terminated. And
13 when was that?

14 MS. TANNER: He was terminated --

15 MR. COLONGELI: February.

16 MS. TANNER: February?

17 MR. COLONGELI: That's my understanding.

18 THE COURT: Of '07, Mr. Colongeli?

19 MR. COLONGELI: Yes, Your Honor.

20 THE COURT: Respectfully, Mr. Colongeli, I
21 will tell you that we did meet about this and talk
22 about this briefly back in chambers. And I think
23 you need to go ahead and put on the record your
24 obvious need to go ahead and use this information.

25 I think what I inclined or what I told you

1 both back in chambers was based on the other
2 investigators' testimony, if they relied on
3 Detective Williams' work in forming their opinion or
4 in any of their testimony, I do think it's relevant.
5 It goes to his credibility.

6 However, if they learned things of their
7 own accord and were present themselves and wasn't
8 relying on Detective Williams' written word or work,
9 then I don't see how it's relevant. So, Mr.
10 Colongeli, it's a motion in limine. I can't really
11 tell you until I hear the other officers testify,
12 whether or not they're going to say they had done
13 something or they relied on something as a result of
14 Detective Williams' work.

15 MR. COLONGELI: If I may, Your Honor?

16 THE COURT: Sure.

17 MR. COLONGELI: Out of an abundance of
18 caution and for purposes of preserving the record,
19 Your Honor, we're extremely concerned about this
20 issue. Based on what the Solicitor just stated --
21 and correct me if I'm wrong -- there's nothing the
22 State is relying on as far as Lester Williams in
23 order to prove this case.

24 This is not just any officer. Lester
25 Williams was the lead criminal investigative officer

1 of this particular case. It wasn't an officer that
2 was on the scene. This was the lead investigative
3 officer.

4 The allegations surrounding his
5 termination do deal not only with the admission of
6 the use of cocaine but then a test that turned
7 positive for the use of cocaine after he said he had
8 last used it, which was December of '06. This
9 incident occurred on January 3rd of '07.

10 And Lester Williams tested positive in a
11 random drug screen for cocaine in February of '07.
12 It is very concerning to us as to how the State
13 wants to proceed. And as Your Honor has said,
14 Master Sgt. Purdy was one of the officers that
15 approved or supervised Mr. Williams, worked
16 hand-in-hand with him.

17 We don't see how they're going to proceed
18 with what the defense has called these phantom
19 officers who are going to stand in for the lead
20 investigative officer. We believe there are serious
21 chain-of-custody issues that are going to arise with
22 his absence.

23 The State has got the ability to bring him
24 here. Obviously, they're the ones choosing not to
25 call him. Our investigation has revealed that it's

1 not like he is unavailable. We've determined that
2 he's in the state of South Carolina, as a matter of
3 fact, working some quasi-law enforcement position at
4 Furman, is what our information leads us to believe.

5 We just believe it's inherently unfair for
6 us not to be able to go in and impeach -- possibly
7 impeach -- his credibility based on what these other
8 officers are going to rely upon, which we just think
9 it's a stretch of the imagination how these officers
10 are going to testify as to what they saw without
11 having relied on Lester Williams' report.

12 Lester Williams' report is the chief
13 investigative tool that was used to secure an arrest
14 against my client. And based on that, we think it's
15 extremely relevant, particularly in light of the
16 time frame of when this alleged drug use or
17 possession was.

18 He was the one that was on the scene.
19 And, furthermore, Deputy Sheriff Nielander -- and
20 I'm not sure if I'm pronouncing that correct -- was
21 the responding officer. That was the initial
22 responding officer who handed this crime scene over
23 to Detective Williams.

24 He also is not going to be called by the
25 State. We determined he's in the state of Michigan.

1 We're not able to get him here. We just don't
2 understand. We think it's abundantly important and
3 a critical issue from the standpoint of due process
4 alone as far as us not being able to address that.

5 And if I understand the Court's ruling, I
6 guess we can see where it goes tomorrow. But we
7 just don't see how they can proceed without relying
8 on his report or the evidence submittals by him in
9 his report, which there are a great deal --
10 photographs, blood.

11 And my understanding from our
12 investigation is that these phantom officers that
13 are going to be substituted for Nielander and
14 Williams -- and I stand to be corrected -- obviously
15 had to rely or refresh their memory based on his
16 report. We don't see how there's any other way they
17 can do this.

18 And that's why we think it's inherently
19 unfair for us to be able to proceed without
20 mentioning that, particularly maybe even in opening,
21 that they're not going to see or hear from the
22 officer who responded initially from the 911 call
23 and then the officer who it was turned over to as
24 the lead criminal investigative officer on this
25 case.

1 THE COURT: Mr. Colongeli, there's nothing
2 to prevent you from opening stating that those two
3 people are not going to be here.

4 MR. COLONGELI: Understood.

5 THE COURT: You want to say why, and
6 that's the difference. I can tell you, I can't make
7 a predetermination. I guess as defense counsel, my
8 first question, if I were you, would be to each of
9 the officers, "Well, did you refresh your
10 recollection of this incident by looking at
11 anything?"

12 And if they say, "Yes, I read the
13 investigative report," well, then I do think it's
14 relevant, if they're relying on that and it's
15 written by Detective Williams. But, again, I don't
16 know that.

17 What I'm trying to tell you is that if
18 these officers each individually responded and saw
19 it with their own eyes or knew and understood what
20 the investigation was, I think they can testify as
21 to their own individual knowledge and that they
22 didn't necessarily rely on Williams, anything
23 Williams has specifically said.

24 But I don't know if the officers are going
25 to say that, because I haven't heard their

1 testimony. I'm assuming, like in most cases,
2 they're going to say that they each did their part,
3 and they had to rely on the other part to be able to
4 put it all together. And if that's how the
5 testimony comes out, then I do think it's relevant.
6 And I do and will allow you to ask that.

7 MR. COLONGELI: Yes, ma'am.

8 THE COURT: I can't make her bring any
9 particular witness, though, as you and I both know.
10 I think you can, as a defense counsel, make hay with
11 it and certainly argue to this jury that "You know
12 what, the two key players aren't even here."

13 But until we get to the point where you
14 can show me or establish for me that these other
15 officers that are going to testify relied on
16 Williams' work -- and I understand you're saying
17 that it should come into question because he
18 allegedly was using cocaine at the time -- we're
19 going to have to get to that point. I just haven't
20 heard the testimony yet.

21 MR. COLONGELI: Understood, Your Honor.

22 THE COURT: But, respectfully, what I'm
23 going to ask you to do is you can ask your
24 questions. And before you ask specifically, "You
25 understand that Detective Williams was fired for

1 using cocaine?" I want you to approach and make
2 sure.

3 I think we all understand if someone's
4 going to go ahead and ask the question, if it is
5 relevant, then I will allow you to do it. But at
6 this point, I don't know how these officers are going to
7 testify.

8 As far as any chain of custody, I have no
9 idea if she's got the chain or not. And I can only
10 hear that when she puts it all together, until it's
11 presented to me.

12 MS. TANNER: Again, Your Honor, I just
13 want to make sure I'm clear. I'm not substituting
14 one officer's testimony for another. They were all
15 there. It's a murder investigation with multiple
16 officers there. And they're all doing their thing.

17 So we're not substituting one for another
18 and picking and choosing. We're putting up relevant
19 officers with relevant information for the
20 investigation. No one is supplanting another. They
21 all have their own testimony to provide.

22 Some of these officers -- if we brought
23 everybody up, we'd just have identical testimony,
24 and it would not be judicial conduct. So I just
25 want that to be clear, that we're not substituting

1 anyone or bringing in the second string. These are
2 officers who were present and who did participate in
3 the investigation of this case.

4 THE COURT: Okay.

5 MR. COLONGELI: In addition to that, Your
6 Honor, with all due respect, the only -- the
7 additional concern I have with that is both of these
8 officers in question that I referred to, being Eric
9 Calendine and I believe an Officer Rodriguez, I
10 would give some deference to the Solicitor's
11 argument if, in fact, these officers had filed
12 supplemental reports in this case.

13 I think it's important for you to know
14 that there's absolutely not one iota -- unless I've
15 not been given it yet -- of any sort of report that
16 I've been able to investigate, to review its
17 credibility or my ability to impeach it. There's
18 not one report that's been submitted in this case
19 with either of these officers' names on them.

20 There's no reports. So I'm basing it on
21 the fact that obviously she'll be able to put the
22 other people that were on the scene that night. But
23 I don't have anything in my discovery in a case
24 that's almost two years old -- or is two years old -
25 - that tells me these officers were even there.

1 MS. TANNER: These names have been
2 provided to defense counsel.

3 THE COURT: Well, they can testify as to
4 what they saw or what they did. And certainly, if
5 they say they relied on Williams' report, well, then
6 I think it is going to allow you to ask them what
7 they know about him. But until we get to that
8 point, I'm not going to make a pre-ruling, okay?

9 MR. COLONGELI: Thank you, Your Honor. As
10 far as any defense motions, Your Honor, I think now,
11 for purposes of housekeeping, I would like to renew
12 my Rule 5 Brady-Edwards motion that was filed in
13 August of '07. That's at the time I was appointed,
14 I believe, on this case.

15 THE COURT: Solicitor, do you have
16 anything that you have not turned over?

17 MS. TANNER: No, ma'am.

18 THE COURT: Okay.

19 MR. COLONGELI: Out of an abundance of
20 caution, Your Honor, and I'll assume what you say is
21 saying obviously is, in fact, true.

22 MS. TANNER: I'm sorry. These are
23 originals. I've faxed him copies. I told him I'd
24 bring originals to court with me. There's one item
25 I don't know that I've faxed. It's just the CV of

1 one of my experts. But that's in this package for
2 him. That's the only thing that he may not have.

3 MR. COLONGELI: Your Honor, I think
4 specifically what I was concerned about, in the
5 State's potential witness list, I see a Dr. Clifton
6 Cannon, Savannah Memorial Hospital. I've not
7 received any information at all as far as Savannah
8 Memorial records in my file.

9 MS. TANNER: We don't have any of the
10 medical records. I have met with Dr. Clifton, and I
11 have given defense counsel that doctor's name and
12 where he's located.

13 THE COURT: So Dr. Cannon treats --

14 MS. TANNER: Yes, ma'am.

15 THE COURT: -- one of the victims?

16 MS. TANNER: Yes, ma'am. He treated the
17 deceased victim while he was in Savannah Memorial
18 prior to him passing.

19 THE COURT: And you have no medical
20 records?

21 MS. TANNER: Not from Savannah, no, ma'am.

22 THE COURT: Okay.

23 MR. COLONGELI: The other -- and I may be
24 mistaken as to this. But a Dr. Aaron Rittershaus,
25 MUSC-Charleston, and I'm not sure the role this

1 doctor played. I don't have anything specifically
2 with his report.

3 MS. TANNER: His name is on the autopsy
4 report. He was present for the forensic autopsy.
5 He will be testifying to that..

6 MR. COLONGELI: All right.

7 MS. TANNER: He is listed on the report.

8 MR. COLONGELI: And as far as any rap
9 sheets, Your Honor, I'm assuming I'll be given the
10 rap sheet of the deceased. I was also wondering as
11 far as any other State witnesses I've not received
12 any sort of rap sheets on, either of them or any of
13 them.

14 MS. TANNER: That hasn't been requested.

15 THE COURT: Well, he's requesting it right
16 now.

17 MS. TANNER: Which -- at the break, if I
18 can get the names of the ones you want so I don't
19 just run --

20 THE COURT: Okay.

21 MS. TANNER: -- random rap sheets, I'll
22 take care of that tonight.

23 THE COURT: All right. Mr. Colongeli, if
24 you'll give her the list, then she'll run them.

25 MR. COLONGELI: That's fine, Your Honor,

1 thank you. Also, the standard sequester motion,
2 Your Honor, as far as tomorrow, obviously, I would
3 be making.

4 THE COURT: Okay. Who is your lead
5 investigator now, Solicitor?

6 MS. TANNER: Master Sgt. Jeff Purdy. He
7 was the supervisor at the time and still is the
8 supervisor of the Northern Division investigators.

9 THE COURT: Okay.

10 MS. TANNER: He is my case officer.

11 THE COURT: All right. We'll go ahead,
12 and I'll grant your motion to sequester all the
13 witnesses.

14 MR. COLONGELI: Thank you, Your Honor.

15 MS. TANNER: Your Honor, two witnesses are
16 victims. That would be Shella Laurent and Nazarene
17 Rene Laurent. I think under the Victims Bill of
18 Rights, if they wish to be present, they have a
19 right to be present, even though they are witnesses.
20 They're not here today, and I don't know if they
21 plan to stay beyond their testimony or not. But if
22 they do, I can make the Court aware of that.

23 THE COURT: Okay, I appreciate that. They
24 do have the right to be here, Mr. Colongeli. They
25 are victims in this case.

1 MR. COLONGELI: I would like to object to
2 that, as far as having that objection noted.

3 THE COURT: Basis?

4 MR. COLONGELI: Their testimony is
5 critical. They both saw different things, Your
6 Honor. And we just think that both of them being
7 here present for each other's testimony is
8 inherently unfair.

9 THE COURT: Well, respectfully, again,
10 they're both victims in this case, and they have a
11 right to be here. I'll instruct them not to discuss
12 their testimony with each other, but I think they
13 both have a right to be here.

14 MR. COLONGELI: Your Honor, as far as
15 photos, this may be something else you'd want to
16 take up as it comes up in the trial. The majority
17 of these photos, if I'm not mistaken, were taken by
18 Lester Williams.

19 Obviously, the chain-of-custody issue is
20 there. I don't know if that's something that you
21 want to address pre-trial or not. We would and plan
22 on objecting to a great deal of these photographs,
23 based on certain issues. And we don't know whether
24 you'd like to address that now, or we can do it
25 tomorrow as the trial --

1 THE COURT: What type of certain issues?

2 MR. COLONGELI: Well, specifically
3 pursuant to Rule 401 and 403. The photographs that
4 I believe the State would intend to introduce, our
5 position is, have zero relevance. We are not
6 disputing what, in fact, ultimately led to the death
7 of Mr. Pringle, the fact that there were injuries
8 sustained in this incident.

9 So we don't see any relevance to that.
10 And we see a hundred percent going to being unduly
11 prejudicial victim impact. If you see these
12 photographs, they're not autopsy photographs. These
13 were photographs that were taken shortly after this
14 incident occurred at the hospital. There's a great
15 deal of blood.

16 THE COURT: I can't rule on it, Mr.
17 Colongeli, until I've seen them.

18 MR. COLONGELI: Understood.

19 THE COURT: So, unless someone wants to
20 give them to me, I don't know if you all want to go
21 through and choose some that would be
22 representative. I think we all know and understand
23 the rules in regards to not having cumulative photos
24 or unduly bloody or gruesome photos.

25 I think the Solicitor is entitled to put

1 in what she needs to put in to be able to prove her
2 case. But, you know, I don't want to see a hundred
3 photos, as we all know. So, Solicitor, you need to
4 go through -- I don't know if you have -- and choose
5 which ones you intend on introducing.

6 Mr. Colongeli, you can just tag them as to
7 the ones you object to. And tomorrow morning, when
8 we all meet at 9:30, I can go through and rule on
9 them. But I need to see them.

10 MS. TANNER: I plan on tonight to go and
11 put them in the order I intend to introduce them.

12 THE COURT: Okay.

13 MS. TANNER: And then I can show them to
14 Mr. Colongeli. I can be here even earlier in the
15 morning, because I intended to try and get them
16 marked prior to the jury coming in --

17 THE COURT: Okay.

18 MS. TANNER: -- so that they're marked
19 before we get started.

20 THE COURT: Okay.

21 MS. TANNER: We can do that in the
22 morning. If you have any objections at 9:30, I'll
23 have those in order as well, so I have an idea which
24 direction they're coming.

25 THE COURT: All right. Well, this is what

1 we'll do. You all will be here about 9:15 tomorrow
2 morning. You will go through, Mr. Colongeli, and
3 mark the ones you object to.

4 I'll be here at 9:30, but you need to have
5 already marked the ones you object to and what your
6 basis is for it, and I'll just hear it briefly. And
7 if you all just want to line them up on the bench to
8 make it easy, I'll just come down and I'll just
9 rule, to be able to determine it, okay?

10 MR. COLONGELI: That's fine.

11 MS. TANNER: Yes, ma'am.

12 MR. COLONGELI: Thank you.

13 THE COURT: Sure.

14 MR. COLONGELI: The other concern we have,
15 Your Honor, is as to a bat. The instrument used
16 during this incident is a baseball bat. We're not
17 sure whether the State intends to introduce a bat as
18 demonstrative evidence.

19 They do not have the bat in question. My
20 understanding as of Friday is both the bat and
21 another piece of evidence, a stick, is still with
22 SLED in Columbia. I don't know if that's true.

23 THE COURT: Solicitor, do you intend on
24 using a demonstrative bat?

25 MS. TANNER: No, ma'am.

1 THE COURT: Okay.

2 MS. TANNER: We do not believe we have the
3 murder weapon. I will probably ask Investigator
4 Purdy about finding one and then ruling it out --
5 you know, just so that the investigation is complete
6 and we don't leave holes in the jury's mind that we
7 didn't try to do everything we could to find the
8 murder weapon.

9 But as far as introducing that bat or
10 another bat, unless tonight someone stumbles upon
11 the murder weapon and we're able to determine that,
12 then right now I don't have a bat to introduce.

13 THE COURT: Okay, thank you.

14 MR. COLONGELI: Your Honor, before I get
15 to my last motion -- and I'm not sure whether it
16 would be appropriate at this point in time -- you
17 are aware we all met in chambers as to this last
18 motion I have, which basically is to disqualify the
19 Fourteenth Circuit Solicitor's Office based on what
20 I believe to be a conflict.

21 I do have -- that I'd like to have marked
22 as a Court exhibit as to this motion - a copy of the
23 pleadings involving this civil suit related to this
24 criminal prosecution.

25 THE COURT: If you'd pass it up for me.

1 We'll have Rema mark it, but I'd like to look at it.

2 MR. COLONGELI: Yes, Your Honor. This
3 would be for the limited purpose of this hearing.

4 THE COURT: Right, just a Court's exhibit.

5 (Court's Exhibit Number One,
6 Complaint, was marked for identification purposes
7 and entered in the record.)

8 THE COURT: All right, I've looked at the
9 complaint. Go ahead and put your alleged conflict
10 on the record.

11 MR. COLONGELI: Thank you, Your Honor, may
12 it please the Court. For the purposes of a little
13 background and history, Your Honor, I'd like to make
14 the Court aware that basically, as we all are aware,
15 this case that we're here on today, the inception of
16 it was in January 2007.

17 It appears that in August -- approximately
18 August -- of 2007, there was some sort of conflict
19 between Mr. Jackson and the Public Defender's
20 Office, who he was originally appointed to. I
21 believe Mr. Hood represented him. There's some
22 confusion as to whether or not an actual
23 substitution of counsel order was ever submitted.

24 And based on my information, in fact,
25 there was never a substitution of counsel order

1 actually signed by a judge. For whatever that's
2 worth, I was appointed by this Clerk, Ms. Smith, in
3 August of 2007, obviously. And that's not what the
4 issue is here.

5 But what I think is important to preface
6 this with is that there was some sort of discussion
7 between Mr. Jackson and Mr. Hood as to an apparent
8 conflict. For whatever reason after that, I became
9 appointed to this case. Since my involvement on
10 this case, we would take the position that there
11 have been effectively no reasonable plea offers that
12 have been given.

13 In conjunction with that, April 6th of
14 this year, I became aware of independently the
15 existence of a civil suit involving a cause of
16 action, that being wrongful death, against one of
17 the State's witnesses, Rene Nazarene Laurent, from
18 one of the other State's witnesses, Shella Laurent,
19 which is her daughter, as well as a representative
20 of the estate of Josh Pringle.

21 After becoming aware of that, obviously,
22 there were some issues in my trial preparation that
23 I was trying to address as far as how I would
24 incorporate that in my case. Approximately a week
25 after that, Ms. Tanner and I had a lunch meeting in

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1 which she was candid enough to mention to me the
2 fact, "You do know that there's a civil case going
3 on?"

4 I did at that point admit that I was aware
5 of it, and we let it go at that. Probably four to
6 five days after that, in discussing this case with
7 some other people, the question was posed to me,
8 "Who represented Ms. Laurent," being Shella Laurent,
9 "in this wrongful death action against Rene
10 Laurent?" which is also a victim and a State witness
11 in this case.

12 And that person happens to be an
13 individual by the name of Ashley Twombly. At
14 first, that didn't make any sort of impact on me,
15 until I realized that Ashley Twombly is the husband
16 of Carson Sowell, who is a member of the Solicitor's
17 Office also.

18 THE COURT: But completely uninvolved in
19 this case, correct?

20 MR. COLONGELI: Completely uninvolved,
21 Your Honor, but still a member of the Fourteenth --

22 THE COURT: The Solicitor's Office.

23 MR. COLONGELI: That's correct. And based
24 on that, Your Honor, we obviously would take the
25 position, as most American courts have consistently

1 held, that that, in our opinion, is the appearance
2 of an impropriety.

3 And that appearance would be that you have
4 a member of the Solicitor's Office, who is
5 prosecuting this case, who stands to directly
6 benefit in some form, whether it be monetary or from
7 a vindictive standpoint, possibly in the eyes of Mr.
8 Jackson.

9 Upon learning this information, before
10 bringing this motion before this Court, I obviously
11 addressed it with Mr. Jackson. He at first was
12 aware that there was a civil lawsuit, which came as
13 quite a surprise to him in respect to who the
14 players were. And then I went back to him when I
15 found out the connection between Mr. Twombly and
16 Carson Sowell.

17 We submit or will concede that obviously
18 Carson Sowell has had nothing to do per se with this
19 case, based on what Ms. Tanner has told me. But we
20 still believe that, even regardless of whether she
21 had any active participation in this, just that in
22 and of itself is an appearance of impropriety that
23 is enough that would make it -- possibly lead one to
24 believe that there's some sort of unfairness
25 involved in the Solicitor continuing this

1 prosecution.

2 In reviewing case law, I think it's
3 important obviously to put in the record that we all
4 know that a public prosecutor differs from that of
5 the usual advocate in that their duty is to seek
6 justice, not merely a conviction. And when these
7 types of issues come up, that's what always seems to
8 be addressed, is that issue, and that the pertinent
9 inquiry as to whether the facts support the Court's
10 conclusion that the public would possibly perceive
11 continued prosecution by this Solicitor's Office
12 under the particular circumstances here as improper
13 and unjust so as to undermine the credibility of the
14 criminal process in our courts.

15 The underlying tone, from Mr. Jackson's
16 perspective, from the beginning of this situation
17 has been some concern as to why Mr. Hood was
18 conflicted in the first place. It has been readily
19 apparent to me throughout my investigation and
20 preparation for this case that there has been an
21 underlying, an overwhelming sympathy for the victim
22 amongst people in the Solicitor's Office -- staff,
23 other personnel that we've had discussions with.

24 Combine that with the fact that there have
25 actually been no what we would say reasonable or any

1 sort of offers as far as negotiations in resolving
2 this as far as a plea having been made, that those
3 things in combination basically do rise to the level
4 of an appearance of impropriety.

5 And please understand that, based on case
6 law and based on what my position is, we're not
7 trying to imply that actually that there was some
8 sort of bias or that there actually was bad faith.
9 But case law has indicated that there doesn't have
10 to be.

11 The appearance in and of itself is enough
12 to show some sort of unethical conduct on the part
13 of the prosecutor and his staff. The staff that she
14 didn't have anything to do with it -- I mean, there
15 has been some discussion as far as these Chinese
16 laws that have been set up within Solicitor's Office
17 prosecuting agencies. But many courts have ruled
18 that those aren't good enough.

19 The last thing that concerns me is, and I
20 stand to be corrected if Ms. Tanner disagrees with
21 what I'm about to say. But when I brought this
22 issue up to her, I was hoping to address it last
23 week. I didn't want to trouble the Court, and no
24 way do I want to delay this trial.

25 I realize that if you granted this relief,

1 it would delay it. Possibly, the Attorney General's
2 Office would get it, and that's what we're asking
3 for, is that a fair, impartial tribunal be able to
4 address this without any sort of connection to a
5 civil suit where someone stands to gain a great deal
6 of possible money.

7 We don't even know if that's the issue,
8 whether they stand to gain any sort of money, but
9 the fact that there is this civil suit connected,
10 that we'd have some completely separate and apart.
11 But not only is the appearance there based on the
12 connection, but Ms. Tanner had indicated to me that
13 she went to the extent of -- to the efforts at one
14 point to have Mr. Twombly assist her in obtaining
15 some medical records.

16 So there was actually some sort of
17 participation, although it may be very limited,
18 between Ms. Tanner and Mr. Twombly in her gaining
19 some information that I'm sure would assist her in
20 the prosecution of this case.

21 THE COURT: Okay. Respectfully, Mr.
22 Colongeli, I don't see the conflict between Mr.
23 Twombly bringing a civil suit on behalf of the
24 estate of the man that was killed against one of the
25 other victims. Your client is not a party to the

1 civil suit in any way. So I don't see that as a
2 conflict.

3 As far as whether or not any reasonable
4 plea offers have been made, we discussed this case
5 back in chambers this morning, and I believe the
6 Solicitor gave you an offer of a 40-year sentence on
7 this. That was my understanding.

8 He's charged with murder and two counts of
9 assault and battery with intent to kill. As you
10 know, murder carries up to life, and assault and
11 battery with intent to kill is 30 years apiece,
12 correct?

13 As you know, those could all be run
14 concurrent. I guess he could get a life sentence
15 and then another 30 and another 30, is the
16 potential. So whether or not there's been any
17 reasonable plea offer I think is within maybe your
18 subjective opinion and not necessarily anyone
19 else's.

20 As far as you thinking that somehow
21 someone in the Solicitor's Office has something to
22 gain by continuing prosecution of this case as a
23 result of the civil suit, I'm looking at the civil
24 case. It's an allegation against the other victim -
25 - which the way it appears that it's pled, even

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1 though they pled it as negligence, it's more like an
2 intentional tort, which I don't think there would be
3 insurance coverage.

4 I don't know. There may be a pot of money
5 somewhere they're going after. But I don't see the
6 conflict. I just don't see a conflict in this.
7 He's not a party to the case.

8 Solicitor, help me out.

9 MS. TANNER: Your Honor, I don't see it
10 either. He's got one victim suing another victim,
11 and this case could go either way. And either way,
12 I don't see how that affects -- I don't do civil
13 law, obviously. But I just don't see how that
14 affects their civil lawsuit with regards to this
15 defendant.

16 He's not a party. There are no dual
17 representations occurring, either from my office,
18 Mr. Colongeli's office, or Mr. Twombly's office.
19 The only contact I've had with Mr. Twombly, he did
20 assist me in getting a medical release from the
21 family of Josh Pringle so that I could go and talk
22 to Dr. Cannon, who is the neurosurgeon in Savannah.

23 But I did not get any copies of any
24 records or anything of that nature. It was just a
25 medical release which would allow Dr. Cannon to

1 speak with me. And then we went through the
2 family's attorney to get that medical release.

3 But other than that, there's been no
4 information sharing nor anything of that nature.
5 I've had no conversations with Carson in my office
6 about this case or the civil case. She hasn't done
7 any work on this case, and there's no dual
8 representation.

9 I looked at State versus Nichols, which is
10 a 1997 case. And the Court addressed the fact that
11 three civil lawyers actually came in and assisted
12 with the prosecution. And I don't think they even
13 found a conflict in that issue, because no one --
14 the way they evaluated it, no one was gaining one
15 way or another.

16 I briefly read over that. But that was an
17 issue, and that's clearly not the case here. There
18 is no dual representation or involvement from any
19 party. We've got two victims in a civil case, and I
20 guess one's going to win or lose.

21 But here in the criminal case, it's about
22 the defendant and what evidence the State can
23 present against the defendant. And I just don't see
24 how the civil case affects that.

25 THE COURT: Mr. Colongeli, I know you said

1 you wished you had brought this motion last week.
2 But it's my understanding that your client has been
3 in jail for almost two years now. So is there any
4 reason before last week that you couldn't have
5 raised this as an issue?

6 Because, as you've stated, for me to grant
7 your motion, we're here, we've pulled a jury, we're
8 ready to go. This case has been on the roster. It
9 had a day certain, I'm assuming, from Judge Buckner,
10 and that's how I've had it or I'm getting it this
11 week. You could have raised this before last week,
12 even.

13 MR. COLONGELI: Your Honor, with all due
14 respect, as I had stated before, I did not become
15 aware of it until April 6th of this year. In my
16 investigation, interestingly enough, this civil case
17 was filed in the Court of Common Pleas in October of
18 last year.

19 This case has been postponed, if I'm not
20 mistaken, at least two times, and in the last week,
21 I've gone with the uncertainty as to who my actual
22 trial judge would be, not the ones in place, and
23 about three times here today, which has nothing to
24 do with anything, other than the fact that I would
25 more than have liked to have brought this much, much

1 longer ago.

2 Another thing that possibly adds to Mr.
3 Jackson's concern is one of the State's witnesses in
4 law enforcement had a missing report that was
5 supplied in the month of October of '08, which led
6 him to be concerned. That missing report surfaced
7 the same month that this civil suit was filed.

8 Now, that's simply conjecture. But those
9 are the concerns Mr. Jackson had. And I'm only
10 relaying those to the Court in hopes of preserving
11 the record and obviously presenting what we feel to
12 be a conflict -- and the appearance of an
13 impropriety.

14 I want nothing more than to have a clean
15 trial -- a clean and fair trial -- as does Mr.
16 Jackson. These concerns are shared by me and him.
17 The fact that she, Ms. Tanner, has admitted actually
18 to even limited participation or assistance from
19 this civil suit, who happens to be the husband of a
20 Solicitor, we're concerned.

21 And to answer what your question is, I
22 would have loved to bring this a long time ago --
23 and I would have. But we just became aware of it
24 April 6th of this year. And it wasn't until almost
25 a week and a half later that I made the connection

1 with Mr. Twombly, because the other interesting
2 thing is, I don't know how long Ms. Sowell has been
3 a Solicitor in this office.

4 I've been in Beaufort County for close to
5 14 years. I believe Ms. Sowell and her husband have
6 only been here three to five years, if that. So one
7 of the questions that came up, I think it begged the
8 question, based on my client, was how did Mr.
9 Twombly, who's only been here for three or four or
10 five years, get this case?

11 He connected the dots in his mind saying
12 husband to Solicitor with the prosecution who wants
13 to secure a conviction that would help further and
14 better a civil case that, in our opinion, stands to
15 make a great deal of money.

16 We're dealing with a house here in 2006
17 that was appraised for over three-quarters of a
18 million dollars that we're assuming -- I don't know
19 a lot about civil law, but we're assuming that's
20 what they're attempting to attach to.

21 THE COURT: You don't know if it's liened
22 or anything else. All of that is just completely
23 conjecture. I will tell you I obviously know both
24 Carson Sowell and her husband, Ashley Twombly, who
25 is a civil attorney in Beaufort.

1 He's well known to me. He's in my
2 courtroom all the time. So I don't think the
3 connection is that difficult. Mr. Colongeli, I just
4 do not see the conflict. I do not see it.

5 The State has a job to prosecute the cases
6 that they do. Their job is to prosecute on behalf
7 of the State, not any particular victim or any
8 particular person. And so, respectfully, I'm going
9 to deny your motion.

10 Additionally, you made a comment as to the
11 Solicitor's Office having some type of particular
12 affinity for the victim in this case -- the deceased
13 victim in this case.

14 And it's my understanding that he actually
15 had charges against him at one point, which he
16 underwent PTI. And they were expunged because he
17 did what he was supposed to do to allow that to
18 happen.

19 But I can't imagine there being any
20 particular affinity for someone who has committed an
21 offense and has undergone the PTI program. That I
22 just don't see as far as a conflict is concerned.
23 He's a victim, like any other victim. So I'm not
24 sure where you're going with that.

25 MR. COLONGELI: With all due respect, my

1 information was that he never did actually get the
2 expungement. He wasn't in pre-trial.

3 And it was specifically pre-trial staff
4 that they stressed there deep concern and sympathy
5 for him. It appears to me -- and to go back
6 originally to conflict here that was presented to
7 Mr. Jackson by Mr. Hood.

8 THE COURT: Well, when you say deep
9 concern and sympathy, he's dead, right? He's
10 deceased as a result of this.

11 MR. COLONGELI: Understood, Your Honor. I
12 only put that in there because that was presented to
13 Mr. Jackson from day one from Mr. Hood as far as
14 what he thought he had a conflict, based on my
15 information. So there was that underlying theme
16 that seemed to --

17 THE COURT: Mr. Hood represented the
18 victim?

19 MR. COLONGELI: Yes.

20 THE COURT: Well, then, that was a
21 conflict, and he appropriately conflicted himself
22 out, which is why you were appointed. So he did
23 exactly what he was supposed to do --

24 MR. COLONGELI: Understood.

25 THE COURT: -- which was get himself

1 removed. All right, anything further?

2 MS. TANNER: One more thing, Your Honor.

3 The defendant was evaluated. He had an evaluation
4 for competency to stand trial. I have the report
5 from the Department of Mental Health.

6 They have ruled that he is competent to
7 stand trial. I have a copy to present to the Court.
8 It's Dr. Michael A. Smith who produced the report.
9 If I may pass it up to the Court.

10 THE COURT: Okay.

11 MS. TANNER: In my conversations with Mr.
12 Colongeli, there is no objection that Mr. Jackson is
13 competent to stand trial. I consent with the
14 report. When I talked with Mr. Colongeli, he does
15 not. I guess we need to put that on the record.

16 THE COURT: Okay. Mr. Colongeli, is there
17 any issue? Do you have a concern as to whether or
18 not your client is competent to stand trial, sir?

19 MR. COLONGELI: Beg the Court's
20 indulgence, Your Honor.

21 THE COURT: Thank you.

22 MR. COLONGELI: Your Honor, no.

23 THE COURT: Okay. You have no concerns,
24 is that correct?

25 MR. COLONGELI: Based on my discussions, I

1 do not, and I've cleared that with my client.

2 THE COURT: Okay. Respectfully, we'll go
3 ahead and make the report of Dr. Michael Smith a
4 Court's exhibit to the trial of this case.

5 Based on your representation and based on
6 my review of Dr. Smith's report and not having any
7 other reports to consider, I do believe he's
8 competent to stand trial. So I don't think there is
9 an issue. Anything further?

10 MS. TANNER: I think that's all from the
11 State.

12 MR. COLONGELI: Not at this time, Your
13 Honor.

14 THE COURT: Okay. Do we have anyone from
15 the paper here, by any chance? Okay, I just wanted
16 to make absolutely sure.

17 MS. TANNER: I haven't gotten any phone
18 calls.

19 THE COURT: Okay, all right. I'd just ask
20 Mr. Colongeli or Ms. Tanner that if you do see
21 someone from any paper or anywhere along those
22 lines, if you'll point them out to me if maybe I
23 don't recognize them, just to make sure that we
24 don't have any undue pre-trial publicity. All
25 right, anything further from anyone else?

1 MS. TANNER: There is nothing from the
2 State.

3 THE COURT: Mr. Colongeli?

4 MR. COLONGELI: Nothing from the defense.

5 THE COURT: All right, we'll see you all
6 at 9:15 tomorrow morning. Again, you all will go
7 ahead and mark your exhibits, and we'll start at 10
8 a.m., okay?

9 MS. TANNER: Thank you, Your Honor.

10 THE COURT: Thank you. Let's go ahead and
11 mark this as Court's Number Two.

12 (Court's Exhibit Number Two, Report
13 of Dr. Michael Smith, was received in evidence.
14 Tuesday, April 21, 2009

15 (The defendant,
16 together with counsel, was personally present in the
17 courtroom.)

18 THE COURT: Have you all had an
19 opportunity to go through the photographs?

20 MS. TANNER: Yes, ma'am.

21 THE COURT: Have you got the ones we
22 object to?

23 MR. COLONGELI: Yes, Your Honor.

24 THE COURT: Okay. All right, if you'd go
25 ahead and hand them up to Mr. Colongeli.

1 MS. TANNER: The ones with the yellow
2 stickies are the ones that Mr. Colongeli has
3 objected to.

4 THE COURT: Okay. And are these all of
5 the photographs?

6 MS. TANNER: Those are all the photographs
7 the State intends to introduce.

8 THE COURT: Okay.

9 MR. COLONGELI: I have some additional
10 photographs here, Your Honor, that I want to get
11 marked, but I haven't had an opportunity to do so.

12 THE COURT: Rema, why don't you go ahead
13 and mark them while I look at it?

14 MS. TANNER: I put the State's stickers on
15 the back for reference for numbers.

16 THE COURT: Okay. Solicitor, which victim
17 is this?

18 MS. TANNER: Shella Laurent.

19 THE COURT: And is that the --

20 MS. TANNER: She's one of the ABWIK
21 victims.

22 THE COURT: Is she the wife, or is she the
23 --

24 MS. TANNER: She's the girlfriend of the
25 deceased.

1 THE COURT: Okay, thank you. Solicitor,
2 who is this?

3 MS. TANNER: That would be the deceased --
4 Mr. Pringle. There are two together of him.

5 THE COURT: It appears to be a seven,
6 eight, and nine, is that correct, are all of Mr.
7 Pringle? Do you need to come look?

8 MS. TANNER: Yes, ma'am. Seven is
9 actually in the residence. Eight, nine, ten,
10 eleven, twelve are all of Mr. Pringle.

11 THE COURT: I need to give you a chance to
12 get back on the record, when you have a chance,
13 okay?

14 MS. TANNER: Yes, ma'am.

15 THE COURT: All right. So number six?

16 MS. TANNER: Number six is a photograph of
17 the injuries to Shella Laurent's head.

18 THE COURT: I'm seeing staples, is that
19 correct, while she's in the hospital?

20 MS. TANNER: That's correct. She will be
21 testifying.

22 THE COURT: And then number seven,
23 obviously.

24 MS. TANNER: Seven is the location where
25 Mr. Pringle's body was found. I would intend to

1 introduce it with the EMS personnel who attended him
2 and found him on the floor.

3 THE COURT: Okay. And number eight?

4 MS. TANNER: Eight and nine are
5 photographs --

6 THE COURT: Of the deceased?

7 MS. TANNER: -- of Mr. Pringle's head.
8 These are from the hospital. These are not autopsy
9 photographs. These are from the hospital indicating
10 some of the injuries that he received.

11 THE COURT: Are those the only two
12 photographs of Mr. Pringle, or are there others?

13 MS. TANNER: Of his head.

14 THE COURT: Of his head?

15 MS. TANNER: Yes, ma'am.

16 THE COURT: Solicitor, why don't you
17 choose between eight and nine? We're only going to
18 put one in. They are photographs of his head that's
19 going to show staples.

20 MS. TANNER: Number eight.

21 THE COURT: Okay. So you withdrew nine?

22 MS. TANNER: Yes, ma'am.

23 THE COURT: Okay.

24 MS. TANNER: And just for -- I pulled out
25 this photograph -- we don't intend to try and put

1 this in -- but just to show what we could be
2 offering or attempting to offer. Just the
3 difference is there's no face in the one the State's
4 intending to offer.

5 Obviously, in this one it shows all the
6 medical things that were going on and his face,
7 which I believe might be more emotional --

8 THE COURT: Okay.

9 MS. TANNER: -- than just the injuries,
10 which would be the purpose for --

11 THE COURT: Right.

12 MS. TANNER: -- putting in State's Eight.

13 THE COURT: Solicitor, let's go ahead and
14 mark this as a Court's exhibit, just in case there's
15 comparison for field purposes.

16 MS. TANNER: Yes, ma'am.

17 (Court's Exhibit
18 Number Three, Photograph, was marked for
19 identification purposes and entered in the record.)

20 THE COURT: I'm making it a Court's
21 exhibit. It's to show what could have been offered.
22 And, again, the Solicitor is saying she did agree
23 because it does, in fact, show the deceased's face.
24 It certainly looks like he's on life support on this
25 photo as well.

1 MS. TANNER: Yes, ma'am.

2 THE COURT: They would possibly inflame
3 the jury and evoke additional emotions. That
4 wouldn't be proper, and we're not going to put them
5 in anyway. But I appreciate you giving that to me.

6 MS. TANNER: Yes, ma'am. Photograph nine
7 is a -- I'm sorry, ten is Mr. Pringle's right hand.
8 The State intends to introduce ten and eleven.
9 Eleven would be his left hand.

10 The purpose behind that is to indicate
11 that there are no wounds to his hands. I believe
12 defense counsel has intimated that their defense is
13 some type of fight occurred. There's clearly no
14 marks on his knuckles on either hand indicating
15 either --

16 THE COURT: These are his left and right
17 hand.

18 MS. TANNER: Yes, ma'am.

19 THE COURT: It appears that number ten is
20 his right?

21 MS. TANNER: Ten is right, and eleven is
22 left.

23 THE COURT: And that there are no --

24 MS. TANNER: There's no defensive wounds
25 either, and that also goes to the State's case that

1 he was hit from behind. And that would be the
2 reason for offering those photographs.

3 THE COURT: Okay. I'm going to allow
4 those in. What is that?

5 MS. TANNER: Twelve is Mr. Pringle's right
6 arm. This is bruising that goes all the way from
7 his shoulder to his elbow. There are multiple
8 photographs, all these from the hospital. That is
9 one that does not show the deceased's face, but it
10 clearly shows the bruising.

11 Again, the purpose behind that is the fact
12 that the bruising was on the back of his arm, again
13 indicating he was hit from the back and nothing from
14 the front which would indicate a fight.

15 THE COURT: Okay, I'll allow twelve in.
16 What's the significance of fourteen?

17 MS. TANNER: Fourteen are photographs of
18 the defendant's shoes, indicating a shoe on the top
19 which is showing the blood that's on the defendant's
20 shoes when they're collected.

21 The actual shoes also will be introduced.
22 We had the photograph taken. This was taken by the
23 officer who collected them as they occurred when he
24 collected them. And I do have the shoes themselves
25 to introduce.

1 THE COURT: So you actually have the
2 shoes?

3 MS. TANNER: I do have the shoes, and that
4 blood has been tested positive for Mr. Pringle's
5 blood.

6 THE COURT: Okay. I'm not going to allow
7 fourteen. If you've got the shoes, you can put the
8 shoes in.

9 MS. TANNER: Yes, ma'am.

10 THE COURT: Okay. Here is more of what
11 appears to be blood splattering, is that correct?

12 MS. TANNER: Twenty-one through twenty-
13 nine, these are crime scene photos. They are bloody
14 photographs; however, they indicate several things.

15 One, they are very centralized in one
16 area, also going to the State's case that this was
17 an attack in an area, not a fight that occurred all
18 around the house. The pattern in some of the
19 photographs, particularly in some of the close-up
20 photographs, have been analyzed by a blood splatter
21 expert and do give us some indication of what
22 happened and how it happened.

23 The photographs of the blood are actually
24 evidence. They show how this crime occurred.
25 They're not introduced to be gory or anything like

1 that. It's just what happened at this crime scene,
2 and they are probative for that purpose.

3 THE COURT: Solicitor, to what extent does
4 your expert use these photographs? Because,
5 obviously, we're looking at his blood splatters one,
6 two -- it's all the same area -- one, two, three,
7 four, five, six, seven, and eight photographs.

8 MS. TANNER: Right.

9 THE COURT: Does your expert use every one
10 of those and testify to every one of those?

11 MS. TANNER: He does. He actually looked
12 at a lot more photographs. But, clearly, I was just
13 trying to pick one from each angle that he looked
14 at, this being an overall looking in the direction
15 the victim's head would have been found in this
16 area.

17 This is a C-collar that EMS left behind
18 that they will be testifying to. This is looking
19 back the other direction, if you're standing by the
20 collar looking in that direction.

21 THE COURT: Okay. But what question,
22 though, is, you're saying that he's using it to look
23 at the pattern of the blood splatters --

24 MS. TANNER: Correct.

25 THE COURT: -- which I'm assuming would

1 dictate or at least explain to the jury what
2 actually occurred and how the beating occurred --

3 MS. TANNER: Yes, ma'am.

4 THE COURT: -- for lack of a better word?

5 MS. TANNER: Yes, ma'am. By looking at
6 these photographs, including the angles up and down
7 this hallway -- because this confined area is where
8 the actual --

9 THE COURT: Right.

10 MS. TANNER: -- beating occurred. It's
11 not spread out across the house. The blood splatter
12 expert has looked at these photographs and
13 determined -- and it corroborates the surviving
14 witnesses' statement that Mr. Pringle was in this
15 area, was struck from behind.

16 And by getting closer and looking at these
17 photographs, he can say that based on this blood
18 pattern, he was nearly standing at the time that
19 this strike occurred. He then goes down -- this is
20 this area here and this area here.

21 He then is falling this direction based on
22 this pool and this splatter, which is this room
23 here. It's looking into this room. He can testify
24 that he was probably in a hands-and-knees position
25 based on the distance and the pattern of this blood,

1 that he was on his hands and knees when he was
2 struck again.

3 He then moves forward. In these
4 photographs, you can see from the pool, which is
5 this picture here. He moves forward. And this is a
6 close-up of the wall, which is here. And he refers
7 to this as a contact, which means the victim's head
8 touched the wall here.

9 And then obviously he is found on his back
10 in this area here, and that is where he's deceased.
11 This is a close-up of that. This is a close-up here
12 of this outlet, which would be right under his face.

13 He can testify to this as some type of
14 spray, most likely from the victim's mouth, once he
15 was down and on his back.

16 THE COURT: Okay.

17 MS. TANNER: So there is a probative
18 reason for it. It's not meant to inflame. It's
19 just to provide the jury, who are obviously the
20 finder of fact, a clear picture of what happened
21 that day.

22 THE COURT: How are you going to get these
23 in front of the jury so they can understand as he's
24 giving his testimony and explain it? Do you have it
25 on a blow-up on the computer?

1 MS. TANNER: We're sharing it with another
2 courtroom right now. I intend, by the time they
3 finish with it, I will be able to get it on there.

4 I'm going to introduce these with the
5 witnesses. And it's something that maybe I'm going
6 to introduce these with the crime scene officer --

7 THE COURT: Okay.

8 MS. TANNER: -- and then maybe not even
9 publish until the blood splatter expert testifies.

10 THE COURT: Okay. I can tell you right
11 now, until and unless your blood splatter expert can
12 testify as to the significance of them, I just don't
13 want that going on just because it's a crime scene
14 photo.

15 MS. TANNER: Yes, ma'am.

16 THE COURT: It's got to be that it
17 actually aids the jury in some way to explain how
18 the attack occurred.

19 MS. TANNER: Yes, ma'am.

20 THE COURT: So I don't see that they're
21 unduly prejudicial. Obviously, there is blood. But
22 if your expert testifies and if he needs each of
23 these photographs to explain his theory of how the
24 beating occurred --

25 MS. TANNER: Yes, ma'am.

1 THE COURT: -- he's going to lay a
2 foundation for it.

3 MS. TANNER: Yes, ma'am.

4 THE COURT: Because without it, I'm not
5 going to let them in, okay?

6 MS. TANNER: Okay.

7 THE COURT: As of right now, I understand,
8 subject to your objection, but, again, we'll see how
9 he testifies. And, Solicitor, I don't want you
10 publishing these until --

11 MS. TANNER: Yes, ma'am.

12 THE COURT: -- and unless your blood
13 splatter expert testifies to them, okay?

14 MS. TANNER: Yes, ma'am.

15 MR. COLONGELI: Your Honor --

16 THE COURT: Yes.

17 MR. COLONGELI: -- if it's proper, if I
18 could renew my objections at this point, based on
19 Rule 401 and Rule 403. We believe -- as far as 401,
20 we're not disputing what occurred as far as the
21 injuries; 403, completely unduly prejudicial,
22 completely goes to victim impact.

23 So that would be the basis of our
24 objection. We would like to renew it at this point.
25 With all due respect, it wouldn't involve a ruling

1 on --

2 THE COURT: Absolutely. You've protected
3 yourself on the record. I do think it's probative.
4 Also, I have no idea, as you all understand, how the
5 case is going to unfold.

6 MR. COLONGELI: Understood.

7 THE COURT: As of right now, I don't know
8 what your defense is, and I don't know exactly what
9 you all are alleging. So with that said, your
10 objection is noted for the record.

11 And, again, your blood splatter expert is
12 going to have to lay a foundation for all of these
13 blood splatter photos. And I don't want those
14 published through your investigators.

15 MS. TANNER: Yes, ma'am.

16 COURT REPORTER: For the record, Your
17 Honor, that's twenty-one through twenty-one.

18 THE COURT: Actually, it's seven and then
19 twenty-one through twenty-nine, okay?

20 (State's Exhibits Number
21 Seven and Exhibits Twenty-One through Twenty-Nine,
22 were marked for identification purposes.)

23 MR. COLONGELI: Your Honor --

24 THE COURT: Yes.

25 MR. COLONGELI: -- in addition -- and I'm

1 not sure if this is proper at this point -- but it
2 would be our position -- and I stand to be corrected
3 -- that these photographs were taken by Lester
4 Williams. And that is an issue that we addressed
5 yesterday, and, obviously, I guess that will come up
6 when we get to that point.

7 THE COURT: Okay. But I'm assuming your
8 investigating officers can identify those
9 photographs as what they saw.

10 MS. TANNER: I've had them review these
11 photographs. They can say it was a fair and
12 accurate depiction of what they observed that night.

13 MR. COLONGELI: Relying on his report.

14 MS. TANNER: No, that they were present --

15 THE COURT: No, they were present.

16 MS. TANNER: -- at the crime scene.

17 THE COURT: My understanding is whoever
18 you're going to have to authenticate these --

19 MS. TANNER: Correct.

20 THE COURT: -- is going to be someone who
21 was on the scene, correct?

22 MS. TANNER: Officer Calendine actually
23 arrived on the scene before Lester Williams arrived.
24 He was there a few minutes after the call went out.
25 So he was on the scene --

1 THE COURT: That's right.

2 MS. TANNER: -- stayed on the scene the
3 whole night. So he can identify these items.

4 THE COURT: There doesn't have to be
5 photograph, Mr. Colongeli, as you know. He just has
6 to have seen the scene, and he'll just testify if it
7 represents an accurate depiction of what was found
8 that night.

9 MR. COLONGELI: I also have some defense
10 exhibits, Your Honor --

11 THE COURT: Absolutely.

12 MR. COLONGELI: -- if you want to take a
13 look at those.

14 THE COURT: Sure.

15 MS. TANNER: These are photographs from
16 the door. There is some blood, and swabs were
17 collected and sent off, and it comes back as
18 Nazarene's blood --

19 THE COURT: Okay.

20 MS. TANNER: -- in those two.

21 THE COURT: It looks like Mr. Colongeli
22 has not objected to these --

23 MS. TANNER: No, ma'am.

24 THE COURT: -- so we're fine. That's
25 twenty-eight and twenty-nine. All right, Mr.

1 Colongeli, what do you have, sir?

2 MR. COLONGELI: One, two, and three are
3 the transcripts of the purported interviews
4 conducted by Sgt. Chris Wilson, one with Shella
5 Laurent on January 4th at the emergency room, the
6 other with Nazarene Laurent on January 4th at the
7 emergency room and then the following day at her
8 home. These are sealed.

9 THE COURT: Do you intend on publishing
10 them?

11 MR. COLONGELI: At this point, I'm not
12 certain.

13 THE COURT: Okay, if you use them, is that
14 how you intend to use them?

15 MR. COLONGELI: That's correct, as far as
16 impeachment.

17 THE COURT: Okay, absolutely. Okay, we'll
18 go ahead and mark those.

19 MR. COLONGELI: So those are marked?

20 THE COURT: Should not be a problem.

21 (Defendant's Exhibit
22 Number One, Transcript of 1/4 Interview with Shella
23 Laurent; Defendant's Exhibit Number Two, Transcript
24 of 1/4 Interview with Nazarene Laurent; and
25 Defendant's Exhibit Number Three, Transcript of 1/5

1 Interview with Nazarene Laurent, were marked for
2 identification purposes.)

3 MR. COLONGELI: As far as any additional
4 photographs, these -- this is the venue in question
5 where this whole thing began.

6 THE COURT: Okay.

7 MR. COLONGELI: There's some testimony
8 involving a stick that they had. That is the stick
9 in question.

10 THE COURT: Okay.

11 MR. COLONGELI: This includes additionally
12 the bedroom, along with the stick.

13 THE COURT: Who took these photos, one of
14 his victims?

15 MR. COLONGELI: I'm going to assume that -
16 -

17 MS. TANNER: The same night that the
18 officers --

19 THE COURT: These are from officers as
20 well?

21 MS. TANNER: The police officers.

22 THE COURT: Okay. That's the stuff that
23 we're talking about --

24 MR. COLONGELI: Yes.

25 THE COURT: -- is that correct?

1 MR. COLONGELI: Yes, these all involve the
2 stick in the bedroom.

3 THE COURT: Okay.

4 MR. COLONGELI: This is Nazarene in the, I
5 assume, emergency room.

6 THE COURT: Okay. Does that go along with
7 the rest of this?

8 MR. COLONGELI: Yes.

9 THE COURT: Okay.

10 MR. COLONGELI: And that's also her.

11 THE COURT: Okay.

12 COURT REPORTER: That's four through what,
13 I'm sorry?

14 THE COURT: Nineteen -- four through
15 nineteen. I don't see any problem with that, Mr.
16 Colongeli.

17 MR. COLONGELI: Thank you.

18 (Defendant's
19 Exhibits Number Four through Nineteen, Photographs,
20 were marked for identification purposes.)

21 THE COURT: Okay, those should be fine.
22 Do you have other copies of these?

23 MR. COLONGELI: I have my set.

24 THE COURT: Okay. Anything further? Do
25 we have all the jurors?

1 BAILIFF: Yes, ma'am.

2 THE COURT: Okay. Anything further? Are
3 you all ready? Anything else we need to put on the
4 record, Mr. Colongeli, before we start today?

5 MR. COLONGELI: Your Honor, there's one
6 additional matter. And I know you've already ruled,
7 and I don't mean any disrespect to your ruling. As
8 to the sequestering of the witnesses, I know you've
9 ruled that Rene and Shella are, in fact, victims,
10 and that because of that fact, they're both allowed
11 to stay.

12 THE COURT: Right.

13 COURT REPORTER: Excuse me. You said Rene
14 and Shelley?

15 MR. COLONGELI: Rene and Shella Laurent.

16 COURT REPORTER: Shella.

17 THE COURT: Rene is Nazarene.

18 COURT REPORTER: Okay.

19 MS. TANNER: I think I'll in openings I'll
20 indicate that she goes by both.

21 THE COURT: All right. Solicitor, also on
22 the record, I'm going to instruct you that while I
23 do believe both of your victims have a right to be
24 here during the entire trial, I am expecting you to
25 go and instruct them that they are not to discuss

1 their testimony with each other or anyone else. Do
2 you understand that?

3 MS. TANNER: Yes, ma'am.

4 THE COURT: So I'm going to go ahead and
5 give you five minutes to, in fact, do that, okay?

6 MS. TANNER: Yes, ma'am.

7 THE COURT: Thank you.

8 MR. COLONGELI: The only that I wanted to
9 request, in addition to that, is the possibility
10 that when one of them testifies, only during that
11 portion of it do I ask that they be sequestered.
12 Then they both can be go back to --

13 THE COURT: Well, it would only have to be
14 that the second one --

15 MR. COLONGELI: That's correct.

16 THE COURT: -- would have to be
17 sequestered.

18 MR. COLONGELI: That's fine.

19 MS. TANNER: I think the bill of rights --
20 the Victims Bill of Rights -- requires that. They
21 actually were present for different beatings. The
22 first victim is going to testify to the beating she
23 took, and the second victim is going to testify to
24 the beating she took and what she witnessed of Josh
25 Pringle. The first victim didn't observe the

1 beating of Shella and Josh.

2 THE COURT: Okay. Respectfully, again,
3 Mr. Colongeli, they're both victims in this case.
4 They have a right to be here during the trial of
5 this case. Again, the Solicitor will talk to them,
6 and they will not discuss their testimony with each
7 other or with anyone else, for that matter.

8 MR. COLONGELI: I just wanted my objection.
9 to be noted -- clearly noted.

10 THE COURT: That's fine. Anything else,
11 Mr. Colongeli?

12 MR. COLONGELI: Not at this time, Your
13 Honor.

14 THE COURT: Okay, thank you. Do you all
15 need a minute? Would you like a minute, Mr.
16 Colongeli?

17 MR. COLONGELI: I would, Your Honor.

18 THE COURT: All right, we'll take about
19 five minutes, then, sir --

20 MR. COLONGELI: Thank you so much.

21 THE COURT: -- and I'll be back out.

22 MR. COLONGELI: Thank you very much.

23 THE COURT: If you need more time, you let
24 me know, sir.

25 (Court in recess.)

1 THE COURT: Thank you. Please be seated.

2 Is the State ready?

3 MS. TANNER: Yes, Your Honor, the State's

4 ready.

5 THE COURT: Is the defense ready?

6 MR. COLONGELI: Yes, Your Honor.

7 THE COURT: All right, let's bring the

8 jury in.

9 BAILIFF: Yes, ma'am.

10 THE COURT: Thank you.

11 BAILIFF: The jurors are entering, Your

12 Honor.

13 THE COURT: Thank you.

14 (Whereupon, the jury

15 returned to the courtroom at 10:36 a.m., after which

16 the following proceedings were had:)

17 BAILIFF: Your Honor, the jury is seated.

18 THE COURT: Thank you.

19 Good morning, ladies and gentlemen.

20 THE JURY: Good morning.

21 THE COURT: Thank you. Ladies and

22 gentlemen, at this time we are about to begin the

23 trial of this case. I'm going to ask Mike to go

24 ahead and swear you in as the jury. If you all

25 would please stand and raise your right hand.

1 (Whereupon, the
2 jury was sworn.)

3 THE COURT: Thank you. Ladies and
4 gentlemen of the jury, what I am now going to say
5 to you is intended to serve as an introduction to
6 the trial of this case. These remarks are not a
7 charge on the law.

8 I'm going to instruct you on the law
9 that's applicable to this case at the end of the
10 trial. Ladies and gentlemen, this merely is an
11 explanation of the procedure that we're going to
12 follow during the trial of this case, so you can
13 better understand what's happening.

14 Ladies and gentlemen, the defendant in
15 this case, Mr. Jackson, is charged by indictments
16 filed in this Court with the crimes of murder and
17 two charges of assault and battery with intent to
18 kill, the elements of which I'll explain to you at
19 the end of the trial.

20 Ladies and gentlemen, these indictments
21 are simply the charges by which this case is brought
22 into this Court, and it's not in any sense evidence
23 of any of the allegations that they contain. Ladies
24 and gentlemen, the defendant, Mr. Jackson, has pled
25 not guilty to these indictments.

1 The State, therefore, has the burden of
2 proving each of the elements of each of the
3 indictments beyond a reasonable doubt. Ladies and
4 gentlemen, it is your duty to decide whether the
5 State has met that burden..

6 Your purpose as jurors is to find and
7 determine the facts. You are the sole judges of the
8 facts. At any time during the trial of this case I
9 make any comment regarding the facts, you must
10 disregard it.

11 Ladies and gentlemen, you are only to
12 determine the facts of this case from the testimony
13 that you're going to hear right here from the
14 witness stand, as well as any other evidence that's
15 introduced into court. And it's up to you to
16 determine the inferences which you may feel may be
17 properly drawn from the evidence.

18 Ladies and gentlemen, it is especially
19 important that you perform your duty of determining
20 the facts in this case diligently and
21 conscientiously, because ordinarily there is no way
22 to correct an erroneous determination of the facts
23 by a jury.

24 On the other hand, and with equal
25 emphasis, the same law that makes you the judge of

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1 the facts makes me the judge of the law. The law as
2 given by the Court is the only law that you may
3 consider. You must accept it and follow it, even
4 though you may disagree with it.

5 I cannot tell you what the facts are, and
6 you cannot disagree with me about what the law is or
7 should be. Your job is to take the law as I give it
8 to you, and apply it to the facts as you find them,
9 and then reach your verdict, ladies and gentlemen.

10 Until I advise you to begin your
11 deliberations in this case, you must not discuss
12 this case with anyone, and that includes your fellow
13 jurors, friends, family members, or anyone that's
14 involved in this case. And after the case is
15 submitted to you, you must discuss it only in the
16 jury room with your fellow jurors.

17 The attorneys and the parties in this case
18 have been advised that they are not to talk to you.
19 So, please, if you see anyone involved in this case
20 coming and going from the courthouse and, again,
21 they don't say hello, don't be offended. They are
22 simply following my orders.

23 Additionally, ladies and gentlemen, during
24 the trial of this case, you are not to be read,
25 listen to, or watch any news reports about this

1 case. This includes anything that might be in the
2 newspaper or on the Internet, radio, or television.

3 You must not consider anything you may
4 have read or heard about the case outside this
5 courtroom, either before or during the trial.
6 Ladies and gentlemen, it is vitally important that
7 you keep an open mind and not decide any issue in
8 this case until all of the evidence has been
9 presented, the parties have made their closing
10 arguments, and I have instructed you on the law in
11 this case.

12 It is your solemn duty as jurors to
13 determine the guilt or the innocence of the
14 defendant, Mr. Jackson, and your verdict must be
15 based solely on the evidence that's presented to you
16 in this trial and on the law as I instruct you
17 during and at the close of the trial.

18 Ladies and gentlemen, in just a moment,
19 the Solicitor is going to make what's called an
20 opening statement, in which she's going to tell you
21 or explain to you what she believes the issues are
22 in this case. The attorney for the defense is then
23 going to also make an opening statement, although
24 he's not required to do so.

25 Ladies and gentlemen, what the attorneys

1 tell you during their opening statements is not
2 evidence. It's simply their contention as to what
3 they believe the issues are in this case.

4 Again, ladies and gentlemen, the evidence
5 in this case will be presented to you by testimony
6 by sworn witnesses right here on the witness stand
7 and, again, any exhibits that may be introduced
8 during the trial of this case.

9 Now, from time to time, you may hear one
10 of the lawyers say something like, "Your Honor, I
11 believe we have a question of law we need to take
12 up," or "Your Honor, may we approach?" or I may
13 myself have to call them to the bar where I have a
14 brief discussion with them.

15 I want you to understand something, ladies
16 and gentlemen. We are not hiding anything from you.
17 Oftentimes, when I have to rule as a matter of law
18 whether or not something is admissible or
19 appropriate, I may make some comment on the facts of
20 the case, and I would never want anything that I say
21 in front of you to have any influence or interfering
22 on you of the facts of the case, because, again, I
23 do not have an opinion as to the facts of this case.
24 The law does not allow me to have an opinion.

25 Ladies and gentlemen, in determining what

1 the true facts are, you must decide whether or not
2 the testimony of the witnesses is believable. It's
3 my responsibility to rule as a matter of law whether
4 or not certain testimony is admissible or not.

5 But once the testimony is admitted, ladies
6 and gentlemen, whether or not you believe it is
7 solely for you to determine. In deciding whether to
8 believe a witness, you have the right to consider
9 the interest of any witness, the bias of any
10 witness, the prejudice of any witness.

11 And you can look at the opportunity for
12 which the witness has seen the matters and things
13 about which they are testifying. And you can also
14 look at the way the witness acts while they're on
15 the stand.

16 Ladies and gentlemen, you have the right
17 to consider anything that's in the record that will
18 help you evaluate the testimony of the witnesses.
19 That means it's your duty to pay careful and close
20 attention, to observe the witnesses, to listen to
21 them, and to pay close attention so that at the end
22 of this case, you can go back in the jury room and
23 recall the testimony.

24 Additionally, ladies and gentlemen,
25 because I do not think this case is going to be

1 unduly burdensome or long, I am not going to permit
2 you to take notes. So, again, ladies and gentlemen,
3 I encourage you to just pay close attention to the
4 witnesses so you can accurately recall the
5 testimony.

6 Now, ladies and gentlemen, in order to
7 preserve everyone's rights, every time I speak to
8 you, I'm going to ask the attorneys if they have any
9 objections or any additions to what I've told you.
10 If there are none, we're going to go ahead and
11 proceed and begin this case with the opening
12 statements from the attorneys.

13 Any exceptions or additions from the
14 State?

15 MS. TANNER: Nothing from the State.

16 THE COURT: The defense?

17 MR. COLONGELI: Nothing from the defense,
18 Your Honor.

19 THE COURT: Thank you. At this time,
20 ladies and gentlemen, we'll begin the trial of the
21 case.

22 Ms. Tanner.

23 MS. TANNER: Thank you, Your Honor. May
24 it please the Court?

25 THE COURT: Yes, ma'am.

1 OPENING STATEMENT

2 BY THE STATE

3 MS. TANNER: Good morning, ladies and
4 gentlemen.

5 THE JURY: Good morning.

6 MS. TANNER: This is an extremely serious
7 case, for all parties involved -- extremely serious.
8 It's going to fairly short, not what you see on
9 television. It doesn't go on for months and months.
10 We'll be done this week.

11 So I don't want you thinking that the
12 length of time it takes has anything to do with the
13 seriousness or how severe this case is. In criminal
14 trials, everybody wants to know the who, the where,
15 the when, the how, and the why.

16 And for the most part, those questions are
17 answered. Probably the one question that people
18 want to know the most is why. Why did something
19 this terrible happen? Why did someone else do this
20 to another human being?

21 That's the one question that we rarely get
22 a glimpse into. You're going to hear the who.
23 You're going to hear the what, the when, and the
24 how. The why is something you may get a glimpse
25 into.

Opening Statement by the State

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1 But the why requires a deep, dark,
2 depraved heart. The defendant can answer the why.
3 None of us can answer the why -- why this happened,
4 why you have a 21-year-old who's dead, why you have
5 two women were beaten near to death.

6 What you are going to hear is the others -
7 - the who, the what, the where, the when, the how.
8 What you're going to hear is that the who, Harold
9 Jackson, is sitting here in the courtroom here with
10 you.

11 You're going to hear from Nazarene
12 Laurent, you're going to hear from Shella Laurent --
13 those are two of the who's; those are the survivors,
14 those who were beaten nearly to death -- and then
15 you're going to hear more who. You're going to hear
16 about Josh Pringle.

17 You're not going to hear from him, because
18 he died as a result of his injuries. He died a
19 terrible death. You're going to hear that on
20 January 3, 2007, right here in Beaufort County, down
21 on Stuart Point Road, in the Seabrook area of the
22 county, that Harold Jackson decided he was going to
23 destroy everything in his path that day.

24 You are going to hear that on that day, he
25 beat the life out of a 21-year-old young man named

Opening Statement by the State

108

1 Josh Pringle. You're going to hear that he tried to
2 beat the life out of Shella Laurent, Josh's
3 girlfriend, fiancée, mother of his five-month-old
4 baby, and Nazarene Laurent, which is Harold
5 Jackson's old girlfriend at the time.

6 That's the who and the what. Where,
7 Stuart Point Road. It starts out in Nazarene
8 Laurent's home. She and Harold had been dating for
9 some time, and they were in an argument that day.
10 They were arguing about whatever couples argue
11 about.

12 On the day, it escalated. It escalated to
13 the point he got so angry that he started committing
14 physical violence against Nazarene. At the time
15 that occurs, Josh and Shella are visiting her with
16 their five-month-old baby, Giovanni.

17 It's right after Christmas. They're over
18 to see her. It's Shella's stepmother. They arrive.
19 This domestic argument is going on between Harold
20 and Nazarene. They go upstairs, take the baby
21 upstairs, until they hear Nazarene calling for help.

22 Josh and Shella arrive downstairs again,
23 to answer the call for help, and Harold is beating
24 Nazarene with a baseball bat. Josh steps up like a
25 man and stops that. He holds the bat up.

Opening Statement by the State

109

1 He tells Harold, "Man, think about what
2 you're doing." And for a time, it looks like maybe
3 he's thinking about what he's doing. The beating
4 stops. Nazarene runs out of the house.

5 She goes to a neighbor's. She goes and
6 gets medical help. You'll hear about her injuries.
7 You'll hear about the staples she receives in her
8 head and the beating she took with the baseball bat.

9 You'll hear about the bruises on other
10 parts of her body. And you'll hear Shella. Shella
11 is going to tell you that things seemed to calm
12 down. Harold went outside, possibly looking to see
13 where Nazarene ran off to.

14 While she and Josh are trying to decide
15 "Should we get the baby and leave now?" Harold
16 Jackson reappears in the house. And before Josh
17 even knows he's back in the house, before Shella can
18 warn him and say "Look out!" -- before any of that
19 happens -- Harold Jackson takes that bat to the back
20 of Josh Pringle's head.

21 And he takes it again, and he takes it
22 again, and Josh is down. He's hit from behind.
23 Hopefully, he never knew what hit him. He's 21
24 years old. His life is over.

25 Shella, seeing the attack on her

Opening Statement by the State

110

1 boyfriend, runs from the house. She doesn't want to
2 run where her baby is and draw attention there. She
3 runs to a neighbor's house. Harold Jackson catches
4 her.

5 He catches her in the neighbor's yard, and
6 he beats her with the bat. He takes her to the
7 ground, and he beats her, and he beats her, until a
8 neighbor comes outside, probably saving her life.

9 She's taken to the hospital. She receives
10 staples in her head and various other injuries about
11 her body. Harold Jackson leaves the scene and
12 turned himself in later to Jasper County.

13 He's brought here to court today to face
14 the charges of murder, two counts of assault and
15 battery with intent to kill. I'll ask you, ladies
16 and gentlemen, to listen to the testimony, listen to
17 the eyewitnesses, listen to the physical evidence,
18 listen to what happened in that house, listen to the
19 injuries.

20 Josh Pringle was killed from behind. Josh
21 Pringle was killed -- why? You have a glimpse that
22 maybe because he stepped in to help Nazarene, maybe
23 that's why? That's the glimpse we have.

24 At the end of the trial, after you've
25 heard the evidence, I'll ask you to do one thing.

Opening Statement by the State

111

1 I'll ask you to return a verdict that speaks the
2 truth. "Verdict" is a Latin word, and it means to
3 speak the truth.

4 And that's what a verdict is. That's what
5 it does. It's 12 citizens who listen to the
6 evidence, who listen to the testimony, and come back
7 and speak the truth. The truth is Josh Pringle
8 shouldn't be dead 21 years old.

9 Shella and Nazarene shouldn't be going
10 through what they go through after having been
11 through that. Harold Jackson should walk out of
12 here convicted of what he did. He murdered Josh
13 Pringle in cold blood.

14 He beat and nearly killed two women on
15 January 3, 2007, here in Beaufort County. And I'll
16 ask you at the end of the trial to come back with a
17 guilty verdict on all counts. Thank you.

18 THE COURT: Thank you.

19 Mr. Colongeli.

20 OPENING STATEMENT

21 BY THE DEFENSE

22 MR. COLONGELI: May it please the Court,
23 Your Honor?

24 THE COURT: Yes, sir.

25 MR. COLONGELI: Ladies and gentlemen of

Opening Statement by the Defense

112

1 the jury, this case is not about murder. It's not
2 about the intentional killing of another. And it's
3 not about the intent to kill anyone.

4 What this case has everything to do with
5 is the relationship between two people and the
6 events leading up to what has brought us here today.
7 We do not deny that what took place was a horrible
8 tragedy. We do not deny that people suffered
9 injuries as a result.

10 But what we believe the evidence will
11 show, will assert, is that this is a tragedy that
12 could have been avoided by one person who could have
13 prevented it from happening in the beginning.
14 There's no question that something very terrible
15 happened.

16 What is in question and what you will have
17 to decide based on the testimony and the evidence
18 that is presented to you here today, as the
19 Solicitor had discussed with you just moments ago,
20 is why it happened, how it happened, and what
21 exactly happened.

22 You ultimately are going to have to decide
23 whether or not the State and law enforcement have
24 supplied you with the answers as to whether or not
25 the elements of these crimes have been proven beyond

Opening Statement by the Defense

113

1 a reasonable doubt.

2 And I leave you with a quote that has rang
3 true in my life and in my career, and that is that
4 there is nothing more powerful than the truth and
5 often nothing so strange. Thank you.

6 THE COURT: Thank you, Mr. Colongeli.
7 Solicitor, if you'll call your first
8 witness.

9 MS. TANNER: Thank you, Your Honor. The
10 State calls Nazarene Laurent.

11 THE COURT: Ms. Laurent, please come
12 forward to be sworn.

13 (Whereupon, the
14 witness was sworn.)

15 THE COURT: Ma'am, if you'll please take a
16 seat and give us your full name for the record. And
17 also make sure you pull the microphone down so
18 everyone can hear you, all right?

19 MS. LAURENT: My name is Nazarene Rene
20 Laurent.

21 NAZARENE RENE LAURENT, having first
22 been duly sworn, testified as follows:

23 DIRECT EXAMINATION:

24 BY MS. TANNER:

25 Q Good morning, Ms. Laurent.

Nazareth Laurent - Direct

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1 A Good morning.

2 Q I called you Nazarene. I think I've met
3 some people who actually refer to you as Rene?

4 A Yes, ma'am.

5 Q We'll try to stick with Nazarene today,
6 just not to confuse the jury. But you are also
7 sometimes called by friends Rene, is that correct?

8 A Yes.

9 Q Ms. Laurent, where do you live?

10 A [REDACTED] Stuart Point Road.

11 Q And is that where you were living in
12 January 2007?

13 A Yes, ma'am.

14 Q And where are you employed?

15 A At Jackson-Hewitt Tax Services.

16 Q How long have you lived in Beaufort
17 County?

18 A All my life.

19 Q You grew up here?

20 A Yes, ma'am.

21 Q You went to high school here?

22 A Yes.

23 Q Where did you go to high school?

24 A Battery Creek High School.

25 Q Do you know Shella Laurent?

Nazareth Laurent - Direct

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- 1 A Yes, ma'am.
- 2 Q How do you know her?
- 3 A That's my stepdaughter.
- 4 Q And who is her father?
- 5 A Gene Robert Laurent.
- 6 Q How long were you married?
- 7 A Twelve years.
- 8 Q And when were you divorced from Mr.
- 9 Laurent?
- 10 A Two thousand six.
- 11 Q Do you still -- back in '07, were you
- 12 still maintaining a relationship with Shella?
- 13 A Yes.
- 14 Q And what type of relationship did you have
- 15 with Shella Laurent?
- 16 A I mean, she's my stepdaughter. After the
- 17 divorce, there was a lot of hurtful things that
- 18 happened, and we were estranged. But we started
- 19 getting back together. And she was having a rough
- 20 time, so she moved in with me.
- 21 Q And when did she move in with you?
- 22 A I can't remember. It was like early
- 23 December, you know. But she's been there. I mean,
- 24 she had problems, you know, where she was living.
- 25 She didn't say that at first. But, you know, she

Nazareth Laurent - Direct

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1 was just staying at the house.

2 I mean, at first, like back in October or
3 November, she had called me and asked me to let me
4 have her bedroom set that she had in her bedroom.
5 So me and Harold Jackson, we helped her move
6 everything over there. And then shortly after that,
7 she's been like staying there, you know?

8 Q And was it just her that was staying with
9 you?

10 A No, Josh and Giovanni also.

11 Q All right. And who is Josh?

12 A Josh was her boyfriend.

13 Q And who is Giovanni?

14 A Giovanni is her son.

15 Q And how old is Shella and Josh's son?

16 A I'm not even quite sure how old Giovanni
17 is right now. But at that time, he was like five,
18 six months old.

19 Q And you mentioned Harold Jackson.

20 A Uh-huh.

21 Q Back in January 2007, what was your
22 relationship with Harold Jackson?

23 A I guess I could say a friend. We were
24 seeing each other. We had -- we were seeing each
25 other. We were boyfriend and girlfriend. We had

Nazareth Laurent - Direct

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1 our little problems, you know, but it wasn't nothing
2 major. But we were a little estranged. He needed a
3 little help because he didn't have insurance and
4 stuff on his truck, and he needed a way to work,
5 stuff like that, you know?

6 Q You were dating at the time?

7 A Me and Harold?

8 Q Yes, ma'am.

9 A Yes, ma'am.

10 Q Let's talk about January 3, 2007. How did
11 that day start for you?

12 A That day started kind of rough, because I
13 was sick the whole night before. As I mentioned
14 before, I had a -- I don't know whether it was a
15 stomach virus or what. But that was like the first
16 day of like tax season for me.

17 So I went to work, which Shella had got a
18 job with me, too. She was a TPA in the office that
19 I manage. We went to work. We worked all day long.
20 Matter of fact, I don't think I got off until like
21 8:30. It was a busy day, because we did something
22 like a pre-file before we actually filed everything.

23 Q Okay. You worked until 8:30 p.m. that
24 day?

25 A Yes.

Nazareth Laurent - Direct

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1 Q And did you see Harold Jackson any time
2 during that time before you got off work?

3 A No.

4 Q Did you talk to him.

5 A I didn't. I talked to him on the phone,
6 and he had sent several texts to my cell phone, you
7 know, that day -- because Shella had the phone at
8 the job, and she kept showing me like the texts and
9 stuff that he sent. But, you know, I didn't see
10 him, you know, during that day.

11 Q And you said you looked at the text
12 messages?

13 A Yes, ma'am.

14 Q What kind of text messages did he send you
15 that day?

16 A It was just things saying that "Your
17 daughter is back, so I guess all you need now is
18 your ex-husband and your son to come back home" --
19 you know, stuff like that.

20 Q What did you think about those comments?

21 A Well, I mean, I asked him not to send
22 anything else to my phone when I talked to him -- I
23 said, "Because my daughter is using my phone." I
24 said, "Don't do that."

25 I mean, it wasn't nothing to make me think

Nazareth Laurent - Direct

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1 that he was going to be like how he was when I got
2 home. You understand what I'm saying? You know --
3 I don't know. You know, I didn't think anything of
4 it to like out of the ordinary like that.

5 Q And when is the first time you see Harold
6 Jackson on the evening of the third?

7 A It was around when I got off from work.

8 Q And where do you see him first?

9 A He's outside in the parking lot.

10 Q Is that your job or your house?

11 A At the job then.

12 Q All right. And tell me about that. What
13 was his mood when you saw him then?

14 A He was argumentative, you know. Some
15 people are like that. They, you know, like to
16 argue. He was argumentative. And being that I was
17 so sick the night before, I didn't want to hear it.
18 When I got home, he was still fussing about stuff.

19 I went in the room, and I stayed in there
20 for a while. Matter of fact, I even went like in
21 the bathroom, because I didn't want to hear him.
22 And when he was nowhere where he could see me, I
23 left out of the sliding door, because I was going to
24 walk to my mom's house, because I just didn't feel
25 like hearing anything.

1 You understand what I'm saying? Being
2 sick and up all night long, and I worked all day. I
3 don't even know how I made it, because I was going
4 back and forth to the bathroom that day at work. I
5 just didn't feel like hearing nothing he had to say.

6 Q So you said you left out a sliding glass
7 door, is that correct?

8 A Yes, out of my bedroom.

9 Q Okay. Can you describe for the jury kind
10 of the setup in the house, what it looks like?

11 A Okay. From my bedroom, when I walk
12 through my bedroom -- well, in the living room,
13 there's a front door. I have some French doors to
14 the back that goes to the backyard. And there's
15 also a side door there coming from like the sitting
16 area toward the den area.

17 But I went into my bedroom and left out
18 through the sliding door. And I started walking up
19 Stuart Point Road to go toward my mom's. And as I
20 was walking, when I looked back, I could see Harold
21 like standing on the front in the house yard.

22 And he could see me, and he ran me down,
23 and grabbed my cell phone, and split it in half.
24 Now, that's when I got kind of scared -- because he
25 had never done anything like that. And I'm thinking

Nazareth Laurent - Direct

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1 like, "Wow!" you know, "What's wrong?"

2 He said, "Give me my keys. You have my
3 keys." And I said, "I don't have your keys." I
4 said, "Why are you saying that?" I said, "Every
5 time you get angry, you accuse somebody of having
6 something that they don't have."

7 I said, "I'm going to go back to the
8 house. I'm going to dump my purse on the rug when I
9 get in there, and I'll show you that I don't have
10 your keys." And that's what I did. I dumped the
11 purse. His keys wasn't anywhere in my pocketbook or
12 anything.

13 Q When you get back to the house, was anyone
14 there besides you and Harold?

15 A Yes, I believe at -- I'm trying to think.
16 Did Shella and Josh came when I was in the room? I
17 think they did. They were there -- because they
18 didn't even know I left like that. Because I
19 remember he said one time when I was in the
20 bathroom, "Shella and Josh is here," because they
21 had just bought groceries, and they were putting up
22 groceries.

23 They were there, because when I came back
24 and dumped the purse and then I went inside the den,
25 Shella and them were putting up the groceries. And

Nazareth Laurent - Direct

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1 I told them, I said, "Just go upstairs," I said,
2 because I don't like bickering and stuff in front of
3 my kids, you know, and saying things like that --
4 even though they weren't like little children, but I
5 just don't do things like that.

6 Q And who did you tell to go upstairs?

7 A Shella and Josh. I said, "Just go
8 upstairs, because I really don't like all this, you
9 know, going on in front of y'all like this."

10 Q And did they go upstairs?

11 A Yes, they did.

12 Q And once Shella, Josh, and the baby go
13 upstairs, what are you and Harold doing?

14 A I'm sitting in the den on a couch.
15 Harold's sitting on the window seat in the den. And
16 he's still talking, you know. He'd keep mixing up
17 whatever. I heard something drop, like -- because I
18 have ceramic tile -- like pinging on the floor.

19 I didn't know it was a bat, you know,
20 until he came back out with it. And he just started
21 saying "I'm going to kill you. You're not going to
22 have to worry about God, your mama, your friends, or
23 nobody no more. I'm going to kill you."

24 And I said, "Harold, why are you going to
25 do something to hurt me? All I've ever done is try

Nazareth Laurent - Direct

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1 to help you. Why would you want to try to kill me?"

2 I said, "Well, I'm not going to worry
3 about it," I said, "because I know God's going to
4 protect me, because I've never done anything to
5 you." And what he did, he kept trying to like out
6 the lights.

7 It was like almost like he wouldn't be
8 able to see himself do whatever he had planned in
9 his mind. He'd out the light. I'd turn it back on
10 -- you know, because if I ever thought that he would
11 hit me or something, then I probably would have been
12 more alarmed.

13 I didn't even really pay him no attention
14 like that. But it just kind of just bothered me.
15 So when I left out of the den and went into like the
16 study area to check my e-mail, he came in there
17 then. He shut the door.

18 I tried to open the door back to get out,
19 because I didn't want to be in there with him,
20 hearing him mouthing, mouthing, mouthing. But what
21 happened was when I came out of there from checking
22 my e-mail and I started walking out there, he pushed
23 me toward the bedroom.

24 And being that I have double doors, I was
25 like hanging on, because I was like, "I don't want

Nazareth Laurent - Direct

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1 to talk to you. I don't want to go in the room and
2 talk to you." And what happened, I fell.

3 And when I fell, he started working on me
4 with the bat -- I mean, just hitting me, just
5 hitting, and just hitting me, and just wouldn't stop
6 -- I mean, just kept hitting me. He just kept
7 hitting me.

8 And that's when I screamed. I said,
9 "Shella!" I said, "Smiley's trying to kill me!" I
10 don't know why, but he just kept hitting me. I
11 thought he was going to try to broke my ankle or
12 whatever.

13 I don't even know how the bat like hit me
14 and grazed me across my face, but it did. I didn't
15 even realize it. When Shella came -- Shella and
16 Josh came down, Josh came right to him, took the
17 bat, and was like, "Man, what are you doing? Why
18 would you do something like that? Are you
19 thinking?"

20 And he just stood there like holding his
21 head, like, "Oh, my God! What did I do?" you know.
22 So Shella was like, "Mama, just leave. We'll help
23 Harold find his keys or whatever. Just go."

24 And I was like, "No." But when I got to
25 the front door and I did like this, I felt the

Nazareth Laurent - Direct

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1 blood. That's when I realized I was bleeding, and I
2 got real angry. I was like, "Oh, my God!"

3 You know, I came back. Then when I got
4 back in my room and I looked at Josh's shoe, I was
5 like, "No, I'm going to go," because if I started
6 fighting with him again, I didn't want them to get
7 involved.

8 And he wasn't bothering them or anything.
9 I just thought -- and when I came back, Shella was
10 like, "Mommy, no, just go, go. We'll help him." So
11 I left. It wasn't like Harold was like trying to
12 come out of the sitting area of my bedroom to get to
13 me or anything.

14 Everything was just calm when I left.
15 When I got out of the house, I didn't go to my
16 cousin's. I went to one of my cousin's, but I
17 didn't go to like Cynthia or Karen right to the
18 side.

19 I went over to Theodore's house, and I
20 knocked on the door -- because what my intention was
21 just to go over there and call the police. You
22 understand what I'm saying? But I begged and
23 pleaded.

24 I said, "Ma'am, please, this is Rene.
25 Just open the door." I said, "No one's with me. No

1 one's going to hurt you. I just need to get in."

2 But I guess she was afraid. She never let me in.

3 That's when I saw Harold like walking up
4 and down the road, you know, like looking. So I
5 wanted to be real quiet, because all the houses are
6 like in close proximity, you know?

7 So I came down off the steps, and I went
8 under the trailer. And I laid down, because I don't
9 know whether it was from the cut on my head or
10 whatever, I started feeling real weak. And I just
11 laid down.

12 And when I didn't see him no more, I ran
13 to Hercules' house. And when I knocked a couple
14 times, he opened the door. And when he saw me, he
15 was like, "Oh, my Lord! What happened?"

16 I asked him, I said, "Can you take me to
17 the hospital?" See, the whole time I'm thinking
18 Shella and Josh is okay. When I got to the
19 emergency room, I keep asking somebody for a phone,
20 because at that time, I think my home phone was
21 disconnected.

22 But Shella had my cell phone upstairs, the
23 second one, and she had hers. I just wanted to call
24 her and let her know where I was so she wouldn't be
25 worried. It was one of the custodial persons in the

Nazareth Laurent - Direct

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1 hospital asking me, "What happened to you?" So I
2 said, "Someone hit me with a bat." And she said --

3 MR. COLONGELI: I'm going to object at this
4 time, Your Honor, as to hearsay.

5 THE COURT: All right, sustained.

6 Ma'am, you can't say what someone else
7 said. You can only testify as to what you know of
8 your own knowledge.

9 Solicitor, why don't you ask her a
10 question?

11 Q At the time you were at the hospital, did
12 you find out --

13 A Yes.

14 Q -- about Josh and Shella?

15 A Yes.

16 Q Do you actually see them that night at the
17 hospital?

18 A After a while, yes. I never got to see
19 Josh, but I saw Shella.

20 Q When you left the house, was there a fight
21 going on between Harold and Josh or with Shella?

22 A No, no.

23 Q Did Shella or Josh have any kind of
24 weapon, or bat, or stick?

25 A They could not have had a weapon, because

Nazareth Laurent - Direct

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1 they just came downstairs. I mean, what weapon
2 could they have had?

3 Q At any point, did you see any argument, or
4 fight, or anything of that nature between Josh, and
5 Shella, and Harold?

6 A No.

7 Q Once you get to the hospital, what kind of
8 injuries do you have?

9 A I had a lot of bruises on my leg, my arm.
10 I had like 13 staples on my hairline, which I have a
11 scar right up in here. My right arm I couldn't use
12 for a while. My mom had to give me a bath, you
13 know, help me out.

14 I couldn't even lift it. I mean, I know
15 it's been two years. At least like I was saying the
16 other day, the knot in my leg is still there. But I
17 had the purple, you know, on my leg for a long time.
18 And my arms, I'm just being able to lift it up and
19 reach behind to wash my back like I should. I mean,
20 you know --

21 Q And, Nazarene, at some point, you referred
22 to -- you said the name Smiley?

23 A Yes.

24 Q Who is that?

25 A That's Harold's nickname.

Nazareth Laurent - Direct

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1 Q Is that what you called Harold Jackson?

2 A Yes.

3 Q And then you said Hercules. Who is
4 Hercules?

5 A That's my cousin that lives next door.

6 Q Is that who -- and how did he become
7 involved? Tell me that again.

8 A He took me to the hospital.

9 Q And when you get outside with Hercules, do
10 you see Harold anymore?

11 A No.

12 MS. TANNER: I have a star board for an
13 exhibit, and I'm going to check and see if it's in
14 the hallway.

15 THE COURT: Okay.

16 MS. TANNER: It was being used in another
17 courtroom back there.

18 THE COURT: Okay.

19 MS. TANNER: Can I get Ms. Bannon to help me
20 set that up so I can ask her a couple of questions?

21 THE COURT: Absolutely.

22 Q Nazarene, I'm going to show you what's
23 been marked as State's Exhibit Number One, and tell
24 me if you can identify this item.

25 MS. TANNER: May I approach the witness?

Nazareth Laurent - Direct

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1 THE COURT: You may.

2 A Yes, that's the floor plan of the first
3 floor of my house.

4 Q And this is your home on Stuart Point
5 Road?

6 A Yes.

7 MS. TANNER: Your Honor, the State moves
8 Exhibit One into evidence. It's previously been
9 marked and shown to defense counsel.

10 THE COURT: Any objection?

11 MR. COLONGELI: Without objection.

12 THE COURT: It's in evidence without
13 objection.

14 (State's Exhibit Number
15 One, Floor Plan, was entered in evidence.)

16 MR. COLONGELI: Where would you like to
17 put it?

18 MS. TANNER: I'm actually going to have
19 her come down in front of the jury.

20 THE COURT: That will be fine.

21 MS. TANNER: Your Honor, may I take this
22 off and publish State's Exhibit One to the jury
23 using this board?

24 THE COURT: Okay.

25 Q I'll go ahead and ask Ms. Laurent. I've

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1 got State's Exhibits Two, Three, Four, and Five, if
2 I can approach the witness. Just tell me if you can
3 identify what's in these photographs, whether or not
4 you can tell me what they are.

5 MS. TANNER: I'm sorry, Your Honor,
6 technical difficulties with the board.

7 THE COURT: Ladies and gentlemen of the
8 jury, you're welcome to stand up and take a stretch
9 while they're trying to go ahead and set this up, if
10 you need to.

11 Q Ms. Laurent, can you identify what's in
12 two, three, four, and five?

13 A Yes.

14 Q And what are those photographs of?

15 A Of my home.

16 Q And are those fair and accurate depictions
17 of your home back on January 3, 2007?

18 A Yes, ma'am.

19 MS. TANNER: The State moves two, three,
20 four, and five into evidence. They've been
21 previously shown to defense counsel.

22 THE COURT: Any objection?

23 MR. COLONGELI: I can't see them on the
24 screen, Your Honor?

25 THE COURT: Sir?

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1 MR. COLONGELI: They're not on the screen.
2 If I could see them again.

3 THE COURT: Okay.

4 MR. COLONGELI: Without objection.

5 THE COURT: They're in evidence without
6 objection.

7 (State's Exhibits Number
8 Two, Three, Four, and Five, Photographs of Laurent
9 Home, were entered in evidence.)

10 MS. TANNER: Thank you, Your Honor.

11 THE COURT: Ma'am, you may step down.

12 Mr. Colongeli, you and your client are
13 welcome to go.

14 MR. COLONGELI: Thank you, Your Honor.

15 Q In State's Exhibit Number One that I
16 showed you, can you kind of give the jury an idea,
17 what's in this picture? What is State's Exhibit
18 Number One? Can you describe it for us? And you
19 can use the pointer, however you want to do it.
20 Just make sure you don't block their sight.

21 A This is the floor plan of the first floor
22 of my house. Right here is where you would walk in
23 like the front door, the foyer area, going to the
24 living room. Go down this hall right here to get to
25 the master bedroom and the sitting area.

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1 This area right here over, you have some
2 doors, like three French doors that go -- double
3 doors that go out to the back. And there's a side
4 door here that goes into like a breakfast area.

5 And this is a family room. This is the
6 kitchen. Then this is like another hallway that
7 takes you up to another door that goes to the back
8 of the house where the utility room is and a pantry.
9 And this is a door that's out of -- you know, two --
10 well, it's a three-car garage. There's two bays
11 there and one right there.

12 Q Ms. Laurent, can you point out your
13 bedroom where this started that night?

14 A Right there.

15 Q And is there where you were hit in the
16 back?

17 A Yes.

18 Q And I'm showing you State's Exhibit Number
19 Five. Can you tell the jury what State's Exhibit
20 Number Five would be?

21 A My bedroom.

22 MS. TANNER: If I may publish to the jury.

23 THE COURT: You may.

24 Q Ms. Laurent, I have shown you State's
25 Exhibits -- let's start with Exhibit Two. What is

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1 shown in State's Exhibit Two?

2 A That's the living room.

3 Q And where on this drawing would that be
4 found?

5 A Right here.

6 Q And what direction is this photograph
7 looking from, the front or the back?

8 A The front. That's the front door.

9 Q Okay. Now, is this the door you left out
10 of that night?

11 A Yes, ma'am.

12 Q I want to show you State's Exhibit Three.
13 What is depicted here?

14 A That's part of the living room.

15 Q And what direction is that looking into?

16 A Well, it's like from the side of it. I
17 guess it could be from the back view. But, I mean,
18 it's still toward the front, because there's the
19 dining area, this right in here. You can see it a
20 little bit. It's still adjacent to the living room.

21 Q What is depicted over here?

22 A That's a wet bar, which is right here.

23 MS. TANNER: May I publish to the jury?

24 THE COURT: You may.

25 Q And this is State's Exhibit Number Four.

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1 What is in this photograph?

2 A That's in the den. You mean what room is
3 it?

4 Q What room is it?

5 A The den.

6 Q Okay. And where are you looking from?

7 A I think that's all one room.

8 Q And what are you looking at?

9 A Right here. We're looking at this part,
10 right here.

11 Q And that's the kitchen area?

12 A Uh-huh. It's not in the kitchen, but it
13 was outside the kitchen in this photo.

14 Q All right.

15 MS. TANNER: Permission for me to publish
16 to the jury?

17 THE COURT: You may.

18 Q Ms. Laurent, if I could, there are two
19 doorways here on the side of the kitchen. Can you
20 tell me where these doorways go and where they come
21 from?

22 A This one right here, that's a pantry.
23 This goes to like the utility room, a washroom, and
24 a half bath. And there's a door that goes to the
25 outside once you get in the utility room. And if

1 you see the door right there -- actually, there's
2 three -- that takes you to the garage.

3 Q Can you get inside the house from outside
4 the house through any of those doorways?

5 A You can get -- from the door to the
6 garage, you can get in and out of the house, and
7 from the door to the side, you can.

8 Q Now, using this, if you walk through where
9 the argument takes place in the house that night.
10 Using this floor plan, can you give the jury an idea
11 inside the house where it starts and where it goes
12 to.

13 A This is where it started --

14 Q Okay.

15 A -- when we were arguing. And I told you I
16 got up, and I went into the library, which is
17 labeled "study" here, and checked my e-mail. When I
18 came out, he pushed me down in the hall. And I was
19 hanging on the door, the double doors that go to my
20 bedroom, and I went in here. And that's where I
21 fell, right in here on the floor.

22 Q Now, you said earlier that you went out
23 through a sliding glass door. Where is that in your
24 bedroom?

25 A Right here, which will take you to porch

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1 to the outside. See, this door -- well, there's
2 three doors, but it's like six, you know, double
3 right here and a door there. But it's to a porch
4 right there that you can go out and go around that
5 way.

6 Q And when you and Harold came back in, did
7 you come back through the sliding glass door?

8 A No, I came back through the front door.

9 Q Now, do you keep that door locked?

10 A The sliding glass door?

11 Q Yes, ma'am.

12 A Well, I have a stick in there so it can't
13 slide, because something's wrong with the lock, and
14 I could never find a replacement. You know, I
15 looked all over, and I couldn't find it.

16 So I had something in there so it won't
17 slide, almost like a tool handle, you know, or a
18 stake -- a round stake -- in that door.

19 Q All right, thank you. You may retake the
20 stand. Ms. Laurent, we've talked a lot about Harold
21 Jackson, who you call Smiley. Did you see the
22 person in this courtroom today that beat you with a
23 baseball bat on January 3, 2007?

24 A Yes, ma'am.

25 Q Would you please point to him in the

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1 courtroom? And what is he wearing?

2 A A white shirt.

3 MS. TANNER: Your Honor, I'd ask that the
4 record please reflect she has indicated the
5 defendant, Harold Jackson.

6 THE COURT: It does.

7 Q Thank you, Ms. Laurent. Please answer
8 anything defense counsel has.

9 A Okay.

10 MR. COLONGELI: Your Honor, if I may beg
11 the Court's indulgence for about a five-minute
12 recess at this time.

13 THE COURT: Yes, all right.

14 Ladies and gentlemen of the jury, we're
15 going to go ahead and take just a five-minute break.
16 I'm going to send you back to your jury room to
17 refresh yourselves and get coffee, or Coke, or
18 water. You are free to bring it back in with you.

19 I will tell you again and caution you, you
20 are not to begin discussing this case. It wouldn't
21 be appropriate to do so at this time, because you
22 haven't heard all the testimony from the witnesses,
23 nor seen all the exhibits, nor heard all the
24 arguments of the lawyers and my charge on the law,
25 all right? So, with that said, you all are excused

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1 back to the jury. We'll be back with you shortly.

2 (The jury left the

3 courtroom 11:26 a.m. for recess.)

4 BAILIFF: The jury is clear, Your Honor.

5 THE COURT: Thank you.

6 For those of you in the gallery, as the
7 jury comes and goes, everyone always remains in
8 their seat, but you are now free to leave. Anytime
9 we break and they leave, you can come in and out,
10 and you're fine with that, all right?

11 Mr. Colongeli, is there anything you need
12 to take up, or do you need just a short break?

13 MR. COLONGELI: I need a short break, Your
14 Honor.

15 THE COURT: You've got it.

16 MR. COLONGELI: Thank you so much.

17 THE COURT: Ms. Laurent, I will tell you
18 that you are still on the witness stand.

19 MS. LAURENT: Uh-huh.

20 THE COURT: You are free to step down and
21 refresh yourself, as well. But you are not to
22 discuss your testimony with anyone, all right?

23 (Recess taken.)

24 THE COURT: Thank you all. Please be
25 seated.

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1 Solicitor, Mr. Colongeli, I got a note
2 from one of the jurors. It's juror number 250,
3 Jacqueline Mitchell. It says, "I do not know the
4 defendant, but I think I know a the family.
5 Actually, I think I work with her sister, whose name
6 is Williams."

7 And then it says, "I'm" -- "I still to be
8 a jury. Signed, Jacqueline Mitchell." I'm not sure
9 what the last part meant, but anyway.

10 Respectfully, any position, Solicitor?
11 She's saying she does not know Mr. Jackson but, in
12 fact, does know what appears to be she works with
13 his sister.

14 MS. TANNER: She works with Mr. Jackson's
15 sister?

16 THE COURT: I guess. And it says the name
17 is Williams. Is that correct, Mr. Colongeli --

18 MR. COLONGELI: That is her.

19 THE COURT: Yes?

20 MS. TANNER: Your Honor, at this point, I
21 would ask to go to an alternate, because in order to
22 know that she knows the sister, somehow she does
23 know who he is and may have heard through the sister
24 about this case, whether it would be by accident or
25 whatever.

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1 If she works with the sister, there had to
2 be some conversation at some point when this
3 happened. For her to put that together today,
4 something rang a bell, I guess hearing the facts of
5 the case. So that means she's heard something.

6 THE COURT: Well, I can certainly bring
7 her out and question her as to what she knows and
8 any independent knowledge she knows. I will also
9 tell you that this is, in fact, the juror who also
10 had a special child who she was concerned about
11 picking up from the bus at 4:00 from PAP.

12 MS. TANNER: Yes, ma'am.

13 THE COURT: So what I propose to do is
14 let's bring her out here, and let's question her and
15 see what, if anything, she knows about this case.
16 And then from there, we'll make a decision. All
17 right, Mr. Colongeli?

18 MR. COLONGELI: That's fine, Your Honor.

19 THE COURT: All right, let's bring her
20 out.

21 BAILIFF: Yes, ma'am.

22 THE COURT: Jacqueline Mitchell.

23 Rema, let me make sure I give this to you
24 to make it a fourth exhibit, okay?

25 COURT REPORTER: All right.

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1 THE COURT: Thank you.

2 COURT REPORTER: I'll do it right now.

3 THE COURT: Thank you.

4 (Court's Exhibit Number
5 Four, Juror Question, was marked for identification
6 purposes and made a part of the record.)

7 BAILIFF: If you would, just stand right
8 there.

9 THE COURT: Ms. Mitchell, good morning.

10 MS. MITCHELL: Yes, ma'am, good morning.

11 THE COURT: I appreciate your note, ma'am.
12 It's my understanding from your note that you state
13 that you possibly know Mr. Jackson's sister, a Ms.
14 Williams, is that correct?

15 MS. MITCHELL: Uh-huh -- yes, ma'am.

16 THE COURT: How do you know her?

17 MS. MITCHELL: Work.

18 THE COURT: Where do you work at?

19 MS. MITCHELL: Great American.

20 THE COURT: Okay. Do you work with her
21 every day?

22 MS. MITCHELL: I do.

23 THE COURT: Has she said anything to you
24 about this case?

25 MS. MITCHELL: No, ma'am.

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1 THE COURT: Do you know anything about it?

2 MS. MITCHELL: No, ma'am.

3 THE COURT: Do you have any independent
4 knowledge about this case?

5 MS. MITCHELL: No, ma'am.

6 THE COURT: Ma'am, because you know his
7 sister, I want to make sure you can be fair and
8 impartial in the trial of this case. Can you?

9 MS. MITCHELL: I guess. I don't -- I
10 really don't know anything about it or, you know,
11 the situation. She don't discuss it, and we don't
12 do that, get into each other's business. So I don't
13 know.

14 THE COURT: Okay. Well, let me ask you --

15 MS. MITCHELL: But I just recognize the
16 name.

17 THE COURT: Okay. Did you hear about the
18 case at all anywhere outside of this courtroom?

19 MS. MITCHELL: No -- maybe when it first
20 happened, probably with the paper, but that was it.
21 And after that, it was nothing else about it.

22 THE COURT: Okay. And she's never
23 discussed it with you?

24 MS. MITCHELL: Huh-huh -- no, ma'am.

25 THE COURT: Ma'am, I need to know if you

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1 can be fair and impartial in the trial of this case.
2 And I want to make sure, because of your
3 relationship with her and working side-by-side with
4 her if you are able to put the relationship with her
5 aside and decide this case on the evidence presented
6 in front of you here this week. Can you do that?

7 MS. MITCHELL: I mean, it's no problem.
8 But it's just the idea that, you know, I work with
9 her every day.

10 THE COURT: Ms. Mitchell, I appreciate and
11 understand that. Let me do this. I'm going to go
12 ahead and excuse you from the trial of this case.
13 And I'm going to sit one of the alternates, just out
14 of an abundance of caution, all right, ma'am?

15 MS. MITCHELL: Okay, thank you.

16 THE COURT: But I want you to know that I
17 do appreciate you bringing this to my attention. It
18 is important, and it was the right thing to do.

19 MS. MITCHELL: Yes, because, you know,
20 when I thought about it, the name clicked, you know.

21 THE COURT: And I understand that. And,
22 Ms. Mitchell, what I'm also going to do, ma'am, I'm
23 going to excuse you from serving on jury duty for
24 the rest of the week, just because I understand you
25 have a son that you were concerned about earlier

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1 making sure you pick him up at the bus, as well.

2 And I think we've got enough jurors, so I
3 think you're better off taking care of your family
4 and going on home, okay?

5 MS. MITCHELL: Thank you.

6 THE COURT: Thank you.

7 Does she have her things?

8 BAILIFF: We'll take care of it.

9 THE COURT: Okay. Make sure she doesn't
10 go back into the jury room. Thank you.

11 BAILIFF: Thank you, Your Honor.

12 THE COURT: All right. Certainly, for the
13 record, she was a bit unsure. So, out of an
14 abundance of caution, I excused her.

15 Mike, who is my first alternate juror?

16 CLERK OF COURT: That is --

17 THE COURT: I've got it. I believe it's
18 June Buggie. Does anyone know differently?

19 CLERK OF COURT: -- June Buggie.

20 THE COURT: Actually, you don't need to
21 bring her, Norman.

22 BAILIFF: I was just going to notify Bob.

23 THE COURT: Okay. Why don't you just go
24 ahead and notify Bob, and I'll welcome her when she
25 comes back in and tell her that she, in fact, is now

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1 a member of this jury.

2 All right, anything further from the
3 State?

4 MS. TANNER: Nothing from the State.

5 THE COURT: From the defense?

6 MR. COLONGELI: Nothing from the defense,
7 Your Honor.

8 THE COURT: All right, Solicitor, you told
9 me you had a scheduling issue earlier. You had a
10 witness that you were concerned about?

11 MS. TANNER: I think we're fine.

12 THE COURT: Okay, all right.

13 MS. TANNER: She'll be here at two, and
14 there are four witnesses before then. So I think
15 we'll be fine.

16 THE COURT: Okay, thank you.

17 All right, let's bring them in.

18 BAILIFF: Yes, ma'am. Jury entering, Your
19 Honor.

20 THE COURT: Thank you.

21 (The jury returned to the
22 courtroom at 11:47 a.m. after which the following
23 proceedings were had:)

24 BAILIFF: Your Honor, the jury is seated.

25 THE COURT: Thank you. Welcome back,

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1 ladies and gentlemen of the jury.

2 Additionally, Ms. Buggie, I appreciate you
3 being here, and you are now an official member of
4 this jury due to a conflict with another juror.
5 With that said, if you'll obviously keep that seat,
6 as well, at this time.

7 Solicitor, if you want to go ahead and
8 call Ms. Laurent back up to the stand.

9 Ma'am, I'll remind you that you are still
10 under oath.

11 I believe we're on cross-examination, Mr.
12 Colongeli --

13 MS. TANNER: That's correct, Your Honor.

14 THE COURT: -- is that correct? All
15 right.

16 MR. COLONGELI: May it please the Court,
17 Your Honor?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. COLONGELI:

21 Q Good morning, Nazarene.

22 A Good morning.

23 Q In the Solicitor's opening statements,
24 there was some discussion in there -- and I stand to
25 be corrected -- that as far as your daughter, for

1 all intents and purposes, Shella, and Josh, and
2 their five-month-old, that they were visiting.
3 Isn't it, in fact, true, based on your testimony
4 here just a moment ago that they actually had moved
5 in somewhere early in the month of December of 2006?

6 A Yes, sir.

7 Q And they also were familiar with Harold to
8 that extent?

9 A Yes.

10 Q And then, in your discussions with law
11 enforcement in this case, there was testimony by you
12 that Harold routinely drove you to work in your
13 vehicle, is that correct?

14 A Yes.

15 Q And why is that?

16 A Because he didn't have any insurance on
17 his vehicle.

18 Q And that was a concern of yours, correct?

19 A Yes.

20 Q You, as a matter of fact, went on in
21 detail with Sgt. Chris Wilson as far as the fact
22 that he didn't have insurance, you weren't sure what
23 his license status was, and that's why you didn't
24 want him driving?

25 A License status, no. But when you drive

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1 without insurance, your license can get suspended.

2 He had a driver's license.

3 Q Okay. But you were concerned about him
4 driving that car, and that's why he drove your car?

5 A Yes.

6 Q And then on this date, which would have
7 been January 3, 2007, he, in fact, did pick you up
8 from work --

9 A Yes.

10 Q -- that day?

11 A Yes.

12 Q And you discussed and mentioned that what
13 transpired throughout the course of that day, in
14 your opinion, was a not so pleasant day as far as an
15 argument you had with Harold?

16 A That day?

17 Q That day.

18 A The only -- I didn't have an argument with
19 him that day. I said he sent me text messages,
20 whatever. I didn't have an argument with him, no.

21 Q You weren't feeling agitated by his
22 actions that day?

23 A I was just tired of him, you know, saying
24 -- making the allegations that he was making. But
25 as far as into an argument or anything, we didn't

1 have an argument that day.

2 Q As a matter of fact, you -- specifically,
3 the State asked you about some text message you had
4 received?

5 A Yes, I told him not to send any more to my
6 phone, because my daughter had my phone -- don't
7 send any more, you know, because I didn't want her
8 to see the things that he was saying on there.

9 Q Well -- and I can help refresh your memory
10 if you don't recall this -- there was some testimony
11 brought out on direct as to what the content of that
12 text message was. Do you recall?

13 A Yes, I remember. It was, "Your daughter's
14 back. I guess all you need is your ex-husband and
15 your stepson to come" -- "your son to come back,"
16 stuff like that. I remember that one explicitly.

17 I can't remember what the other ones were.
18 But the officer that came to the house, she took
19 pictures of them all, whatever, because I showed her
20 the text messages that he sent to the phone.

21 Q And stuff like that would also include one
22 that specifically said, "I hope you feel better
23 soon. I love you. I promise this year will be
24 better."

25 A Yes -- stuff like that, yes.

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1 Q And that was bothering you?

2 A That didn't bother me. But it was just
3 the one what he sent. And she said, "Mommy, look
4 what he sent on there." I told him not to send any
5 more.

6 He could call me on the phone or whatever,
7 but don't send any more of those to my cell phone.
8 I didn't say the text led to an argument or
9 anything. That was what he texted me.

10 That's why I said that I didn't even think
11 anything of it, because it wasn't even anything --
12 it could just be someone that's hurt or something or
13 what he's thinking, insecure. To me, it just showed
14 me that he was insecure.

15 Q Well, isn't it true, Nazarene, that this
16 relationship you had with Harold at best could be
17 described as rocky?

18 A Well, I mean, it had problems, yes.

19 Q It had serious problems, didn't it?

20 A No, it didn't have serious problems. We
21 had problems, you know, but not serious problem. A
22 serious problem would be something, you know, where
23 I wouldn't be able to control it or out of control.

24 I mean, anybody can have an argument or a
25 misunderstanding, but it wasn't no serious problems.

1 Q Serious problems that didn't include the
2 existence of the issuance of a restraining order --

3 A Sir --

4 Q -- a month prior?

5 A -- I can explain that. Harold is someone
6 that always is mouthing off, you know, saying
7 things. I just wanted to prove a point to him.
8 Matter of fact, when we went to do that, I didn't
9 even want to do it again.

10 I even told the judge that day that I
11 didn't feel any way threat with Harold. I didn't
12 want to do it. Matter of fact, he waited until we
13 were the last people that he spoke to, because he
14 said it was more private or whatever. He didn't
15 want to even bring it out in front of everybody
16 else, and he spoke to us off the record.

17 I said, "I just wanted to prove a point to
18 Harold." But I also said, "So many times you hear
19 about things that happen, and people say, 'Well, it
20 was never a report or whatever.'"

21 That was the only reason why I even
22 initiated the process, just in case something did
23 happen. But I didn't feel any way threat by Harold,
24 because Harold is someone who had never even put a
25 hand on me, never even shoved me or anything.

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1 So when I did not want to go through with
2 the restraining order, the judge said that he was
3 going to go through with it, because he can remember
4 a situation where this couple came in, and they
5 didn't want to go through with it again.

6 He said domestic violence is something
7 that he just feels criminal domestic violence is
8 real serious about. He said the next time he read
9 in the paper that someone had blowed the other
10 person's brains out.

11 So he was just going to go through with
12 it. But that wasn't because that's what I wanted.
13 And I really stated that to the judge that day.

14 Q Yet, you specifically, based on all this
15 information you just related to us here today, in
16 light of the fact that you had no fear from Harold,
17 that none of the reasons that you obtained this
18 restraining order, in fact, were substantiated based
19 on what the real purpose of a restraining order is?

20 A Basically, yes. I just wanted -- why I
21 wanted the restraining order is because it would be
22 something to where he wouldn't be able to come
23 there. I was angry when I did it, okay? I was
24 angry.

25 Q And you wanted to prove a point?

1 A Yes. And that's the honest truth. I
2 wanted to prove a point. It wasn't because I was in
3 fear of my life from him or whatever, because I --
4 you understand what I'm saying?

5 He knew where I worked. He knew my family
6 members, whatever. But I just wanted to prove a
7 point to him to just stop saying so many hurtful
8 things.

9 Q And as a matter of fact, that same day
10 that order was issued, you and Harold went to lunch?

11 A Yes, we did.

12 Q And he pretty much resumed living with you
13 or staying with you right after the issuance of that
14 order?

15 A I wouldn't say right after, because he was
16 living -- he was still living in Parkview
17 Apartments.

18 Q But he still came over back and forth.
19 Your testimony here today is he never actually lived
20 with you on a regular basis but, in fact, stayed
21 there?

22 A When -- after the restraining order --

23 Q Yes.

24 A -- or before? Because we weren't living -

25 -

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1 Q Before that?

2 A No, I didn't say that, because before we
3 were living together. We were. But he moved out
4 with someone else.

5 Q Matter of fact, you're aware that Mr.
6 Jackson is married?

7 A Yes. Him and his wife were estranged.
8 They were having problems.

9 Q On the day in question, your testimony is
10 that, in your opinion, he wanted to engage you in an
11 argument?

12 A Yes.

13 Q A verbal argument?

14 A That was after we got home.

15 Q And that the difference that night was
16 that you didn't want to hear anything to do with
17 that argument?

18 A No.

19 Q Which was different than arguments in the
20 past?

21 A No, no, it wasn't different from arguments
22 in the past, because I didn't start arguments with
23 him -- arguments or whatever. He is what I would
24 say somebody that's very insecure, always making
25 allegations about things that are not true.

1 I mean, the past arguments or
2 misunderstandings or whatever, I would always try to
3 ignore him. But this time, instead of just ignoring
4 him, I just wanted to be away, because, like I said,
5 I was sick the night before, and I just didn't feel
6 like that.

7 Q And as a matter of fact, you went to the
8 extent that night to actually lock yourself in the
9 bathroom to disengage the argument?

10 A Yes -- not being able to see him, yes.

11 Q And in those types of actions on your
12 part, would you consider it could make him even more
13 angry?

14 A Just because I locked myself in the
15 bathroom?

16 Q Yes.

17 A No, huh-uh. I can't say. I just didn't
18 feel like that.

19 Q When this argument began to escalate --

20 A Okay, you're asking me if by me locking
21 myself in the restroom made him more angry?

22 Q What I'm saying, Nazarene, is the fact
23 that you locked yourself in that bathroom, you knew
24 that you would make him even angrier by not engaging
25 him in what he wanted to discuss with you then?

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1 A No, I didn't think about it like that --
2 like I was, you know, making him angry. I just
3 thought about me just being away from the situation,
4 because I didn't want to discuss whatever he was
5 talking about, mouthing about, you know. I didn't
6 want to talk about it.

7 Q And when that got to that point, isn't it
8 true that Mr. Jackson requested that you give him
9 his car keys so that he could leave?

10 A No.

11 Q It isn't?

12 A No. He never said anything about a car
13 keys when I was locked up, because when I was in the
14 bathroom, I came out of the bathroom when he was not
15 in the room. And I went down the road.

16 That's when he ran me down and said, "Give
17 me my car keys." He never said anything about car
18 keys when I was in the house.

19 Q Okay. So after you finally let yourself
20 out of the bathroom and left the house, and he
21 approached you outside, he asked you at that point,
22 "Can I have my car keys? I want to leave," correct?

23 A "Give me my car keys. You've got my car
24 keys." I said, "I don't have your car keys." I
25 said, "I will go back to the house, and I will dump

1 my purse on the floor, and I will prove to you I
2 don't have your keys." Why would I have his keys,
3 and he pick me up in my truck?

4 Q Isn't it true, Nazarene, that there were
5 two prior occasions, based on the restraining order
6 you issued, where you told the Court that there was
7 the same situation where he had taken your keys?

8 A Yes, he took my keys. He wouldn't give me
9 back my keys.

10 Q So this was a situation that had occurred
11 before in your relationship?

12 A Not like that, no.

13 Q You just said that there was a time
14 before.

15 A I mean, he took my keys, but -- well, let
16 me finish listening to what you're saying so I make
17 sure I answer the question correctly -- because the
18 situation before doesn't have anything to do with
19 the situation that day, because if that's the case,
20 the situation before should have escalated like that
21 was that day.

22 Q But it didn't, did it?

23 A It didn't. It wasn't even like that. I
24 just wanted my keys back. I mean, I don't
25 understand what really you're trying to say or

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1 asking me. But anytime people can get into a
2 situation where they'd have a disagreement, but it
3 doesn't lead to someone's death.

4 Q I understand that. But the fact remains
5 that there were situations where you two went back
6 and forth hiding each other's keys, correct?

7 A No, I never hid his keys.

8 Q So you're --

9 A You just told me that he had my keys.
10 I've never had anything that belonged to him. He
11 always just assumed that I did or just said that,
12 just to have something to talk about.

13 Q Even though you were concerned about the
14 fact as to whether he was going to drive his car
15 that evening?

16 A But do you understand? I don't even
17 understand what happened that day. Just like when
18 the officers came to me, if I could tell you that me
19 and Harold had an ongoing argument or something, I
20 would even feel better.

21 But I don't even understand what happened
22 to him that day, where he went or what happened. He
23 was supposed to be at work. I don't know what
24 happened to him, what made him like that -- because
25 he was always nice to everybody.

1 Q So let's make it clear. Now, you had a
2 feeling that day, based on what transpired, that
3 something wasn't quite right?

4 A No, I didn't have a feeling that something
5 wasn't quite right. I'm talking about after the
6 fact. That's what I'm saying.

7 Q Yes.

8 A After everything had occurred. How could
9 I have a feeling that something wasn't quite right?
10 The first instant that I thought something wasn't
11 quite right is when he ran me down, and grabbed my
12 cell phone and break it.

13 That's when I started feeling scared. I
14 didn't feel scared when I went in the bathroom. I
15 didn't feel scared when he was saying whatever he
16 was saying. I had no reason to.

17 Q Just to make your testimony clear here
18 today, in retrospect, looking back on what happened
19 that day or what you said earlier here this morning,
20 you were agitated by his actions throughout the
21 course of that day, true?

22 A I was agitated with the texts and stuff,
23 yes.

24 Q And also as to that, Shella, your
25 daughter, works with you at Jackson-Hewitt, correct?

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1 A Yes, she did.

2 Q And she was working with you that day?

3 A Yes..

4 Q She was also aware of your agitation or
5 your feelings as far as what Harold was up to and --

6 A When you say "agitation," I wouldn't use
7 that word. I was just like kind of just threw,
8 like, "Wow, why is he doing that? Why is he sending
9 those texts?" And I'm telling him not to send a
10 text because Shella is using the phone.

11 "What's wrong?" I even asked him what's
12 wrong. Just like you said, you even brought to my
13 memory that he said that "I love you. Things will
14 be better this year," whatever. He had been having
15 a rough time.

16 Q I understand that. And that's why I'm
17 trying to clear up the fact that you stated in your
18 direct testimony with the Solicitor that you felt he
19 was being argumentative that day.

20 A Yes. That's after we got home.

21 Q And you --

22 A He just started off with the text
23 messages.

24 Q And you shared that information with your
25 daughter. You discussed it at work that day?

1 A Well, I didn't have to share it with her,
2 because she had my cell phone. So she saw the
3 texts.

4 Q And, therefore, she was aware of it, also?

5 A Yes.

6 Q And you discussed it with her?

7 A No, she was like, "Why is he sending those
8 texts?" Yes, we did have a discussion about it.

9 Q And was there ever any discussion that day
10 as to you letting Harold know that night that you
11 wanted the relationship to end?

12 A With me and Shella?

13 Q Yes.

14 A Yes, I did tell her that.

15 Q And that's what you had planned on doing
16 that night?

17 A I did mention that to her, yes.

18 Q And Shella was fully aware that you were
19 going to plan on doing it that night?

20 A Yes, she was.

21 Q And can you testify here today as to
22 whether Josh knew that, also?

23 A No, I can't --

24 Q That's fine.

25 A -- because I didn't speak to Josh.

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1 Q That's fine. But you're saying here today
2 that Shella --

3 A I did mention that to my daughter. I did
4 mention that to her. I said I was just tired of,
5 you know, just him being insecure and sending --
6 saying things that wasn't true, like certain things
7 about making allegations about me and my ex-husband.

8 And I said I was just tired. I said I was
9 just going to let him know that things was over.
10 But I'm just wondering, well, how you know that.

11 Q If your intent was to --

12 A Because I said that to Shella.

13 Q If your intent was to end your
14 relationship that night with Harold --

15 A Uh-huh.

16 Q -- why didn't you give him the keys?

17 A I didn't have the keys.

18 Q Did you help him look for the keys?

19 A When I dumped the purse.

20 Q Other than the dramatic dumping of your
21 purse on the floor to show him that you didn't have
22 them --

23 A But, I mean, where would I look for his
24 keys at? I never drove his vehicle. Why would I
25 have his keys? And the craziest thing about it,

1 when did the keys show up? How could he just drive
2 off in that truck? When did the keys ever show up?

3 Q That is a good question. Nazarene, let's
4 get to what happened when you went into the bedroom.
5 And your testimony is that Harold pushed you into
6 the bedroom?

7 A Yes, he did, because he wanted to talk to
8 me.

9 Q He wanted to talk to you?

10 A Yes.

11 Q And he didn't want to do it in front of
12 your daughter. He didn't want to do it in front of
13 your daughter and her fiancé --

14 A No, he was --

15 Q -- he didn't want to do it in front of the
16 baby.

17 A He was doing a lot of talking, now, in
18 front of them, because I sent them upstairs.

19 Q Because you didn't want them to be
20 embarrassed either. Your testimony to Chris Wilson
21 --

22 A I said he was doing a lot of talking, so
23 it wasn't because he was pushing me in the bedroom
24 because he didn't want to talk in front of them. I
25 sent them up there because he was mouthing off and

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1 saying stuff.

2 Q But do you --

3 A But what I'm saying is it's not that he
4 was trying to be in confidence or personal about the
5 conversation, because if that was the case, he would
6 have never started the conversation in the den.

7 Q Then why did he push you in the bedroom?
8 Why didn't --

9 A Because I didn't want to talk to him, just
10 like I told you earlier, when I was in the bathroom.

11 Q Which is exactly why he wanted to get you
12 in the bedroom so you all could have a verbal
13 argument about what was going on that day?

14 A But there wasn't nothing going on. That's
15 what I keep trying to say. It might be something --

16 Q In your mind, there was nothing going on.

17 A Well, in my mind, in the actual presence
18 of what happened that day, there was nothing going
19 on, except for the text messages.

20 There was no ongoing argument between me
21 and Harold or anything. So if something else was
22 going on, it must be in somebody else's mind,
23 because it was nothing going on.

24 Q Exactly. Thank you, Nazarene. So
25 basically what you're saying is that you made your

1 mind up that nothing was going on in your mind.

2 A I didn't make my mind up. I knew nothing
3 was going on.

4 Q In your mind. Obviously, there was
5 something going on in Harold's mind, is that true?

6 A Obviously.

7 Q And you didn't want to engage that. You
8 didn't want to discuss that with him.

9 A No, I didn't want to talk.

10 Q You didn't want to air it out with him.

11 A No.

12 Q When you get into the bedroom -- and
13 please help refresh what you had said in the
14 questions from the Solicitor -- but at what point do
15 you pick up this stick that's mentioned to Chris
16 Wilson vaguely in one of the initial interviews?

17 A The point I pick up the stick is when I
18 left out of the bedroom the first time, when I was
19 in the bathroom. When I was locked in the bathroom,
20 I picked up the stick to open the door, to go down
21 the road to go to my mom's house.

22 Q Why did you pick up a stick, Nazarene?

23 A Because the stick's in the door so the
24 door can be locked. And I took the stick with me
25 because I know dogs and stuff are like in the

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1 neighbors? yards. In case if a dog had ran or
2 whatever, I had a stick in my hand.

3 Q And you picked up that stick before you
4 even --

5 A But, no, it wasn't like I just picked up
6 the stick. I would have to pick up the stick to
7 open the door.

8 Q You never held this stick while you were
9 arguing with Harold Jackson that night?

10 A I had the stick in my hand. When I came
11 back in the house, it was sitting down. I had the
12 stick in my hand.

13 MR. COLONGELI: If I may, Your Honor, I've got
14 Defense Exhibit Six -- five, six, seven, eight,
15 nine, ten, and eleven -- I'm sorry, four through
16 eleven -- that I'd like to show the witness.

17 THE COURT: You may approach.

18 Q Nazarene, if you could please take a look
19 at these photographs and explain to us what those
20 are photographs of.

21 A It's a photograph of the stick.

22 Q Where is that stick located in those
23 photographs?

24 A It's in my bedroom.

25 Q And do you see what appears to be blood on

1 that stick?

2 A I see blood on the stick -- yes.

3 Q Do you know where that stick is today?

4 A No.

5 MR. COLONGELI: Your Honor, without objection,
6 I'd like to have these items entered into or at
7 least published to the jury.

8 THE COURT: We're going to enter them into
9 evidence if you're going to publish them.

10 Solicitor, any objection?

11 MS. TANNER: May I see those?

12 THE COURT: Sure.

13 MS. TANNER: I don't have any objection to the
14 photographs.

15 THE COURT: Okay, they're in evidence without
16 objection.

17 MR. COLONGELI: Thank you, Your Honor.

18 THE COURT: You can publish them, Mr.
19 Colongeli.

20 (Defendant's Exhibits Number Four
21 through Eleven, Photographs, were entered in
22 evidence.)

23 MR. COLONGELI: How would you like me to do
24 this, Your Honor. There are --

25 THE COURT: If you want to, you can pass them

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1 around, if you want them looking at them while you
2 continue to cross-examine her. It's up to you.

3 MR. COLONGELI: Thank you.

4 Q Nazarene, you never threatened Harold
5 Jackson with a stick that night?

6 A No.

7 Q You didn't possess that stick or grab that
8 stick in any sort of manner to ward off Harold
9 Jackson, or tell him to leave your house, or in any
10 respect?

11 A No.

12 Q What was your purpose in grabbing the
13 stick?

14 A I told you, I had the stick in my hand. A
15 sliding door has a latch over here. Mine is
16 missing. That stick was in that door. When I left
17 to go down the road, I had the stick in my hand.

18 Harold didn't even know I was out of the
19 house.. I never even -- I had this -- I can remember
20 vaguely having the stick in the den.

21 I didn't have the stick. At that time, I
22 didn't even know Harold had a bat until I heard
23 something fell on the floor. I still didn't know
24 what it was until he brought the bat from around the
25 kitchen.

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1 Q There was never any testimony you gave
2 Sgt. Chris Wilson in the investigation of this case
3 that dealt with you grabbing that stick in relation
4 to Harold asking you for his keys?

5 A No, I didn't grab the stick in relation to
6 him asking for no keys.

7 Q And the fact that --

8 A Because Harold didn't ask me for the keys
9 until he came down the road. He never said anything
10 about keys before I left out of the house, because
11 he didn't have an opportunity to talk to me when I
12 was locked in the bathroom.

13 When he went somewhere, he just noticed.
14 That's why he was standing out in front of the house
15 looking, and he saw the shadow of me walking down
16 the road.

17 I wish I had just went in the bushes or
18 something, if I had knew he was going to run me
19 down, break my phone, you know? That's what really
20 startled me right then.

21 Q You didn't have the stick at that time --
22 that's your testimony?

23 A Evidently, I did have the stick. I don't
24 know if I had it or not. I can't even remember.
25 But what I'm trying to tell you, that's where the

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1 stick came from.

2 But, now, that stick, if I had the stick
3 when I walked back in the house, where that stick is
4 right there, that's in my bedroom. How did it get
5 back to the bedroom?

6 Q That's my question to you, Nazarene.

7 A I don't know.

8 Q You don't know how the stick got back to
9 your bedroom, but you had the stick when you left
10 the house, is that your testimony?

11 A Yes.

12 Q And the altercation that took place
13 additionally between you and Harold Jackson that
14 started as a verbal argument took place in the
15 bedroom, is that correct?

16 A The argument that started, it started down
17 the road, back in the house, in the den that went
18 from the library to the bedroom.

19 Q Understood. But then, to break it into --

20 A There wasn't no argument in the bedroom.

21 Q There was no argument?

22 A In the bedroom, when he came in there,
23 that's when he started hitting me with the bat.
24 When I told you he was pushing me and I was holding
25 onto the doors, and eventually I fell down to the

1 floor, that's -- he didn't even give me a chance to
2 get up. He just started working on me, and working
3 on me, and working on me with the bat.

4 Q And is it possible that you have a stick
5 in your hand at that time?

6 A No, there's no way possible I could have
7 had the stick in my hand at the time, because if I
8 had both hands holding onto the door, I couldn't do
9 all that at one time.

10 Q While you were holding onto the door like
11 that is when you claim he was striking you with this
12 bat?

13 A No, when I fell down. He didn't strike me
14 with the bat when I was holding onto the door,
15 because he was trying to push me to get in the room
16 to close the door. And when I fell down to the
17 floor, that's when he started hitting me with the
18 bat -- hitting me, hitting me, and hitting me.

19 Q When he followed you into that room, your
20 testimony is he already had the bat?

21 A Evidently, he had the bat in his hand.

22 Q Evidently isn't good enough here today.

23 A Well, yes, he had the bat --

24 Q Your testimony.

25 A -- because wherever the bat was when I

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1 fell, I don't know if he had it in his hand right
2 then or if he had it, because when he would move
3 through or whatever, you don't even hear him moving.
4 I can't tell you when that happened, when he got the
5 back or whatever.

6 But when I fell down to the floor, he
7 didn't walk out of the room to go get no bat,
8 because if he had walked out, I would have had an
9 opportunity to get back up. But when I fell, the
10 bat was there, and he was working on me right then.

11 Q Precisely. So your testimony here today
12 is after falling to the ground in the bedroom,
13 that's the first point in time you realized he had
14 the bat?

15 A No, that's the first time he started
16 hitting me with the bat. He had the bat in the den,
17 and he had it in the kitchen, because I heard it
18 fell on the floor. And he --

19 Q You heard something fall on the floor?

20 A Well, to be honest, once I'm thinking
21 about it now, this is what happened. When I heard
22 something fell on the floor, and I said Harold was
23 sitting in the window seat, he had the bat when he
24 said, "I'm going to kill you tonight."

25 "You don't have to worry about God, your

1 mama, or nobody no more -- your sister. I'm going
2 to kill you." And I said, "Why? Why are you going
3 to kill me?" He had the bat then.

4 Q And you stayed. And you didn't grab a
5 stick in response to those kind of statements?

6 A No. Sir, I didn't grab a stick. I would
7 have to go back to the room to get a stick or
8 whatever. I didn't grab a stick in response to
9 that.

10 That stick wouldn't be able to do anything
11 with a bat. And to be honest with you, when Harold
12 had that bat then, I didn't even think he would even
13 swing it.

14 Q Let's make it clear. Let's back up a
15 minute, because I'm confused. You said the first
16 time you actually saw the bat is after you fell down
17 in the bedroom.

18 A That's the first time he struck me with
19 the bat, I said. You asked me if he had the bat in
20 his hand when I was -- when he was pushing me. I
21 told you I don't know if he had it.

22 I can't remember right then at that point,
23 because he was pushing me. That's what you asked
24 me. When I fell down, that's when he started
25 hitting me with the bat.

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1 Q Is it possible he grabbed a bat that was
2 in your bedroom after you fell down?

3 A It's a possibility.

4 Q And you began hitting with a stick or
5 attempting to --

6 A I never hit him. I never had an
7 opportunity to hit him. I never had an opportunity
8 to hit him. The only thing that made him stop
9 hitting me so much is when I was like, "Harold, what
10 are you going to do, kill me or something?"

11 Q Let me ask you about this bat. Was that
12 your bat?

13 A Yes, it was my bat.

14 Q And you spoke to Sgt. Wilson at length
15 about this bat, correct?

16 A Yes, I did.

17 Q And one of the questions she asked you is
18 if you had played softball?

19 A No, I didn't play softball.

20 Q And isn't it true that, in fact, this bat
21 has somewhat of a history?

22 A What kind of history?

23 Q Well, specifically, isn't it true, Rene --
24 I'm sorry, Nazarene --

25 A No, that's fine.

1 Q -- that you told Chris Wilson that this
2 bat was given to you by a girlfriend who had used it
3 to smash out a boyfriend or husband's window?

4 A Yes.

5 Q So is it safe to assume that this was a
6 bat you had for protection?

7 A Well, to be honest with you, sir, that was
8 Angie's bat, my girlfriend. I will say I have a bat
9 for protection that's in the garage, not even
10 nowhere close to my bedroom.

11 Q Well, let's stop right there. Your
12 testimony to Chris Wilson was you had no idea where
13 that bat was located in your house.

14 A But it had to come out of the garage,
15 because that's where Harold went -- which I didn't
16 know where it was, because it was Angie's bat. But
17 I'm assuming he got it out of the garage.

18 Q You're assuming?

19 A Yes.

20 Q But you cannot truthfully testify to the
21 members of this jury as to where that bat was in the
22 house?

23 A No.

24 Q Thank you. When the altercation took
25 place in the bedroom -- correct?

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1 A Yes.

2 Q An altercation that became physical,
3 correct?

4 A So him pushing me, if that's what you mean
5 physical, yes.

6 Q Well, let me ask you. This wasn't just
7 Harold getting physical with you. You were also
8 getting physical with Harold in attempts to get out
9 of that bedroom, correct?

10 A No, I wasn't trying to get out of the
11 bedroom. I was trying not to get in the bedroom.
12 He was trying to push me in the bedroom.

13 Q So you were in a struggle with Harold to
14 keep yourself from getting put in that bedroom?

15 A Yes.

16 Q This was a mutual struggle?

17 A Well, it --

18 Q Your testimony is he had a bat. You may
19 have had a stick, or you may not have had a stick.

20 A No, I didn't have a stick in my hand.

21 Q This was a mutual struggle.

22 A I told you I didn't have a stick in my
23 hand, because if I had, how could I hold on with
24 both hands to the top of the door if I had the stick
25 in my hand? I wouldn't be able to hold on.

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1 Q At this point in time, what does your
2 memory tell you as far as where Josh and Shella were
3 when that took place?

4 A They were upstairs.

5 Q And what did you do as far as getting them
6 involved in the altercation you and Harold were
7 having?

8 A Well, the only thing, I just yelled out.
9 I said, "Shella," I said, "Shella, Harold's trying
10 to kill me."

11 Q You screamed that out?

12 A Yes, I did.

13 Q You screamed, "Harold's trying to kill
14 me!" And your testimony is -- again, as far as how
15 many times he hit you with that bat, can you tell me
16 again?

17 A How many actual times that he swung the
18 bat?

19 Q Yes.

20 A No, I don't know. He just hit me, and hit
21 me, and hit me, and just kept hitting me.

22 Q In your opinion, was he swinging as hard
23 as he could?

24 A As hard as he could.

25 MR. COLONGELI: With the Court's permission,

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1 I'd like to show the witness Defense Exhibits Number
2 -- it appears twelve through nineteen.

3 THE COURT: Are you moving this into evidence,
4 Mr. Colongeli?

5 MR. COLONGELI: Yes, Your Honor.

6 THE COURT: Any objection, Solicitor?

7 MS. TANNER: No objection, Your Honor.

8 MR. COLONGELI: And, I'm sorry, twelve through
9 seventeen and then nineteen.

10 THE COURT: Solicitor, any objection?

11 MS. TANNER: May I see this? No objection.

12 THE COURT: They're in evidence without
13 objection. You may publish them.

14 MR. COLONGELI: Thank you, Your Honor.

15 (Defendant's Exhibits Number Twelve
16 through Seventeen and Nineteen, Photographs, were
17 entered in evidence.)

18 MR. COLONGELI: If I may approach the witness
19 first to let her take a look?

20 THE COURT: Yes, sir.

21 Q Can you tell the ladies and gentlemen of
22 the jury what those pictures are, Nazarene?

23 A They're a picture of my arm, leg, the scar
24 -- the cut in my head.

25 Q And do you recall, to the best of your

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1 ability, when those pictures were taken and where?

2 A They were taken in the hospital.

3 Q Which was shortly after this occurred,
4 correct?

5 A Yes.

6 MR. COLONGELI: I beg the Court's indulgence,
7 Your Honor.

8 Q Your testimony -- and not to belabor what
9 you have just said, but if you could please
10 reiterate. Your testimony right here and your
11 testimony to Sgt. Chris Wilson in a recorded
12 interview was that he hit you with all his might.
13 And that's pretty much what you're just telling this
14 jury here today, correct?

15 A Yes.

16 Q And that in your mind, he intended to kill
17 you based on how hard he was swinging? And if I may
18 ask you again, how many times do you claim he hit
19 you with that bat?

20 A I told you I couldn't recall how many
21 times.

22 Q Okay. More than once?

23 A Yes, it was more than once.

24 Q And as hard as he could?

25 A Yes.

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1 Q You were brought to the emergency room by
2 a neighbor that evening?

3 A Yes.

4 Q And what's very important to me is when
5 you left the house, you left at the point Shella and
6 Josh came to your rescue, is that correct? Maybe
7 not your rescue, but to intervene or when they got
8 involved with you and Harold --

9 A Yes.

10 Q -- that was the point in time when you got
11 out of the house?

12 A A little after that, yes.

13 Q You never returned once you left that
14 house?

15 A No.

16 Q And to go back to where I was before, you
17 eventually made it to a Hercules Washington's home,
18 is that correct?

19 A Yes.

20 Q And that's the gentleman who drove you --

21 A To the hospital.

22 Q -- directly to Beaufort Memorial Hospital?

23 A Yes.

24 Q And you went to the emergency room?

25 A Yes.

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1 Q If I may have those pictures. Did you
2 sustain any broken bones, Nazarene?

3 A No.

4 Q And the extent of your injuries, you had
5 stated before to Ms. Tanner, the most serious injury
6 you received were some stitches?

7 A Yes.

8 Q Did you receive stitches?

9 A Staples.

10 Q And these photographs are fairly depictive
11 of what you suffered as a result of what you stated
12 happened?

13 A Well, no, not really, because I guess
14 being that my skin is dark, the officer came back
15 like two days later or the next day. You would
16 really see like the purple marks or whatever, but
17 you can't see it. It was just like red there. But
18 it got worse in a couple of days.

19 Q You were released the same night, correct?

20 A Yes, I was.

21 Q Going back to what I had started out in my
22 examination of you, your testimony is that Shella
23 was aware that you planned on possibly ending your
24 relationship with Harold that night?

25 A Yes.

Nazareth Laurent - Cross

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1 Q You don't know whether she shared that
2 with Josh -- or do you?

3 A No, I don't.

4 Q Okay. Shella and Josh were not visiting
5 your home. They were living there?

6 A Yes.

7 Q They were familiar with Harold?

8 A Yes.

9 Q And as far as the testimony goes, there
10 was never any, for lack of a better term, beef
11 between Harold and Josh or Shella?

12 A No.

13 Q And when I say beef, there was never any
14 problem between them --

15 A No.

16 Q -- prior to that?

17 A No.

18 Q Okay. When Josh and Shella came at the
19 request of your screams for help, in your testimony
20 to Chris Wilson in the recorded interview, isn't it
21 true that you said that Josh came in and got Harold
22 off of you?

23 A He grabbed the back.

24 Q Which means that he would have rushed
25 Harold and gotten in some sort of physical

Nazareth Laurent - Cross

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1 altercation with him?

2 A No, it wasn't physical like that to where
3 Josh like pushing him like in the back. He was
4 like, "Think. Just think about what you're doing."
5 And at that time, Josh had the bat.

6 There wasn't no altercation between them
7 or anything, no argument, no pushing back or
8 anything. Harold didn't fight him or anything.

9 MR. COLONGELI: Your Honor, if I may, this has
10 been marked as Defendant's Exhibit Number Three.
11 This has been sealed. It's a transcript of the
12 recording between Sgt. Chris Wilson and Nazarene
13 Laurent on January 5, 2007.

14 THE COURT: Go ahead and open it.

15 MR. COLONGELI: I have not had an opportunity
16 to share this with Ms. Tanner, in all fairness. I
17 told her about the existence of these prior to
18 trial. I just want to make sure it's proper at this
19 point to cross-examine and possibly impeach her
20 based on the contents of this.

21 THE COURT: Okay. Solicitor, do you need to
22 take a look at it?

23 MS. TANNER: This comes from the Court
24 Reporter. I have the audio recording of the
25 interview. I do not have a transcript.

Nazareth Laurent - Cross

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1 THE COURT: Okay.

2 MS. TANNER: I was provided a copy.

3 THE COURT: This is a transcription of the
4 audio recording, correct?

5 MR. COLONGELI: Yes, Your Honor.

6 THE COURT: Okay. The Solicitor has had an
7 opportunity to review it.

8 MS. TANNER: No objection.

9 THE COURT: Okay.

10 (Defendant's Exhibit Number Three,
11 Transcript of 1/5 Interview with Nazarene Laurent,
12 was entered in evidence.)

13 Q Nazarene, specifically as to what, in
14 fact, Josh did --

15 A When --

16 Q -- in relation to Harold --

17 A When Josh came in the room, Josh went to
18 Harold with the bat. He grabbed the bat. He said,
19 Stop, think about what you're doing. Why would you
20 do something like this? Just think." And Harold
21 took his hand off the bat and started holding his
22 head, like, "Oh, my God!" like --

23 Q Did you ever tell Chris Wilson that?

24 A I'm quite sure I did.

25 Q If I could refer you to page 27.

1 A He looked like he had remorse for what he
2 did.

3 Q If I can refer you to page 27, line 25, if
4 you could please read that to the jury.

5 A Page 27.

6 Q Line 25.

7 A "Josh had him over there, you know, said
8 just" --

9 Q Thank you. And to clarify what you mean
10 by that, what I'm assuming when I hear that is Josh
11 had him over there. Isn't it true that your
12 testimony goes further as far as Josh having Harold
13 pinned up to give you the opportunity to get out of
14 the house?

15 A No, he didn't have him pinned up. He took
16 the bat from him. That's what I'm saying, you know.
17 Your understanding of what I said or whatever, I'm
18 not trying to, you know, twist words or anything.

19 He was over there. When I said "over
20 there," there's my bedroom, and there's a sitting
21 area. Harold didn't even try to fight back with
22 Josh or anything.

23 Q So your testimony here today is that there
24 was absolutely no struggle -- based on your
25 testimony --

Nazareth Laurent - Cross

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1 A When Josh ran in and got the bat, just
2 grabbed the bat from him and said, "Stop, think
3 about what you're doing."

4 Q That was a struggle -- would you admit
5 that?

6 A Well, it would have been a struggle if
7 Harold was trying to come through Josh to come back
8 to me. He wasn't doing that. He wasn't fighting
9 Josh. There wasn't nothing.

10 And after that, the bat was down. Josh
11 and Shella was talking. Josh was talking to Harold.
12 Shella was telling me to go -- "Just go. We'll help
13 him find the keys."

14 He didn't even try to come behind me --
15 because at that point, after he had done beat me
16 with the bat on my leg, if he wanted to come right
17 behind me, he could have.

18 Q If I can reiterate what your testimony was
19 --- and correct me if I'm wrong -- you were in a
20 life-and-death situation, in your opinion, with
21 Harold Jackson in that bedroom, correct?

22 A He was beating me with the bat.

23 Q As hard as he could?

24 A As hard as he could with the bat on my leg
25 in one spot.

1 Q And you're telling me, and you're telling
2 the ladies and gentlemen of this jury, that at your
3 screams for help, Josh and Shella coming to your
4 rescue, that it just all of a sudden diffused, and
5 Harold said, "Here's the bat"?

6 A No, he didn't say, "Here's the bat." But
7 he didn't struggle with Josh when Josh got the bat
8 from him.

9 Q Did he stop you --

10 A I mean, it may not sound real to you, but
11 that's reality.

12 Q Nazarene --

13 A That's what happened.

14 Q Nazarene, with all due respect, did Josh
15 stop him from hitting you while he was in full swing
16 as hard as he could at one point?

17 A I don't remember him being in swing when
18 Josh came in the room. When Shella came in the
19 room, Harold was not hitting me. Josh just got the
20 bat from him and said, "Think." He said, "Man,
21 think about what you're doing."

22 Q At that point, you left the house, and you
23 never came back?

24 A No.

25 Q You left your daughter, you left your

Nazareth Laurent - Cross

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1 daughter's fiancé, and you left their five-month-old
2 baby in the house?

3 A Yes, I did.

4 Q How much time transpired between you
5 leaving --

6 A Sir, if I were to tell you how much time
7 transpired from me leaving to knocking on the lady's
8 door, from going underneath the trailer, I couldn't
9 tell you that, because I wouldn't be able to give
10 you an accurate account.

11 Q You'd given some idea back when this
12 happened.

13 A Because that happened then. That's two
14 years ago, you know. If I tell you now how much
15 time it was, it could have been 20 minutes, 30
16 minutes. I don't know how long it was.

17 Q If you determined on the night of January
18 3, 2007, something that you had never fathomed
19 Harold Jackson could ever do -- meaning get violent
20 enough to the point to intend to kill you -- your
21 testimony here today is that based on that
22 knowledge, you left the house, left your family, and
23 went to the hospital?

24 A Yes, that's my testimony -- simply because
25 whatever was going on was between me and Harold.

1 They didn't have anything to do with it. And when
2 they came in there, he didn't try to hit them or
3 anything.

4 There was no reason for me to believe --
5 like I told you, he had never put his hand on me --
6 that he was going to do something to them. I even
7 told -- I even said that when I got to the door and
8 I realized I was bleeding, I came back.

9 Shella said, "Go, Mommy, go. We'll help
10 him find the keys," because he was just looking like
11 he was just so hurt, like he could have made a
12 mistake. Anyone can make a mistake.

13 That's how he looked, like he was just so
14 hurt. He wasn't agitating with them or pushing to
15 get to me or anything. That's why I left -- because
16 I didn't want to even get into more of an argument
17 with him, because I didn't want them to get
18 involved.

19 Q But you're telling the ladies and
20 gentlemen of this jury that he exhibited something
21 to you that night that you had never seen before.
22 And because he just cooled off, in your opinion, you
23 weren't concerned enough to go back and check on the
24 welfare of Josh, Shella, and the five-month-old? It
25 never dawned on you that something may go further?

Nazareth Laurent - Cross

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1 A No, it never dawned on me. That never
2 crossed my mind.

3 Q One last question, Nazarene, or maybe a
4 couple. But isn't it true that you are, in fact,
5 being sued by Shella in a wrongful death civil
6 action related to the death of Josh Pringle?

7 A Yes.

8 Q It's your daughter that you're being sued
9 by?

10 A Yes.

11 Q Are you familiar with how that came about?

12 A How that came about? No, I'm not
13 familiar. I mean, I received the court orders and
14 whatever, the papers that they sent.

15 Q And as part of that lawsuit, I assume you
16 have a civil attorney?

17 A Yes.

18 Q Has anyone explained to you that basically
19 in that lawsuit, you are being held responsible in a
20 civil setting as to the death of Josh Pringle?

21 A Yes.

22 MR. COLONGELI: I have nothing further, Your
23 Honor, at this point. Thank you.

24 THE COURT: Any redirect, Solicitor?

25 MS. TANNER: Nothing further, Your Honor.

Nazareth Laurent - Cross

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1 THE COURT: You may step down, Ms. Laurent.
2 Solicitor, will you and Mr. Colongeli
3 approach?

4 MS. TANNER: Yes, ma'am.

5 THE COURT: Solicitor, if you'll call your next
6 witness.

7 MS. TANNER: Thank you, Your Honor. The State
8 calls Hercules Washington.

9 THE COURT: Mr. Washington, if you'll please
10 come forward to be sworn, sir.

11 MR. COLONGELI: And, Your Honor -- I apologize
12 -- I don't know if you wanted me to get those
13 exhibits back from the jury.

14 THE COURT: My understanding is my Bailiff,
15 Bob's got them.

16 MR. COLONGELI: All right.

17 (The witness was sworn.)

18 THE COURT: Thank you, sir. If you'll please
19 take a seat, give us your full name for the record,
20 and if you'll adjust the microphone to make sure
21 everyone can hear you, sir.

22 MR. WASHINGTON: Hercules Washington.

23 HERCULES WASHINGTON, having first
24 been duly sworn, testified as follows:

25 DIRECT EXAMINATION

Hercules Washington - Direct

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1 BY MS. TANNER:

2 Q Good afternoon, Mr. Washington.

3 A Good afternoon.

4 Q Where do you live?

5 A Stuart Point.

6 Q Is that over here in Beaufort County?

7 A Yes, ma'am.

8 Q How long have you lived out on Stuart
9 Point Road?

10 A About 28 years or so.

11 Q Are you from the Beaufort area?

12 A Yes, ma'am.

13 Q Lifelong?

14 A Yes, ma'am.

15 Q And are you familiar with one of your
16 neighbors, Nazarene Laurent?

17 A Yes, ma'am.

18 Q How do you know Nazarene?

19 A She's my cousin, and she's also my
20 neighbor.

21 Q And I'm going to ask you if you saw
22 Nazarene on the night of January 3, 2007?

23 A Yes, ma'am.

24 Q Anything unusual about what you saw that
25 night?

Hercules Washington - Direct

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1 A Yes.

2 Q Do you recall about what time it was when
3 you saw her?

4 A Not exactly, no. I don't remember the
5 time.

6 Q All right. And do you work during the
7 day?

8 A Yes.

9 Q Where do you work?

10 A At Beaufort Learning Institute.

11 Q And what kind of job do you have out
12 there?

13 A I'm a behavioral instructor.

14 Q Is that with youth, young people?

15 A Youth, yes, ma'am.

16 Q And how long have you been doing that?

17 A Since 2007 -- two years.

18 Q And had you worked on this day --

19 A No, ma'am.

20 Q -- January 3rd?

21 A No, ma'am, I didn't work that day.

22 Q Was it daytime or nighttime when you see
23 Nazarene?

24 A It was nighttime.

25 Q And describe for the jury how she shows

Hercules Washington - Direct

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1 up.

2 A She shows up bloody, and she was in
3 disarray. She was panicky, and she was -- she was
4 just out of control.

5 Q Would you characterize her as being upset
6 that night?

7 A She was very upset.

8 Q Was she crying at all?

9 A Yes.

10 Q And do you invite her into your house?

11 A Yes, I did.

12 Q And what did you guys do inside your
13 house?

14 A She asked me if she could wash off. And I
15 took her to the bathroom, and she washed off her
16 head and washed up.

17 Q Where did you see blood on her?

18 A I saw it on her head.

19 Q And once she washes up, what do you do, if
20 anything?

21 A I just stood around until she was
22 finished.

23 Q And did she stay at your house that night?

24 A No, she didn't stay.

25 Q Did you guys go somewhere?

Hercules Washington - Direct

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1 A Yes, I drove her to Beaufort Memorial
2 emergency room.

3 Q And when you do that, whose car do you
4 take?

5 A Take my car.

6 Q And where does Nazarene sit?

7 A She sits in the front seat.

8 Q Is there anything unusual about how she
9 sits in the front seat?

10 A I didn't pay attention to how she sat. I
11 just was concerned about her.

12 Q You were concerned about her?

13 A Yes, ma'am.

14 Q And did you see Harold Jackson that night
15 before you go to the hospital?

16 A I want to say I saw him on the road as I
17 was pulling out of my yard, on the righthand side,
18 but I can't be sure.

19 Q And did it look like he had anything in
20 his hand?

21 A I thought he had some kind of something in
22 his hand, yes.

23 Q Something -- about what size something?

24 A It looks like a stick or a bat or
25 something.

Hercules Washington - Direct

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1 Q Thank you, Mr. Washington. Please answer
2 anything for defense counsel.

3 THE COURT: Mr. Colongeli?

4 MR. COLONGELI: Yes, just very briefly, Your
5 Honor.

6 CROSS-EXAMINATION

7 BY MR. COLONGELI:

8 Q Mr. Washington, good afternoon.

9 A Good afternoon.

10 Q I'm just curious. Nazarene came to your
11 house, knocked on the door, you answered, correct?

12 A Yes, sir.

13 Q You observed her to be bleeding from the
14 head?

15 A Yes, sir.

16 Q And you stated that she was -- and correct
17 me if I'm wrong. But you stated she was more or
18 less out of control?

19 A I don't know that it was out of control.
20 But I knew she was upset, and she was panicky and,
21 you know --

22 Q Was she animated?

23 A No, I don't think she was animated. I
24 don't think she was animated.

25 Q So, as far as out of control, she was

1 extremely upset, in your opinion?

2 A Yes, sir.

3 Q She asked if she could wash up, is that
4 true?

5 A Yes, sir.

6 Q Is that the first thing she asked you?

7 A No, she told me what had happened, and
8 then she asked that.

9 Q At any point, did you consider that a
10 phone call should be made for an ambulance or
11 police?

12 A No, I didn't.

13 Q At what point -- did she finally request
14 that you drive her to the hospital?

15 A Yes, she did.

16 Q Okay. And as far as your testimony here
17 today, you think you saw an individual in the street
18 that was Harold Jackson?

19 A Yes, sir.

20 Q Do you recall about what time that would
21 have been?

22 A I can't say exactly what time this was.

23 Q And in relation to [REDACTED] Stuart Point Road,
24 where do you live?

25 A [REDACTED] Stuart Point Road.

Hercules Washington - Cross

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1 Q And if you can help me get a visual, are
2 you a couple of houses down?

3 A Couple of houses down.

4 Q Okay. Did you see any other sort of
5 activity that night, both before Nazarene showed up
6 on your doorstep and after?

7 A No, I was inside. I wasn't looking out my
8 window or nothing. I didn't see nothing. I didn't
9 even know what was going on.

10 Q You didn't hear any noises?

11 A No.

12 Q And your testimony here today, you do not
13 know with a hundred-percent certainty that, in fact,
14 who you saw was Harold Jackson?

15 A That's true.

16 Q And you do not know whether, in fact, he
17 had something in his hand, or you're position
18 whoever this person was did have something in their
19 hand?

20 A Yes, I'm positive about that.

21 Q But you're not positive whether it was a
22 stick or something bigger?

23 A Right.

24 Q Thank you. I have nothing further. Thank
25 you very much.

Hercules Washington - Cross

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1 THE COURT: Redirect, Solicitor?

2 MS. TANNER: Nothing further, Your Honor. May
3 this witness be excused?

4 THE COURT: He may.

5 MR. COLONGELI: Without objection.

6 THE COURT: Mr. Washington, you may step down,
7 sir. Thank you.

8 MR. WASHINGTON: Thank you.

9 THE COURT: Ladies and gentlemen of the jury, I
10 think now is a good time for a break. It's my
11 understanding that the next witness may be a little
12 bit lengthy. So we're going to go ahead and break
13 for lunch at this time.

14 Respectfully, I'm going to let you all go
15 back to the jury room. And then you're free to go
16 about your business and do whatever you want over
17 the lunch hours, ladies and gentlemen.

18 I just caution you that you're not to
19 discuss this case, not only with each other but with
20 anyone else you may come into contact with over the
21 lunch hour. As you all know and understood, you
22 haven't heard all the evidence, you haven't heard
23 the arguments from the lawyers, nor my charge on the
24 law, and it wouldn't be appropriate for you to do so
25 at this time.

Hercules Washington - Cross

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1 Additionally, ladies and gentlemen, it is
2 not incumbent upon you to do any independent
3 research. The only thing you need to do over your
4 lunch hour is run your errands, do whatever you want
5 to do, and grab a bite to eat, all right?

6 So, with that said, ladies and gentlemen,
7 I'm going to excuse you until 2:15. There is one
8 thing I would like to also do when you come back. I
9 need you to elect a foreperson among yourselves.

10 The foreperson doesn't have any more say
11 than anyone else. They are simply the person that
12 talks to me and also the person that facilitates the
13 conversation when you begin your deliberations.

14 So what I'm going to ask is that once you
15 all get together after lunch and reconvene, if
16 you'll just give me their name written on a piece of
17 paper. And if the foreperson would just take this
18 front first seat over here.

19 That way, I'll know who has been elected
20 and also the person that I can contact, all right?
21 So, with that said, you're free for lunch. Have a
22 wonderful lunch, and we will see you all back at
23 2:15. Thank you.

24 (The jury left the courtroom at
25 12:40 p.m. for lunch recess.)

Hercules Washington - Cross

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1 CLERK OF COURT: Your Honor, the jury is free.

2 THE COURT: Thank you.

3 Is there anything we need to take up
4 before the lunch hour, from the State?

5 MS. TANNER: Nothing from the State.

6 THE COURT: From the defense?

7 MR. COLONGELI: I don't believe so, Your Honor.

8 THE COURT: All right, Solicitor, I understand
9 that you have four more witnesses or three more
10 witnesses, and then you've got an expert that's
11 coming, is that correct?

12 MS. TANNER: I have a few more before the
13 expert.

14 THE COURT: That's fine.

15 MS. TANNER: If we get to him today, he will
16 probably be the last one I call today.

17 THE COURT: Okay. For scheduling purposes, I
18 understand you have someone else that's coming in
19 the morning that's not available till then, is that
20 correct?

21 MS. TANNER: Yes, ma'am.

22 THE COURT: I just want to know. I don't know
23 if Mr. Colongeli intends on calling anyone, but just
24 for scheduling purposes so he knows, roughly, when
25 do you expect to rest?

Hercules Washington - Cross

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1 MS. TANNER: About lunchtime tomorrow. I know
2 I have at least three witnesses who are coming
3 tomorrow morning. I had 12 listed for today, and
4 we're still on number one. So that might push me
5 back. Some of the ones today are kind of short,
6 though.

7 THE COURT: Okay.

8 MS. TANNER: And once we get through their
9 testimony, it will speed up some. But I think I can
10 still get through that 12 today. If I do, I would
11 only have the three tomorrow.

12 THE COURT: Okay. Solicitor, I have to remind
13 you that one of my jurors had a softball game of his
14 daughter's that he wanted to be at on Hilton Head at
15 6:00.

16 So I'm expecting to break sometime around
17 five to give him that time to get there, all right?
18 So plan your witnesses accordingly, if some of them
19 have to go back to Columbia or wherever, okay?

20 MS. TANNER: Yes, ma'am.

21 THE COURT: Okay, thank you.

22 Anything further, Mr. Colongeli, from you?

23 MR. COLONGELI: No, Your Honor.

24 THE COURT: Everyone have a nice lunch. We'll
25 be back at 2:15.

Hercules Washington - Cross

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1 MS. TANNER: Thank you.

2 (Court in recess for lunch
3 until 2:15 p.m.)

4 THE COURT: Thank you all. Please be seated.
5 Is the State ready?

6 MS. TANNER: Yes, ma'am.

7 THE COURT: Is the defense ready?

8 MR. COLONGELI: Yes, Your Honor.

9 THE COURT: All right, let's bring the jury in.

10 BAILIFF: Yes, ma'am. Jurors entering, Your
11 Honor. Your Honor, the jury is seated.

12 (The jury returned to the
13 courtroom at 2:20 p.m. after which the following
14 proceedings were had:)

15 THE COURT: Thank you. Welcome back, ladies
16 and gentlemen of the jury. And, sir, thank you for
17 serving as our foreperson.

18 With that said, Solicitor, you will call
19 your next witness.

20 MS. TANNER: Thank you, Your Honor. The State
21 calls Shella Laurent.

22 THE COURT: Ms. Laurent, if you'll please come
23 forward to be sworn.

24 MS. TANNER: That's not her.

25 THE COURT: Thank you.

Hercules Washington - Cross

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1 MS. TANNER: We'll go ahead and call Cynthia
2 Allen.

3 THE COURT: Okay.

4 MS. TANNER: Cynthia Allen.

5 THE COURT: Norman, bring Cynthia Allen in,
6 please.

7 Ms. Allen, if you'll please come forward
8 to be sworn -- right up here, ma'am.

9 (The witness was sworn.)

10 THE COURT: Ma'am, will you give us your full
11 name for the record, once you get up there, and
12 adjust the microphone to make sure we can all hear
13 you, okay?

14 MS. ALLEN: Okay.

15 THE COURT: Thank you.

16 MS. ALLEN: Cynthia Allen.

17 CYNTHIA ALLEN, having first been duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. TANNER:

21 Q Good afternoon, Ms. Allen.

22 A Hello..

23 Q Where do you live?

24 A Stuart Point.

25 Q And who are some of your neighbors?

Cynthia Allen - Direct

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- 1 A My sister and Ms. Rene.
- 2 Q Is that Nazarene Laurent?
- 3 A Nazarene, yes, ma'am.
- 4 Q How close does she live to you?
- 5 A Across the street.
- 6 Q And are you familiar with Nazarene?
- 7 A When you say familiar --
- 8 Q You know her -- you'd know her on sight?
- 9 A Yes, ma'am.
- 10 Q Have you ever had conversations with her
- 11 while you've lived there?
- 12 A Once in a while.
- 13 Q And do you know her daughter, Shella?
- 14 A Yes, ma'am.
- 15 Q Now, I'm going to ask you about January 3,
- 16 2007. What time of night did you get home on the
- 17 third?
- 18 A I want to say either after eight,
- 19 something to nine. I'm not sure about the time.
- 20 Q Was it nighttime, though?
- 21 A Yes, ma'am.
- 22 Q And where had you been before that?
- 23 A Just came from church.
- 24 Q And once you get home from church, what do
- 25 you do?

Cynthia Allen - Direct

207

1 A Go in the house and was about to get out
2 of my clothes and get ready for bed. That's it.

3 Q And did anything unusual happen that night
4 outside your house?

5 A Yes, ma'am, I heard some disturbance, but
6 I wasn't sure what it was. And then I kind of
7 freeze just to listen. And then I heard like a
8 hitting sound, but I wasn't sure what that was.

9 And then I just stood there, just to see
10 if I could figure out what it was. And I couldn't
11 at that time. At first, it sounded like a bat or a
12 wood or something.

13 Q Could you tell where it was coming from?

14 A The side of my house.

15 Q And once you hear that noise, what do you
16 do?

17 A I turned my lights on outside and peeped
18 out my door. But then I couldn't see anything, so
19 then I listened again to see if I would hear
20 anything before I go out. And then I heard a little
21 faint voice. So then I opened the door, and then I
22 saw somebody on the ground.

23 Q Once you see somebody on the ground, what
24 do you do?

25 A I went outside.

Cynthia Allen - Direct

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1 Q And who did you find on the ground?

2 A Shella.

3 Q How far from your door was Shella?

4 A I would say from here to where you're
5 standing.

6 Q And is this in your front yard or
7 backyard?

8 A Backyard.

9 Q And in relation to where you find Shella,
10 where would Nazarene's home have been?

11 A Well, in my front yard, she's straight
12 across the street.

13 Q And is there anything between your two
14 houses?

15 A Just the main highway.

16 Q And when you find Shella, what condition
17 is she in?

18 A She was like distraught, and the only
19 thing she was saying to me is "Go get my baby! Go
20 get my baby!" And at that time, I tried to pick her
21 up where I could put something under her, because
22 the ground was cold, but I couldn't move her.

23 Q Did you see any injuries on her?

24 A Her head.

25 Q Now, once you see that, do you call for

Cynthia Allen - Direct

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1 help?

2 A I called 911.

3 Q And does anybody respond?

4 A Yes, it was a deputy that came.

5 Q And does Shella receive help that night?

6 A Yes, she received help.

7 Q And after that, did you -- while you're
8 outside with Shella, do you see anyone else?

9 A No, ma'am.

10 Q Did you see any cars or anything like
11 that?

12 A When I was going out to Shella and stepped
13 down to her on the ground, a car like left from the
14 house. But I don't know if it was a truck, van. I
15 just saw the lights pull out, but I was tending to
16 her.

17 Q And the car left from whose house?

18 A From Ms. Nazarene's house.

19 Q Thank you, Ms. Allen. Please answer
20 anything the defense has.

21 THE COURT: Mr. Colongeli?

22 MR. COLONGELI: Thank you, Your Honor. May it
23 please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

Cynthia Allen - Cross

210

1 BY MR. COLONGELI:

2 Q Good afternoon, Ms. Allen.

3 A Hello.

4 Q Ms. Allen, you stated that you're a
5 neighbor of Nazarene's, is that correct?

6 A Yes, sir.

7 Q Are you still a neighbor?

8 A Yes, sir.

9 Q Okay. And you're aware that this incident
10 that we're here about today occurred over two years
11 ago?

12 A Yes, sir.

13 Q And has anyone talked to you about the
14 incident recently in preparing you to testify here
15 today?

16 A No, sir.

17 Q You've had no discussions with anyone from
18 the Solicitor's Office or law enforcement?

19 A Well, the Solicitor, when she called me
20 in, yes, I talked to her.

21 Q So you did have a meeting with her prior
22 to your testimony here today?

23 A Just like when your guy came out and
24 talked to me, that's the same thing I talked to her.

25 Q When you refer to my guy, you're referring

Cynthia Allen - Cross

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1 to my investigator --

2 A Yes.

3 Q -- a fellow by the name of Gene Ronald,
4 right?

5 A Yes, sir.

6 Q And he had a brief discussion with you
7 just in the last day or so?

8 A Yesterday.

9 Q Yesterday?

10 A Yes, sir.

11 Q And your discussion with Ms. Tanner took
12 place prior to that?

13 A Yes, sir.

14 Q Okay. Has she discussed what your
15 testimony would be here today?

16 A She asked me the same question about what
17 I saw and what I witnessed.

18 Q Okay. Obviously, this is something that
19 we concede happened over two years ago, correct?

20 A Yes, sir.

21 Q And to the best of your ability, you're
22 trying to remember actually what you did on that
23 evening in order for the members of this jury to
24 understand, correct?

25 A Right.

Cynthia Allen - Cross

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1 Q You stated that you heard a disturbance,
2 correct?

3 A Sound -- yes, sir.

4 Q And today your testimony is that you heard
5 this hitting sound, and you have gone so far today
6 as to actually say -- and correct me if I'm wrong --

7 A Okay.

8 Q -- that this sounded as if it was a bat or
9 wood?

10 A The sound, that's the way it sounded.
11 Now, what it actually was I don't know, but that's
12 what it sounded like to me.

13 Q You stated that you placed a 911 call?

14 A Yes, sir.

15 Q And then a deputy sheriff arrived?

16 A Yes, sir.

17 Q And you had a discussion with this deputy
18 sheriff, correct?

19 A Yes, sir.

20 Q Would you remember his name if I told you?

21 A No, sir.

22 Q Okay. Do you know whether or not that
23 deputy sheriff is here to testify today?

24 A No, sir.

25 Q Can you tell the members of the jury

Cynthia Allen - Cross

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1 whether or not this was the first officer or law
2 enforcement personnel that you saw on the scene on
3 the night of January 3, 2007?

4 A Can you repeat the question?

5 Q I'm sorry. Was this the first police
6 officer that arrived?

7 A This was the first guy, yes, sir.

8 Q Okay. And you had a conversation with
9 him, or he actually questioned you regarding what
10 you knew?

11 A Yes, sir.

12 Q Okay. Would you disagree that in your
13 conversation with him that night, you stated that
14 what Shella had told you was that Harold had gotten
15 in an altercation with her mother and her?

16 A No, sir. I couldn't tell you I had said
17 that, because I didn't know.

18 Q If I were to refresh your memory based on
19 this officer's report that he took back on January
20 4, 2007 --

21 A Uh-huh.

22 Q -- would that help you remember?

23 A Yes.

24 MR. COLONGELI: May I approach, Your Honor?

25 THE COURT: You may.

Cynthia Allen - Cross

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1 MR. COLONGELI: And if I could show the
2 Solicitor.

3 THE COURT: Okay.

4 MR. COLONGELI: This is Deputy Sheriff
5 Nielander's report, Your Honor. I have got some
6 parts highlighted, but this is the report that he
7 submitted in evidence and was part of my discovery.

8 THE COURT: Yes, sir.

9 MS. TANNER: No objection.

10 THE COURT: Okay.

11 Q If you can -- I've got some parts
12 highlighted in there, and I don't mean to bring that
13 to your attention. But if you could look at what
14 I've numbered as paragraph two here and read the
15 part that I do, in fact, have highlighted. And feel
16 free to read the entire paragraph, if you'd like.

17 A Okay.

18 Q Thank you. Isn't it true, Ms. Allen, that
19 based on you having reviewed what you told this
20 officer on the night it happened, when I would
21 assume your memory was better than it is two years
22 later, that you, in fact, stated that Shella told
23 you that Harold, her mother's boyfriend, had done
24 this and that, as you stood by waiting for him to
25 arrive, that you observed Harold's vehicle leaving

Cynthia Allen - Cross

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1 the incident location?

2 A I observed a vehicle leaving. Who was
3 driving I don't know.

4 Q Okay. So this officer misquoted you on
5 that?

6 A Well, at that time, I'm not saying he
7 misquoted, and I'm not saying -- I mean I can't
8 remember exactly two years pinpoint what I said
9 then.

10 Q So your testimony today is you don't know
11 whether that was Harold's car leaving?

12 A No, I don't know whose car it was.

13 Q But the night it happened, you told the
14 officer that responded to the scene it, in fact,
15 was?

16 A I guess. That's what it said. I'm not
17 sure.

18 Q Other than that, you have no other
19 information that you can give us and the members of
20 this jury as far as what actually transpired that
21 night?

22 A No, sir.

23 Q Thank you very much.

24 MR. COLONGELI: I have nothing further.

25 THE COURT: Any redirect?

Cynthia Allen - Cross

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1 MS. TANNER: Nothing further, Your Honor. May
2 this witness be excused?

3 THE COURT: Any objection?

4 MR. COLONGELI: None.

5 THE COURT: You are excused, Ms. Allen. Thank
6 you, ma'am.

7 MS. TANNER: The State calls Shella Laurent.

8 THE COURT: Ms. Laurent, if you'll please come
9 forward to be sworn.

10 (The witness was sworn.)

11 THE COURT: Have a seat and give us your full
12 name for the record, ma'am.

13 MS. LAURENT: My name is Shella Laurent.

14 SHELLA LAURENT, having first been
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. TANNER:

18 Q Good afternoon, Ms. Laurent.

19 A Good afternoon.

20 Q Where do you live now?

21 A In Port Royal.

22 Q And have you lived in Beaufort County your
23 whole life?

24 A Just about.

25 Q Where were you actually born?

Shella Laurent - Direct

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- 1 A In Haiti.
- 2 Q And we had a conversation about languages
- 3 you speak. What languages do you actually speak?
- 4 A Creole, and English, and a little bit of
- 5 French.
- 6 Q And English would be what language -- what
- 7 number language -- for you?
- 8 A Second.
- 9 Q When did you move to Beaufort County, do
- 10 you remember?
- 11 A When I was eight or nine years old.
- 12 Q And who did you live with?
- 13 A Ms. Nazarene Rene Jenkins.
- 14 Q And how did you come to live with
- 15 Nazarene?
- 16 A My father.
- 17 Q What was the relationship with your father
- 18 and Nazarene?
- 19 A They were going out at that time.
- 20 Q Shella, you knew Josh Pringle?
- 21 A Yes, I did.
- 22 Q Who was Josh Pringle to you?
- 23 A He was my fiancé, boyfriend.
- 24 Q How about Giovanni?
- 25 A My son -- our son.

Shella Laurent - Direct

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1 Q Yours and Josh's son?

2 A Yes.

3 Q How old is Giovanni now?

4 A He's three.

5 Q And back in January of 2007, how old was
6 Giovanni?

7 A He was six months.

8 Q Back then, who were you living with?

9 A I had my own place at Beaufort, at [REDACTED]
10 Park Avenue.

11 Q Were you staying with Nazarene at any
12 point during that time?

13 A We went over there during the four days
14 before Christmas and maybe four days after
15 Christmas.

16 Q So you were in and out of Nazarene's home?

17 A Yes, for the holiday.

18 Q And were you familiar with Nazarene's
19 boyfriend, Harold Jackson?

20 A I knew him. I wasn't sure if he was her
21 boyfriend, old friend. It's two different stories.

22 Q Did you know who he was? Had you met him?

23 A Yes, I met him. I didn't really know his
24 name till after the incident, but I knew him as
25 Smiley.

Shella Laurent - Direct

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1 Q All right, Shella, let's talk about
2 January 3, 2007. At some point, you go to
3 Nazarene's house?

4 A Yes, we had just left Joshua's house, and
5 I was about to go home and get the baby's clothes
6 from
7 -- well, we wanted to go home, but I wanted to go
8 down to Ms. Nazarene's house, because I did laundry
9 down there and everything so -- because we stayed
10 there for like quite a while during Christmas and
11 after.

12 So I would like do laundry there. And at
13 that time, our lights was about to get cut off after
14 the thirty-first or maybe the first or something
15 like that. So we figured the meat was going to get
16 spoiled in our freezer.

17 So I left Sheila's house on the way home.
18 We was about to stay, but I thought I would go and
19 take the meat to Ms. Nazarene's house because of the
20 fact of the matter she was cooking for us all during
21 Christmas and everything.

22 So I had extra meat, and I had food stamps
23 and everything. So I figured I would just take it
24 there. And I took some of it to her and I had food
25 stamps, because I told her she could have some,

Shella Laurent - Direct

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1 also.

2 Q If you'll slow down a little bit. You're
3 talking kind of fast.

4 A If I slow down, I'm going to stutter.

5 Q Okay. All right, so once you get to
6 Nazarene's house, who is there?

7 A Nazarene and Smiley.

8 Q And who is with you?

9 A My son and Joshua.

10 Q And once you get inside, what's the first
11 thing you and Joshua do?

12 A Well, we took the groceries out of the
13 bags. And Josh took Little Man out and put him in
14 his seat on the couch, on the -- I guess on the car
15 seat -- and I was putting stuff up in the
16 refrigerator.

17 Q Little Man, that's Giovanni?

18 A Yes, Giovanni.

19 Q That's what you guys called him?

20 A Little Man.

21 Q Now, while you're doing that, do you see
22 Nazarene and Harold in the house?

23 A Yes. Well, Nazarene had just came out
24 from the back, and I don't know if Harold had just
25 passed by. But I think he was there in the house

Shella Laurent - Direct

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1 with her, if I'm not mistaken.

2 Q And did you have a conversation with
3 Nazarene or with Harold at that time?

4 A No, when we came in, I told her we wasn't
5 going to stay. We had come to get the basket and
6 stuff. And then they was arguing back and forth.
7 And she said that she don't know what's going on,
8 but he thinks she's got his keys.

9 Q Who was arguing?

10 A Smiley and Nazarene.

11 Q And did you hear that argument?

12 A I didn't hear it fully. I just know he
13 was saying he wanted his, I think, keys, and I
14 didn't even know what keys he was talking about.
15 And I guess apparently she didn't know either,
16 because she kept on saying that she don't have his
17 keys and don't know why he thinks she's got his
18 keys.

19 Q All right. And then you stayed
20 downstairs?

21 A No -- I mean, after we could hear him
22 fully, he kept on saying that -- about my -- the
23 f'ing keys, like that. You know, "I'm going to hurt
24 you. I'm going to sick my dog on you," because he
25 had his dog in there then. So we went upstairs. Me

Shella Laurent - Direct

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1 and Joshua went upstairs, along with the baby.

2 Q And what did you and Josh do upstairs?

3 A Well, I was getting the rest of my
4 clothes, because I did spend the night there. I was
5 getting the rest of my clothes and stuff there,
6 because we decided to go back home.

7 So I was getting the rest of my clothes,
8 because I just thought I would throw it on the bed,
9 and I would put all the stuff back in the basket,
10 trying to at least get the majority folded so I
11 wouldn't have to do that.

12 And then that's when about -- I'll say
13 about ten minutes later, it might have been that
14 long -- I heard her cry out, saying "Shella, help
15 me! He's trying" -- "I don't know if he's trying to
16 rape me or something, but he's crazy."

17 And I couldn't say the exact words, but I
18 just knew somebody called out for help. And I
19 didn't go down. I think it was Josh told me he
20 didn't want me to go downstairs. He was going to go
21 downstairs first.

22 And before he went downstairs, I was
23 trying to tell him to just get our stuff and leave
24 and try call him before he got out there or when we
25 get out there. But he always says that's not how he

Shella Laurent - Direct

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1 was brought up. So he went downstairs, I guess to
2 her rescue.

3 Q So from the bedroom, who do you hear
4 calling for help?

5 A Nazarene.

6 Q And who goes downstairs first?

7 A Joshua.

8 Q And why did Josh go down first?

9 A He said he wasn't raised like that. He
10 was going to go out and see what's going on, because
11 he didn't want me to go downstairs.

12 Q And did Josh go downstairs?

13 A Yes, he did.

14 Q Did you follow him?

15 A Not like follow. When I heard like this
16 voice, like where she called me, I kind of got
17 scared. So I just acted, and something told me just
18 to make sure Little Man was safe first. So I just
19 kind of tried to kind of stash him a little bit,
20 just to make sure he was good, just in case and he
21 was safe before I went downstairs. And then I went
22 down about a few minutes later.

23 Q You said you stashed Little Man. What did
24 you do?

25 A Like put him ? I don't remember if I had

Shella Laurent - Direct

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1 him on the bed or in the basket. I really don't
2 remember, because I got hit. I don't remember where
3 exactly. But I do know he didn't go downstairs with
4 me. I left him upstairs.

5 Q Now, when you get downstairs, where do you
6 go?

7 A I went straight to Nazarene's room. I was
8 like midway through the door and halfway in the room
9 when I saw Joshua had already taken the bat from Mr.
10 Smiley.

11 And then I guess he was trying to say, you
12 know, "What you doing?" you know. "You're crazy.
13 You need to stop doing what you're doing and think
14 about it. She's a woman. You shouldn't be doing
15 that."

16 And he had stopped, and he paused. He
17 didn't act up or nothing. He paused, and then I
18 guess Josh put the bat down or something, because he
19 didn't have the bat when we go out.

20 And then I saw Nazarene bleeding, and I
21 was like -- I mean, I got emotional, and I was, "Oh,
22 hell, you hurt my mom." I was like, "Go ahead and
23 run. Go ahead and run and get help."

24 That's what I told her. And she was like
25 -- I guess she didn't realize she got hit, I'm

Shella Laurent - Direct

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1 guessing, because she was going back and forth
2 pacing whether she should go out or stay in the
3 house.

4 So I just kept on crying and saying "You
5 hurt her. You hurt my mom. Where's the keys at?
6 We'll find them for you, but just leave her alone.
7 Don't hurt her."

8 Q Now, Shella, when you and Josh get to the
9 bedroom, do you or Josh, either one, jump on Harold
10 Jackson -- Smiley?

11 A No, we came --

12 MR. COLONGELI: Objection, Your Honor.

13 THE COURT: Overruled. You can ask the
14 question.

15 Q Do you attack him in any way?

16 A No, we did not attack him. Joshua took
17 the bat from him, and he already had stopped
18 whatever he was doing. He was not attempting to
19 harm me, or Joshua, or Ms. Nazarene, for the fact of
20 the matter, anymore.

21 Q And what kind of injury did you observe on
22 Nazarene?

23 A She had a head injury.

24 Q And what did you tell her to do?

25 A I told her to run. I said, "Whatever keys

Shella Laurent - Direct

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1 he's looking for, we'll help find them. But just
2 get out of here, because you're hurt."

3 Q And did she do that? Did she leave the
4 house?

5 A She paced back and forth before she
6 actually left.

7 Q Did she eventually leave the house?

8 A Yes, she did.

9 Q What door did she leave out of?

10 A The front door.

11 Q Now, once she leaves out the front door,
12 where is everybody else?

13 A Okay. When she leaves out the front door,
14 Smiley -- Mr. Smiley or the defendant -- tried to
15 walk toward the door like he was trying to go after
16 her. But he kept on hesitating back and forth if he
17 was going to go after her or not.

18 So Joshua had ran around the kitchen area
19 like toward the back doorway and around the kitchen.
20 And when he did that, he was like, "Call -- call for
21 help." And I was like, "Call?"

22 And he was like, "Go ahead. That's what I
23 want you to do." And I had my phone --

24 Q Who said that?

25 A Mr. Smiley.

Shella Laurent - Direct

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1 Q Said what?

2 A "Go ahead. That's what I want you to do"

3 -- I guess to call for help or whatever. So I was

4 going to call my dad. So he said, "Go ahead and

5 call your dad." That's what he wanted me to do.

6 That's what he wanted me to do.

7 And I started to dial the number, and he

8 saw me and hit the phone out of my phone. So I

9 didn't call again. I don't know if -- I guess -- my

10 father said that I did call, because the phone was

11 on speaker, but he didn't know where I was at.

12 Q After that, what does Harold Jackson --

13 Smiley -- do?

14 A He eventually went behind Nazarene.

15 Q You said behind her. Did he leave the

16 house?

17 A He left downstairs.

18 Q What door does he leave out?

19 A The front door.

20 Q And once he leaves out the front door,

21 what do you and Josh do?

22 A Well, he left with the bat still in his

23 hand. And me and Josh were trying to pace back and

24 forth whether or not we want to go, which door we'd

25 try and leave out of, because we don't know -- I

Shella Laurent - Direct

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1 mean, based on the fact that he knocked the phone
2 from my hand, it seemed like the attention got
3 shifted off Ms. Nazarene, I guess, and was about to
4 go to us.

5 So we tried to take precautions. We
6 didn't want to go upstairs and get my son and try to
7 go out and he caught us off guard and try and knock
8 him off and away from me.

9 So that's what I was thinking. And I
10 guess me and Josh was on the same page. So we stood
11 around to figure out which part of the house outside
12 he was in. But we can't see because it was dark.

13 So we just finally decided we was going to
14 the side over there, you know, where you're coming
15 in at. And when we decided to do that, that's when
16 Josh said, "Go ahead and go upstairs and get
17 Giovanni."

18 I turned around, about to go upstairs.
19 And after I'm about to go upstairs, I saw Mr. Smiley
20 right behind Josh. And I kind of froze. I froze.
21 I didn't move or nothing.

22 I guess Josh kind of saw the expression on
23 my face, and he looked like he was about to turn but
24 didn't get a chance to turn. And right then, Mr.
25 Smiley was already beating him up.

Shella Laurent - Direct

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1 Q Did you see which direction Smiley came
2 back into the house?

3 A From the back way around the kitchen area
4 through I guess the study room.

5 Q So he didn't come back in the front door
6 that he left out of?

7 A No.

8 Q Now, did Josh see him come in?

9 A No.

10 Q When you first see that he's back in the
11 house, where do you see him?

12 A He was coming behind Joshua with the bat
13 raised up.

14 Q Does he say anything?

15 A No, he just gave me a certain look. And
16 after that, he just started swinging.

17 Q Did you say anything?

18 A I didn't get a chance to. I froze.

19 Q How far away were you from Josh when he is
20 hit?

21 A Like maybe like a little bit past the door
22 close to the stairway going up -- the staircase
23 going up, and Josh was like right, I guess, near
24 coming from the side doorway.

25 Q Would you agree as far as you and I are

Shella Laurent - Direct

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1 apart, or were you closer?

2 A Just -- no, about the same amount, give or
3 take.

4 Q Were you facing each other or looking in
5 different directions?

6 A We already had saw him, and I saw him,
7 Joshua. We kind of was kind of facing each other.

8 Q Now, where does he hit Josh first?

9 A I just know when the bat was swung, I
10 guess when Josh went to try to turn sideways, it was
11 like he caught him like halfway on the side of his
12 face or something before he hit him completely in
13 the head.

14 And then Josh kind of stumbled going down,
15 and he kept on hitting him harder and I guess harder
16 till he went down, repeatedly.

17 Q How many times did you see him hit Josh
18 with the bat?

19 A I would say about it looked like it was
20 six or seven times, give or take.

21 Q Did you see Josh put up a fight?

22 A No, because he was caught off-guard.

23 Q Did Josh have any kind of weapon with him
24 that day?

25 A No, he didn't.

Shella Laurent - Direct

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1 Q What about Nazarene? Did she have
2 anything with her that day?

3 A No. The only thing, he kept on asking for
4 his keys, and she admitted that she didn't have the
5 keys.

6 Q Did you ever see her with a stick in her
7 hand?

8 A I didn't see her with no stick. The only
9 thing I know is Harold was upset about some keys,
10 and he kept on making like he was going to sick his
11 dog on her and stuff like that.

12 Q Did you ever see Nazarene hit or attack
13 Smiley, Mr. Jackson?

14 A No.

15 Q Did you see Josh hit or attack Mr.
16 Jackson?

17 A No.

18 Q Did he ever threaten him? Did he make
19 threats towards him that night?

20 A Toward Josh?

21 Q No. Did Josh make any threats?

22 A No, he didn't make no threat whatsoever.

23 Q Now, once Mr. Jackson comes back in the
24 house and begins beating Josh with the bat, does he
25 say anything?

Shella Laurent - Direct

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1 A No.

2 Q Is Josh able to say anything?

3 A No.

4 Q What do you do?

5 A I actually told him -- I didn't even
6 decide to move till after he came back up. And I
7 figured if I run, he would chase behind me. So I
8 took off running to the front door.

9 Q And did you run out the front door?

10 A Yes.

11 Q Where did you run to?

12 A I tried to run to the neighbors to try to
13 get some help. So I ran straight across the street,
14 and I figured I would go all the way like to the
15 road to get to get the neighbor's house. I thought
16 it would cut some short time, so I guess that I
17 jumped across.

18 Like it had like a little small ditch, and
19 I jumped across it. And when I jumped across the
20 ditch, I made it. But it was like Harold was right
21 there near me, so I tried to knock on the side of
22 the trailer so hopefully somebody would hear till I
23 make it around to get a chance to knock again.

24 Q So you were able to actually knock on the
25 side of the trailer?

Shella Laurent - Direct

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1 A One the side, not exactly on the door.

2 And I kept on screaming, "Somebody help me!

3 Somebody help me! He's going to kill me!"

4 Q And does Harold catch up with you?

5 A Yes, he catch up with to the other side --

6 on the other side of the trailer. And when he

7 caught me, instead of me letting him knock me down,

8 I laid down.

9 And I started begging for my life, hoping

10 that he wouldn't hit me, because I really didn't

11 know what he had done -- I mean, actually, to mean

12 toward Josh like that, then for him to go toward me.

13 Q And did he hit you?

14 A Yes.

15 Q Where were you hit?

16 A I was hit all over, because I was balled

17 up in a corner. I took like three or four in the

18 head and the rest of them all over my body.

19 Q Shella, was he saying anything to you

20 while he's hitting you with the bat?

21 A No, I just kept on -- I kept on begging

22 for my life. But I don't recall him saying

23 anything. He just kept on hitting me.

24 Q How hard was he hitting you?

25 A Very hard.

Shella Laurent - Direct

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1 Q When did he stop hitting you?

2 A I don't know, because I kind of -- I
3 blacked out, and when I came to, all I know is the
4 lady was just coming out. And when I came to, I was
5 asking "Where's my fiancé? Where's my son? He's
6 crazy. He's going after them. He's going to kill
7 them."

8 And they was like, "No, he went to" -- "he
9 already went across the street already." And that's
10 when I said, "My son is still in the house! My
11 fiancé is still in the house!"

12 And she was trying to tell me that --
13 told me not to move because I'm supposed to keep
14 still. If not, something could happen to me. And I
15 was just telling her, "Please go over, and go check
16 on them."

17 Q And did you get medical help that night?

18 A Yes, I did.

19 Q Where did you go?

20 A To Beaufort Memorial.

21 Q And what kind of injuries did you have
22 that night?

23 A I sustained some head injury. I had a
24 dislocated shoulder, some spine fractures and stuff
25 like that, all different kinds.

Shella Laurent - Direct

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1 MS. TANNER: If I may approach the witness,
2 Your Honor?

3 THE COURT: You may.

4 Q Shella, I'm going to mark -- show you
5 what's marked as State's Exhibit Six. Tell me if
6 you can identify this item.

7 A Yes.

8 Q Is this a fair and accurate depiction of
9 how it appeared that night?

10 A Yes. My head was all stapled up in here.

11 MS. TANNER: Your Honor, the State moves six
12 into evidence. It's been previously shown to
13 defense counsel.

14 THE COURT: It's in evidence without objection.

15 (State's Exhibit Number
16 Six, Photograph, was entered in evidence.)

17 Q Shella, what is this picture of?

18 A Me I guess after I received medical
19 attention there was some -- well, but the staples in
20 the back of my head from the laceration, and neck
21 injuries, dislocated shoulder's in a sling -- that
22 stuff.

23 Q Do you know how many staples you had in
24 your head?

25 A No.

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1 MS. TANNER: Your Honor, if I may publish to
2 the jury, I've got it cued up.

3 Q Shella, how long were you in the hospital?

4 A I don't recall -- probably I'd say maybe
5 four days.

6 Q Did you stay in Beaufort, or did you go
7 somewhere else?

8 A Yes, I went to Savannah.

9 Q And were you treated at Savannah Memorial?

10 A Yes.

11 Q Shella, did you see Josh again after that
12 night?

13 A No, I didn't.

14 Q When did you find out what happened to
15 him?

16 A Actually, I never knew what happened. So
17 my father told me Josh was coming around, and he
18 wanted to see me and everything. So he just told me
19 about that.

20 Q Shella, we talked about Smiley, the person
21 who beat you and Josh with a bat that night. Can
22 you tell me if that person is in the courtroom right
23 now?

24 A Yes, he's right over there.

25 Q Can you please point to him? What's he

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1 wearing?

2 A A white collared shirt.

3 MS. TANNER: Your Honor, if the record reflect
4 she's indicated the defendant, Harold Jackson.

5 THE COURT: It does.

6 Q Thank you, Shella. Please answer anything
7 defense counsel has.

8 MR. COLONGELI: May it please the Court, Your
9 Honor.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. COLONGELI:

13 Q Good afternoon. If I may, Shella, I want
14 to start by stating my sympathies to you for what
15 occurred back on January the 3rd.

16 The fact that I'm a defense lawyer doesn't
17 negate the fact that I'm also a father of a son
18 myself. So I do want to extend my sympathies for
19 what took place.

20 What's important to me to go back on in
21 testimony that you've given today and what we've
22 already heard from Nazarene is your mother, for all
23 intents and purposes -- may I call her your mother?

24 A Which one?

25 Q Your stepmother. You, in fact, were

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1 living with her at the time, correct?

2 A No, we were not living there at the time.
3 I had a place, like I said before, at Parkview.

4 Q I understand that.

5 A During the time that incident occurred, we
6 already had went back home. I went back to my home.
7 I came back to get the stuff like the laundry and
8 everything. I did not have a washing machine and
9 dryer at my house at the location I was staying at.

10 Q So your testimony is that - it is in
11 accordance with what your stepmother had said
12 earlier, which was, in fact, that you were living
13 with her because you had fallen on some hard times
14 at Parkview, and she was letting you, and Josh, and
15 the baby stay with her?

16 A Exactly. We was not staying.

17 Q That's untrue?

18 A Yes.

19 Q And as far as you being familiar with who
20 Harold Jackson was, your testimony here today is the
21 only familiarity you had with him is the fact that
22 he existed?

23 A Yes, because when we were staying during
24 Christmas, he kept on going in and out. He didn't
25 even help -- the first week of December, I went to

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1 get my bedroom set out of the house. I had called
2 Ms. Rene.

3 I called my dad first, and I told my dad I
4 needed a better bedroom set. And he told me that I
5 still have one at the house. And he said if I
6 called and asked, I should be able to get it.

7 So I had spoke to Ms. Nazarene Jenkins
8 before, after my son was born, because she bought my
9 son like tons of gifts afterwards. That was -- I
10 guess that was my first knowledge of her knowing
11 that I was back in Beaufort, South Carolina, because
12 I came back from college, and I wasn't trying to let
13 her know I was back home. I was trying to keep a
14 low profile for myself.

15 Q I'm assuming -- and correct me if I'm
16 wrong -- that prior to this incident, you and
17 Nazarene had a close relationship. Would that be a
18 misstatement?

19 A Yes, we did -- when my father was married
20 to her at the time, yes.

21 Q I imagine things were good enough where
22 she was willing to help you out in hard times and
23 let you stay with her, correct?

24 A I guess if I would have asked. She did
25 offer it. When she came and brought my son a bunch

Shella Laurent - Cross

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1 of gifts after my son was born, I think she was like
2 why didn't we go? So when she brought a bunch of
3 gifts, she told me that.

4 You know, she's not a bad person. If I
5 ever needed help, she would -- you know, she's a
6 person that she still would help my brother and
7 stuff still. So I said it wouldn't be no problem.

8 Q And as a matter of fact, you even worked
9 with her?

10 A Yes, I did.

11 Q You had the same place of employment?

12 A Yes.

13 Q And how long had that gone on?

14 A Maybe a little while, because taxes had
15 started first of January, up till May.

16 Q And your testimony here today is you did
17 not know that your mother had been in an on-again,
18 off-again relationship with Harold Jackson for
19 approximately eight months?

20 A No, I didn't, because I went out of town.
21 I felt during -- when I went out of town, that's
22 when the separation between her and my father
23 happened and everything. I was just told that it
24 was a separation and then soon divorce. I was in
25 Florida with my aunt at that time.

Shella Laurent - Cross

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1 Q And maybe either I'm misunderstanding you
2 or you misunderstood my question. I'm asking you,
3 you were not aware --

4 A No, I wasn't.

5 Q You had no knowledge of the history --

6 A No, I wasn't even --

7 Q -- that existed between Harold and your
8 mother?

9 A No, I wasn't.

10 Q Is your testimony here today that you
11 didn't have sort of discussions with your mother on
12 the day of January 3rd while you were at work
13 regarding her and the problems she was having with
14 Harold Jackson?

15 A He kept -- he texted. He did the same
16 texts. And I was on the phone with Joshua, who keep
17 on calling me over, and over, and over, because he
18 was happy the fact that he wanted me to be his wife
19 at the time.

20 So he proposed already, and I had wanted
21 to go through with the proposal. So when I was on
22 the phone with him, Harold kept on sending texts and
23 stuff, and we kept on getting interrupted on the
24 phone.

25 And I showed her that Harold was sending

Shella Laurent - Cross

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1 some texts. And she then -- I guess she told him
2 stop sending those texts, you know, because she's
3 not -- at first, it sounded like she was joking
4 about it at first.

5 She was kind of like smiling, "I don't
6 know what he's sending me these texts for. He's
7 insecure," and this and that, is what was told to me
8 at the time.

9 Q So it is, in fact, true that you were
10 familiar and knew that there was a problem going on
11 that day between Harold and your mother?

12 A Based on the texts, what she told me, yes.
13 She said he kept on sending texts about that.

14 Q And I stand to be corrected. But if I
15 recall your mother's testimony here earlier today,
16 your mother claimed that you and her had discussions
17 about the health of that relationship and whether or
18 not she should leave Harold Jackson. Is that, in
19 fact, true?

20 A And you mean Harold Jackson?

21 Q Were there any discussions you had with
22 your mom that day regarding whether or not it was a
23 healthy relationship between her and Harold?

24 A It wasn't -- I wasn't even aware that
25 there was a relationship. That's what I'm trying to

Shella Laurent - Cross

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1 tell you. And I was told that he was just a friend,
2 and I was told he was somebody that just helped out,
3 did some work on the driveway. There was a point in
4 time they went out together.

5 So I don't know which point of time would
6 that happen, because when I saw him at Christmas
7 time
8 -- when I saw him at Christmas, during Christmas Day
9 when we had dinner and everything, I just thought he
10 was in and out.

11 But we didn't sit down like everybody was
12 talking and having a good conversation. In fact,
13 after I saw Harold Jackson into the house, I didn't
14 see him again for the rest of Christmas.

15 But I assumed when she told me that she
16 was just letting him have a place to stay was true
17 after all. I guess whatever they had before must
18 have died. I don't know.

19 Q Your testimony here today is you didn't
20 know them to be anything other than --

21 A Friends.

22 Q -- platonic friends?

23 A Yes.

24 Q That's your testimony?

25 A That's my testimony.

Shella Laurent - Cross

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1 Q And there was no discussion between you
2 and her about getting rid of him that day, according
3 to what your mother said earlier on the stand?

4 A No.

5 Q Was there any discussion between you and
6 Josh that day pursuant to an interview you had at
7 the Savannah Memorial Hospital with some
8 investigators as to Josh being familiar with
9 something going on that day also between Harold and
10 your mother?

11 A Yes, well, he did tell me that -- that's
12 when he told me he didn't trust Harold Jackson and
13 somehow they used to get into a little argument,
14 that it was more between them than just friends.
15 That's what Josh told me. And I told him I didn't
16 too much care to study for that.

17 Q Do you remember who the officers were you
18 spoke to that day?

19 A No, I don't.

20 Q Do you see any of them in court today?

21 A To tell you the truth, no, I really don't
22 remember anything.

23 Q When you got the house that evening --

24 A Uh-huh.

25 Q -- you stated that at that point in time,

Shella Laurent - Cross

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1 you became aware that your mom and Harold were
2 obviously having some sort of argument?

3 A Yes.

4 Q And you quickly became aware that Harold
5 was asking for his keys in order to leave?

6 A Yes.

7 Q You also made some mention -- and this was
8 both in an interview you had with Sgt. Chris Wilson
9 and your testimony today -- that Harold went so far
10 as to threaten your mom with his dog if he didn't
11 get his keys?

12 A Yes.

13 Q And isn't it true that you also told the
14 officer that you didn't understand that to be a
15 serious threat, because the dog is asleep?

16 A No, I remember saying that. I just know
17 that the dog was inside the house with him, and I
18 have approached that dog before.

19 He told me that that dog don't bite. But
20 when he said he was going to sick him to her, I
21 assumed, only because he was there, he was not a
22 threat.

23 Q Did he ever sick the dog on anyone?

24 A No -- not that I'm aware of.

25 Q And correct me again if I'm wrong. But

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1 you said approximately ten minutes go by before you
2 hear any sort of scream for help from Nazarene, is
3 that correct?

4 A Yes. I was upstairs, yes.

5 Q And you were upstairs at the direction of
6 Nazarene? Did she tell you and Josh to take the
7 baby upstairs, or was that something you did on your
8 own?

9 A I was going upstairs to get the rest of my
10 clothes.

11 Q So Nazarene's testimony earlier today as
12 far as her asking you both or telling you both to go
13 upstairs was not --

14 A I was going upstairs to get my clothes.
15 So if she had mentioned it, I don't remember that.
16 I'm just basing on from my memory.

17 Q Your testimony here today is that at the
18 point you heard this scream for help, Josh said to
19 you that he was going to go downstairs and handle
20 this, correct?

21 A Yes. And when she cried for my name, I
22 told him, "Just go ahead and get some help."

23 Q But he didn't listen to you?

24 A No, he said that's not how he was raised.
25 He was going to go downstairs to see what's going

Shella Laurent - Cross

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1 on, and I just go ahead and get ready to be prepared
2 to go downstairs, I guess.

3 Q Your testimony here is -- and, again,
4 correct me if I'm wrong -- was that was not how he
5 was brought up.

6 A Yes.

7 Q He didn't want to wait for you to call for
8 help. He was going to go down there to rescue
9 Nazarene?

10 A To see what she called for, because she
11 was crying out for me. So I can't speak for Joshua,
12 but --

13 Q Well, you spoke for him just a --

14 A Well, assuming that -- because he went
15 downstairs. She called my name, and I'm a female,
16 so -

17 Q Well, you actually went to the extent in
18 your testimony a minute ago to try to convince him
19 not to do that, correct?

20 A Yes, I did.

21 Q And tell the members of the jury, why were
22 you concerned? Why didn't you want him to do that?

23 A Because the way she cried out for help,
24 that brought some concern to me.

25 Q And is it safe to assume that you thought

Shella Laurent - Cross

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1 Josh was going to get in a tangle with Harold?

2 A Yes.

3 Q Josh got downstairs before you saw what
4 actually took place between him and Harold?

5 A Yes.

6 Q And the testimony you have to tell us
7 today is what you did see by the time you got down
8 there was Josh successfully get the bat away from
9 Harold?

10 A Yes.

11 Q In your testimony to Sgt. Chris Wilson in
12 a report she prepared, isn't it true that you stated
13 that Josh was, in fact, trying to pull Jackson off
14 of your mother, and that's when your mom ran?

15 A No, because she was already -- the bat was
16 already placed on the bed, and Josh was in front of
17 him. And he already -- Joshua had the bat.

18 Q So you didn't see a struggle ensue between
19 Josh and Harold?

20 A No. When the officers came and they said,
21 "What exactly happened?" I said I can't quite
22 recollect what really happened. But when I came
23 downstairs, Joshua successfully had the bat in his
24 hand.

25 MR. COLONGELI: For the purposes of refreshing

Shella Laurent - Cross

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1 her memory, Your Honor, I have a copy of this
2 incident report by Sgt. Chris Wilson of the
3 Sheriff's Department. My copy is marked up. I
4 don't know if the State wants to --

5 MS. TANNER: Your Honor, my objection would be
6 this a report written by Chris Wilson. It's not
7 written by Shella Laurent. So I don't know that
8 refreshing her memory on someone else's statement
9 would be appropriate.

10 If she had given a written statement, it
11 would be appropriate to refresh her memory with
12 that, but not someone else's memory of that night.

13 THE COURT: Mr. Colongeli, what are you using
14 it for?

15 MR. COLONGELI: I'm using it to refresh her
16 memory, just as I did before with the other
17 witnesses, Your Honor, and particularly Nazarene.

18 This was a report that she had --
19 interview that she had with Sgt. Chris Wilson. If
20 you want, I can --

21 THE COURT: You can ask her if she recalls
22 telling Chris Wilson whatever is in it.

23 Q Shella, your testimony here today is that
24 you hear her scream for help, you get downstairs
25 after your man had told you he was going to go down

Shella Laurent - Cross

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1 and handle it himself, correct?

2 A He was going to see what it was about.

3 Q And by the time you got down there, all
4 you know is that Josh had gotten the bat away from
5 Harold --

6 A Yes.

7 Q -- and at that point in time, you told
8 your mother to get out of the house?

9 A To run, yes.

10 Q If everything was okay like everyone is
11 telling us here today, why did you tell your mother
12 to run?

13 A Because of like how I saw the bleeding on
14 her forehead.

15 Q And, in fact, Josh still had Harold pinned
16 up with that bat?

17 A No, he did not. The bat was already on
18 the floor.

19 Q So now it goes from Josh having the bat to
20 being bat on the floor?

21 A I think that he did drop the bat. But you
22 didn't ask me that.

23 Q And that's where the bat stayed?

24 A That's where it was at up until the point
25 Rene left. And then I went out, and Harold came

Shella Laurent - Cross

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1 right after with the bat again.

2 Q Josh didn't keep that bat --

3 A No.

4 Q -- after what just took place with your
5 mother?

6 A No, he didn't keep the bat, because he
7 wasn't -- after Josh had the bat, if he -- he looked
8 like he like, you know what I'm saying, wasn't going
9 to hit us.

10 It looked like the main thing was between
11 her -- him and Ms. Nazarene. That's what it looked
12 like. So at that time, I guess he looked at us and
13 see that we didn't pose no threat to him either,
14 because he paused and didn't attack us anymore. He
15 just stopped and was shaking his head like he was
16 confused at what he had just got through doing to
17 Ms. Nazarene.

18 Q Then why did you -- I'm sorry.

19 A Go on.

20 Q Then why did you feel at some point to
21 tell your mother to run out of the house?

22 A Because he looked like the only one he was
23 going after was her. It wasn't nothing of us. So I
24 said I will help him look for the keys. She was
25 going to go ahead and look for help.

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1 MR. COLONGELI: And, Your Honor, if I may -- I
2 don't know if I can have the assistance of the State
3 -- I'd like to pull up the floor plan. I'm not sure
4 what exhibit that is.

5 THE COURT: Okay.

6 MS. TANNER: It will take me just a minute just
7 to pull it up --

8 THE COURT: Okay.

9 MS. TANNER: -- and have it ready to play.

10 MR. COLONGELI: Thank you very much.

11 Q Shella, let's just skip back for a minute.
12 You stated earlier that you didn't know the extent
13 of the relationship between Harold and your mother,
14 is that correct?

15 A It is.

16 Q Do you remember talking to Sgt. Chris
17 Wilson? Do you remember that?

18 A I remember talking to her at the hospital.

19 Q And do you remember her asking you whether
20 you thought this whole thing stemmed from Harold
21 being jealous over your dad?

22 A No. I just know that she kept on
23 apologizing, saying "I'm sorry. I'm sorry. I
24 didn't know. I didn't know."

25 Q So you're denying you ever talked about

Shella Laurent - Cross

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1 that?

2 A I'm saying I don't remember saying
3 anything about him being jealous.

4 Q And you don't remember saying that's why
5 earlier today you were saying you believed him
6 because your sister's mom really doesn't like him?

7 A Did I remember saying that -- to Chris?

8 Q To Sgt. Wilson.

9 A Yes. That's what she told me, yes.

10 Q So you did say that?

11 A Yes.

12 Q And yet your testimony here today is still
13 that Harold and your mother did nothing but share a
14 platonic friendship?

15 A Yes. And then the last time we spoke, he
16 was just a friend that she had at the house. So I
17 assumed that the relationship had died up to the
18 point that was what she told me.

19 So I realized it was an ongoing thing. So
20 she told me one thing, and then it was a whole
21 different other thing.

22 Q Is your testimony here today as far as the
23 existence or nonexistence of a stick that Nazarene
24 never had a stick that night, to your recollection?

25 A No. When we came in, we came in the part

Shella Laurent - Cross

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1 that the argument was already escalated to a certain
2 point, I'm guessing -- because all he said was "If
3 you don't find my f'ing keys, I'm going to sick my
4 dog on you."

5 So I think that was already going on. But
6 the whole -- the way she was talking in a calming
7 voice at first, I'm guessing she done been through
8 that before. I can't tell you. I don't know.

9 MR. COLONGELI: Your Honor, for purposes as a
10 Court exhibit, I've got Defendant's Exhibit Number
11 One I'd like to unseal.

12 THE COURT: You may.

13 MR. COLONGELI: This is also a transcription
14 from a CD which was submitted into evidence in this
15 case by Sgt. Wilson. And I believe we've already
16 seen one exhibit. If I may approach the witness?

17 THE COURT: You may.

18 Q Shella, this is an interview between you
19 and Sgt. Wilson on January 4th at the actual -- this
20 was at the Beaufort Memorial Hospital. And if I
21 could draw your attention to page six, line 20,
22 would you please read that?

23 A "She had a stick in her hand, but she put
24 the stick down."

25 Q So, in fact, you did testify at an earlier

Shella Laurent - Cross

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1 occasion that your mother, in fact, did have a
2 stick?

3 A Yes, that's what it says on this paper.

4 Q Was your testimony just a minute ago that
5 she didn't have a stick?

6 A Yes, that's my testimony earlier. She
7 didn't have a stick. But this, when he asked me all
8 those questions, I already had severe injury to my
9 head.

10 I can't even remember where I had my son
11 at or anything. So it was a bunch of different
12 questions being put. She came in and asked me for
13 forgiveness. And she was saying that she realized
14 that she had a restraining order and this and all
15 that.

16 It was a bunch of stuff pulling at me. So
17 at the same time, basically, I said, "I don't know.
18 I think she had a stick in her hand, but I don't
19 know." But it don't say what I said, "I don't know
20 whether she had a stick or not in her hand."

21 Q So correct me if I'm wrong. But are you
22 telling me now that you've had almost over two years
23 to think about it, that you are changing what you
24 had told those officers back then had happened?

25 A Over two years to think about it? Yes,

1 because I think about it every day, every night.

2 Q I'm sure you do. But --

3 A But I don't exactly know. I never even
4 remember what I told the cops, to tell you the
5 truth. So I've had two years to think about
6 everything, yes.

7 It has stayed fresh in my mind. But as
8 far as in detail when we first walked in whether she
9 had a stick in her hand or not, no, I'm pretty much
10 just speaking from when I went upstairs and she
11 cried out for help, from this point on.

12 I didn't mention every detail or that she
13 had a stick or not. I wasn't looking at stuff. I
14 told you when I came in the house, I was putting
15 groceries up.

16 So if she had a stick, she was in the
17 living room. So, therefore, if she had it, I wasn't
18 looking at her. I couldn't say whether she had a
19 stick or not.

20 Q And the first time you saw this bat was
21 when you came downstairs and saw it with Josh, in
22 his hand?

23 A That's when I remember seeing the stick,
24 yes.

25 Q The bat?

Shella Laurent - Cross

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1 A The bat. What everyone's been calling a
2 stick, that's a bat. It was a stick, and I had
3 called it a bat. You started doing the same just
4 now.

5 Q And I apologize. Let me clear this up.
6 There's a stick that you referred to just a minute
7 ago, if I'm not mistaken, that your mother used to
8 secure the sliding glass door. That's the stick I'm
9 referring to.

10 A Well, I don't know about securing a glass
11 door, because I never said about her securing the
12 glass door with a stick.

13 Q So you don't have any knowledge of her
14 having this stick, which is Defendant's Exhibits
15 Ten, Six, and Defendant's Exhibit Seven is an
16 accurate depiction of that stick? This is the stick
17 I'm referring to.

18 A Okay, I'm looking at the stick.

19 Q This is the one I've been asking you
20 about.

21 A Yes, and you said securing the glass door.
22 I don't know what glass door you're talking about.
23 I didn't see no stick holding the glass door.

24 Q And your testimony here today is that your
25 mother never had this stick in her hand that night?

Shella Laurent - Cross

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1 A No.

2 Q And I ask you again now, as far as the
3 baseball bat, the first time you saw the bat was
4 when you ran downstairs after Josh had gotten there
5 first, and you saw the bat in Josh's hands?

6 A Yes.

7 Q And I asked this before, and I know you
8 may not remember. But do you remember speaking to
9 any particular law enforcement officer other than
10 Sgt. Chris Wilson?

11 A I don't remember none of the names. You
12 say Chris, and you say somebody else. I'm just
13 saying I spoke to people, yes.

14 Q Do you remember -- I'm sorry, go ahead.

15 A I spoke to people in uniform, yes.

16 Q Do you remember in your discussions with,
17 I believe, Sgt. Chris Wilson or other law
18 enforcement when this happened that you heard that
19 Harold Jackson had voluntarily turned himself in
20 that evening, shortly after this took place?

21 A They didn't tell me that till later on
22 that he had turned himself in.

23 Q So you did become aware of that?

24 A Yes, and I was shaken [sic] up when they
25 was questioning me about what had happened.

Shella Laurent - Cross

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1 Q And you also were quite shocked and
2 surprised to learn that what you heard he had said
3 was that "They tried to kill me," correct?

4 A Yes.

5 MR. COLONGELI: If I could bring this screen
6 back, I don't know if I just have to tap it.

7 THE COURT: Yes, sir.

8 MR. COLONGELI: Your Honor, I've actually got a
9 hard copy of the floor plan --

10 THE COURT: Okay.

11 MR. COLONGELI: -- to save time.

12 THE COURT: Sure.

13 Q Shella, what I think is extremely
14 critically important to us here today is your
15 recollection that evening. After the altercation in
16 the bedroom -- are you with me?

17 A Yes, but it started after we came
18 downstairs.

19 Q After you came downstairs --

20 A Okay.

21 Q -- your testimony is at that point, you
22 told your mother to leave?

23 A I told her --

24 Q Your testimony is that she actually did,
25 in fact, leave the house?

Shella Laurent - Cross

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1 A She paced and forth. Yes, she did
2 actually leave.

3 Q And at that point, both you, and Josh, and
4 Harold exited the bedroom?

5 A Yes, we did.

6 Q And isn't it true that in your mind, then
7 and today, that Harold appeared to still be looking
8 for Rene?

9 A Yes, he was.

10 Q And that you and Josh went from the master
11 bedroom towards the kitchen?

12 A Yes, but didn't make it actually in the
13 kitchen.

14 Q And that Harold went in the direction of
15 the front door?

16 A No. I said that when he came out, Harold
17 had the bat in his house. And Joshua went around
18 from the glass on the back door around to the
19 kitchen area. I was going toward straight.

20 Like Harold was back there probably by the
21 I'm going to say the dining table or the card table,
22 where that was. He was right in front of me with
23 the bat.

24 Q When did Harold regain possession of the
25 bat?

Shella Laurent - Cross

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1 A That's the thing. When we left --

2 Q You don't know, do you?

3 A No, I don't know when he got it again. I
4 just know I saw it in his hand.

5 Q Let me ask you this, Shella.

6 A Uh-huh.

7 Q You back in October of last year hired an
8 attorney to bring a civil action against your
9 mother, is that true?

10 A Yes.

11 Q And I'm sure you've had many discussions
12 with your attorney regarding that civil action, is
13 that correct?

14 A Yes.

15 Q And you're suing your mother in part for
16 what you claim to be the wrongful death of Josh
17 Pringle?

18 A Yes.

19 Q And have you in pursuit of that gone over
20 the facts of that case pertaining to that civil
21 action?

22 A No, because they just asked like a Shella
23 sort of thing, asked what we -- I guess what
24 happened. And based on my recollection, that's what
25 had happened.

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1 I said only what I remembered happening at
2 that time. But word for word, no, I don't remember
3 exactly what I told them.

4 Q Are the facts different in the allegations
5 in that civil suit as opposed to what you're telling
6 this jury here today?

7 A No, I'm saying it might be different from
8 what I told the cops. But based on what I'm telling
9 right now, that's what I remember telling them.

10 MR. COLONGELI: I have nothing further at this
11 time, Your Honor. Thank you.

12 THE COURT: Solicitor, any redirect?

13 MS. TANNER: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. TANNER:

16 Q Shella --

17 A Uh-huh.

18 Q -- when Harold Jackson was beating you
19 with the baseball bat, did you have a stick in your
20 hand?

21 A No, I didn't have a stick in my hand.

22 Q When he was beating Josh in the back of
23 the head with a baseball bat, does Josh have a stick
24 in his hand?

25 A No.

Shella Laurent - redirect

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1 MS. TANNER: No further questions.

2 THE COURT: Any further recross?

3 MR. COLONGELI: No, Your Honor.

4 THE COURT: You may step down, Ms. Laurent.

5 Solicitor, call your next witness.

6 MS. TANNER: The State calls Joe Scheafer.

7 THE COURT: Mr. Scheafer, if you'd come forth
8 to be sworn, sir.

9 (The witness was sworn.)

10 THE COURT: Mr. Scheafer, will you give us your
11 full name for the record and spell your last name
12 for the Court Reporter, sir?

13 MR. SCHEAFER: Joseph Kenneth Scheafer --
14 S-C-H-E-A-F-E-R.

15 JOSEPH KENNETH SCHEAFER, having first
16 been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. TANNER:

19 Q Good afternoon, Mr. Scheafer.

20 A Hi.

21 Q Where are you employed?

22 A Beaufort County Emergency Medical
23 Services.

24 Q And what are your duties and job with
25 emergency medical services?

Joseph Schaefer - Direct

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1 A I am a paramedic and senior crew chief.

2 Q How long have you been doing that?

3 A Twenty-three years.

4 Q What kind of training and background do
5 you have to have to do what you do?

6 A We go to about six months of classes at
7 the technical college to become a basic EMT. We're
8 certified by the state for that.

9 You ride along for about six months, and
10 then you go to paramedic training, which is about a
11 year long now, along with some ride-alongs and some
12 clinical times in hospitals. Then you take a test
13 and become certified through the state for that,
14 too.

15 Q And is this something that you receive
16 continuing education for over the years?

17 A Right. Every three years, we have to
18 recertify.

19 Q And is there a different level -- you said
20 EMT and a paramedic?

21 A Right, there's a basic EMT, there's an
22 intermediate EMT, and then there's a paramedic.

23 Q And what would be the difference in those
24 three levels?

25 A The basic EMT is allowed to do just basic

Joseph Schaefer - Direct

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1 stuff like bandaging, child delivery, those things
2 that are limited to their certification, where a
3 paramedic uses cardiac monitoring, intubation, IV's.
4 Also, he does certain drugs, lifesaving drugs and
5 things like that, medications.

6 Q So the paramedic is the more, I guess,
7 advanced level?

8 A The advanced of all three, yes.

9 Q And that's what you do?

10 A Right.

11 Q And, Mr. Schaefer, were you called out to
12 a residence on Stuart Point Road on January 3, 2007?

13 A Yes, I was.

14 Q And when you arrive, what do you find?

15 A I was the second unit in, and we were
16 directed across the street from the residence and
17 found a lady, small lady, that had been injured.
18 She kept repeating that she had been beaten with a
19 baseball bat about ten or twelve times.

20 MR. COLONGELI: I'm going to object to hearsay,
21 Your Honor.

22 MS. TANNER: The excited utterance exception,
23 Your Honor.

24 THE COURT: Overruled. It's also response to
25 medical treatment, so you can continue, sir.

Joseph Schaefer - Direct

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1 Q And if you can pull the microphone a
2 little bit over.

3 A Is that better?

4 Q Yes, sir.

5 A Okay.

6 Q So what condition do you find her in?

7 A She had some bleeding about her -- I'm
8 trying to remember. Can I get a copy of my report?

9 MS. TANNER: I'll show defense counsel what I'm
10 passing up. May I approach the witness, Your Honor?

11 THE COURT: You may.

12 Q Can you tell from your report what areas
13 of her body are injured when you find her?

14 A We had put the site of trauma as her head,
15 neck, upper extremity, and her back. We placed her
16 onto a long spine board to protect the C-spine
17 stabilization in case that she had a C-spine injury,
18 because she had been hit in the head a few times.
19 She also complained of her left upper extremity
20 having pain to it, and we splinted that, also.

21 Q What type of tests do you run on a machine
22 like that?

23 A Well, we put her on the cardiac monitor.
24 We also, when somebody has got a head injury, we
25 want to check their pupillary response. We also

Joseph Schaefer - Direct

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1 check to see if they've got blood or bleeding coming
2 from the ears that may signify that there's a skull
3 fracture.

4 Neurologically, she had some problems with
5 the right pupil, which was normal, but the left one
6 was dilated and slow to respond, which could state
7 that there's a possible brain injury there.

8 Q And what was the name of the female you
9 treated?

10 A It looks like Sheila Laurent.

11 Q S-H-E-L-L-A?

12 A Yes.

13 Q And once you render aid, what happens --
14 once you render aid at the scene, what then happens?

15 A We transported the patient to the hospital
16 and turned the care over to the emergency room staff
17 at Beaufort Memorial.

18 Q Thank you, sir. Please answer anything
19 defense counsel has.

20 THE COURT: Mr. Colongeli?

21 MR. COLONGELI: We have no questions for this
22 witness, Your Honor.

23 THE COURT: All right, Mr. Schaefer, you may
24 step down. Thank you, sir.

25 Solicitor, we're going to take a short

Joseph Schaefer - Direct

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1 break.

2 MS. TANNER: Yes, ma'am. May this witness be
3 excused?

4 THE COURT: Any objection?

5 MR. COLONGELI: No objection.

6 THE COURT: Mr. Schaefer is excused. Thank
7 you, sir.

8 Ladies and gentlemen of the jury, we're
9 just going to take a quick ten-minute break for the
10 afternoon. We will come back, and we'll probably
11 finish and push on through until we need to go ahead
12 and break for the evening.

13 So, with that said, I'll send you back to
14 your jury room. I'll just remind you not to begin
15 discussing this case. It wouldn't be appropriate to
16 do so. And we'll be back with you shortly. Thank
17 you.

18 (The jury left the courtroom
19 at at 3:35 p.m.)

20 BAILIFF: The jury is clear, Your Honor.

21 THE COURT: Thank you. Anything from the State
22 before we break?

23 MS. TANNER: No, Your Honor.

24 THE COURT: From the defense?

25 MR. COLONGELI: No, Your Honor.

Joseph Schaefer - Direct

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1 THE COURT: We'll take about a ten-minute
2 break.

3 (Court in recess.)

4 THE COURT: Thank you all. Please be seated.
5 Is the State ready?

6 MS. TANNER: The State is ready.

7 THE COURT: Is the defense ready?

8 MR. COLONGELI: Yes, Your Honor.

9 THE COURT: All right, bring them in, Norman.

10 BAILIFF: Jurors entering, Your Honor.

11 THE COURT: Thank you.

12 (The jury returned to the
13 courtroom at 3:58 p.m. after which the following
14 proceedings were had:)

15 BAILIFF: Your Honor, the jury is seated.

16 THE COURT: Thank you. Welcome back, ladies
17 and gentlemen.

18 Solicitor, if you'll call your next
19 witness.

20 MS. TANNER: Thank you, Your Honor. The State
21 calls Sharron Powers.

22 THE COURT: Ms. Powers, if you'll please come
23 forward to be sworn.

24 (The witness was sworn.)

25 THE COURT: Ms. Powers, if you'll just give us

Joseph Schaefer - Direct

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1 your full name for the record.

2 MS. POWERS: Sharron Mintz Powers. Sharon has
3 two R's in it.

4 SHARRON MINTZ POWERS, having first
5 been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. TANNER:

8 Q Good afternoon, Ms. Powers. Where are you
9 employed?

10 A Beaufort County EMS.

11 Q And what is your duty, job, or
12 responsibility as an EMS?

13 A I'm a paramedic.

14 Q And we heard from Mr. Schaefer. What
15 training do you have to be a paramedic?

16 A At least a year of college, depending on
17 the scheduled class, and just go through regular
18 training to keep up.

19 Q How long have you been a paramedic?

20 A Almost 15 years.

21 Q And were you working on January 3, 2007?

22 A If that was the day. I need the DHEC to
23 remember it.

24 Q And I can provide your report to you.

25 MS. TANNER: I'll show it to defense counsel

Sharron Powers - Direct

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1 first.

2 MR. COLONGELI: Without objection.

3 MS. TANNER: May I approach, Your Honor?

4 THE COURT: You may.

5 Q Ms. Powers, on January 3, 2007, did you
6 respond to the area of Stuart Point Road in your
7 capacity as a paramedic?

8 A Yes.

9 Q And when you arrive, where do you first go
10 to?

11 A Depending on where we're told what has
12 happened. I know we had to wait on the Signal 9,
13 which was the officer. But we stopped right in the
14 middle of the street and were told where our patient
15 was.

16 Q And what patient did you see first?

17 A We were shown to a woman that was laying
18 in the yard where our ambulance was. It was to the
19 left, I believe across the street from the house I
20 eventually went to.

21 Q And how are you sent eventually to this
22 house across the street?

23 A I had left my partner with the woman who
24 was hurt. I was going back to the ambulance to get
25 some equipment. And I was told there was another

Sharron Powers - Direct

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1 patient, and I was taken to that house.

2 Q And once you enter the house, what do you
3 find?

4 A I was shown to the patient, who was -- I
5 can't really remember the layout of the house -- but
6 was in the kitchen, kitchen/dining room area.

7 Q And when you find this person - at some
8 point, do you identify the patient by name in your
9 report?

10 A Not by name, no.

11 Q Does your report indicate that you treated
12 Josh Pringle?

13 A Yes -- as far as, yes, the name I was
14 given later, yes.

15 Q Now, when you arrive, what position is
16 Josh in?

17 A Let's see. Okay, he was supine, which is
18 laying flat on his back, sort of looking up.

19 Q And what kind of condition was he in when
20 you found him?

21 A He was definitely what we call altered --
22 altered mental status. Obviously, he had been hurt
23 pretty bad.

24 Q What does "altered mental status" mean?

25 A In this case, he had been hit in the head

Sharron Powers - Direct

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1 many times, from what I could see from my exam. And
2 it was just he didn't know what was going on. He
3 was almost unconscious.

4 Q Was he able to communicate with you?

5 A No.

6 Q What areas of his body did you observe
7 injuries?

8 A I do remember his head. What I did find
9 was crepitus, which is when I feel it, I can tell
10 there's broken bones. Also, yes, he did have a
11 laceration on his face. From my report, it's the
12 right eyebrow, but I do remember a cut somewhere and
13 also his shoulder.

14 Q Which shoulder?

15 A Which one is it? His right shoulder.

16 Q And what type of aid can you render for
17 someone who has -- you said broken bones in his
18 skull?

19 A Yes, from what I could tell. I mean, I
20 don't go too far with that. Once I feel something,
21 I stop, because I don't want to cause any more
22 injury. What we do is we place them on a back
23 board, which is just a long spine board. It's like
24 a big splint to the whole body.

25 We put straps to keep them down. We put a

Sharron Powers - Direct

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1 collar on them and towels or head rolls to keep
2 their head very still. We tape that down.

3 MS. TANNER: If I may approach the witness,
4 Your Honor?

5 THE COURT: You may.

6 Q I'm just going to show you what's been
7 marked as State's Exhibit Seven. If you can just
8 look at this and tell me if you can identify it?

9 A The C-collar, or the cervical collar.
10 That's usually what we use to put on their neck to
11 immobilize the head and the neck so it doesn't cause
12 any more injury with us moving the patient.

13 Q And why would that be still showing in
14 that photograph without the patient?

15 A I do remember he was a big man. And once
16 they put him on the board, it just didn't fit him.
17 And it would cause more damage than it would if we
18 didn't put it on him.

19 Q So then how did you stabilize his neck?

20 A We can do the same thing if we use -- what
21 we use now is towels. We used to have the blocks.
22 But we put them beside either side of the head, and
23 we tape it down, which keeps his head from moving.

24 Q And the area depicted in that photograph,
25 is that where you found the patient, Josh Pringle?

Sharron Powers - Direct

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1 A I can't really tell with this, but he was
2 -- I do remember he laying half on the tile and half
3 on the carpet, yes.

4 Q And is that a fair and accurate depiction
5 of how it appeared the day you arrived on the scene?

6 A Oh, yes.

7 MS. TANNER: Your Honor, pursuant to earlier
8 motions, at this point just for identification, we
9 would through another witness move it into evidence.

10 THE COURT: Okay, thank you.

11 Subject to your prior objection, we're
12 just identifying it currently.

13 MR. COLONGELI: Thank you, Your Honor.

14 Q And, Ms. Powers, once you've rendered aid,
15 what happened with the patient next?

16 A Well, we got him onto the board, and we
17 got him secure. And just because I didn't know what
18 the situation was and how secure it was, we got him
19 onto the stretcher.

20 And I had other help. We got him onto the
21 stretcher and took him out to the ambulance, and
22 with lights and sirens to the hospital.

23 Q Is there some type of information based on
24 what you find on the scene that you transmit to the
25 hospital?

Sharron Powers - Direct

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1 A Pretty much everything that I kind of just
2 told you, what had happened, what his injuries are.
3 I'm sure I started an IV, probably two of them, yes,
4 a trauma and fusion set, which is two IV's, large
5 bore, and oxygen, monitor, and, you know, just tell
6 them all of that and how he's doing, and our ETA to
7 the hospital.

8 Q Is there any, I guess, level of trauma?
9 Is one considered something that needs more
10 attention than others.

11 A Yes.

12 Q Or do you make classifications like that
13 on his injuries?

14 A Yes. Something like that, I mean, life-
15 threatening, we call trauma alert, which I also did.
16 You know, that lets the hospital know, lets the
17 doctors know, that they need to get more people in.
18 When I tell them the injury, they know to get the CT
19 scan ready or whatever type of x-ray they want to
20 take.

21 Q And that was done in this case with Josh?

22 A Yes.

23 MS. TANNER: Thank you, Ms. Powers. Please
24 answer anything defense counsel has.

25 MR. COLONGELI: Very briefly, Your Honor.

Sharron Powers - Direct

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1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. COLONGELI:

4 Q Ms. Powers, just to make sure I heard your
5 testimony correctly, you stated a laceration on the
6 right eyebrow --

7 A Yes.

8 Q -- as well as the right shoulder?

9 A Yes.

10 Q Would your testimony here today based on
11 your recollection of what you saw that night be the
12 majority of the injuries you saw were on the frontal
13 part of Mr. Pringle?

14 A Not necessarily, no.

15 Q And why do you say that?

16 A Because I believe -- and, no, I don't have
17 it here. But I believe when I saw him or when I
18 checked him, I could feel more of the crepitus on
19 the back of the head.

20 Q As far as the seriousness of injuries that
21 I'm stating, you stated in your direct examination
22 that two of the injuries were, in fact, the right
23 eyebrow and the shoulder?

24 A Right.

25 Q You also stated that he was a big man, is

1 that correct?

2 A Yes.

3 Q What do you mean by that?

4 A Well, muscular. I really couldn't tell
5 how tall or anything, but just very muscular, very
6 stocky man.

7 Q Thank you very much.

8 A Sure.

9 MR. COLONGELI: Nothing further.

10 MS. TANNER: Just briefly, then.

11 REDIRECT EXAMINATION

12 BY MS. TANNER:

13 Q Ms. Powers, were there any injuries to his
14 face?

15 A Just, from my report, the laceration to
16 the face.

17 Q Just the right eyebrow?

18 A Right.

19 Q And when you say the shoulder, is it the
20 front of the shoulder or the back?

21 A I believe it was the back of the shoulder,
22 more of the top back.

23 Q Back in here?

24 A Right, yes.

25 Q Thank you.

Sharron Powers - Redirect

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1 MS. TANNER: No further questions.

2 THE COURT: Anything further, Mr. Colongeli?

3 MR. COLONGELI: Nothing, Your Honor.

4 THE COURT: You may step down.

5 MS. TANNER: May this witness be excused?

6 THE COURT: Any objection?

7 MR. COLONGELI: Without objection.

8 THE COURT: You are excused. Thank you.

9 MS. TANNER: The State calls Scott Rodriguez.

10 (The witness was sworn.)

11 SCOTT RODRIGUEZ, having first been

12 duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. TANNER:

15 Q Good afternoon, Sergeant.

16 A Good afternoon.

17 Q Where are you employed?

18 A Beaufort County Sheriff's Office.

19 Q How long have you worked with the

20 Sheriff's Office?

21 A Now, I believe it's almost nine years.

22 Q And what kind of training and background

23 do you have?

24 A I am a retired New York City police

25 officer. I used to be the commander of the COBRA

Scott Rodriguez - Direct

280

1 team here.

2 Q What's that?

3 A The Chemical, Ordinance, Biological,
4 Radiological Attack Team. I am currently on the
5 ROBOT Team, and I'm a patrol supervisor.

6 Q And we all watch television. There's
7 something we call a first responder. Do you ever do
8 that in your duties?

9 A Every day. That is my duty.

10 Q So when I say first responders talking
11 about television, you guys get there first?

12 A Correct.

13 Q I'm going to ask you about January 3,
14 2007. Were you a first responder in the Stuart
15 Point Road area that night?

16 A Correct.

17 Q And when you arrive, who do you first
18 encounter?

19 A When I arrive, I encounter Deputy
20 Nielander, and he's there saying "We have to clear
21 the house across the street." He told me that this
22 woman said somebody attacked her. He might be in
23 the house.

24 MR. COLONGELI: Objection, Your Honor.

25 THE COURT: Sustained.

Scott Rodriguez - Direct

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1 Q Without saying what your deputy said, what
2 did you then go do, once you arrived on the scene?

3 A We checked the immediate exterior area of
4 the residence. We approached the front door, and we
5 made entry.

6 Q Now, you said clear the house. What does
7 that mean? And I know that's probably police
8 officer lingo, but what does that mean?

9 A That means to search inside the residence
10 for anybody who might be in there.

11 Q And did you do that at the Stuart Point
12 residence?

13 A Yes, the first floor.

14 Q And what do you find on the first floor?

15 A Immediately upon entry of the front door,
16 to the left we could see a body on the ground in a
17 pool of blood. There was nobody else on the first
18 floor of the residence.

19 Q And would that be considered cleared?

20 A That would be the first floor, yes.

21 Q And then do you move to the second floor?

22 A Unfortunately, a second team took the
23 second floor.

24 Q Okay. Now, once you locate the body on
25 the first floor, what, if anything, did you do?

Scott Rodriguez - Direct

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1 A Well, he was covered in blood. And there
2 were doorways that we couldn't safely clear and tend
3 to him. We had EMS respond. We secured the area,
4 so we did have a second team secure that second
5 stairwell by the kitchen area.

6 Q How many officers were on the scene at
7 that time, do you know?

8 A I couldn't tell you offhand. There was at
9 least four that I know of, because there was a team
10 that did upstairs and me and Nielander on the first
11 floor.

12 Q And are you familiar with Deputy
13 Nielander?

14 A Yes.

15 Q Do you know where he is today?

16 A Michigan.

17 Q Now, once EMS is called in for the victim
18 you find, what then do you do?

19 A We start looking around for any forms of
20 evidence and securing the actual scene.

21 Q Now, do you find any weapons?

22 A I did not.

23 Q And did you search that first floor for
24 anything like that?

25 A I looked around and did not find anything

Scott Rodriguez - Direct

283

1 of that type myself.

2 Q Thank you, Sergeant. Please answer
3 anything defense counsel has.

4 MR. COLONGELI: May it please the Court, Your
5 Honor?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. COLONGELI:

9 Q I'm sorry, is it Sgt. Rodriguez?

10 A Correct.

11 Q Good afternoon.

12 A How are you doing?

13 Q You mentioned you're quite experienced.
14 You have history in New York City as a police
15 officer?

16 A Yes, sir.

17 Q You've been in law enforcement for how
18 many years?

19 A I believe it's 14 or 15 now.

20 Q Okay. And this incident occurred over two
21 years ago, correct?

22 A Correct.

23 Q And I'm sure that you prepared a report in
24 relation to what you did back on January 3, 2007?

25 A No, I didn't.

1 Q You did not?

2 A No.

3 Q As a law enforcement officer, in the
4 investigation of any sort of crime, is it not
5 fundamental to prepare a report in order to further
6 prosecute that case from that?

7 A For the case officer, it is.

8 Q And who is the case officer?

9 A I believe Nielander was the initial case
10 officer.

11 Q All right. And he's not here?

12 A Correct.

13 Q He's in Michigan?

14 A To my knowledge, that's where he is, yes,
15 sir.

16 Q Out of all the discovery the State has
17 supplied me in this case, a box full, everything on
18 my desk, there's not one report with your name on it
19 as to what you're testifying to this jury today?

20 A Correct.

21 Q You're testifying from memory?

22 A Correct.

23 Q What did you review prior to today to
24 refresh your memory as to what occurred back on
25 January 3, 2007?

Scott Rodriguez - Cross

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1 A Nieler's report.

2 Q Okay. And, in fact, Nieler was on the
3 scene prior to you being there?

4 A Yes.

5 Q So you had -- and correct me if I'm wrong.
6 But you had what I would imagine, if I were a law
7 enforcement officer, to be what every cop would like
8 to do to the extent of going in there to back up his
9 fellow officers and secure the scene to make sure
10 everything's safe -- more or less?

11 A I don't understand what you're talking
12 about.

13 Q Your function there was not as a first
14 responding officer, was it?

15 A Yes, it was.

16 Q I thought you said Deputy Nieler was
17 the first responding officer?

18 A Every officer there was a first responder.
19 We were the first people at the residence.

20 Q Can you tell me who else was there, to the
21 best of your recollection?

22 A Me and Nieler, for sure.

23 Q And that's because you don't have any
24 notes to tell you that, correct?

25 A Correct.

Scott Rodriguez - Cross

286

1 Q You didn't prepare any sort of report that
2 would help you here today in furthering the
3 prosecution of this case?

4 A No.

5 Q So your job there wasn't an investigatory
6 function. It was to secure the house. That's what
7 your testimony was?

8 A My job there was to back Nielander up at
9 this residence. We were the first ones there. He
10 was the actual first person there, correct.

11 Q So you were there to back up your fellow
12 officer --

13 A Yes.

14 Q -- to secure the scene, to make sure
15 everybody was safe?

16 A Correct.

17 Q You don't know what happened further than
18 that?

19 A No.

20 Q Do you know whether or not Mr. Jackson
21 turned himself in that night?

22 A Actually, I do know that. I worked the
23 remainder of the evening.

24 Q Okay. Do you know that he made statements
25 repeatedly as to "They tried to kill me"?

Scott Rodriguez - Cross

287

1 A No.

2 Q You weren't told that in reviewing your
3 notes for today?

4 A No.

5 Q Who did you speak to in preparation for
6 your testimony here today?

7 A Nobody. I didn't prepare at all.

8 Q Nobody spoke to you prior to you coming
9 here today to testify?

10 A No, I wasn't prepared for this testimony.

11 Q How did you know to be here?

12 A I was advised to be here at 11:00 today.

13 Q Okay. And based on that, you took it upon
14 yourself to pull Deputy Sheriff Nielander's report?

15 A Correct.

16 Q No one told you to do that? You
17 remembered he was the initial officer?

18 A I advised to read the original report,
19 correct.

20 Q So you're here substituting for Nielander,
21 who's in the state of Michigan?

22 A No, I'm here because I was told to be at
23 the trial.

24 Q You're here relying on his report?

25 A Correct.

Scott Rodriguez - Cross

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1 Q But you're not here substituting for him?

2 A No.

3 Q So you can't tell us what Nielander could
4 as being the first responding officer to that scene?

5 A That is correct.

6 Q Thank you.

7 MR. COLONGELI: I have nothing further.

8 MS. TANNER: Nothing further, Your Honor. May
9 this witness be excused?

10 THE COURT: Any objection?

11 MR. COLONGELI: Without objection at this time,
12 Your Honor.

13 THE COURT: Sgt. Rodriguez, you may be excused,
14 sir.

15 MR. RODRIGUEZ: Thank you, Your Honor.

16 MS. TANNER: The State calls Eric Calendine.

17 (The witness was sworn.)

18 COURT REPORTER: Spell your last name, please.

19 MR. CALENDINE: Calendine -- C-A-L-E-N-D-I-N-E.

20 ERIC CALENDINE, having first been
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. TANNER:

24 Q Good afternoon, Sgt. Calendine.

25 A Good afternoon.

Eric Calendine - Direct

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1 Q Where are you employed?

2 A Beaufort County Sheriff's Office.

3 Q How long have you worked there?

4 A Almost nine years.

5 Q And what kind of training and education do
6 you have to work in law enforcement?

7 A I graduated the Academy in 2000, and was
8 on the road patrol for two years, and then was
9 assigned to investigations for four years.

10 And then I went to a special assignments
11 unit after that and then went back to
12 investigations. And now I'm on the road patrol.

13 Q Okay. And in January of 2007, what was
14 your assignment?

15 A I was with the Special Assignments Unit.

16 Q And what did that unit do?

17 A Various tasks within the Sheriff's Office,
18 aggressive patrol, any kind of just problems within
19 the community we were tasked to help assist with.
20 That would be through patrolling or helping
21 investigations out, helping DTF out, just in that
22 capacity.

23 Q Now, on January 3, 2007, were you working
24 in that capacity?

25 A Yes, I was.

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1 Q And did you respond to the area of Stuart
2 Point Road?

3 A I did.

4 Q And did you respond to -- well, where did
5 you respond to on Stuart Point Road?

6 A I'm not sure of the exact address. It was
7 just a very large house on Stuart Point Road.

8 Q And is that located within Beaufort
9 County?

10 A Yes, it is.

11 Q And once you arrive, how soon after the
12 call goes out do you arrive?

13 A We were a few minutes away. We ran code
14 to get to the scene. And what was there, there were
15 other officers there prior to my arrival. But as
16 soon as we got there, we helped clear the residence
17 to make sure it was clear for EMS to come in.

18 Q And you said you ran code. What does that
19 mean?

20 A Lights and sirens.

21 Q Now, once you do arrive, you said you
22 arrived in time that you were part of clearing the
23 residence?

24 A Yes, I was.

25 Q Okay. And we've heard from Deputy

Eric Calendine - Direct

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1 Rodriguez that that means going in the residence,
2 looking for --

3 A We were looking for -- to see if the
4 suspects or any witnesses, victims are in the house,
5 to make sure that the place was clear of any kind of
6 threat to not only ourselves, with people actually
7 in the residence and for EMS to come in.

8 Q So at that point, you are, I guess,
9 working in the capacity of a first responder?

10 A Correct.

11 Q And do you participate in the clearing of
12 the residence?

13 A I do.

14 Q And do you participate in the clearing of
15 the first floor?

16 A Yes.

17 Q And what do you find there?

18 A There's a gentleman on the floor. Lots of
19 blood is in the kitchen. That's where the gentlemen
20 is -- in the kitchen/kind of family room. And then
21 there was -- we just cleared the rest of the house,
22 obviously called EMS once the scene was secured to
23 get them to come in and render aid to this person.

24 Q What about the second floor?

25 A I did go up there. I didn't go in every

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1 room, because there were several officers. But I
2 did help clear the second floor, also.

3 Q And were you present when the baby is
4 found?

5 A I know the baby was upstairs. I don't
6 know what room it was in. I wasn't in that room.

7 Q Once the house is cleared and EMS has
8 removed Josh Pringle from the house, what, if
9 anything, do you then do?

10 A Given my prior experience with helping
11 with crime scenes as an investigator, the assigned
12 investigator asked that I stay behind and help
13 process the crime scene.

14 Q And did you do that?

15 A I did.

16 Q And are these things that you did yourself
17 and observed yourself?

18 A I assisted the other investigator in
19 processing the crime scene, so in that capacity.

20 MS. TANNER: Your Honor, I'm just going to show
21 -- if I may approach the witness. This is State's
22 Exhibits Twenty-One through Twenty-Nine, just for
23 identification.

24 Q If you can just look through these
25 photographs and tell me if you can identify these,

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1 without publishing.

2 A These are the pictures from the scene that
3 night.

4 Q And are these photographs fair and
5 accurate depictions of the scene as you observed it
6 that night?

7 A Yes.

8 MS. TANNER: Your Honor, just for
9 identification at this point, obviously from your
10 prior ruling.

11 THE COURT: Subject to your prior objection,
12 Mr. Colongeli.

13 MR. COLONGELI: Thank you, Your Honor.

14 Q And, Sgt. Calendine, during your
15 investigation of the crime scene, do you locate any
16 weapons?

17 A We located a stick of some sort in the
18 master bedroom, and that's, from what I can
19 remember, the only object that we found.

20 Q Was there anything that would be
21 considered a weapon located near the body of Josh
22 Pringle?

23 A I don't recall.

24 Q Did you collect anything that appeared to
25 be any type of weapon other than that stick from the

Eric Calendine - Direct

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1 bedroom?

2 A I did not.

3 Q Did you see anybody else collect anything,
4 weapon-wise?

5 A I don't recall.

6 Q Now, what other items of evidentiary value
7 did you participate in collecting that night?

8 A Blood samples, various things, you know,
9 as far as photographing, obviously, I took part in
10 the photographs with the other investigator and
11 other pieces of the crime scene.

12 Q If you could go to photographs twenty-
13 eight and twenty-nine.

14 MS. TANNER: Your Honor, those two photographs
15 are not subject to your prior ruling, and these were
16 not objected to. It should be the last two.

17 Q What is depicted in State's Exhibits
18 Twenty-Eight and Twenty-Nine?

19 A It would be the front door, the inside of
20 the front door, the door handle, and actually the
21 inside where the locking mechanism is on the door
22 itself.

23 Q And did you participate in collection of
24 evidence from that area?

25 A I did.

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1 Q And I believe there's a hand actually in
2 the photograph. Whose hand is that?

3 A That is my hand.

4 Q And what type of evidence was collected
5 from that area?

6 A The blood was collected from that area.

7 Q And how do you go about collecting blood
8 from a crime scene like that?

9 A Sterile swabs. Obviously, you photograph
10 first, which we did in these photos. Sterile swabs,
11 which then are used with saline solution to just
12 moisten the tip of the swab, and then actually swipe
13 the area right here where it actually had blood on
14 it.

15 So we swipe the blood from there. And
16 then that is left to dry and then sealed in an
17 envelope or a box. I'm not sure what we put it in.
18 But there's different methods to do it.

19 MS. TANNER: If I may approach, Your Honor?

20 THE COURT: You may.

21 Q This is State's Exhibit Thirty. Can you
22 identify that item?

23 A It's a Q-tip swab of a blood swab that was
24 collected from the scene that night.

25 Q And is that one that's collected from that

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1 door area which is pictured in twenty-eight and
2 twenty-nine?

3 A I cannot be certain.

4 Q And you were present for the collection of
5 those items?

6 A I was.

7 MS. TANNER: If I may approach, Your Honor,
8 this is State's Exhibits Thirty-One and Thirty-Two
9 for identification.

10 (State's Exhibits Number Thirty-One
11 and Thirty-Two, Photographs, were marked for
12 identification purposes.)

13 A Actually, to go back to the first one, I
14 didn't read the right top. It actually says "front
15 door front."

16 Q Is that Exhibit Thirty?

17 A Thirty.

18 Q And you were present for the collection of
19 that item?

20 A I was. It's just in a different location
21 from where I usually put, I'm sorry.

22 Q Okay. And State's Exhibit Thirty-One?

23 A Yes, I was there for this. This was the
24 bedroom. I was there for the collection of that.

25 Q And thirty-two?

Eric Calendine - Direct

29.7

1 A: This is from the floor near the door. I
2 was also there for that.

3 Q And were those swabs collected using the
4 standard protocol and procedure?

5 A Yes.

6 Q Were they tampered with in any way, or
7 were they secured properly?

8 A As far as my recollection, they were
9 secured properly and collected properly.

10 MS. TANNER: Your Honor, the State moves
11 Twenty-Eight and Twenty-Nine into evidence, these
12 photographs.

13 MR. COLONGELI: Objection, Your Honor.

14 THE COURT: Pardon me -- no objection?

15 MR. COLONGELI: With objection, Your Honor.

16 MS. TANNER: Twenty-eight and twenty-nine,
17 photographs?

18 MR. COLONGELI: If I may approach, if I could
19 just take a look at them.

20 THE COURT: Why don't you take a look at them?

21 MR. COLONGELI: That will be fine. Thank you,
22 Your Honor. I apologize -- no, without objection.

23 THE COURT: Okay, they're in evidence without
24 objection.

25 (State's Exhibits Number Twenty-Eight

Eric Calendine - Direct

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1 and Twenty-Nine, Photographs, were entered in
2 evidence.)

3 MS. TANNER: May I publish to the jury?

4 THE COURT: You may.

5 MS. TANNER: The State also moves thirty,
6 thirty-one, and thirty-two, which were the swabs
7 collected, into evidence, Your Honor.

8 THE COURT: Mr. Colongeli?

9 MR. COLONGELI: Without objection.

10 THE COURT: They're in evidence without
11 objection.

12 (State's Exhibits Number Thirty,
13 Thirty-One, and Thirty-Two, Swabs, were entered in
14 evidence.)

15 MS. TANNER: Thank you, Your Honor.

16 Q Sgt. Calendine, other than the area where
17 you locate Josh, is there any other area of the
18 house that looks disturbed or where a fight occurred
19 or anything like that, that you found in your
20 investigation?

21 A In the master bedroom, we found this stick
22 of some sort with actually what appeared to be blood
23 on it. And then also the entertainment center in
24 that master bedroom also had what appeared to be
25 blood on it also, as well.

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1 Q Thank you, Sergeant. Please answer
2 anything defense counsel has.

3 THE COURT: Mr. Colongeli?

4 MR. COLONGELI: May it please the Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. COLONGELI:

8 Q Good afternoon.

9 A Good afternoon.

10 Q I've known you for a number of years in a
11 professional capacity. I know you're a very good
12 officer, but I need to ask you right now. I'm sure
13 that you submitted some sort of report, supplemental
14 report, as part of this case, did you not?

15 A I did not. I was there only as an
16 assisting capacity to help process the crime scene.

17 Q So you, as well as Sgt. Rodriguez, have no
18 reports whatsoever submitted in this case for the
19 prosecution of this case?

20 A I can't speak for Sgt. Rodriguez, but I
21 did not write a report for this case.

22 Q You stated that your activities that night
23 were an assignment to what was called, I guess, a
24 Special Assignment Team?

25 A Correct.

CONTINUED IN PART TWO OF TWO

ORIGINAL

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF BEAUFORT)

State of South Carolina,)
)
 PLAINTIFF,) TRANSCRIPT OF TRIAL
) 2007-GS-07-174
 -VS-) 2007-GS-07-175
) 2007-GS-07-176
 Harold Lee Jackson,)
) PART TWO OF TWO
 DEFENDANT.)
 _____)

BEFORE THE HONORABLE CARMEN TEVIS MULLEN, JUDGE
 APRIL 20, 21, 22, AND 23, 2009
 BEAUFORT, SOUTH CAROLINA

A P P E A R A N C E S:

Angela McCall Tanner, Esq.
 Meredith Anne Bannon, Esq.
 For the State

Donald Christopher Colongeli, Esq.
 For the Defendant

REMA K. GANTT THOMAS
 CIRCUIT COURT REPORTER

Eric Calendine - Cross

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1 Q Is that similar to SWAT, or different?

2 A It was consistent with SWAT members at the
3 time. But our capacity was in the sense of just any
4 kind of special assignment that needed to be done
5 which we were attached to do, whether it be find
6 somebody, traffic control.

7 Anything that needed to be done within the
8 sheriff's realm for the community, that's what we
9 were tasked.

10 Q And you, as well as Sgt. Rodriguez
11 testified before you, responded to Stuart Point Road
12 in reference to what?

13 A I responded as to officers needed backup
14 with reference to some kind of assault.

15 Q So you went there for the purpose of
16 backing up your fellow officers securing the scene,
17 and clearing the scene?

18 A Correct.

19 Q And, yet, your testimony here today to the
20 ladies and gentlemen of this jury is that you
21 actually then took on an investigatory function in
22 addition to being there to secure and clear the
23 scene?

24 A Correct.

25 Q And, yet, you didn't file any sort of

Eric Calendine - Cross

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1 reports for the prosecution of this case at a later
2 date?

3 A I was not the primary investigator in the
4 case, and so --

5 Q As a matter -- I'm sorry, go ahead.

6 A I wasn't the primary, and that's --

7 Q So let's get to that. You were not the
8 primary lead criminal investigator in this case,
9 were you?

10 A I was just the assistant to help assist in
11 the crime scene.

12 Q And in a case like this, as an experienced
13 law enforcement officer, obviously, you would defer
14 to the lead criminal investigative officer, correct?

15 A Defer to --

16 Q Defer to him. You would defer to him as
17 far as his direction and be under his supervision as
18 far as any investigatory functions you would have
19 assisted him with?

20 A I had been doing investigations for
21 several years prior to going to SAU. So I was there
22 to assist him, but I've worked on many crime scenes
23 myself. So to help him --

24 Q But this wasn't your crime scene. Whose
25 crime scene was it?

Eric Calendine - Cross

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1 A It was the lead investigator's.

2 Q And who was the lead investigator?

3 A Lester Williams.

4 Q Do you know whether or not Lester Williams
5 is here today?

6 A I haven't seen him here. I haven't seen
7 him.

8 Q Do you know whether or not Lester
9 Williams --

10 MS. TANNER: May we approach, Your Honor?

11 THE COURT: You may approach.

12 Q Officer Calendine, your testimony here
13 today is that you responded as a backup officer
14 initially to secure the scene and back up your
15 fellow officers to make sure everyone was safe, to
16 clear the scene.

17 And then you stated that you began --
18 which may not be unusual -- some investigatory
19 function in relation to your being there, correct?

20 A Correct.

21 Q And you did that under the direction of
22 the lead criminal investigative officer, who, in
23 fact, was, you said, Lester Williams?

24 A Correct.

25 Q You stated you're not sure whether he's

Eric Calendine - Cross

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1 here today. Do you know where he's still employed
2 by the Sheriff's Department?

3 A He is no longer with the Sheriff's Office.

4 Q Do you happen to know why he is no longer
5 employed by the Sheriff's Department?

6 MS. TANNER: Objection, Your Honor.

7 MR. COLONGELI: I'll withdraw that at this
8 time, Your Honor.

9 THE COURT: Okay, thank you.

10 Q In deferring to his direction as far as
11 the lead criminal investigative officer, can you
12 explain to the jury a little bit what role he had as
13 a lead criminal investigative officer or what a lead
14 criminal investigative officer does, particularly in
15 relation to what turned out to be an offense that
16 was later charged as murder?

17 A I can only tell you what we did that
18 night. Is that what you're asking me?

19 Q Have you ever been the lead criminal
20 investigative officer?

21 A Certainly. But every case is different in
22 a sense of how you -- and I don't know how that
23 other officer does his -- all his cases, so --

24 Q Okay. Well, you assisted him that night?

25 A Correct. I just said I can testify what

Eric Calendine - Cross

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1 we did that night.

2 Q Okay. And, yet, you didn't prepare any
3 sort of supplemental reports that could show us here
4 today in fact what you specifically did to assist
5 him?

6 A No. A lot of times, if there's more than
7 one investigator at a scene, not every person or
8 every investigator is going to write a report about
9 what they did.

10 It's usually on the lead investigator, or
11 if there's something -- you know, if I am involved
12 and I actually go and do a separate aspect without
13 another investigator there, then I'll --

14 Q Even if it involves the submittal of
15 evidence?

16 A I didn't submit any evidence, though.

17 Q So your testimony here a little while ago
18 wasn't that you --

19 A I helped collect the evidence, but I
20 didn't actually submit it to anybody.

21 Q So let me ask you that. Even in light of
22 the fact that you were collecting evidence, there
23 wouldn't be some sort of paper trail showing that
24 you, in fact, did that?

25 A As I said, we were there working as a

Eric Calendine - Cross

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1 team. He's the primary, in a sense. So that was on
2 him.

3 Q Isn't there supplemental reports every
4 time in any sort of crime with other officers that
5 are assisting their lead investigator as to what
6 they've done?

7 A Not all the time, no.

8 Q But that's normal, is it not?

9 A It depends. Like I said, if more than one
10 investigator is there, the one investigator is not
11 always going to have to write a supplemental report
12 about what the scene was -- what happened at the
13 scene. This case is over two years old, is that a
14 given -- you would agree with me on that?

15 A Yes.

16 Q At what point in time did you realize you
17 were going to be called as a witness in this case?

18 A It wasn't till a few months ago.

19 Q And in preparing to testify as to
20 something that happened almost two years ago, is it
21 safe to assume that you relied upon that chief
22 criminal investigative officer's report in order to
23 truthfully testify to this jury?

24 A Actually, in a sense it was my first time
25 working a crime scene north of the Broad River. I

Eric Calendine - Cross

306

1 was usually assigned south of the Broad River. So
2 it was unique in a sense of something to remember
3 because it was north of the Broad. So that's from
4 my memory of it.

5 Q Officer Calendine, you're a good officer,
6 and I understand you know the seriousness of what
7 we're doing here today. My question again to is,
8 did you not rely on Lester Williams, the lead
9 criminal investigative officer, who you assisted --
10 did you not rely on this and at least refresh your
11 memory in order to come in here and testify today in
12 his absence?

13 A I have not read his report. I've just
14 looked at scene photos. That's all I've done for
15 this case.

16 Q And everything you're testifying to today
17 is from complete memory as to what occurred?

18 A Yes.

19 Q And you've got that down to the point of
20 specifically remembering what kind of evidence you
21 collected?

22 A In a sense of where some of the blood was
23 collected and where some of the items were, yes.

24 Q How many investigations do you think
25 you've been involved in since January 3, 2007?

Eric Calendine - Cross

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1 A I couldn't even give you a number -- a
2 lot.

3 Q But for some reason, this one sticks out
4 in your head?

5 A It certainly does.

6 Q And I'll ask you, and I know it's asked
7 and answered, but I'll ask you one last time. You
8 have not at one point in time discussed Lester
9 Williams' report with the State in preparing for the
10 prosecution of this case?

11 A I said I never read his report. I've only
12 talked about the scene photos and what I remember
13 from that night with the prosecution.

14 Q Okay, you haven't read it. Did you
15 discuss his report with the State?

16 A I don't know.

17 Q Did you discuss the contents of Lester
18 Williams' report in order to help you remember what
19 you did that day?

20 A It was purely I was looking at the
21 photographs. They asked me questions. I don't know
22 if it was from his report.

23 Q With all due respect, Officer Calendine,
24 that really is a "yes" or "no" question. Did you
25 discuss with the State in preparing for this trial

Eric Calendine - Cross

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1 Lester Williams' report?

2 A I guess it would be yes, we went over the
3 report. But I didn't actually read the report, is
4 what I'm -- they asked me questions about the
5 incident that night.

6 Q I'm going to ask you, then, at this point
7 in time, do you know why Lester Williams isn't here
8 today?

9 MS. TANNER: Objection, Your Honor.

10 THE COURT: Overruled.

11 MS. TANNER: Your Honor, if I may approach?

12 THE COURT: Yes.

13 Q Officer Calendine, I don't take great
14 pleasure in having to ask you this. But do you know
15 why Lester Williams isn't here today?

16 A I do know why he's not here today.

17 Q And can you explain that to the jury?

18 A I can.

19 Q Wasn't it true -- isn't it true that, in
20 fact, he was terminated?

21 A He was.

22 Q Do you know whether or not he was
23 terminated approximately February of 2007?

24 A I don't know the exact date.

25 Q Can you tell the jury -- or would you like

Eric Calendine - Cross

309

1 me to state to you -- as to the reasons he was
2 terminated?

3 A Say that again?

4 Q And I'm sorry. Do you know why he was
5 terminated?

6 A I do.

7 Q And what was that reason?

8 A For a drug test.

9 Q Isn't it true that he, in fact, tested
10 positive for cocaine in February of 2007?

11 A I don't have the results. I just know he
12 failed a drug test.

13 Q Can you answer that again? You don't know
14 the results, but you know he failed a drug test?
15 I'm sorry.

16 A Ask your question again?

17 Q Do you know the reason he was terminated?

18 A Because he failed a drug test.

19 Q And what type of drug test was that?

20 A Just they do a random drug test for the
21 Sheriff's Office employees.

22 Q Was it, in fact, for the use of cocaine?

23 A The drug test is for just for a certain
24 type of drugs.

25 Q Do you have specific knowledge that it

Eric Calendine - Cross

310

1 was, in fact, for the use of cocaine?

2 A I don't have -- I never got the results of
3 his drug test.

4 Q Did you hear in the course of your
5 employment with the Sheriff's Office that he was
6 fired for the use of cocaine?

7 MS. TANNER: Objection, Your Honor. Now he's
8 asking hearsay questions. I think he's covered his
9 point.

10 THE COURT: Sustained. Move on.

11 Q As far as the stick you did mention that
12 you -- did you particularly yourself collect the
13 stick?

14 A I helped in the sense of locating the
15 stick. I found the blood on the stick, and then we
16 photographed it. I don't believe I physically put a
17 tag on it or anything, no.

18 Q And your testimony was that there, in
19 fact, was a great deal of blood on that stick. To
20 the best of your memory, there was blood?

21 A There was very little blood on the stick
22 itself.

23 Q Okay. And I believe we have pictures that
24 show that.

25 A Yes.

Eric Calendine - Cross

311

1 Q Do you know where that stick is today?

2 A I don't.

3 Q Okay. And as far as this alleged baseball
4 bat, there was never any recovery of that, to your
5 knowledge?

6 A I don't remember that.

7 Q Okay. And your testimony was that you
8 didn't see any other sort of weapons, even to the
9 extent of possible kitchen knives or any other sort
10 of utensils in the house that could have been
11 possibly a weapon on the scene? You have no
12 knowledge of or took in any sort of --

13 A There were plenty of weapons in the house.
14 Are you asking for like the --

15 Q That's what I'm trying to get to. There
16 were plenty of weapons in the house. What kind of
17 weapons?

18 A You can use a chair as a weapon.

19 Q I know. I understand. There were no
20 knives or anything laying anywhere?

21 A Not near where the -- in the kitchen where
22 the blood was on the ground.

23 Q Where were the knives?

24 A I'm sure they were in the little knife
25 racks. I'm not sure.

Eric Calendine - Cross

312

1 Q There were no knives laying around, to
2 your knowledge?

3 A No.

4 Q I appreciate your candor, Officer.

5 MR. COLONGELI: I have no further questions.

6 THE COURT: Any redirect?

7 MS. TANNER: Yes, ma'am, just briefly.

8 REDIRECT EXAMINATION

9 BY MS. TANNER:

10 Q Officer Calendine --

11 MS. TANNER: If I may approach the witness,
12 Your Honor?

13 THE COURT: You may.

14 Q -- Defense Exhibit Ten, is this the bloody
15 stick that he's asking you about?

16 A Yes, it is.

17 MS. TANNER: May I publish to the jury, Your
18 Honor?

19 THE COURT: You may.

20 Q You were talking about this one spot of
21 blood on the stick?

22 A Correct.

23 MS. TANNER: No further questions.

24 THE COURT: Any recross?

25 MR. COLONGELI: Not at this time, Your Honor.

Eric Calendine - Redirect

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1 THE COURT: You may step down, Sgt. Calendine.

2 MS. TANNER: May we approach?

3 THE COURT: You may.

4 Ladies and gentlemen of the jury, I
5 believe this is a good stopping point for the
6 evening. So I'm going to go ahead and excuse you
7 for the night.

8 I want to remind you again, as we do every
9 time you leave here, not to discuss this case with
10 anyone. Additionally, at this point, I know you've
11 heard some evidence or some testimony about where
12 this alleged incident occurred.

13 It wouldn't be appropriate for you to do
14 any of your own investigation. Again, you're going
15 to have everything you need to decide this case
16 right here in this courtroom.

17 Lastly, ladies and gentlemen, there may or
18 may not be something in the newspaper on this case.
19 Again, I am ordering you not to read any articles
20 from the newspaper.

21 I can tell you that I don't believe
22 there's going to be anything on the news, because
23 typically, if they were going to film something or
24 take photographs, they would have to get my
25 permission to do so first.

1 But out of an abundance of caution, if
2 you're watching the news tonight as well, and you
3 hear anything about this case, you are to disregard
4 it. Again, it would be inappropriate for you to be
5 influenced by any outside source, all right.

6 With that said, ladies and gentlemen, the
7 attorneys tell me they're prepared to start back up
8 again at 9:30 tomorrow morning, which is what we
9 will do. We will continue the trial of this case.

10 Is that a problem for anyone? I saw a
11 couple of people look up. Is 9:30 okay? All right,
12 I'll look forward to seeing you all at 9:30 prompt,
13 and have a good evening.

14 (The jury left the
15 courtroom at 4:50 p.m.)

16 BAILIFF: The jury is clear, Your Honor.

17 THE COURT: Thank you, Bob.

18 All right, anything from the State before
19 we break?

20 MS. TANNER: Nothing from the State.

21 THE COURT: Anything from the defense?

22 MR. COLONGELI: Nothing from the defense.

23 THE COURT: All right. We'll be here tomorrow
24 morning at 9:15. Just in case there's anything that
25 crops up, come back and get me if there's any issues

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1 we need to take up. I expect to start promptly at
2 9:30 tomorrow morning. Everyone have a good
3 evening.

4 MS. TANNER: Thank you, Your Honor.

5 MR. COLONGELI: Thank you, Your Honor.

6 THE COURT: Thank you.

7 - End of Day -

1 Wednesday, April 22, 2009

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom.)

5 THE COURT: Thank you all.

6 Please be seated.

7 Is the State ready to go?

8 MS. TANNER: Yes, ma'am.

9 THE COURT: Is the defense ready to go?

10 MR. COLONGELI: Yes, Your Honor.

11 THE COURT: All right, let's bring the
12 jury in.

13 BAILIFF: Yes, ma'am.

14 THE COURT: Solicitor, roughly how many
15 witnesses do you think you're going to put up today?

16 MS. TANNER: I'd say about six.

17 BAILIFF: Jurors entering, Your Honor.

18 THE COURT: Thank you.

19 (The jury returned to the
20 courtroom at 9:54 a.m. after which the following
21 proceedings were had:)

22 BAILIFF: Your Honor, the jury is seated.

23 THE COURT: Thank you. Good morning.

24 THE JURY: Good morning.

25 THE COURT: Ladies and gentlemen, at this

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1 time we are going to continue the trial of this
2 case.

3 Solicitor, if you will call your next
4 witness.

5 MS. TANNER: Yes, ma'am, Your Honor. The State
6 calls Master Sgt. Jeff Purdy.

7 THE COURT: If you'll please come forward to be
8 sworn, sir.

9 (Whereupon, the witness was
10 sworn.)

11 CLERK OF COURT: State your full name and spell
12 your last name, please.

13 MR. PURDY: I'm Jeffrey Allen Purdy, last name
14 is spelled P, as in Paul, U-R-D-Y.

15 JEFFREY ALLEN PURDY, having first
16 been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. TANNER:

19 Q Good morning, Master Sgt. Purdy.

20 A Good morning.

21 Q Where are you employed?

22 A Beaufort County Sheriff's Office.

23 Q How long have you been with the Sheriff's
24 Office?

25 A Fifteen years, going on sixteen.

Jeff Purdy - Direct

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1 Q And what are your duties and
2 responsibilities at the Sheriff's Office?

3 A I'm responsible for the northern
4 investigations section. I supervise eight
5 investigators. I'm also responsible for the sex
6 offender registry and the victims advocate, all
7 north of the Broad.

8 Q And how long have you been working in the
9 capacity as a supervisor over investigators?

10 A Since the beginning of 2003.

11 Q In 2007, you were the supervisor for the
12 scene involving Harold Jackson, is that correct?

13 A I overseen [sic] the investigation, yes,
14 ma'am.

15 Q And as part of that, can you tell me
16 typically how many officers from the Sheriff's
17 Office would respond to a murder scene?

18 A I don't think I can put a number on it.
19 But typically there's many officers. You've got
20 your first responders. You've got -- which is
21 patrol, the patrol guys.

22 Typically, several guys show up on the
23 scene -- two, three, four, maybe five. The
24 supervisors show up. Then they call the
25 administrative officers, the command duty.

Jeff Purdy - Direct

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1 A lot of other officers show up. You've
2 got the coroner that shows up. You've got
3 investigators that show up. There's -- and if it's
4 a scene where you may need some assistance from the
5 K-9, you've got the K-9 officers.

6 So there's -- I don't think it'd be fair
7 to give a number, but it could be anywhere from ten
8 to twenty people that typically go to a scene.

9 Q And in this case involving the assault and
10 battery with intent to kill of Shella and Nazarene
11 and then the ultimate murder of Josh Pringle, how
12 many officers were involved in that investigation,
13 roughly?

14 A Directly or indirectly? Because we've got
15 DNA people that are law enforcement. We've got
16 blood splatter that are law enforcement.

17 We've got investigators that do crime
18 scene. We've got investigators that do interviews.
19 We've got -- there's a lot.

20 Q Well, then let me ask you, does each
21 person who is involved in this case or the
22 investigation of this case -- does everybody write
23 their own report?

24 A No, ma'am.

25 Q And how is that decided? Who actually

Jeff Purdy - Direct

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1 writes the report versus someone who doesn't write a
2 report?

3 A I guess you can start with the first
4 responder. As a first responder, they're going to
5 have backup for safety reasons, not only for officer
6 safety but for safety of the people in the
7 community, to render aid if necessary if they're EMS
8 or fire personnel.

9 So you've got your first responder. And
10 as you've heard, this house needed to be cleared.
11 So you have people assisting, clearing the house.
12 So those people typically -- they don't write
13 reports.

14 Your first responder is going to be
15 responsible for gathering the initial information,
16 writing the report down with times, locations, and
17 stuff of that matter, and then, you know, step over
18 to once the initial scene is secured, they're going
19 to turn it over to an investigator or typically it's
20 investigators.

21 I've worked crime scenes myself. In doing
22 an internship up with SLED, I've worked many crime
23 scene with them. So you can have one officer work a
24 crime scene, a simple burglary.

25 And when you start dealing with murders,

Jeff Purdy - Direct

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1 and assault and batteries with intent to kill, major
2 rape crimes, you may work with two investigators.
3 I've worked scenes with as many as six or eight
4 investigators.

5 So it all depends. But when you work a
6 scene, typically one person is designated to
7 document it. They document it. They secure the
8 evidence. And the securing of evidence and the
9 photography and stuff, that's a teamwork.

10 But typically one person does the
11 documentation, unless more than one person collects
12 evidence.

13 Q For example in this case, while you've got
14 some investigators on the crime scene photographing
15 bloody areas, you have investigators interviewing
16 the victims at the hospital, is that correct?

17 A Yes, ma'am.

18 Q And do those individual people do their
19 own reports based on what they did?

20 A If they do it alone, which is rare, but if
21 they do it alone. Typically, you try to do an
22 interview with more than one person.

23 If you do an interview with more than one
24 person, say you and I do an interview, one of us
25 will be designated to document it. And in this

Jeff Purdy - Direct

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1 case, I believe Sgt. Wilson was at the hospital.

2 I believe she did some interviews. She
3 was alone because of manpower issues. She did those
4 interviews. She documented them herself.

5 If there are any other interviews that
6 were done with more than one person, one person will
7 be designated to document.

8 Q And by documenting when you're talking
9 about Investigator Wilson, I believe Mr. Colongeli
10 has introduced transcripts of the tapes that she
11 made of the interviews, is that correct?

12 A Yes, ma'am.

13 Q Now, yesterday we heard that one of the
14 several investigators on this scene, Lester
15 Williams, has since been relieved of duties.

16 A That is correct.

17 Q And you're familiar with what happened
18 there?

19 A Yes, ma'am.

20 Q Can you tell the jury just briefly, what
21 was the issue there?

22 A This has been a difficult thing since it
23 happened. Lester worked for me for like -- for five
24 years, did an excellent job the whole time he worked
25 for me.

Jeff Purdy - Direct

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1 And I can't say a bad thing about him. We
2 got called in for our annual -- I say "annual" -- a
3 random urinalysis is what we do. Randomly, they'll
4 come in and say, "We're going to do a urinalysis,"
5 where you give a urine sample and they test it.

6 It happens at random typically once a
7 year. So he's gone through many random drug testing
8 and passed before this one.

9 In February of '07, he did a urinalysis,
10 on the 18th or the 19th, I believe. I'd have to
11 look at the records. And the results came back on
12 the 23rd, and he failed.

13 And he was immediately terminated, as he
14 should have been. There's a zero tolerance for
15 drugs. As difficult as it was, as long as I've
16 known him, as much as I've seen him do, he made a
17 decision to try something, and it cost him dearly.

18 It cost him his job. I don't know if it
19 cost him his career. I don't know for sure, but I
20 believe he's working law enforcement again up -- I
21 heard, I don't know for sure, he started back in law
22 enforcement. But I've been told he had. Yes, he
23 failed a drug test.

24 Q And, Master Sgt. Purdy, based on the
25 termination of Investigator Williams, did you do

Jeff Purdy - Direct

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1 anything or was anything necessary to be done
2 involving investigation of this case?

3 A Did I do anything?

4 Q Did it affect the investigation of this
5 case in any way?

6 A No. I do not believe it did at all.

7 Q Was Lester ever involved in any section of
8 the investigation of the case of Harold Jackson
9 where he was alone or where he did anything without
10 some other officer being with him, helping him
11 document what he was doing, or vice versa? Was he
12 ever alone during the investigation of this case?

13 A I can't answer that for certain. I know
14 that the crime scene was done with Eric Calendine.
15 I know several interviews were done with me. I know
16 he worked closely with Sgt. Chris Wilson.

17 They shared an office together. I'm sure
18 that there are certain things that he has -- that he
19 did on his own. But when you're talking about crime
20 scene, and evidence, and stuff of that nature, most
21 everything he did was with another officer.

22 Q But he wrote the report, is that correct?
23 From the crime scene --

24 A He wrote his --

25 Q -- investigation, he wrote a report?

Jeff Purdy - Direct

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1 A That's correct.

2 Q But he was assisted by other officers
3 during the investigation of the crime scene, is that
4 correct?

5 A That is correct.

6 Q There's nothing that Lester Williams did
7 by himself that you relied upon as far as --

8 MR. COLONGELI: Objection, Your Honor, leading.

9 THE COURT: Sustained. Don't lead him,
10 Solicitor.

11 Q Is there anything that you relied upon
12 with regards to the investigation of this case with
13 regard to the charges brought against Harold Jackson
14 that only go back to something, some work that
15 Lester Williams did on the case?

16 A I can't think of anything. In most
17 investigations, the section that I run is a team.
18 And we work major cases, murders -- work four to six
19 a year, north of the Broad -- and they are worked as
20 a team.

21 I oversee the team, the lead investigator,
22 which in this case was Lester. Lester oversaw the
23 investigation. He was technically responsible for
24 the stuff. I oversee the other senior officers that
25 participated in it.

Jeff Purdy - Direct

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1 So it's a team effort. And, again, back
2 to the crime scene, I feel that it was teamwork.
3 Him and Eric Calendine worked on it together. The
4 interviews down at Savannah, the pictures that were
5 taken down in Savannah, the pictures from the
6 hospital, different pictures of the victims were
7 taken either with myself or with somebody else.

8 So the majority of the stuff that he did
9 on this investigation was with another law
10 enforcement officer who is -- with another
11 investigator who's still employed with the Sheriff's
12 Office today.

13 Q Master Sgt., as the supervisor over this
14 case, you're familiar with the arrest of Harold
15 Jackson?

16 A Yes, ma'am.

17 Q And are you familiar with the
18 circumstances of how that came about?

19 A I am.

20 Q Where was he actually arrested?

21 A Jasper County.

22 Q And are you familiar with the
23 circumstances of how that came to be?

24 A He turned himself in, in Jasper County,
25 reference to this investigation. Deputy Nielander,

Jeff Purdy - Direct

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1 who is obviously up in Michigan, is not here with us
2 -- he's working a law enforcement job up there -- he
3 responded to the original responding officer. He
4 went to Jasper County and picked up the defendant
5 and carried him back to Beaufort.

6 Q Investigator Purdy, was the murder weapon
7 recovered in this case? Do we have the baseball
8 bat?

9 A We do not.

10 Q Did you look for the bat?

11 A We did.

12 Q Any idea at this point where the bat is
13 located?

14 A No, ma'am. The defendant left Stuart
15 Point Road in Seabrook, went all the way to Jasper
16 County, and we're talking miles.

17 We looked for it. We looked around the --
18 I say "we." The team looked around Stuart Point
19 Road where Josh Pringle was found, where the
20 original incident started.

21 They looked across the street. They
22 looked along the road. We had some information from
23 Jasper County. I personally looked in Jasper County
24 on, I believe it was Kings Colony Road, looked
25 around in that area with an investigator from Jasper

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1 County.

2 Q What is the significance of Kings Colony
3 Road in Jasper County?

4 A Henry Chris, who's an investigator with
5 Jasper County, responded there and searched for the
6 defendant, because the information that we received
7 was that he fled to Jasper County.

8 He found a baseball bat there and turned
9 it over to me. It appears as if it had blood on it.
10 Investigator Chris turned it over to me. I secured
11 it. And a later date, I processed it with a field
12 test kit to see if it was blood.

13 It tested negative. The substance on the
14 bat, it looked like it could have been blood. I
15 couldn't even scrape off the bat.

16 I don't know if it was paint or whatever
17 it was from hitting, but it tested negative for
18 blood. We searched around that area for more
19 evidence and didn't find anything.

20 Q And the bat that you tested, were you able
21 to find an owner for that bat?

22 A Yes, an individual that claimed ownership.

23 Q Were you able to rule it out as being
24 involved in this case?

25 A Yes, ma'am.

Jeff Purdy - Direct

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1 Q Also as part of your investigation, did
2 you respond to the hospital where the victims were
3 located?

4 A I did.

5 Q And as part of that, were you able to
6 personally observe the injuries that Josh Pringle
7 sustained?

8 A Not only Josh but also Shella.

9 Q Were you able to personally observe the
10 injuries to Josh Pringle's head area?

11 A I did.

12 Q And what other injuries did you observe on
13 Josh Pringle's body?

14 A He had several staples in the back of his
15 head. He had a huge gash across his right eye. His
16 right arm was black and blue. From probably here to
17 somewhere in this area, the whole thing was purple,
18 severe bruising.

19 Q Any injuries to his face, or his nose, or
20 his chin?

21 A On his face was the laceration that I
22 could see. He was in the hospital. He had all
23 sorts of medical stuff hooked to him, tubes and so
24 on and so forth, IV's.

25 And what I can observe -- he was laying

Jeff Purdy - Direct

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1 flat on his back -- I could observe his face, the
2 lacerations to the back of his head that were
3 stapled shut, the cut across his eye, and the
4 bruising on his right tricep, basically from his
5 shoulder to his forearm.

6 Q And is there anything else that you're
7 looking for when you are, I guess, investigating the
8 body of a victim at this point? What kind of
9 injuries are you looking for and looking at because
10 you're looking over Josh Pringle?

11 A Obviously, injuries -- not only injuries
12 to his head and face area but to his hands. If
13 you're in a fight, you would use your hands to
14 defend yourself, or if you're an aggressor, you
15 would use them.

16 And a lot of times, you, you know, cut
17 your hand or something on fingernails. If you're
18 clawing someone, there could be something on your
19 fingernails, defensive wounds on certain parts of
20 your body where you could be defending yourself.

21 So I look for different things, different
22 injuries that would be consistent with somebody
23 defending themselves or someone being an aggressor,
24 stuff of that nature.

25 Q And did you look for that on Josh Pringle?

Jeff Purdy - Direct

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1 A I did.

2 Q Did you find any signs of that on Josh
3 Pringle?

4 A I did not.

5 MS. TANNER: If I may approach the witness,
6 Your Honor?

7 THE COURT: You may.

8 Q I'll show you what's been marked State's
9 Exhibits Ten, Eleven, Twelve, and Eight. Can you
10 identify the items in those four photographs?

11 A Eight is a picture of the back of Josh's
12 head where his -- where they attempted to staple his
13 scalp back together.

14 Q Is that a fair and accurate depiction of
15 how it appeared that day?

16 A Yes, ma'am.

17 Q State's Exhibit Eleven.

18 A Number eleven or number ten? You want me
19 to go in order?

20 Q Either one.

21 A Number ten is Josh's right hand. It was a
22 photograph I took of his hand to -- because I didn't
23 observe any injuries, to support the fact that there
24 were no injuries, or if there were, that there were
25 injuries. And that's his right hand as he lay in

Jeff Purdy - Direct

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1 the hospital.

2 Q Is it a fair and accurate depiction of how
3 it appeared that day?

4 A Yes, ma'am.

5 Q Number eleven.

6 A Number eleven is his left hand, the same
7 thing. It's a picture of his hand when he was in
8 the hospital. The only thing I noted on this hand
9 is on his middle finger, there's a tiny little
10 scratch that's healing.

11 Q Where is that on his hand?

12 A It would be on his left middle finger,
13 right here. It's a rather small scratch.

14 Q Is that a fair and accurate depiction of
15 how it appeared that day?

16 A Yes, ma'am.

17 Q And State's Twelve.

18 A This is his right bicep that I was just
19 describing to you where it's black and blue from
20 here to the middle of his forearm. These are the
21 best pictures I could get.

22 Please keep in mind, I couldn't move him
23 or anything because of where he was. That's as
24 accurate of a picture as I could get on Josh without
25 moving him, or as we could get.

Jeff Purdy - Direct

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1 Q Is that a fair and accurate depiction of
2 how he appeared that day?

3 A Yes.

4 MS. TANNER: Your Honor, the State moves eight,
5 ten, and eleven, and twelve into evidence.

6 THE COURT: They are in evidence subject to
7 your prior objection, Mr. Colongeli.

8 MR. COLONGELI: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (State's Exhibits Number Eight, Ten,
11 Eleven, and Twelve, Photographs, were entered in
12 evidence.)

13 MS. TANNER: Your Honor, may I publish to the
14 jury --

15 THE COURT: You may.

16 MS. TANNER: -- and have the master sergeant
17 come down --

18 THE COURT: You may.

19 MS. TANNER: -- to describe to the jury what's
20 in the photographs?

21 THE COURT: Solicitor, I think you already
22 described what was in the photographs. I think he's
23 already described it.

24 MS. TANNER: Okay.

25 THE COURT: You can certainly publish them,

Jeff Purdy - Direct

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1 though. You're welcome to.

2 MS. TANNER: Yes, ma'am. I'll start with
3 State's Exhibit Twelve.

4 THE COURT: Master Sergeant, if you want to
5 step down so you can see, you can identify those as
6 right hand, left hand, or whatever you need to do,
7 sir.

8 Q Twelve was what, Master Sgt. Purdy?

9 A That's his right arm. That's the abrasion
10 I was referring to on his right side while he was
11 laying in the hospital.

12 COURT REPORTER: Could you stand over there so
13 I can hear you? Your voice is not carrying.

14 MR. PURDY: I'm sorry.

15 A This is Joshua Pringle's right arm, from
16 the shoulder to the mid-forearm, with the bruising
17 that I observed that day.

18 THE COURT: Master Sergeant, if can you take a
19 step back this way, just so my last juror can see,
20 I'd appreciate it.

21 Q This is State's Exhibit Ten.

22 A This would be Joshua's right hand.

23 Q There's no injuries to the knuckles or the
24 back of his hand?

25 A No, ma'am.

Jeff Purdy - Direct

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1 Q State's Exhibit Eleven.

2 A This would be Joshua's left hand. You can
3 see the scratch on the middle finger. That was just
4 for evidence.

5 Q That's the only injury on that hand?

6 A This photograph was taken on the fourth.
7 The incident happened on the third. It looks like
8 it's already scarring.

9 Q But no injuries to the knuckles or the
10 back of the hand?

11 A No, ma'am.

12 Q And State's Eight.

13 A That would be Joshua's -- the back of his
14 head. That would be the back of Joshua's head with
15 the staples in it.

16 Q Thank you, Master Sergeant.

17 Q And, Master Sergeant, this occurred on
18 January 3rd. When did Joshua actually pass?

19 A It was on the eleventh. I can't remember
20 if it was at -- it was on the eleventh. I can't
21 remember if it was noon or one when they pronounced
22 him.

23 Q Were you ever able to interview Josh
24 Pringle?

25 A No, ma'am.

Jeff Purdy - Direct

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1 Q Were you ever given information that he
2 was awake?

3 A No, I was not.

4 Q And once Josh Pringle passes, what do you
5 do with regards to Harold Jackson?

6 A He passed in Savannah in the hospital. We
7 arrested Mr. Jackson, and he was charged with
8 assault and battery with intent to kill from the
9 third or fourth when he was placed in jail, three
10 counts, one for Shella, one for Nazarene, and one
11 for Joshua.

12 Well, the charges were upgraded from
13 assault and battery with attempt to kill on Joshua
14 to murder. And I believe that was done on the
15 thirteenth.

16 Q Thank you, Master Sergeant. Please answer
17 anything defense counsel has.

18 MR. COLONGELI: Thank you, Your Honor. May it
19 please the Court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. COLONGELI:

23 Q Good morning, Master Sergeant Purdy.

24 A Good morning.

25 Q I've known you for almost 15 years, is

Jeff Purdy - Cross

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1 that correct?

2 A That is correct.

3 Q And as you stated to the jury, you are
4 currently a master sergeant with the Sheriff's
5 Department, correct?

6 A That's correct.

7 Q And specifically as part of your position
8 as master sergeant, your testimony was that you are
9 responsible for the northern division investigation
10 team, for lack of a better word?

11 A Correct.

12 Q And what that consists of basically is
13 being the supervisor or boss of all your
14 investigators in the northern division, more or
15 less?

16 A That's correct.

17 Q And as a matter of fact, now that we've
18 touched on this issue involving Investigator
19 Williams, you mentioned that he did, in fact, submit
20 a report in this investigation, correct?

21 A That is correct.

22 Q And as part of that report and you being
23 his supervisor, you actually signed off as -- maybe
24 you can help me -- as far as authorizing or
25 verifying the accuracy of that report or, in fact,

Jeff Purdy - Cross

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1 stated that you, in fact, reviewed it and signed off
2 with your name on it, is that correct?

3 A Yes, I sign off on the reports when they
4 come through. I review them, and I sign the
5 records.

6 Q And you can you explain to the jury, what
7 is the purpose of the approving officer signing off
8 on one of their investigator's reports?

9 A We try to review it for spelling errors,
10 grammatical errors, content.

11 Q Doesn't it go a little further than that,
12 that you, as the senior supervising officer,
13 actually want to determine possibly not only the
14 contents of such a report but the accuracy of the
15 report, the fact that you hope that you've got the
16 correct charge with the offense that was committed,
17 and that you've got the right suspect?

18 A Correct.

19 Q As painful as it is for you and as
20 difficult as it is for me to discuss the situation
21 surrounding Lester Williams, the fact is you were
22 aware that not only was he terminated, but he was
23 terminated for his own admission to the use of
24 cocaine, correct?

25 A That is correct.

Jeff Purdy - Cross

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1 Q And, in addition to that, not only was his
2 admission a lie to the extent that he said that he
3 last used it in the month of December, because we
4 know that, based on the random drug screen that
5 occurred in February of '07, he tested positive
6 again for cocaine -- not again, but he tested
7 positive for cocaine in February of '07.

8 A I think you're mistaken. When I discussed
9 this with Lester Williams, he told me that the
10 reason he failed the random drug test was because he
11 tried cocaine on the weekend of, I believe, the 17th
12 of January, 2007.

13 Lester had some personal issues, and he --
14 he wanted to try it, and he tried it and so happened
15 to be tested three days later or however many days.
16 I'm wanting to say the nineteenth and the twentieth
17 were the test days -- Monday and Tuesday.

18 The nineteenth and twentieth were the test
19 days. Typically, there's two test days because we
20 have a night shift. And everyone in the Sheriff's
21 Office, all 220-plus people have to do a urinalysis
22 -- everybody. No one is exempt.

23 And Lester, when Lester was confronted
24 about it, he didn't lie about it. He didn't hide
25 about it. He said, "Yes, I made a mistake, and I'll

Jeff Purdy - Cross

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1 have to pay for it." And that day, I had to carry
2 him to the car.

3 And that's the only information I have
4 about his use, was from him. I had no suspicions of
5 him using any drugs. I had no suspicions of having
6 had any other issues with work. His work was well.
7 All the other investigators that worked with him
8 were shocked.

9 I mean, it was a complete shock. The fact
10 is, is he admitted to what he did wrong, and he had
11 to pay for it. And there's a zero tolerance for any
12 drug use at the Sheriff's Office, as it should be,
13 and he paid for what he did.

14 Q Did you, as his master sergeant and
15 supervisor, partake or have some role in his
16 termination -- as far as a recommendation?

17 A I would have to look at the file. I don't
18 know if it was a written recommendation. But if it
19 was an oral recommendation, it obviously been
20 termination. There's no excuse for what he did,
21 period.

22 MR. COLONGELI: If I may, Your Honor, I've got
23 marked as defense exhibits twelve through fifteen,
24 the actual documents from Lester Williams' personnel
25 file I'd like to refresh Master Sgt. Purdy's memory

Jeff Purdy - Cross

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1 with, if I could show those.

2 THE COURT: Solicitor?

3 MS. TANNER: No objection for the purpose of
4 refreshing his memory. But, again, I don't believe
5 that he is listed in any of these documents. So I
6 don't know that they're appropriate for refreshing
7 his memory.

8 Again, they're not his documents, they're
9 not his reports. I think he should be asked first
10 if he ever reviewed any of these documents as part
11 of his review of Lester Williams' termination.

12 THE COURT: Okay. You can go ahead and hand
13 them to Master Sgt. Purdy, and he can look at them
14 to see if he's familiar with them in any way.

15 Q And I'll be happy to ask you that, Master
16 Sgt. Purdy. Did you, prior to the calling of this
17 case, have a chance to review his personnel file,
18 specifically in regards to the reason for his
19 termination?

20 A I looked through it, but I didn't read it.
21 Once I found out you requested it, which was I want
22 to say Monday, I skimmed through it to find out his
23 date of termination, because I couldn't remember --
24 February 23rd.

25 Did I read it through it? No, I don't

Jeff Purdy - Cross

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1 believe I've ever read this right here that you're
2 handing me -- this that you've handed me. I have
3 read this disciplinary action from my captain.
4 Actually, I believe my captain is the one that did
5 the disciplinary action.

6 Q And what I'm basically getting at here is,
7 not only is it a given here, I think we've
8 determined the fact that he admitted to the use of
9 cocaine and then tested positive in the month of
10 February. But per his own admission -- and I'll be
11 glad for you to correct me if I'm wrong. But he
12 stated in his own admission in the month of December
13 was the last time he, in fact, had used it.

14 A I'm not an expert on drugs. But the way I
15 understand it, I've been around it for almost --
16 well, more than 16 years. I started in college. So
17 as far as I know, cocaine doesn't stay in your
18 system that long.

19 And I didn't read this report that you've
20 put in front of me that he wrote. I recognize his
21 handwriting and his signature. So unless you want
22 me to read that and answer your questions based on
23 the statement that he wrote two years --

24 Q That's fine. That's not necessary. Let
25 me ask you --

Jeff Purdy - Cross

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1 A As far as I know, my conversation with
2 Lester the day of the 23rd when this whole thing
3 developed was, "What the hell happened?"

4 And he said -- just like I told you, he
5 said, "Jeff, you know what I've been going through"
6 -- he's had some personal issues -- "and I was
7 wondering what it was all about, so I tried it, one
8 time, on the weekend of the seventeenth" -- the
9 weekend before the urinalysis, which would be the
10 weekend of February 17, 2007.

11 That's what Lester told me. This right
12 here from his personnel jacket, I'm his supervisor.
13 I don't work internal affairs. I work closely with
14 them dealing with certain issues.

15 However, on this issue, it was a
16 subordinate of mine. When it more or less came to
17 surface, he shared it with me. He as well shared it
18 with internal investigations, who they deal with
19 that.

20 And I'm out of it until it comes time to
21 his disciplinary action. And it's my responsibility
22 as his superior to inform him of the meaning of the
23 disciplinary action, which was his termination, and
24 escort him there, and then go take him home and take
25 all his equipment, his gun and all that stuff.

Jeff Purdy - Cross

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1 That's my responsibility. That part is up to the
2 internal affairs.

3 Q Understood. But specifically here what I
4 want to get to is the fact that he admits to having
5 cocaine in his house in December of 2006.

6 A I haven't read this.

7 Q If you could just --

8 A You want me to read this?

9 Q Yes, I'd love you to read that.

10 MS. TANNER: Objection, Your Honor. I've
11 allowed a lot of hearsay because I want Mr.
12 Colongeli to be able to make his point. But at this
13 point, it's hearsay upon hearsay.

14 He has told him what Lester told him. Now
15 he's asking him to read reports from other people to
16 figure out what Lester said.

17 MR. COLONGELI: He was his supervisor.

18 MS. TANNER: He's been very clear about the
19 whole issue. I think it's out there. He's made his
20 point. And now I have to object under hearsay, even
21 though I've allowed a lot in prior to this.

22 THE COURT: Okay. If you all will approach.

23 Q Master Sgt. Purdy, it's obvious here --
24 we've already gone over this -- at the time of the
25 determination by the Sheriff's Office that he tested

Jeff Purdy - Cross

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1 positive for the use of cocaine, he was immediately
2 terminated?

3 A That is correct.

4 Q And we're assuming that was somewhere in
5 February of '07, more or less. You don't know that
6 to be the case?

7 A He was terminated February 23rd.

8 Q Okay. This incident occurred the month
9 before.

10 A January 3rd.

11 Q Okay. And it's been over two years since
12 it occurred?

13 A Yes, sir.

14 Q As an extremely responsible -- who I would
15 consider to be responsible -- astute law enforcement
16 officer, in light of what happened with Lester
17 Williams as the lead criminal investigative officer
18 on a murder case, could you have had the opportunity
19 to reopen the case over the past two years,
20 assigning a new lead investigative officer to review
21 the evidence and bring before this jury two years
22 later?

23 Was that a possibility? Could you have
24 done that? Could you have done it?

25 A I'm not sure what you're asking. The

Jeff Purdy - Cross

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1 evidence that was collected is collected. I can't
2 change that.

3 What was collected by Lester Williams was
4 collected by Lester Williams, and I cannot change
5 that. If I could -- I mean, this as serious of a
6 case as there is -- it would have been changed.

7 But it couldn't. The evidence is the
8 evidence. What we have is what we have. Again, I'm
9 not sure what you're --

10 Q Okay. And I'm with you on that. It is
11 what it is. The possibilities as to whether or not
12 Lester Williams did something inappropriate during
13 the investigation of this case cannot be undone.

14 A I don't see that he's done anything
15 inappropriate in this case.

16 Q But, yet, he was terminated based on
17 testing positive for cocaine.

18 A He was terminated for his actions outside
19 of the job. He was terminated for anything he did
20 involved in this criminal investigation nor any
21 other criminal investigation that he has worked. He
22 was worked for his actions on the weekend of the
23 seventeenth.

24 Q Your supervising officers and your captain
25 and their remarks for the termination of Lester

Jeff Purdy - Cross

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1 Williams basically goes to the fact that that type
2 of conduct by a law enforcement officer brings your
3 office into disrepute. Would you disagree with me
4 on that?

5 A I would not, and that's why he was
6 terminated.

7 Q And it would bring into question obviously
8 his official duties as a law enforcement officer.
9 And that's why he was terminated, correct?

10 A I think it would -- I agree that it brings
11 it into question, but the things that he did -- I
12 mean, you've got Scott Rodriguez -- Sgt. Scott
13 Rodriguez, Sgt. Eric Calendine, you've got Staff
14 Sgt. J. D. Hiers, you've got Sgt. Weber, you've got
15 Sgt. Chris Wilson, you've got myself.

16 I can probably look through the count and
17 give you another half a dozen officers that he did
18 work with, with other people that's integrity has
19 not been tarnished.

20 And, again, his actions involving this
21 case, he did a good job. He did what he was
22 supposed to do. He did it as a team with other team
23 members that have credibility, they're credible,
24 they're honest, and they're doing the right thing.

25 He did it with other people. The evidence

Jeff Purdy - Cross

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1 -- again, I'm not sure what you're getting to. But
2 the evidence, it is what it is. It was collected,
3 and it was turned in.

4 Now, him testing positive on the
5 nineteenth or the twentieth, which would have been
6 when the urinalysis was, was after this.

7 Q And you're only assuming. And obviously
8 that's your testimony, and I know that's all you can
9 testify to. That was after this.

10 But there's an admission of drug use on
11 the part of a law enforcement officer that's no
12 longer a law enforcement officer because of that use
13 afterwards. I'm not trying to say anything.

14 A Sir, with all due respect, I was under the
15 impression he was working another law enforcement
16 job.

17 Q And I want to get to that, too. That is
18 your impression, and your testimony here today is,
19 even though he admitted to the possession and use of
20 cocaine, your understanding is he's in some other
21 quasi-law enforcement position as of today?

22 A That's my understanding.

23 Q And that doesn't concern you as a law
24 enforcement officer yourself?

25 A It's not the agency I work for. We do not

Jeff Purdy - Cross

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1 --- there's other agencies throughout the state that
2 don't have the money that Beaufort County has, and
3 they have to get officers with what they get.

4 Q I understand.

5 A Some agencies pay -- I'll give you an
6 example -- \$15,000 to hire a law enforcement
7 officer. They're not going to get a college
8 graduate to go work for them. They're not going to
9 get someone that's -- they're not going to get a
10 top-quality individual.

11 They're going to have to sacrifice. We
12 don't do that here in Beaufort County. The minute
13 he tested positive, he was gone -- period.

14 What he did on this investigation is with
15 credible people that have great character -- Eric
16 Calendine, Scott Rodriguez, Sgt. Chris Wilson,
17 myself, Staff Sgt. Brown.

18 What he did on this is with other officers
19 that have integrity, that don't cross the line, that
20 have not crossed the line and have passed drug
21 tests. There's no excuse for what he did.

22 It bothers me to this day. He worked for
23 me for a long time, and he did a damn good job. And
24 he made a mistake, and he paid for it.

25 I don't believe he made a mistake on this

Jeff Purdy - Cross

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1 case, period. He did what he was hired to do. On
2 the seventeenth weekend, he crossed the line, and
3 that was it.

4 Q Let me back up on what you just said a
5 minute ago. Even though he's still working in some
6 sort of law enforcement capacity, you said based on
7 either financial woes or other woes that people have
8 to make sacrifices.

9 Would your testimony still be that way
10 with someone charged with murder? Does that person
11 have to make sacrifices because of the conduct of a
12 law enforcement officer?

13 A His conduct was not during this criminal
14 investigation.

15 Q You don't know.

16 A I do. I worked with the man, side by
17 side.

18 Q And you never would have expected Lester
19 Williams to test positive for cocaine back when you
20 were working side by side with him, would you?

21 A I didn't.

22 Q Exactly.

23 A But I'm telling you I worked side by side
24 with him. And what he did was what we are expected
25 to do, what we're trained to do through SLED,

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1 through South Carolina Criminal Justice Academy,
2 through our own training.

3 Q Understood. And let me move on. You
4 brought up another couple of good points that I want
5 to clear up for my own sake and hopefully for the
6 jury's sake. You brought up the integrity and
7 quality of the officers, namely Eric Calendine and
8 Sgt. Rodriguez.

9 Can you explain to me, in light of how
10 serious a charge Mr. Jackson is facing, why after
11 two years have gone by after this incident occurred
12 that they didn't go to the efforts to supplement
13 this file with some sort of report with their name
14 on it to back up what occurred two years ago, so
15 they could at least come in here and testify from
16 something documented to help their memory?

17 In light of the fact that you, as well as
18 Calendine, testified that you guys deal with many,
19 many crimes throughout the year, four to six major
20 investigations per year, don't you think -- and I
21 know that that's a long-winded question.

22 But don't you think it would have helped
23 all of us here today and wouldn't it have been
24 common procedure as a master sergeant for someone
25 like Calendine to come in and basically substitute

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1 for Lester Williams to have a report filed?

2 A No.

3 Q No -- not in a murder case?

4 A No. And I follow up with I spent three
5 weeks up at SLED on an internship doing a forensic
6 science unit doing crime scene investigations, and
7 they do -- they have two people who piggyback on a
8 crime scene, on a call.

9 They go to crime scenes together. One is
10 the primary; one is the secondary. They both
11 respond. And when I spent three weeks up there, I
12 joined them, so I was a third person -- did not
13 write one thing on their crime scenes while I was up
14 at SLED for three weeks, whether it was an
15 officer-involved shooting, a homicide, a rape, a
16 robbery, whatever it may have been.

17 I did not document anything. Does it
18 negate the fact that I was on those scenes and I
19 remember what was going on? No. And then the
20 second thing is they've got these two officers where
21 I was trained that did crime scenes.

22 One documents. That's how the state
23 teaches us. That's what we do. When we do crime
24 scenes here in Beaufort County, we do it the same
25 was as them.

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1 You've got a team of people, whether it be
2 more than two people, who process a crime scene,
3 photograph, document, gathering evidence, swabbing
4 for DNA, collecting shoes, collecting what have you.

5 One person does the crime scene -- one
6 person documents the crime scene. That's how we do
7 it. And back to your question.

8 Would it help Eric Calendine or Scott
9 Rodriguez if they would to documented it?
10 Certainly, it would. But did they do it? No, they
11 didn't.

12 Q So here we've got a situation with a
13 murder investigation where not only do you have --
14 where you do not have the initial responding
15 officer, you do not have the lead investigative
16 officer, which you say is routine for the person to
17 prepare the report, to rely on for the prosecution
18 of the case, correct?

19 A Yes.

20 Q And if, in fact, your testimony -- your
21 testimony was here a minute ago that, in your
22 opinion, Lester Williams didn't do anything wrong;
23 he did his job. Why didn't the State call him as a
24 witness to testify here today?

25 A I'm not prosecuting the case. I can't

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1 answer that.

2 Q After looking back on this investigation
3 with no bat that was found --

4 A Correct.

5 Q -- we don't have any stick here that was
6 submitted in evidence which the jury has seen
7 pictures of -- or maybe we do. It would be a
8 surprise to me.

9 A Yes, I understand it's either on its way
10 or it's already here. SLED has it.

11 Q Okay.

12 A To my understanding. They will be
13 testifying to that stick, because they have
14 possession of it.

15 Q Okay. Well, that's news to me. The fact
16 that -- and let me back up here. The fact that you
17 sat through this case with all the problems that
18 have been presented so far and heard what I believe
19 to be the inconsistent testimony of the chief State
20 witnesses, being Nazarene Laurent and Shella
21 Laurent, based on all of that, which I'm sure you
22 prepared for before coming here to trial this week,
23 I'm going to ask you again.

24 As the supervising master sergeant, based
25 on all of that, couldn't you have prior to bringing

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1 this case to trial reopened this investigation to
2 look into any other possibilities -- number one,
3 whether you had the right guy, let alone a very --
4 let alone witnesses that were telling the truth as
5 to what actually happened? Could that have been a
6 possibility?

7 A We have the right guy.

8 Q Let me ask you just a few more --

9 A And when the case unfolds, it will be
10 clear that we have the right guy. There's no
11 question about that.

12 From what I saw, there's no testimony from
13 this seat right here that said anybody else beat
14 Joshua Pringle to death other than that man right
15 there.

16 Q Let me ask you something. Did you ever
17 have a chance to -- and you've brought up something
18 else. We don't have Nielander, and we don't have
19 Williams. You brought up and the State brought up
20 in their direct exam on you, Officer Henry Chris.
21 Do you know whether he's going to testify here
22 today?

23 A I do not.

24 Q Henry Chris was the person who actually
25 first saw and detained Mr. Jackson when he turned

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1 himself in.

2 A I don't believe that's correct.

3 Q Then who first had custody of Mr. Jackson?

4 And let me help you. I think possibly it was either
5 Cpl. Ashby or Detective Joanie James, who is now
6 with Hardeeville and Jasper County. But ultimately,
7 Henry Chris -- and I stand to be corrected -- had
8 custody, was directed to go pick up Mr. Jackson
9 after he turned himself in at the Jasper County
10 Sheriff's Office.

11 A I don't believe that's correct. And I
12 don't know the officer's name. It may be Ashby.
13 But a deputy -- a uniformed officer -- from Jasper
14 County turned Mr. Jackson over to Deputy Nielander.

15 Q Master Sgt. Purdy -- and that's why I hate
16 to do this, but I've got -- if I could show you
17 Deputy Sheriff Nielander's report, who isn't here.
18 I believe, if I'm not mistaken --

19 MS. TANNER: Your Honor, I'm going to object to
20 hearsay. If he wants to call Nielander, if he wants
21 to call somebody from Jasper, he's more than welcome
22 to call any witness he wants to. But he is now
23 asking --

24 THE COURT: All right.

25 MS. TANNER: - hearsay questions of this

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1 witness.

2 MR. COLONGELI: I'll withdraw that.

3 THE COURT: Ladies and gentlemen of the jury, I
4 think now is a good time for us to take a break.
5 I'm going to go ahead and excuse you back to your
6 jury room to get a cup of coffee or refresh
7 yourselves.

8 I will bring you back shortly, and we will
9 continue the trial of this case. Again, do not
10 begin discussing this case at this time. It is not
11 appropriate to do so. You all go ahead, thank you.

12 (Whereupon, the jury left
13 the courtroom at 10:47 a.m. for recess.)

14 BAILIFF: The jury is clear, Your Honor.

15 THE COURT: Thank you, Bob.

16 All right, Solicitor, I don't understand
17 your objection. It appears this is Nielander's
18 report, which was a report that was done in this
19 case by an investigative officer, correct?

20 MR. COLONGELI: That's correct, Your Honor.

21 THE COURT: In this case, correct?

22 MR. COLONGELI: That's correct. And I may be
23 mistaken as to Nielander actually being the one that
24 can verify this. Henry Chris' report is here right
25 inside --

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1 THE COURT: Well, whose report was it from?

2 MR. COLONGELI: I'm sorry?

3 THE COURT: Whose report was it from?

4 MR. COLONGELI: The question I was asking, I
5 was mistaken. It's Henry Chris' report that
6 indicates he was directed to take the suspect into
7 custody.

8 THE COURT: Okay.

9 MS. TANNER: Your Honor, I have allowed a lot
10 of leeway on hearsay. I have not objected every
11 time it was possible to object. But from this point
12 on, just to move this along, I think we're way off
13 point.

14 He's asking this witness about why I'm not
15 calling particular witnesses to trial. That's not
16 his area. That's not his providence. And it's
17 completely hearsay to ask that witness what I'm
18 doing as far as the prosecution of this case.

19 THE COURT: I don't think that's hearsay. I
20 think that's an investigative report, and he is able
21 to rely on it, not assuming he's testifying to it.
22 But I do think we are getting very, very off point.

23 The only issue you're trying to raise, Mr.
24 Colongeli, is potentially that this officer, because
25 he had used cocaine, in some way may have botched

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1 this investigation. That is the only point you're
2 trying to make.

3 You tried to cross-examine this officer on
4 allegedly trying to say that Williams -- Lester
5 Williams -- used cocaine on more than one occasion.
6 All you're trying to do is dirty him up.

7 The statement that I just looked at, that
8 this Officer Purdy has never seen before, the only
9 thing it said was that his wife had cocaine in the
10 house, not that he had ever used it. So it wasn't
11 for impeachment purposes to start with.

12 You are way off point. You've made your
13 point of what you are trying to do, again, which was
14 dirtying the officer up that investigated this
15 investigation. At this point, we need to move on.
16 We need to move on at this point.

17 Solicitor, I don't understand when you say
18 it's hearsay. He's asking him a question that's
19 based on an officer's report in this case. This is
20 my understanding, that Purdy is your chief officer
21 in this case.

22 He's the one that's been sitting in the
23 chair the entire time at counsel time. And he's the
24 only one that has not been sequestered. So I'm
25 going to assume he's going to rely on other

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1 officers' reports to be able to testify.

2 I think the long and the short of your
3 point is this. He signed off on the report. And,
4 again, he doesn't think there was anything wrong
5 with Williams' work. That's where we're at, truly.

6 MS. TANNER: He's already moved on to a new
7 area. The new area is he's about to ask him about
8 Jasper County officers, that he's asking him if I'm
9 calling them, if I'm not calling them, and why
10 wouldn't I call them, didn't they have contact with
11 --

12 THE COURT: I think Purdy answered it. I think
13 he said, "I'm not prosecuting this case. I don't
14 know."

15 MS. TANNER: But that's why he pulled out that
16 report, to ask him about Henry Chris and Ashby, who
17 are Jasper County officers, so he's warmed up to
18 that. He's asking this witness about "Wouldn't it
19 be important for the State to call this witness?"

20 He's asking his opinion about my job and
21 why -- what witnesses I should be calling. And
22 that's not -- that's not appropriate.

23 THE COURT: It's not an appropriate question.
24 You need to get back to the case.

25 MR. COLONGELI: Understood, Your Honor.

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1 THE COURT: For all I know, the Solicitor may
2 be calling them.

3 MR. COLONGELI: Understood.

4 THE COURT: And I think what you're doing,
5 obviously you're trying to get some new material to
6 be able to argue your closing statement. But you
7 can argue it. They didn't call them.

8 It's as simple as that. And I don't know
9 how he's going to testify as to whether or not or
10 why someone was called or not called. There is
11 absolutely zero relevance about Lester Williams
12 possibly being in some quasi-law enforcement
13 position in Montana.

14 That has absolutely nothing to do with
15 anything -- absolutely nothing. And when he went
16 off on a diatribe of supposedly "Beaufort County has
17 a lot of money. We can afford to hire good officers
18 when no one else can."

19 That is not relevant to this case. It has
20 absolutely nothing to do with this case. So we're
21 going to go ahead and we're going to take a
22 five-minute break. We're going to get on point.

23 Mr. Colongeli, you're going to ask him
24 what you need to ask him, and you're going to move
25 on --

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1 MR. COLONGELI: Understood.

2 THE COURT: -- okay? All right, Master
3 Sergeant, you may step. And I will remind you that
4 you are not to discuss your testimony with anyone
5 during the break.

6 (Court in recess.)

7 MS. TANNER: The State is ready.

8 MR. COLONGELI: Your Honor, before we bring the
9 jury back, with all due respect to the Court, I
10 would at this time -- if it is not proper, obviously
11 just tell me. But I would at this time like to move
12 to have these admitted as evidence, Defense Exhibits
13 Twelve, Thirteen, Fourteen, and Fifteen.

14 THE COURT: Pass them up so I can take a look
15 at them.

16 MS. TANNER: The State does object, Your Honor.

17 THE COURT: This is the statement of Lester
18 Williams, I'm assuming upon his termination. This
19 is the drug report -- I'm sorry, let's refer to them
20 specifically.

21 Defendant's Exhibit Number Fifteen is a
22 handwritten statement by Lester Williams where he
23 recounts that while his wife does use cocaine and
24 that it has been in his house, that he has only used
25 it on one occasion, which is exactly what Master

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1 Sgt. Purdy just testified to.

2 Defendant's Exhibit Number Fourteen is a
3 medical review officer report, wherein it shows that
4 Lester Williams tested positive for cocaine. And
5 the date of collection was 2/21/07, and the test
6 came back on 2/23/07.

7 Defendant's Exhibit Number Thirteen is a
8 recommendation from Capt. Allen Horton recommending
9 that he be terminated as a result of his positive
10 one-time drug use. And, lastly, Defendant's Exhibit
11 Number -- I can't tell if this is four, or twelve,
12 or seventeen.

13 It is the Beaufort County Sheriff's Office
14 disciplinary action where it recommends that he be
15 terminated, wherein the division commander, the
16 deputy chief of staff, and the chief of staff all
17 suggest that he should be terminated, in which Mr.
18 Williams says he understands the position of the
19 Sheriff's Office and that it's been truly a pleasure
20 serving the office and the citizens of Beaufort.

21 Okay. Respectfully, Mr. Colongeli, all of
22 that has been testified to.

23 MR. COLONGELI: Understood.

24 THE COURT: I think it would be cumulative.

25 I'm not going to allow it in. I think you've made

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1 your point to this jury adequately.

2 MR. COLONGELI: There's nothing further, Your
3 Honor. I'm ready.

4 THE COURT: I appreciate that.

5 All right, let's bring the jury in.

6 BAILIFF: Yes, ma'am.

7 THE COURT: Solicitor, are there any witnesses
8 you absolutely have to get up before lunchtime?

9 MS. TANNER: Yes, ma'am, the next one. I'm
10 going out of order to actually get him up next.

11 THE COURT: Okay.

12 MS. TANNER: I had planned to put him up much
13 earlier.

14 THE COURT: Okay.

15 MS. TANNER: But I told him that I'd take him
16 out of order.

17 THE COURT: He is the only one that you're
18 concerned about? He's not local?

19 MS. TANNER: He's the only one I'm concerned
20 about.

21 THE COURT: He's the only one that's not local,
22 correct?

23 MS. TANNER: Your Honor, I have one from
24 Savannah.

25 BAILIFF: Jurors entering, Your Honor.

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1 THE COURT: Okay. Thank you.

2 (The jury returned to the
3 courtroom at 11:20 a.m. after which the following
4 proceedings were had:)

5 BAILIFF: Your Honor, the jury is seated.

6 THE COURT: Thank you. Welcome back, ladies
7 and gentlemen.

8 Mr. Colongeli, you can continue, sir.

9 MR. COLONGELI: Thank you, Your Honor. May it
10 please the Court?

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION CONTINUED

13 BY MR. COLONGELI:

14 Q Master Sgt. Purdy, getting back to what
15 had left off with as far as your knowledge of Henry
16 Chris' involvement in the investigation of this
17 case, your knowledge of what his involvement was and
18 the extent of that is what?

19 A I believe he responded initially to the
20 call. I know he went out looking for the defendant
21 for us out in Jasper County, looking for the vehicle
22 that he was described to have left in. He recovered
23 a baseball bat and turned it over to me.

24 Q And not to interrupt you when you go on.
25 But do you know whether or not he, in fact, was one

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1 of the officers that took Mr. Jackson into custody
2 after he turned himself in? Do you know the answer
3 to that question?

4 A I believe he participated in him turning
5 himself in.

6 Q Okay. And as far as this baseball bat,
7 it's already determined and conceded by the State
8 that that was not, in fact, the baseball bat that
9 you assume was used in this incident, correct?

10 A Correct. A little boy took ownership of
11 that from Jasper County.

12 Q And as far as the vehicle you mentioned
13 that Henry Chris investigated, correct -- the
14 vehicle Mr. Jackson used to go to his cousin, Sheree
15 Wright's house?

16 A The vehicle that everybody was looking
17 for?

18 Q Yes.

19 A That he left in?

20 Q Yes. You're aware of that?

21 A Yes, sir.

22 Q He, I would assume, processed that as
23 coming from the crime scene, and it did not reveal
24 any evidence of a crime pursuant to his report --
25 meaning any blood?

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1 A That's correct.

2 Q Okay.

3 A I don't believe he processed it. I
4 believe he looked it over and then released it,
5 which was what was done.

6 Q Which means he didn't view any evidence of
7 a crime?

8 A Correct.

9 Q Okay, all right. In reviewing your own
10 report that you submitted in this case, as well as
11 the lead investigative officer, Mr. Williams, isn't
12 it true that you are familiar with a discussion that
13 took place with Sheree Wright, who is Mr. Jackson's
14 cousin, who's the individual he went to before he
15 turned himself in?

16 MS. TANNER: Your Honor, I think again we're
17 getting into hearsay. He's asking what a cousin
18 said to a Jasper County sheriff's deputy of this
19 witness.

20 MR. COLONGELI: No, I'm asking whether or not
21 Master Sgt. Purdy is familiar, based on his own
22 report and relying on Mr. Williams' report, with a
23 conversation that took place with Sheree Wright, who
24 Mr. Jackson went to before he turned himself in.

25 THE COURT: Are you asking about specifics of

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1 the conversation or just whether or not he was privy
2 to a conversation?

3 MR. COLONGELI: Whether he was privy to a
4 conversation.

5 THE COURT: You can ask the question.

6 A Yes.

7 Q And can you tell us what that conversation
8 was?

9 THE COURT: Is this something he learned in his
10 investigation?

11 MR. COLONGELI: Yes.

12 THE COURT: Okay. You can ask about that.

13 A Would you like me to read this -- I'm not
14 sure what you're asking me to do -- or just give you
15 a brief summary of what I see?

16 THE COURT: Solicitor, Mr. Colongeli, come here
17 for a second.

18 Q Master Sgt. Purdy, I am specifically
19 referring to a conversation that took place and
20 whether or not you have knowledge of a conversation
21 that took place pursuant to Sheree Wright and that
22 Harold Jackson had stated to her that people were
23 trying to kill him, that he had hit them with a bat,
24 and he wasn't sure if they were dead. Are you
25 familiar with that, based on your review of the

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1 reports?

2 A Yes.

3 Q And are you familiar with the fact that
4 Henry Chris -- and would your testimony here today
5 be that Harold Jackson repeatedly told him, "They
6 tried to kill me," and that's in Henry Chris' report
7 several times?

8 A I believe that, yes.

9 Q So you'd admit that as being true?

10 A Yes.

11 Q That's what he, in fact, did tell Officer
12 Chris. Was there -- you had mentioned in your
13 testimony -- in your direct testimony with Ms.
14 Tanner -- that you had conducted a physical
15 examination of Shella, if not Josh or both, at the
16 hospital, correct?

17 A Correct.

18 Q Are you aware as the supervising officer
19 here as to whether or not anyone conducted a
20 physical examination of Harold Jackson?

21 A I believe that Henry Chris, when he dealt
22 with him, that he looked at him. I don't believe he
23 did an examination -- I don't know if he did an
24 actual examination, but I know he did not do any
25 photographs.

1 And I know that when Brian Baird executed
2 a search warrant at the jail, he looked at him. And
3 I know that Investigator Lester Williams looked at
4 him as well when he attempted to interview him.

5 Q But you don't have any specific knowledge
6 here as to whether or not Harold Jackson suffered
7 any injury that evening?

8 A I was told he had no injuries.

9 Q Do you have any specific knowledge as to
10 whether he did or didn't?

11 A Did I --

12 Q Do you have any specific knowledge --

13 A -- examine him?

14 Q You just stated before -- and correct me
15 if I'm wrong -- you believe that Henry Chris did
16 some sort of precursory examination of him, but
17 you're not sure?

18 A Right.

19 Q So you don't have any specific knowledge
20 other than that as to whether or not he had suffered
21 any injuries that night?

22 A To my knowledge, he didn't suffer any
23 injuries.

24 MR. COLONGELI: I believe that's all I have.

25 I'll beg the Court's indulgence. One last question.

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1 Q Are you aware of any fingerprints that
2 were taken on any of the items that have been
3 submitted or plan on being submitted as evidence
4 here today? I'm not.

5 A No, I can't say -- no, sir.

6 Q Specifically in regards to the stick
7 that's just shown up, my understanding is there have
8 been no fingerprint tests done on that stick.

9 A I can't answer that. You'll have to ask
10 the SLED agent that. I don't know.

11 Q But it's the --

12 A The evidence I'm aware of is blood
13 evidence.

14 Q Okay. As far as the blood evidence, to my
15 understanding, based on the picture of this stick,
16 there was, in fact, blood on that stick. Was that
17 analyzed?

18 A I can't answer that.

19 Q I thought you just said you were -- as far
20 as blood evidence --

21 A I'm talking about the blood evidence that
22 was on Mr. Jackson's clothes was tested.

23 Q So that's what you were responsible for?

24 A That's what I'm referring to.

25 Q What were you --

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1 A I'm not sure about the evidence on the
2 stick. SLED has the stick. SLED will testify about
3 the stick. I'm familiar with the evidence that I
4 brought to court today, and the only evidence that I
5 brought to court that is here that I can talk about
6 is blood evidence on Mr. Jackson's clothes, shoes,
7 stuff of that nature that's already in.

8 Q And you're not aware of -- and once again

9 --

10 A I don't know what was done on the stick at
11 this point. I can't answer that. I don't know.

12 Q And you're not aware of any sort of
13 fingerprint --

14 A No, sir.

15 Q -- that was done on any of it?

16 A No.

17 Q Thank you very much.

18 MR. COLONGELI: That's all I have.

19 THE COURT: Solicitor?

20 MS. TANNER: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. TANNER:

23 Q Master Sgt. Purdy, you told Mr. Colongeli
24 that you got information out of Jasper County that
25 the defendant told his cousin, "They tried to kill

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1 me. I hit them with a bat. I don't know if they're
2 dead," is that correct?

3 A I think it's a sister.

4 Q Sister -- out of Jasper County?

5 A Correct. That would be on the eighth.

6 Q And when you and other investigators went
7 to talk to Mr. Jackson, did he tell you that?

8 A I never went to talk to Mr. Jackson. And
9 all the reports that I've read, short of Henry
10 Chris'.

11 Q Did he make that statement to
12 investigators in this case?

13 A Not any investigators, no, ma'am.

14 Q Just this sister, cousin out in Jasper
15 County?

16 A And she mentioned that he made some sort
17 of statements to Henry Chris, from what I
18 understand. The statements that he made to us were
19 not to that nature.

20 Q And he didn't tell you "They were trying
21 to kill me?"

22 A No.

23 Q He didn't tell you it was self-defense?

24 A I never talked to him.

25 Q But the investigators you sent to talk to

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1 him, he didn't tell them that?

2 A No, ma'am.

3 Q All right, thank you, sir.

4 MS. TANNER: No further questions.

5 THE COURT: Any recross?

6 MR. COLONGELI: Recross.

7 RECROSS EXAMINATION

8 BY MR. COLONGELI:

9 Q Master Sgt. Purdy, I think this is
10 critically important. Henry Chris, although he is
11 not -- is he not an investigator?

12 A Not with us on this case. He's with
13 Jasper County, with the drug -- I think he's with
14 the drug task force over there, but I'm not sure --

15 Q Okay.

16 A -- if he's actually an investigator over
17 there or not. But he does not work for my section.
18 I'm not responsible for him.

19 Q Understood. But he is a law enforcement
20 officer, correct?

21 A That's correct.

22 Q And just to make abundantly clear, in his
23 report that he submitted that I'm sure you've had a
24 chance to review --

25 A Correct.

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1 Q -- Mr. Jackson stated to him once, twice,
2 three -- at least three times -- "They tried to kill
3 me." Would you disagree with that?

4 A No, I wouldn't. I don't have that report
5 in front of me, but --

6 Q I'll be happy to --

7 A -- I imagine.

8 Q And this officer actually did submit a
9 report as opposed to Calendine and Rodriguez, and he
10 actually stated that in the report, correct?

11 A Calendine and Rodriguez never met with the
12 defendant. That would be Brian Baird and Lester
13 Williams attempted to talk to the defendant, and the
14 defendant never told them "He tried to kill me."

15 Q But I'm not asking you that. I'm asking
16 you what the first officer that he turned himself in
17 to --

18 A You're attempting --

19 Q He said --

20 A This report says, "They tried to kill me."
21 There's no question about that.

22 Q Thank you.

23 A I don't have this report.

24 Q Thank you. And based on that and based on
25 the fact that you are the master sergeant and in a

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1 supervisory capacity over this, did you ever rule
2 out or consider the possibility of self-defense?

3 A Did I ever consider the possibility of
4 self-defense?

5 Q Ever. The answer is "no," correct?

6 A No, sir.

7 Q Thank you.

8 MS. TANNER: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. TANNER:

11 Q Okay. You reviewed the crime scene, is
12 that correct?

13 A Yes, ma'am -- and the deceased and the
14 other victims.

15 Q And when confronted with that information,
16 Mr. Jackson did not try to tell your investigators
17 anything that had anything to do with self-defense
18 or any of that?

19 A The two individuals that went to do a
20 follow-up interview with Mr. Jackson didn't get
21 anything out of him. He didn't tell them anything.

22 Q Thank you, sir.

23 MS. TANNER: No further questions.

24 MR. COLONGELI: One last thing.

25 MS. TANNER: Wait, one more question.

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1 Q So he was given the opportunity to put
2 forth self-defense, is that correct?

3 MR. COLONGELI: Objection, Your Honor.

4 THE COURT: Okay.

5 MR. COLONGELI: Objection.

6 THE COURT: Sustained. Let's move forward.

7 MS. TANNER: No further questions.

8 THE COURT: Ladies and gentlemen, you're to
9 disregard that last question. It wasn't
10 appropriate.

11 Anything further, Mr. Colongeli?

12 MR. COLONGELI: Nothing, Your Honor.

13 THE COURT: You may step down.

14 Solicitor, call your next witness.

15 MS. TANNER: Thank you, Your Honor. The State
16 calls Dr. Clifton Cannon.

17 MR. COLONGELI: Your Honor, I actually have a
18 motion at this time.

19 THE COURT: Okay. Ladies and gentlemen of the
20 jury, at this time I need to take up a matter of law
21 with the attorneys. I'm going to go ahead and send
22 you back to the jury room.

23 Again, do not begin discussing this case.
24 It wouldn't be appropriate to do so at this time.
25 And we'll be with you shortly.

1 (Whereupon, the jury left
2 the courtroom at 11:34 a.m. after which the
3 following proceedings were had:)

4 BAILIFF: The jury is clear, Your Honor.

5 THE COURT: Sir, you may step down.

6 MR. PURDY: Thank you.

7 THE COURT: Yes, sir.

8 Okay, play for me that part we talked about,
9 please.

10 (Whereupon, a portion of
11 the preceding trial testimony was replayed for the
12 Court.)

13 THE COURT: All right, Mr. Colongeli.

14 MR. COLONGELI: May it please the Court, Your
15 Honor?

16 THE COURT: Yes, sir.

17 MR. COLONGELI: I don't have any other choice
18 at this time but to move for a mistrial. The
19 Solicitor just specifically shifted the burden on
20 this case, and not only that, but basically violated
21 Mr. Jackson's right against self-incrimination.

22 She just basically said he had an
23 opportunity to assert some sort of defense to law
24 enforcement and chose not to.

25 He actually invoked his right to remain

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1 silent. That's why he didn't make any statements,
2 and that's what Master Sgt. Purdy testified to.

3 He didn't make any statements. He
4 declined to sign any sort of Miranda forms. He was
5 not going to talk.

6 The testimony -- I don't think they can
7 contradict me here -- he wasn't making any
8 statements, other than the fact "They tried to kill
9 me."

10 And even when it came to that point that
11 Ms. Tanner was referring to, that was in
12 interrogation. He chose not to say anything. He
13 didn't have to assert self-defense and in
14 interrogation.

15 THE COURT: Solicitor.

16 MS. TANNER: Your Honor, I did not shift the
17 burden. We were very clear up at the bench earlier
18 that Mr. Colongeli already opened the door to the
19 fact that his client did make that statement to this
20 law enforcement officer or his investigators.

21 Mr. Colongeli put it in front of the jury
22 that his client made statements to law enforcement
23 in Jasper County and then went on to say, "Well, he
24 was an investigator."

25 He made it very clear that his client made

1 statements to law enforcement after he's under
2 arrest or given Miranda, which is the same situation
3 as in Beaufort County, that this client made those
4 statements.

5 My follow-up was that "He didn't make
6 those statements to you, but he was given the
7 opportunity?" because Mr. Purdy said, "I never
8 talked to him." So I went back, "Well, your
9 investigators went, and he was given that
10 opportunity?"

11 I wasn't trying to shift the burden. I'm
12 not trying to say he has to put up self-defense, and
13 I would never go into that area and know better. I
14 was being very specific about that statement.

15 Defense is claiming he made it to law
16 enforcement in Jasper County. I don't have Henry
17 Chris saying that. I have it that it came from a
18 cousin, and that's the State's position.

19 And my understanding from our bench
20 conference was that Mr. Colongeli had opened the
21 door for me to ask the investigators here in
22 Beaufort County, "He did not make that statement to
23 you?"

24 I was not shifting the burden. I guess
25 think it's being blown out of what it was focused

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1 on, and that is the statement that was made in
2 Jasper versus it not being made here in Beaufort.

3 THE COURT: Okay. Correct me if I'm wrong. He
4 put out -- and was it by Shella Laurent and also
5 possibly Nazarene Laurent -- that at the hospital --

6 MS. TANNER: I remember specifically, when
7 Nazarene was on the stand, him asking her, "Well,
8 didn't you hear that he told somebody that you were
9 trying to kill him?" or something.

10 THE COURT: Right.

11 MS. TANNER: I believe it was Nazarene. He may
12 have done it with Shella as well, because I do
13 remember asking both of those witnesses, "Did you
14 attack him?" to follow up on that.

15 So it's been out there for a very long
16 time that defense counsel is putting up a
17 self-defense argument through the other witnesses.
18 That's why I used that language. Maybe it could
19 have been a softer language to not get close to the
20 gray area.

21 But that was not my intention. It was
22 specifically directed at the fact that the defense
23 is saying he made these statements. My officers
24 from Beaufort County are saying, "No, he didn't make
25 that statement during the investigation."

1 He might have said it to a cousin in
2 Jasper County. That's all I'm trying to get at. I
3 would never try to shift the burden, and I don't
4 believe that's what I did.

5 THE COURT: Mr. Colongeli, anything further?

6 MR. COLONGELI: Your Honor, for purposes of
7 preserving the record, I know Ms. Tanner knows
8 better. I think she made a fatal mistake.

9 I think she specifically addressed my
10 client's ability to assert some sort of defense,
11 which is not his obligation, nor duty. He's
12 protected by the constitution of this state, of this
13 country.

14 She shifted the burden. She put up his
15 ability to deny the accusations during an
16 interrogation. Master Sgt. Purdy testified to the
17 fact that one of his officers took statements from
18 him that "They tried to kill me."

19 I think that goes to a self-defense
20 argument. That's a whole different argument. But I
21 believe she crossed the line. The last thing I want
22 is a mistrial, but I think it crossed the line
23 completely.

24 There's no way to take that out of what
25 the jurors just heard. There's no curative

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1 instruction for it, with all due respect to the
2 Court. I think the damage has been done.

3 THE COURT: Okay. Respectfully, I'm going to
4 deny your motion. I don't think it shifted the
5 burden. And, regardless, I did, in fact, instruct
6 them to disregard the question.

7 And Master Sgt. Purdy didn't have the
8 opportunity to even answer it before I told him to
9 stop. So we struck your question being asked, and I
10 do believe if there was any burden-shifting -- which
11 I'm going to tell you I don't believe there was --
12 certainly, the curative instruction to disregard the
13 Solicitor's question took care of it.

14 Let's go ahead and just take about ten
15 minutes. And then we'll go back, and we'll continue
16 on with this case, okay?

17 MS. TANNER: Thank you, Your Honor.

18 THE COURT: Thank you. And you are done with
19 Master Sgt. Purdy. That is over. That testimony is
20 done, correct?

21 MS. TANNER: Yes, ma'am.

22 THE COURT: All right, just making sure. We'll
23 be back in ten minutes.

24 (Court in recess.)

25 THE COURT: Is the State ready?

1 MS. TANNER: The State's ready, Your Honor.

2 THE COURT: Is the defense ready?

3 MR. COLONGELI: Yes, Your Honor.

4 THE COURT: All right, let's bring the jury in.

5 (Whereupon, the jury

6 returned to the courtroom at 11:54 a.m. and the

7 following proceedings were had:)

8 BAILIFF: Your Honor, the jury is seated.

9 THE COURT: Thank you. Welcome back, ladies
10 and gentlemen.

11 Solicitor, if you'll call your next
12 witness.

13 MS. TANNER: Thank you, Your Honor. The State
14 calls Dr. Clifton Cannon.

15 THE COURT: Mr. Cannon, if you'll please come
16 forward to be sworn, sir.

17 (The witness was sworn.)

18 CLIFTON CANNON, M.D., having first
19 been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. TANNER:

22 Q Good afternoon, Dr. Cannon.

23 A Good afternoon.

24 Q Doctor, where are you employed? Where do
25 you work?

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1 A Savannah, Georgia.

2 Q And what area or field do you work in?

3 A I'm a physician specializing in
4 neurosurgery.

5 Q And what is your educational background?

6 A I went to college at the University of
7 Georgia, then went to medical school at the Medical
8 College of Georgia in Augusta, did a year of
9 internship in Floyd County Hospital in Georgia, did
10 three years of family medicine in Gladesville,
11 Georgia; then entered my neurosurgery training at
12 Emory University. I completed that in 1970 and then
13 went to Savannah as a neurosurgeon.

14 Q And you have been a neurosurgeon since the
15 seventies, is that correct?

16 A Yes, since 1965 really, when I started
17 training. I completed my training, yes, July of
18 1970.

19 Q And have you ever testified in a court of
20 law in your field of neurosurgery?

21 A Yes.

22 Q Have you ever been declared an expert in
23 neurosurgery?

24 A Yes.

25 MS. TANNER: Your Honor, at this time the State

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1 moves that Dr. Cannon be declared an expert in
2 neurosurgery.

3 MR. COLONGELI: Without objection, Your Honor.

4 THE COURT: Ladies and gentlemen of the jury,
5 normally a person cannot give what we call opinion
6 testimony. As a general rule, when a person
7 testifies, they've got to testify to something that
8 they either saw, heard, smelled, or saw with their
9 own eyes.

10 Ladies and gentlemen, we do allow an
11 exception in some cases when someone is qualified
12 because of their education and/or experience.
13 They're permitted to give their opinion in that
14 area.

15 Dr. Cannon is going to be permitted to
16 give testimony in the area of neurosurgery. Ladies
17 and gentlemen, though a witness has been qualified
18 as an expert, this does not mean that you must
19 accept the opinion. But it's evidence for you to
20 use in any way you see appropriate or fit.

21 Thank you, Solicitor.

22 MS. TANNER: Thank you, Your Honor.

23 Q Now, Dr. Cannon, were you or did you
24 provide medical care to a patient by the name of
25 Josh Pringle in January of 2007?

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1 A Yes, I did.

2 Q And can you describe for the jury how that
3 worked, how services are provided to a patient in
4 his condition?

5 A Right. He came in to the emergency room
6 at Memorial Hospital. He was seen originally I
7 think here in Beaufort and transferred there by the
8 ambulance. He was seen by our trauma team.

9 And then I was called, since his principal
10 problem was a head injury. And when I saw the
11 patient, he had a tube down in his trachea, on a
12 ventilator. That means that they were breathing for
13 him.

14 And he had already had a CT scan done, a
15 CT scan of the head, which demonstrated a small
16 amount of contusion, bruise, of the brain but
17 tremendous edema, swelling, just like you would see
18 in any bruise.

19 And he had some small amount of bleeding
20 in the brain from the trauma that he had received,
21 and he had several fractures of the skull and
22 fractures of the sinuses and blood down into the
23 sphenoid sinus and the ethmoid sinus.

24 The sphenoid sinus is directly behind the
25 nose, and the ethmoid is underneath the cheek. And

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1 I was asked to see him to evaluate him and to see if
2 there was anything that could be done.

3 I did see him. He had very small
4 unreactive pupils, which is a very bad sign. And
5 the CT scan showed severe swelling. Under those
6 circumstances, the only you could do is put in what
7 we call a pressure monitor.

8 The brain is enclosed in a solid bone
9 structure. And if you have pressure that increases,
10 there's only one way the brain can expand, and
11 that's down through the area where the brain stem.
12 And the brain stem is where the spinal cord joins
13 the brain itself.

14 And if you're expanding down there and you
15 get pressure against the brain stem, that's where
16 the regulation for your respiration, your heart, and
17 various other functions of the body takes place.
18 And what you want to do is to try to prevent that
19 from happening.

20 And there are various methods you do it.
21 And that's what we did. I put in an intercranial
22 pressure monitor. His opening pressure was 65 to
23 70. The normal is 15 or below. So we knew he was
24 in trouble, very severe trouble.

25 You give various substances to decrease

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1 that pressure. And that's what we did, and that's
2 really all we could do for him.

3 Q Now, Dr. Cannon, you said a normal
4 pressure inside the head would be 15?

5 A Yes, 15 millimeters of water.

6 Q And when you first see Josh, what level
7 was he?

8 A He was about 65 or 70. It came down, I
9 think, to 40 after -- you give them Mannitol, which
10 is a substance that goes into the circulation of the
11 brain and the so-called oncotic pressure draws fluid
12 out of the brain, and it's excreted through the
13 urinary tract.

14 You can do that. Then you give hypotonic
15 saline, which is another way. Oncotic pressure
16 means that you put the material into the
17 circulation. And so you know how anytime you get
18 salt, you've got to get water into it, to dilute it.

19 And the differentiation between that
20 pressure where the salt is located, which is in the
21 bloodstream, and what's in the brain, it will draw
22 water into that and have decrease of swelling of the
23 brain.

24 Q Now, if normal is 15, at what point do you
25 start suffering brain injury from swelling? Is

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1 there a number where things start getting worse?

2 A Yes, at 20.

3 Q Twenty. And you said Josh was up around
4 70?

5 A Yes.

6 Q What causes the brain to swell.

7 A Many different things. But in his
8 particular case, it was definitely trauma to the
9 brain, because the brain reacts like any part of
10 your body. If you get an injury to it, it swells.
11 And that's what happened to him.

12 Q And physically within the brain, when it's
13 injured, what happens as far as -- when you and I
14 met, we talked about something called contrecoup.

15 A Right.

16 Q I don't know if I'm saying that correctly.
17 But can you describe what that is?

18 A Well, contrecoup -- another term is
19 cavitation type injury, you know. Cavitation occurs
20 when you've got a -- it will tell you about the
21 strength of it. A propeller on a boat produces
22 cavitation, which is tremendous force that pushes
23 that boat forward.

24 Or if you want to be a purist, it draws
25 the water underneath the boat. But when you look at

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1 a little propeller that big and what it can you, you
2 get an idea of what happens to the brain.

3 If you get tremendous increased pressure
4 on one point of the brain, it decreases the pressure
5 on the direct opposite part of the brain. And it
6 causes the blood to boil, so to speak.

7 It will perforate those veins and cause
8 some hemorrhage and cause enough abnormal pressure
9 close to where it was hit and decreased pressure
10 where it was directly opposite from where you were
11 hit. And that causes, you know, damage to the
12 tissue, ruptures the blood vessels.

13 And if it doesn't rupture them, it causes
14 enough injury to them until they just weep. That
15 fluid comes out and goes into the brain. And then
16 what happens, you've got veins that come out of the
17 brain. You've got arteries that go into the brain.

18 You increase that pressure. And the first
19 thing that happens is the veins collapse. And when
20 they collapse, you can't drain the blood out.
21 You've still got pressure above that going into the
22 brain.

23 And that causes an acceleration and an
24 increase in pressure, and it exceeds the arterial
25 pressure. And then you are brain-dead. That

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1 happens no matter why you do.

2 If you die of a heart attack, or
3 pneumonia, or whatever, that's the last thing that
4 happens to do. And that's what happened to him.

5 Q So I understand, is it the actual cracking
6 of the skull or the force that moves the brain that
7 causes the injury?

8 A No, it's some of both. But there is a
9 residence setup. You know, if you've got a bell, it
10 doesn't ring very well, you know. It doesn't echo
11 back and forth. And that what happens.

12 You actually get some decrease in the
13 damage to the brain if you have what is called a
14 baseless skull fracture. If you don't fracture the
15 skull, then you can actually get more damage to the
16 brain than if you do fracture it.

17 But his fractures were so numerous and so
18 many that it was most likely a combination of both,
19 direct trauma from whatever it was that -- something
20 blunt that hit on the head and also the actual
21 residence that's set up in there, in the brain
22 tissue.

23 Q Now, when you first see Josh at the
24 hospital, he is still technically alive?

25 A Right.

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1 Q At what point does your diagnosis of that
2 change?

3 A It changed probably 24 to 36 hours later.

4 Q Does he remain on life support after that
5 point?

6 A Yes, he remains on life support until the
7 eleventh.

8 Q And at that point?

9 A At that point, we had had a cerebral blood
10 clot, which showed that there's no blood going to
11 the brain. You know, you're dead.

12 Q And that was on the eleventh?

13 A Yes.

14 Q Is he removed from life support on the
15 eleventh, or does he pass later?

16 A Yes, he was removed from life support. I
17 think his mother wanted that done or agreed to have
18 that done.

19 Q But you're saying by probably the fifth,
20 there was nothing you could do?

21 A Well, there was nothing we could do
22 actually when he came in. I felt that there was no
23 chance at all that he would survive. But definitely
24 he had what we call decerebrate response, which is a
25 response that is just a reflex.

1 It has nothing whatsoever to do with the
2 large hemispheres of the brain. It can actually
3 occur at spinal cord level. You can have what he
4 had. But he never did manifest any signs that he
5 had a functioning brain.

6 Q He never looked up --

7 A No.

8 Q -- or was conscious?

9 A No, he would respond a little bit to
10 painful stimulation, which was the decerebrate
11 response. He had no what we call doll's head
12 maneuver, you know, which I know everybody has
13 probably seen those dolls that when you move their
14 head to the right, their eyes go to the left, and
15 vice versa to the left.

16 And this happens in humans when they're
17 unconscious. But if they have enough damage to the
18 brain stem, they won't have that response. And the
19 chances of them surviving when they don't have that
20 response is very slim.

21 Also, he didn't have what we call a
22 corneal reflex where you take a little something and
23 touch the cornea of the eye, and they will blink if
24 they -- that's a positive reflex.

25 Q And he didn't have that?

Dr. Clifton Cannon - Direct

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1 A: He didn't have that, which is a very, very
2 bad sign. Plus, we did what we call ice water
3 irrigation into the ear. And you will get severe
4 fluttering, movement of the eyeball itself if that
5 particular track, which goes from the ear through
6 the brain stem to the eye, is intact.

7 You have to have severe brain stem injury
8 not to have that reflex. He did not have that.

9 Q So by the time he gets to the hospital,
10 there's nothing --

11 A There's nothing.

12 Q -- that can be done? Thank you, Dr.
13 Cannon. Please answer anything defense counsel has.

14 MR. COLONGELI: No questions for Dr. Cannon.

15 THE COURT: All right. Any objection to Dr.
16 Cannon being excused?

17 MR. COLONGELI: Without objection.

18 THE COURT: Okay. You're excused, Dr. Cannon.
19 Thank you, sir.

20 DR. CANNON: Thank you.

21 THE COURT: Solicitor, if you'll call your next
22 witness.

23 MS. TANNER: Yes, ma'am. The State calls Sgt.
24 Brian Baird.

25 (The witness was sworn.)

Brian Baird - Direct

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1 BRIAN BAIRD, having first been duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. TANNER:

5 Q Good afternoon, Investigator Baird.

6 A Good afternoon, ma'am.

7 Q Where are you employed?

8 A Beaufort County Sheriff's Office.

9 Q How long have you been working there?

10 A Since December of 2001.

11 Q Prior to that, what did you do for a
12 living?

13 A I was a United States Marine. I served as
14 a military policeman to start, and I switched over
15 to the Marine Corps Criminal Investigation Division,
16 and I finished up my career working for the Naval
17 Criminal Investigator Service.

18 Q So how many years overall do you have in
19 law enforcement?

20 A Twenty-eight, I believe.

21 Q On January 3, 2007, and the days
22 following, were you involved in the investigation
23 involving Harold Jackson?

24 A Yes, ma'am, I was.

25 Q And were you part of evidence collection

Brian Baird - Direct

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1 in that case?

2 A Yes, I was.

3 MS. TANNER: If I may approach the witness,
4 Your Honor?

5 THE COURT: You may.

6 Q I'll show you what's been marked as
7 State's Exhibit Thirteen. Can you identify that
8 item?

9 A Yes, ma'am, this is a -- I went to --
10 after the forensic autopsy, I went to the Medical
11 University of South Carolina where the autopsy was
12 performed, and I collected two tubes of blood that
13 was taken during the autopsy from Josh Pringle.

14 And this is -- the tubes were placed into
15 the evidence bag here. They were later sent to SLED
16 for DNA analysis. And this is what is left from
17 that blood that I collected.

18 Q And when you received those tubes of
19 blood, were they sealed and preserved?

20 A Yes, they were.

21 Q And once you received them, what did you
22 do with them?

23 A I brought them back to Beaufort County,
24 logged them into the evidence bag with the evidence
25 custodian division within the Sheriff's Office.

Brian Baird - Direct

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1 Q And how would you determine that piece of
2 evidence, say, from a piece of evidence from another
3 case?

4 A Well, first of all, this is all my writing
5 on the bag. It is exactly -- this is the container
6 that it came in to begin with, the evidence bag or
7 the biohazard bag here, and it's got my markings on
8 it.

9 MS. TANNER: Your Honor, the State moves
10 thirteen into evidence.

11 MR. COLONGELI: If I could just look at it.

12 THE COURT: Yes.

13 MR. COLONGELI: Without objection.

14 THE COURT: It's in evidence without objection.

15 (State's Exhibit Number Thirteen,
16 Blood Sample, was entered in evidence.)

17 Q Investigator Baird, as part of your
18 investigation, did you have -- were you involved in
19 collecting evidence from the defendant himself?

20 A Yes, ma'am, the following morning after
21 the incident.

22 Q And what was that?

23 A His clothing that he was wearing at the
24 time he was arrested.

25 Q Once you collected those items, what did

Brian Baird - Direct

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1 you do with them?

2 A I brought them back to my office. I
3 photographed them and then later entered them into
4 the evidence repository.

5 Q And were they secured and protected for
6 later purposes?

7 A Yes, ma'am, for DNA analysis at a later
8 time.

9 Q During your encounter with Mr. Jackson,
10 did you have a chance to observe him personally?

11 A Yes, ma'am, when I was face to face with
12 him.

13 Q Did you observe any injuries to Mr.
14 Jackson?

15 A No, ma'am, I did not.

16 Q Any injuries to his face?

17 A No, ma'am.

18 Q Any injuries to his hands?

19 A No, ma'am.

20 Q Did he look like he was hurt anywhere?

21 A No, ma'am.

22 MS. TANNER: If I may approach the witness,
23 Your Honor?

24 THE COURT: You may.

25 Q State's Exhibit Sixteen, do you recognize

Brian Baird - Direct

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1 these? And I'll hold these since I have the
2 originals.

3 A Right.

4 Q Sixteen?

5 A It should be two pair of socks, four socks
6 in total, that were collected during the search
7 warrant.

8 Q And you collected these items yourself?

9 A Yes, ma'am, I did.

10 Q And you turned these in to evidence?

11 A That's correct, ma'am.

12 MS. TANNER: Your Honor, the State moves
13 sixteen into evidence.

14 MR. COLONGELI: Without objection.

15 THE COURT: It's in evidence without objection.

16 (State's Exhibit Number Sixteen,
17 Socks, was entered in evidence.)

18 Q State's Exhibit Eighteen -- do you
19 recognize this item?

20 A Yes, ma'am. That is the shirt that I
21 collected at the jail that morning.

22 Q Is it in the exact condition as when you
23 collected it?

24 A No, ma'am. When I collected it, it was --
25 it had not been cut. That appears to be where they

Brian Baird - Direct

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1 made the cuttings to do the DNA analysis.

2 MS. TANNER: The State moves eighteen into
3 evidence.

4 MR. COLONGELI: Without objection.

5 THE COURT: It's in evidence without objection.

6 (State's Exhibit Number Eighteen,
7 Shirt, was entered in evidence.)

8 Q State's seventeen, do you recognize this
9 item?

10 A Yes, ma'am. That's the shorts the
11 gentleman was wearing -- the defendant was wearing
12 when he was arrested.

13 Q And you collected these?

14 A I did.

15 Q And turned them in to evidence?

16 A Yes, ma'am, I did.

17 MS. TANNER: The State moves seventeen into
18 evidence.

19 MR. COLONGELI: Without objection.

20 THE COURT: They're in evidence without
21 objection.

22 (State's Exhibit Number Seventeen,
23 Shorts, was entered in evidence.)

24 Q And State's Fifteen?

25 A Those are the shoes that were taken from

Brian Baird - Direct

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1 the defendant at the jail, and I entered those into
2 evidence as well.

3 MS. TANNER: The State moves fifteen into
4 evidence.

5 MR. COLONGELI: Without objection.

6 THE COURT: They're in evidence without
7 objection.

8 (State's Exhibit Number Fifteen,
9 Shoes, were entered in evidence.)

10 Q And, Investigator Baird, were you involved
11 in the collection of evidence from the victims in
12 the case, Shella Laurent and Nazarene Laurent?

13 A Yes, ma'am, I was.

14 Q And what did you collect for them?

15 A I collected two oral swabs each so we
16 could do DNA analysis on the splatter from the
17 clothing and the scene.

18 MS. TANNER: If I may approach?

19 THE COURT: You may.

20 Q I'll show you State's Nineteen and Twenty.

21 A Yes, ma'am. These are the crime scene
22 bags inside of the evidence bags. Inside those bags
23 are the oral swabs that I collected from Nazarene
24 and Shella.

25 MS. TANNER: The State moves --

Brian Baird - Direct

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1 Q And when you collected those, what did you
2 do with those items?

3 A After I collected them -- you air-dry a
4 swab so it will not deteriorate. After you air-dry
5 them, you place them into the bag here, and then you
6 submit them to the evidence locker.

7 Q Did you submit those to the evidence
8 locker?

9 A I took them to the evidence locker,
10 processed them in, immediately processed them right
11 back out, and I drove them to the SLED lab in
12 Columbia myself and requested the expedited analysis
13 because we just had collected these a few weeks ago.

14 MS. TANNER: Your Honor, the State moves
15 nineteen and twenty into evidence.

16 MR. COLONGELI: If I could just quickly look at
17 them.

18 THE COURT: Yes, sir.

19 MR. COLONGELI: Without objection, Your Honor.

20 THE COURT: It's in evidence without objection.

21 (State's Exhibits Number Nineteen and
22 Twenty, Oral Swabs, were entered in evidence.)

23 Q Thank you, Investigator Baird. Please
24 answer anything defense counsel has.

25 A Yes, ma'am.

Brian Baird - Direct

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1 MR. COLONGELI: May it please the Court, Your
2 Honor?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. COLONGELI:

6 Q Good afternoon, Sgt. Baird.

7 A How are you, sir?

8 Q Your testimony here today, obviously your
9 role in this investigation was specifically related
10 to the collection of evidence, correct?

11 A Yes, sir.

12 Q And you deferred to the lead criminal
13 investigative officer, I would assume, is that
14 correct? Would you defer to whoever the lead
15 investigative officer was in this case?

16 A Defer in which way, sir?

17 Q Do you take orders from whoever was the
18 lead criminal investigative officer in this case, or
19 is your investigation in conjunction with whoever
20 the lead investigative officer was?

21 A Well, what happened is when there was
22 something that needed to be done, like the
23 collection of clothing, for instance, I volunteered
24 to go and collect those items.

25 Q And that would be at his or her direction?

Brian Baird - Cross

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1 A Per his request.

2 Q Okay. And you did file a report --

3 A Yes, sir.

4 Q -- in this case, correct?

5 A Yes, sir.

6 Q And you filed a report as to when you went
7 and conducted this search warrant in order to get
8 the clothing Mr. Jackson was wearing?

9 A Yes, sir.

10 Q And then you also just mentioned this
11 recent report that you did in order to get the swabs
12 --

13 A That's correct, sir.

14 Q -- from the Laurents for analysis?

15 A Yes, sir.

16 Q And that was just done, matter of fact,
17 within a week or so ago?

18 A The end of last month, I believe, sir.

19 Q Okay. Ms. Tanner specifically asked you
20 whether you had a chance to observe Mr. Jackson.
21 And I would guess that it was when you served this
22 search warrant to obtain the clothing, is that
23 correct?

24 A That is correct, sir.

25 Q And according to your testimony, based on

Brian Baird - Cross

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1 the questions she asked you as to whether or not you
2 observed any sort of injuries to his face, hands, or
3 whether he was hurt anywhere, your answer here today
4 is no?

5 A I did not see any injuries, no, sir.

6 Q Did you ask him if he was hurt?

7 A I didn't have the op -- he wouldn't answer
8 any of my questions I asked him at the jail, sir.

9 Q Is that his right?

10 A Absolutely.

11 Q Did you ask him if he was hurt?

12 A No, I did not specifically ask him that.

13 Q You -- and as a matter of fact, I have a
14 copy of the search warrant here that you used to get
15 the clothing.

16 A Yes, sir.

17 Q In that search warrant, you stated that
18 you were aware that Mr. Jackson voluntarily turned
19 himself in?

20 A Yes, sir.

21 Q All right. And as to the time -- and I
22 stand to be corrected, and I can refresh your memory
23 using this -- it appears that this search warrant
24 was conducted January 4th at 8:50 a.m. Does that
25 sound right?

Brian Baird - Cross

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1 A That does sound right, sir.

2 Q Are you aware of what a Code Blue is in
3 the detention center?

4 A Not within the detention center, no, sir.

5 Q Would you disagree with me if I told you a
6 Code Blue is a medical emergency?

7 MS. TANNER: Objection, Your Honor. He asked
8 him if he knew what it was, and he said no. Now
9 he's testifying.

10 THE COURT: All right.

11 MR. COLONGELI: Your Honor, if I could
12 approach.

13 Q Sgt. Baird --

14 A Yes, sir.

15 Q -- I'm aware your statement here today is
16 you are not familiar with what a Code Blue is, and
17 we'll leave it at that. You're not aware that a
18 Code Blue is a medical emergency, is that correct?

19 A I am not, sir.

20 Q And your testimony earlier was based on
21 your observation of him at 8:50 that morning, he
22 didn't have any injuries --

23 A I did not see any injuries on him, no,
24 sir.

25 Q -- nor did you ask him whether he had any?

Brian Baird - Cross

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1 A No, sir, I did not.

2 Q And you have no information that you can
3 testify to the ladies and gentlemen of this jury if
4 he, in fact, did have some sort of medical --
5 whether, in fact, he did have a medical emergency
6 within hours before you arriving there that morning?

7 A I'm not aware of any situation, sir.

8 Q When Ms. Tanner asked you if he was hurt
9 anywhere, you said no. But is it safe to assume
10 that you did not do a physical examination of his
11 body? You would not have known if he had any sort
12 of bruising or injuries underneath his clothing?

13 A No, sir, I did not see under -- I didn't
14 look underneath his clothes, sir.

15 Q Thank you very much.

16 MR. COLONGELI: I have nothing further.

17 THE COURT: Solicitor?

18 MS. TANNER: Nothing further.. May this witness
19 be excused?

20 THE COURT: Any objection?

21 MR. COLONGELI: Without objection.

22 THE COURT: Mr. Baird, you may be excused, sir.

23 MR. BAIRD: Thank you, ma'am.

24 THE COURT: Thank you. If you all would
25 approach for just a minute.

Brian Baird - Cross

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1 All right, ladies and gentlemen of the
2 jury, we're just trying to figure out
3 scheduling-wise and the amount of witnesses that we
4 believe we have next. I think right now would be a
5 good time for us to go ahead and break for lunch --
6 go to lunch, come back, and hopefully finish up.

7 It is now 12:30. I'm going to ask that
8 you all be back at 1:45, when we're going to
9 continue the trial of this case. Ladies and
10 gentlemen, you are free to go about your lunch hour
11 and do whatever you would like.

12 However, again, I caution you are not to
13 discuss this case, not only with each other but with
14 anyone else. It's not appropriate to do so.

15 Go have a good lunch, run your errands,
16 and we'll see you all back in the jury room. If you
17 all are back at 1:45, we'll start at 1:45. All
18 right, thank you.

19 (The jury left the
20 courtroom at 12:30 p.m. for lunch recess.)

21 BAILIFF: The jury is clear, Your Honor.

22 THE COURT: Thank you. All right, anything we
23 need to take up before the lunch hour?

24 MS. TANNER: Nothing from the State.

25 THE COURT: Anything, Mr. Colongeli?

Brian Baird - Cross

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1 MR. COLONGELI: I don't believe so, Your Honor.

2 THE COURT: All right, I'll see you all when we
3 come back. Please come a little bit before 1:45, as
4 I intend on, if the jury is all here, absolutely
5 starting at 1:45, okay?

6 MS. TANNER: Yes, ma'am.

7 MR. COLONGELI: Thank you.

8 THE COURT: Thank you.

9 (Court in recess.)

10 THE COURT: Anything from the State?

11 MS. TANNER: Nothing from the State.

12 THE COURT: Anything from the defense?

13 MR. COLONGELI: No, Your Honor.

14 THE COURT: Bring the jury in.

15 BAILIFF: Yes, ma'am. Jurors entering, Your
16 Honor.

17 THE COURT: Thank you.

18 (The jury returned to the
19 courtroom at 2:00 p.m. after which the following
20 proceedings were had:)

21 BAILIFF: Your Honor, the jury is seated.

22 THE COURT: Thank you. Welcome back, ladies
23 and gentlemen.

24 Solicitor, if you'll call your next
25 witness.

Brian Baird - Cross

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1 MS. TANNER: Thank you, Your Honor. The State
2 calls Dr. Aaron Rittershaus.

3 THE COURT: Please come forward to be sworn,
4 sir.

5 (The witness was sworn.)

6 THE COURT: Doctor, will you give us your full
7 name for the record and spell your last name,
8 please, sir.

9 DR. RITTERSHAUS: Sure. My name is Aaron
10 Charles Rittershaus. It's R-I-T-T-E-R-S-H-A-U-S.

11 AARON CHARLES RITTERSHAUS, M.D.,
12 after having first been duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MS. TANNER:

16 Q Good afternoon, Doctor.

17 A Good afternoon.

18 Q What line of work are you in?

19 A I'm in the field of pathology.

20 Q And what is pathology?

21 A Pathology, I guess, is a pretty varied
22 specialty within medicine. There's three main
23 fields. One is clinical pathology, where whenever
24 anyone goes to their doctor and gets their blood
25 drawn.

Dr. Aaron Rittershaus - Direct

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1 That blood is taken to the pathology lab,
2 and we, you know, give the doctor results on
3 cholesterol and things like that. Then there's
4 anatomic pathology, which is when anyone gets a
5 biopsy, looking for cancer.

6 It's sent to the pathology lab. It's made
7 into slides, and then we look at under a microscope.
8 And then the third field is forensic pathology,
9 which deals with autopsies and collection of
10 evidence.

11 Q And, Dr. Rittershaus, what type of
12 education and training do you have to be involved in
13 pathology?

14 A After high school, I did a full-year
15 program at Johns Hopkins University in Baltimore. I
16 got a Bachelor's of Art in biology. Then I did a
17 four-year medical school in Richmond, Virginia,
18 where I got my medical doctorate. And then I am
19 currently in my final year of a four-year pathology
20 residence program up at MUSC in Charleston.

21 Q And are you involved in forensic
22 pathology?

23 A Yes, I am.

24 Q And do you perform autopsies as part of
25 that?

Dr. Aaron Rittershaus - Direct

413

1 A Yes, I do.

2 Q How many pathologies would you say you
3 have performed or been part of?

4 A Autopsies, 75 or so -- between 75 and 80.

5 MS. TANNER: Your Honor, at this time the State
6 would move to have Dr. Rittershaus declared an
7 expert in forensic pathology.

8 THE COURT: Mr. Colongeli?

9 MR. COLONGELI: Without objection.

10 THE COURT: All right. Ladies and gentlemen,
11 again, as I told you before, normally a person is
12 not allowed to give opinion testimony. Normally,
13 they just have to testify strictly to what they've
14 seen, heard, or something of that nature.

15 Again, we allow an exception in the case
16 of people who we deem expert witnesses because of
17 their education and/or experience. Dr. Rittershaus
18 is going to be qualified as an expert in forensic
19 pathology.

20 And, again, ladies and gentlemen, that
21 doesn't mean you have to accept his opinion. It's
22 just for you to use as you see fit in your analysis.

23 With that said, Solicitor?

24 MS. TANNER: Thank you, Your Honor.

25 Q Doctor, what is involved in an autopsy?

Dr. Aaron Rittershaus - Direct

414

1 What do you do?

2 A Generally, we receive the body from the
3 coroner. We document how we received it with
4 pictures and diagrams, just writing down everything
5 the decedent is wearing, any, you know, medical
6 procedures, any identifying marks, scars, tattoos,
7 things like that.

8 Then we unclothe the body, wash it, take a
9 picture to document injuries or natural processes,
10 diseases. Then we open the body and examine each
11 organ independently and then take a piece of each
12 organ and examine that under a microscope after.

13 Q At the conclusion of your analysis, do you
14 prepare a report regarding your findings?

15 A Correct.

16 Q And in January of 2007, did you
17 participate in the autopsy of one Joshua Pringle?

18 A Yes, I did.

19 Q And, Dr. Rittershaus, can you describe for
20 the jury your findings during the autopsy done on
21 Josh Pringle?

22 A Sure. Is it okay if I refer to the
23 report?

24 Q Absolutely.

25 A The findings of the injury that we

Dr. Aaron Rittershaus - Direct

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1 identified were four lacerations across the entire
2 superior aspect of the skull, right at the scalp.
3 And then underlying those lacerations, which are
4 tears in the skin, were hemorrhages of the scalp and
5 muscles.

6 And then underneath those hemorrhages were
7 skull fractures that extended really from the top of
8 the head into what's called the base of the skull
9 where the brain sits. And then inside of the skull,
10 there are three layers, three spaces.

11 And there was hemorrhage within all three
12 of those spaces. And then we found --

13 Q How many skull fractures did you find?

14 A Really, too many to count. It's what we
15 call comminuted fractures, where it's not just a
16 clean break, it's a fracture, and then just pieces
17 of bone are just scattered everywhere. There's too
18 many to count.

19 Q And, Dr. Rittershaus, can you give an
20 opinion about the cause of those types of injuries?

21 A It's blunt force injury.

22 Q What is blunt force injury?

23 A Generally, a hard object striking the
24 body.

25 Q And can you tell from these injuries --

Dr. Aaron Rittershaus - Direct

416

1 if, let's say, it was a baseball bat that was the
2 object used for the blunt force -- if that baseball
3 bat hit the skull more than once?

4 A Yes.

5 Q More than twice?

6 A Yes.

7 Q Can you tell from the injuries how many
8 times?

9 A It was at least three times and maybe
10 four, since there were four separate lacerations on
11 the head.

12 Q And, Doctor, what other findings did you
13 come across in the autopsy?

14 A On the right upper arm, there was also an
15 abrasion, which was sort of like a rug burn almost
16 where the skin is partially torn away. And around
17 that was a contusion, a bruise. And we also found
18 some healing abrasions besides.

19 Q And, Doctor, during your examination, do
20 you look for what are classified as defensive
21 wounds?

22 A We do.

23 Q And did you discover anything that you
24 would classify as a defensive wound on the body of
25 Josh Pringle?

Dr. Aaron Rittershaus - Direct

417

1 A Not anything that was definitively a
2 defensive wound.

3 Q Did you find any injuries to Mr. Pringle's
4 hands?

5 A Yes, there was a laceration on the fifth
6 digit, which is the pinky finger.

7 Q On which hand?

8 A The right hand.

9 Q His pinky?

10 A Uh-huh.

11 Q You said a laceration is a little cut?

12 A Correct -- the tearing of the skin, yes.

13 Q Once you perform the autopsy and prepare a
14 report, do you issue any opinion about cause of
15 death?

16 A Yes, we do.

17 Q And in Josh Pringle's case, what was
18 determined to be the cause of death?

19 A The cause of death is listed on the
20 autopsy report as diffuse blunt trauma to the head
21 with resulting multiple skull fractures; epidural,
22 subdural, intercerebral, intercerebellar, and
23 extensive subarachnoid hemorrhages due to being
24 beaten with a baseball bat.

25 Q And do you also issue an opinion regarding

Dr. Aaron Rittershaus - Direct

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1 manner of death?

2 A We do.

3 Q What is the difference in cause of death
4 and manner of death?

5 A Cause of death is the actual either
6 injuries or disease process that led to the death.
7 The manner of death is how that death occurred. So
8 there's really four options -- you know, accident,
9 suicide, natural, and homicide.

10 Q And in Josh Pringle's case, what was
11 determined to be the manner of death?

12 A Homicide.

13 Q Thank you, Doctor. Please answer any
14 questions defense counsel has.

15 CROSS-EXAMINATION

16 BY MR. COLONGELI:

17 Q I only have one question, Doctor, as far
18 as cause of death, and you may have just answered
19 it. I wasn't paying attention. But was there, in
20 fact, -- was it, in fact, determined that Mr.
21 Pringle also had what we call right-side acute
22 bronchopneumonia?

23 A That is correct.

24 Q Which, according to the report, also was
25 considered to be contributory?

Dr. Aaron Rittershaus - Cross

419

1 A Correct.

2 Q Thank you.

3 MR. COLONGELI: I have nothing further, Your
4 Honor.

5 THE COURT: Any redirect?

6 MS. TANNER: Just briefly.

7 REDIRECT EXAMINATION

8 BY MS. TANNER:

9 Q Dr. Rittershaus, this pneumonia, is that
10 common in patients who are on life support?

11 A It's very commonly associated with
12 ventilator support, yes.

13 Q What is that? What is the pneumonia that
14 you reference in your report?

15 A There is -- on the right side of his lung,
16 there was a very small area of acute inflammation of
17 the fields within the airways, which is what we call
18 pneumonia.

19 Q Thank you, sir.

20 A Uh-huh.

21 MR. COLONGELI: No further questions, Your
22 Honor.

23 THE COURT: All right. Any objection to Dr.
24 Rittershaus being excused?

25 MR. COLONGELI: No objection, Your Honor.

Dr. Aaron Rittershaus - redirect

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1 MS. TANNER: No objection, Your Honor.

2 THE COURT: You're excused. Thank you.

3 DR. RITTERSHAUS: Thank you.

4 THE COURT: Solicitor, if you'll call your next
5 witness.

6 MS. TANNER: Thank you, Your Honor. The State
7 calls Mr. Tim French.

8 THE COURT: Okay.

9 (The witness was sworn.)

10 CLERK OF COURT: State your full name and spell
11 your last name.

12 MR. FRENCH: Timothy French -- F-R-E-N-C-H.

13 TIMOTHY FRENCH, having first been
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. TANNER:

17 Q Good afternoon, Mr. French. Where are you
18 employed?

19 A I'm employed by the Beaufort County
20 Sheriff's Department.

21 Q In what capacity do you work for the
22 Sheriff's Office?

23 A I'm a deputy sheriff, and my title is a
24 DNA analyst.

25 Q And what kind of work are you doing right

Dr. Tim French - Direct

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1 now as a DNA analyst at the Sheriff's Office?

2 A Right now, we're in the process of
3 building the lab, setting up some of the equipment,
4 and running test samples.

5 Q And prior to coming to the Sheriff's
6 Office, what did you do, or where were you employed?

7 A Prior to coming here, I was employed at
8 the Charlotte-Mecklenburg Police Department crime
9 lab for ten years. My job title there was a
10 criminologist. My duties were to test serological
11 evidence, that being any type of bodily fluids such
12 as blood, semen, saliva, trace evidence.

13 Before that, I worked for nine years for
14 the Syracuse Police Department in New York, again
15 trace evidence and serology. In Syracuse, I was
16 also a member of the Homicide Response Team.

17 I was one of the members that was called
18 out any time there was a homicide. In Charlotte, we
19 didn't have a need for a Homicide Response Team
20 because we had civilian crime scene technicians,
21 although I was available to be called out to
22 homicides. And in both of those situations, I would
23 do analysis of blood stain patterns.

24 Q And what kind of specialized education and
25 training do you have for your field?

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1 A I've had quite a few trainings. I've been
2 to the FBI Academy four different times, one for
3 conventional serology, one for hair and fiber, one
4 for infrared spectroscopy, and once for paint and
5 tape.

6 I've also been trained -- and these
7 classes are all at least a week long. Some of them
8 are two weeks. Some I went to like one-day
9 seminars.

10 I've also been trained in physical -- the
11 title of the course was "Physical Significance of
12 Blood Stain Evidence." That was in the laboratory
13 of forensic science in Corning, New York.

14 I was trained at Bowdoin College in Maine
15 for infrared spectrometry. I had a class at Florida
16 International University for glass evidence
17 analysis, a class at North Carolina State University
18 for forensic textile applications, and an advanced
19 blood stain analysis class in Charlotte.

20 Q And, Mr. French, have you ever testified
21 in a court of law regarding your areas of expertise?

22 A Most of them, I have, yes.

23 Q Have you been declared an expert?

24 A Yes.

25 MS. TANNER: Your Honor, at this time the State

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1 moves Mr. French as an expert in blood stain pattern
2 analysis.

3 THE COURT: Mr. Colongeli?

4 MR. COLONGELI: Without objection.

5 THE COURT: Ladies and gentlemen, again, as
6 you've just heard, he has been qualified as an
7 expert in this case in the area of blood stain
8 pattern analysis. Again, ladies and gentlemen, it's
9 for you to use the information however you see fit.
10 You don't have to accept it.

11 With that said, Solicitor?

12 MS. TANNER: Thank you, Your Honor.

13 Q Mr. French, what is blood stain pattern
14 analysis?

15 A That is where you look at blood stains to
16 try to determine what could have caused it. It's a
17 -- follows the scientific method similar to what you
18 do when you're doing experiments in a lab, actually
19 go into a scene, observe what type of blood you see
20 there.

21 When you're in a crime scene, you actually
22 pick out different patterns. For instance, you may
23 see a blood trail leading to what looks like some
24 type of a pattern and then a pool of blood.

25 That would be actually three different

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1 patterns. And then you can actually look at those
2 individual patterns. You can actually do
3 mathematical calculations to determine where that
4 pattern could have originated from.

5 Q In talking about a blood stain, can you
6 tell anything from looking at the size of the actual
7 spot of blood or shape of it?

8 A That's a lot of what you do when you're
9 doing actual calculations on it. If you have -- say
10 you cut your finger, for example. If you just hold
11 your finger over this bench right here and let the
12 blood drip off of your finger, you're going to get a
13 certain size stain, almost always.

14 It'll be the size of a nickel, and it'll
15 be round if it's dripping right straight down on a
16 surface. Now, with that same drop of blood, if I
17 were to take this piece of wood and tip it up at an
18 angle, that same drop is not going to be round
19 anymore.

20 It's going to be elongated from the top to
21 the bottom. It'll be less wide, and it'll be long.
22 If I tip the piece of wood even further so it's
23 almost vertical like a wall, that same drop is going
24 to become very thin and very long.

25 And that's what we do our calculations on,

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1 those blood drops. We can tell what angle it
2 impacted that surface at.

3 And when you do that with a whole series
4 of stains, an impact stain, for example -- if I were
5 to take a bloody sponge and hit it with something, I
6 would have blood radiating out from that sponge in
7 all different directions.

8 If I were to measure the angle of all
9 those blood stains and run a string from that stain
10 in the direction that the blood came from, I would
11 get the origin and the area of origin where that
12 blood came from when it was struck.

13 So I could tell if the sponge was on the
14 level surface of the wood or if I was holding it a
15 foot off of the wood when I impacted it.

16 Q Is it possible to look at blood and tell
17 how fast it was traveling or how hard something hit
18 it?

19 A The --

20 MR. COLONGELI: Objection, Your Honor, leading.

21 MS. TANNER: I asked if that was possible.

22 THE COURT: Okay, overruled. You can ask it.

23 A One of the things that you look for is, is
24 it a passive blood stain, such as a blood drop or a
25 line of blood that's just running down the wall in

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1 like a flow pattern. Or if it was an impact
2 splatter type of stain where something was struck or
3 a gunshot, that creates a different type.

4 The more energy in the impact, the smaller
5 the blood stain is going to be. Again, with the
6 example of your finger being cut, if you just hold
7 your finger still, you're going to get that
8 nickel-size stain.

9 If you bump your finger or move your
10 finger while the drop is forming, it will drip
11 sooner. You'll get a smaller stain. So on the same
12 line of thinking, a gunshot will produce smaller
13 blood drops than, say, just a free-falling drop. So
14 the smaller the drop, generally, the more energy
15 there is in the impact.

16 Q What are some of the terminologies used?
17 I've heard cast-off. Can you tell us, what is
18 cast-off?

19 A Cast-off is one of the projection type
20 stains. If you hit an object -- say, again, let's
21 use a bloody sponge -- if you hit that object with,
22 let's say, a hammer, for example, the hammer is
23 going to pick up blood.

24 As I lift the hammer after striking the
25 sponge, if I left the hammer back to strike the

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1 sponge again, there's blood on the hammer that's
2 going to fly off of the hammer and create stains on
3 the ceiling or wherever the blood flies off to.

4 Q And that's cast-off?

5 A That's called cast-off.

6 Q What about the transfer pattern?

7 A Transfer pattern is where something bloody
8 -- again, like a sponge -- comes into contact with a
9 non-bloody surface. If I take the bloody sponge and
10 set it on this table, it will create a transfer
11 pattern.

12 Q And, Mr. French, were you asked to review
13 crime scene photos in the State of South Carolina
14 versus Jackson and render an opinion about blood
15 stain patterns that were found?

16 A Yes, I did.

17 MS. TANNER: If I may approach the witness,
18 Your Honor?

19 THE COURT: You may.

20 Q I'm going to show you State's Exhibit
21 Seven and then Twenty-One through Twenty-Seven.
22 They're in backwards order. Did you review these
23 photographs as part of your analysis in this case?

24 A Yes, I did.

25 Q Did you use the photographs in order to

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1 form your opinion about the matters indicated in
2 these photographs?

3 A Yes.

4 MS. TANNER: Your Honor, at this time the State
5 moves seven, twenty-one, twenty-two, twenty-three,
6 twenty-four, twenty-five, twenty-six, and
7 twenty-seven into evidence.

8 THE COURT: I'm going to move them into
9 evidence subject to your prior objection.

10 MR. COLONGELI: As long as my objection is
11 noted, Your Honor. Thank you.

12 THE COURT: Yes, sir.

13 (State's Exhibits Number Seven and
14 Twenty-One through Twenty-Seven, Photographs, were
15 entered in evidence.)

16 MS. TANNER: Your Honor, if I may, I'd like to
17 get the witness down to publish those to the jury
18 and have him explain what's in the photographs and
19 then in conjunction with his opinion regarding the
20 photographs.

21 THE COURT: He may step down.

22 MR. COLONGELI: Your Honor, may we approach?

23 THE COURT: You may.

24 Q Mr. French, we're going to start with
25 State's Exhibit Number Twenty-Seven. If you could

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1 for the jury explain your opinion of what is
2 photographed here, or if you need to use more than
3 one in a row for how you did your blood stain
4 pattern analysis.

5 A What you see here is a pool. There's some
6 what looks like impact splatter, these drops over on
7 the left side. These streaks here, those are what I
8 was talking about with elongated the more close it
9 is to hitting parallel to the surface that you see
10 here.

11 And we also see -- sometimes in blood
12 stain analysis, you have a lot of other stuff going
13 on, such as EMT people that respond to the area. So
14 typically you don't want to try to go over areas
15 like this where there's been a lot of traffic on it.

16 You see it looks like -- here, going
17 through the blood stains. So -- a little bit. But
18 you can still see the streaked blood here. And what
19 that means is -- I didn't tell you about the
20 directionality of blood.

21 When you look at the drop of blood, not
22 only are you looking at how bright it is and how
23 long it is, it tells you where it came from. If you
24 look at this stain here -- these stains here --
25 they're telling you that they're coming from the

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1 direction of that pool of blood.

2 Because they're so elongated, that means
3 that they're very close to the surface of the floor.
4 This is the pool you saw in the last picture. These
5 are more impact splatter coming from that area where
6 the pool is.

7 In this picture, you see the impact
8 splatter that you saw in the last one, the pool from
9 the last two pictures. There's movement and
10 elongated blood here.

11 Then you're also seeing impact splatter on
12 the wall here, and this is originating from --
13 meaning you're looking at the direction that the
14 blood came from.

15 And because they're -- I didn't actually
16 do measurements on the blood stain -- these are
17 generalizations without scales in the picture and
18 tape measures coming off the wall and ceilings. I
19 can only give you a generalization that these things
20 are coming from this direction and some degree away
21 from the wall.

22 So it would be -- here, up in this area.
23 So provided that the electrical outlet is the normal
24 height off the floor and this is a normal doorway,
25 you would estimate four to five foot high.

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1 Q And four to five high would be what -- the
2 source of the blood?

3 A That's the source of the blood.

4 Q So in this case, all testimony is that the
5 victim's head was the source of the blood. What is
6 your opinion about the location of his head when
7 these splatters hit the wall?

8 A If the head is the source of the blood for
9 these, that means the person is nearly upright or
10 that these things did not come from the area where
11 someone has stepped in the pool.

12 Q Let's go back to that. This impact
13 splatter here, what can you tell about the height or
14 the location of the head at the time that this
15 occurs?

16 A The height -- if the origin is the head,
17 then the origin for the splatters is near the
18 ground, is that right?

19 Q This exhibit is a closer version of the
20 last one. And what about these pools here or these
21 blood drops here?

22 A They're hard to see in this picture. It
23 looks like it's either impact from somewhere in this
24 area, or it could even be a trail. It looks like
25 some of them are.

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1 You don't always gets a clear patterning
2 drop in there that shows you exactly what you're
3 looking for. You have to look at the whole pattern.
4 That's why they call it blood pattern analysis and
5 not blood stain analysis. You're not looking at one
6 particular stain.

7 Q What's in this photograph?

8 A In this photograph, this is the pool that
9 you saw in the first two pictures, which about where
10 the Solicitor is standing. This is further down
11 that wall. There's an electrical outlet here. And
12 you see a lot of very small stains.

13 And it's a very close picture, so you
14 really can't tell a lot from it. But for smaller
15 stains, like I explained earlier, there's more
16 energy.

17 The problem with the close picture is I
18 really can't say for sure whether that's impact
19 splatter from something being struck, or that could
20 even be aspirated blood.

21 I did see pictures of the victim. He did
22 have blood in his nose. This could be him bleeding
23 out. It could be even from him laying there as EMT
24 is trying to resuscitate him. But I really couldn't
25 say for sure.

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1 This picture shows the pool that you saw
2 in the first couple of pictures. The picture that
3 you just saw is just beyond this, as this picture to
4 the right. This shows -- these are transfer stains
5 that you see flow patterns coming down here.

6 Q And the next one?

7 A This kind of shows all of the other
8 previous pictures. You can see the pool there, the
9 impact splatter, the transfer stains on the wall,
10 and then a real small stain here. This is a
11 close-up of the transfer stains.

12 Q And what, again, is a transfer?

13 A That's something that's bloody that comes
14 into contact with something that's not bloody. And
15 you can see there are -- there is some movement
16 here. This is what looks like to me an impact
17 stain, here.

18 Here you can actually see streaks. So
19 that shows you that something is moving when it's
20 struck. This wasn't just a straight line impact.

21 Q And this is, next to me, what you referred
22 to as the spray possible?

23 A With the stain on the outlet.

24 Q The stain on the outlet. Would that be
25 consistent with the head of the victim?

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1 MR. COLONGELI: Objection, Your Honor.

2 THE COURT: Sustained. Don't lead him,
3 Solicitor.

4 A This could be anything that's bloody. If
5 the only thing bloody in this case was the head,
6 then this was caused by the head.

7 MR. COLONGELI: Objection, Your Honor.

8 THE COURT: Basis?

9 MR. COLONGELI: Withdrawn -- withdrawn.

10 Q I believe this photograph shows this wall.
11 After reviewing all of the photographs and all of
12 the patterns, can you give an opinion with regards
13 to which direction the blood source -- in this case,
14 the victim's head -- was moving in, what direction
15 it was traveling in, from the blood evidence?

16 A Based on the volume of the stain, it
17 appears that the stain started higher up on the wall
18 to the left in this picture. And then where the
19 pooling is, you have impact that's down near the
20 bottom here.

21 So it started at a higher level to the
22 left and then back in here where you have the pool
23 and the transfer stains.

24 Q And how high would the source be at this
25 point?

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1 A Based on how narrow some of these
2 splatters are, the source was very close to the
3 ground, although because there is splatter in all of
4 the directions, the person is not laying on the
5 ground, or you wouldn't have splatter. So it's very
6 close to the ground but not quite on the ground.

7 Q What would be your opinion about how close
8 to the ground?

9 A If I were to speculate, I would say at
10 least to here. You do have some -- you've got the
11 bloody shoe prints in here, but it could possible
12 from something else.

13 Q Thank you, sir. You can retake the stand.

14 MS. TANNER: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 Q I'm just going to show you what's marked
18 as Defense Exhibits Ten and Eleven that are entered
19 in. Looking at that photograph and the blood spot
20 on that, can you give an opinion about whether or
21 not that is a contact blood splatter, or is that a
22 drop of some sort that got there some other way?

23 A There is a red spot in here that looks
24 like it may be blood. And that would be caused by a
25 splatter-type stain, and it's not from a contact or

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1 a transfer.

2 Q So it wasn't the stick coming in contact
3 with the blood. It's blood coming in contact with
4 the stick from another source, is that correct?

5 A Correct.

6 Q Thank you, sir. I have no further
7 questions. Please answer anything defense counsel
8 has.

9 MR. COLONGELI: May it please the Court?

10 THE COURT: Yes, sir, Mr. Colongeli.

11 CROSS-EXAMINATION

12 BY MR. COLONGELI:

13 Q Good afternoon, Mr. French.

14 A Good afternoon.

15 Q In reviewing your resume, I just became
16 familiar with your resume this week. It appears you
17 went to school in Cortland?

18 A Yes.

19 Q That's my hometown. I also attended that
20 school. We're from the same neck of the woods.
21 You're fairly new with the Sheriff's Department?

22 A Yes, sir, a little over a year.

23 Q A little over a year. At what point in
24 time did you become involved in this case?

25 A Approximately three to four weeks ago.

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1 Q Just three or four weeks ago?

2 A Yes.

3 Q And you realize this case is almost two
4 years old -- or did you know that?

5 A I didn't.

6 Q Okay. Is it typical for you to base your
7 opinions on photographs as opposed to actually going
8 to the scene?

9 A It's not unusual. It's better to actually
10 go to the scene, because when you're there, you can
11 see things that may not be photographed. A lot of
12 times, people take photographs of patterns that they
13 see, where if I'm actually working the scene when
14 I'm there, I'm going to look for -- like I said, I
15 don't like to look at the main pool of blood,
16 because it may have been distorted by people walking
17 through it or gurneys going through it.

18 I might get more information from one or
19 two single stains that are a far wall away from
20 where the activity is going on.

21 Q Did you have an opportunity to actually go
22 to ■ Stuart Point Road in relation to the pictures
23 that Ms. Tanner has shown you?

24 A No.

25 Q Thank you very much.

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1 MR. COLONGELI: I have nothing further.

2 THE COURT: Solicitor?

3 MS. TANNER: Nothing further, Your Honor. May
4 this witness be excused?

5 MR. COLONGELI: Without objection.

6 THE COURT: You're excused, sir.

7 MS. TANNER: The State calls John Ortuno.

8 (The witness was sworn.)

9 CLERK OF COURT: State your full name and spell
10 your last name, please.

11 MR. ORTUNO: Manuel John Ortuno -- O-R-T-U-N-O.

12 MANUEL JOHN ORTUNO, having first been
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. TANNER:

16 Q Good afternoon, Mr. Ortuno.

17 A Good afternoon.

18 Q Where are you employed?

19 A The South Carolina Law Enforcement
20 Division, commonly referred to as SLED.

21 Q And what are your duties and
22 responsibilities at SLED?

23 A I am a forensic DNA analyst and team
24 leader responsible for the evidence processing
25 department.

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1 Q How long have you been doing that?

2 A I've been at SLED for 19 years, in DNA for
3 just under 11 years.

4 Q And what is your education and background
5 in DNA?

6 A I graduated with honors from the American
7 University in Washington, D.C., with a Bachelor's of
8 Science degree, majoring in chemistry. I have a
9 master's degree, also majoring in chemistry, from
10 the University of South Carolina-Columbia.

11 I was hired as a researcher at the
12 University for three and a half years, performing
13 experiments in molecular genetics, which led to two
14 publications in peer review journals.

15 I've attended the advanced DNA training
16 course at the FBI Academy in Quantico, Virginia,
17 population statistics, numerous conferences and
18 seminars over the course of the 11 years, keeping up
19 with the technology.

20 Q And have you ever testified in a court of
21 law regarding DNA?

22 A Yes, I have, throughout the whole state.

23 Q And have you been declared an expert in
24 DNA?

25 A Forty-five times.

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1 MS. TANNER: Your Honor, at this time the State
2 moves to have Mr. Ortuno declared an expert in the
3 field of DNA.

4 MR. COLONGELI: Without objection.

5 THE COURT: All right, thank you. Ladies and
6 gentlemen, Mr. Ortuno is going to be qualified in
7 the area of forensic DNA. Again, it's for you to
8 use as you see fit and appropriate.

9 Q Mr. Ortuno, what is DNA?

10 A DNA stands for deoxyribonucleic acid.
11 It's a very large, complex molecule that's found in
12 essentially every cell of the human body. Most of
13 our DNA is the same.

14 In fact, 99 percent of my DNA is
15 indistinguishable from yours. However, because the
16 molecule is so large, we can find a sufficient
17 number of differences among the strands of DNA that
18 allows us to identify one person to the exclusion of
19 others.

20 In the forensic community, what we do is
21 we locate 15 locations along the DNA strand in which
22 different people have different sizes at that
23 location. If you want a good analogy, it would be
24 shoe sizes.

25 I wear a men's size 11 shoe, and there are

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1 other men in this courtroom that wear other size
2 shoes. If I came to you with a size 10 shoe, it
3 would take us a few minutes to separate every many
4 based on their shoes sizes in different groups.

5 And all of those that have the size 10
6 shoe would be eligible as wearers of that shoe, and
7 everybody else would be excluded. We do the same
8 thing with DNA. Only instead of just one thing that
9 we look at, we look at 15 different locations, 15
10 different variations.

11 And that's really what comprises what's
12 called a DNA profile. When you hear that term when
13 you're watching a CSI television show or read it in
14 the papers, they're referring to the slight
15 differences that each one of us have along the DNA
16 strand.

17 We receive samples from a crime scene, and
18 the first thing we ask ourselves is if the sample
19 has any human body fluids, for example. Typically,
20 you're looking at blood, semen, saliva, things of
21 that sort.

22 Once we identify that it's a human body
23 fluid, we take it through a series of chemical steps
24 to identify this DNA profile, these differences that
25 we all have. So we not only have a DNA profile from

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1 this unknown sample, we then have one or more
2 individuals that we believe are involved in this
3 incident.

4 We develop their DNA profile, and all we
5 do is just compare the DNA profile of the unknown
6 substance to the known standards from the
7 individuals. And either they match, or they don't
8 match.

9 Q Now, the matching part of it, you get an
10 unknown sample from a crime scene. Are you able to
11 say absolutely that you have an identifiable
12 standard?

13 A It -- well, now, we almost always have an
14 identifiable standard, because it's an known sample.
15 Typically, we're going to use saliva or blood to
16 identify anyone's normal profile.

17 The question I think you might be asking
18 would be in relation to the unknown sample found at
19 the scene. That's a little trickier. Sometimes
20 it's a single source. It's one person's saliva, or
21 blood, or whatever, skin cells.

22 And in other instances, it could be a
23 mixture. And if there's a lot of DNA, we can
24 sometimes separate one or more people. Other times,
25 we can't. So it depends on each item that's

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1 received and analyzed.

2 Q So, if I were to cut my finger and touch a
3 piece of paper, and Sgt. Purdy cut his finger and
4 touched the same spot, would you be able to pull out
5 my DNA separate from his DNA on that piece of paper?

6 A One thing would be for sure, and that's
7 that I would know that there's more than one person.
8 It's very easy to tell that you have more than one
9 person.

10 You see, at each one of these 15
11 locations, our mother gave us one value and our
12 father gave us another one. If you have three
13 values, it can't be from one person, because you
14 only have one mother and one father.

15 So it's easy to know that there's a
16 mixture. What's a little harder is to know, okay,
17 this goes to that person, and that one goes to the
18 other one. That depends on the amount of DNA that
19 each one of us -- each one of you gave.

20 If you had a lot of blood deposited and he
21 just gave a little bit of blood, I could probably
22 differentiate your blood -- well, I should say your
23 DNA -- from his DNA. If you're equal in what you're
24 donating, it's much harder.

25 Q And what about the size of the sample or I

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1 guess the condition of the sample? How does that
2 affect your analysis?

3 A Those are two different variables. The
4 size -- we're pretty good now. We can isolate DNA
5 from a few skin cells, for example, or a very, very
6 small amount of blood, basically a period in a
7 sentence.

8 If it's a clean sample, it's possible to
9 generate a DNA profile. In terms of the quality,
10 that's another story. If it's exposed to
11 environmental hazards, if it's out in the rain, if
12 it's very humid, you have degradation of the blood
13 sample, and therefore the DNA can also be chopped
14 up. So that's another area.

15 Q Agent Ortuno, did you analyze evidence in
16 the State of South Carolina's case against Harold
17 Jackson?

18 A I did.

19 Q And can you tell the Court what items --
20 help me to start out. How do you first start out
21 your analysis process?

22 A The first thing I do, as I mentioned
23 earlier, is determining whether there's human body
24 fluid present. So if you submit an item, what I'm
25 going to do or an evidence technician will do is

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1 examine the article to see -- in the case of blood,
2 it's somewhat easier.

3 You're looking for a stain that you're
4 familiar with. You know what it's going to look
5 like. You will test that stain to determine whether
6 it could be blood.

7 If it passes the presumptive for blood,
8 then it is either cut out or it's collected on a
9 swab and sent -- if's it a technician, it will be
10 sent to a DNA analyst.

11 If it's the DNA analyst, he will take --
12 or she will take -- that sample, take it through a
13 series of chemical tests and develop a DNA profile.
14 If you have a whole profile, then you have a full
15 profile that originated from this blood.

16 MS. TANNER: Your Honor, if I may approach?

17 THE COURT: You may.

18 Q I'll show you what's been marked State's
19 Exhibit Fifteen. Did you perform any analysis on
20 these two items?

21 A Yes, I recognize my initials and my SLED
22 ID numbers on both the shoes.

23 Q And what type of processing did you do on
24 those items?

25 A I performed what's called a Kessel Meyer

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1 or phenyl fading test for presumptive for blood.
2 It's the preliminary test to see if, in fact, the
3 stain that is identified visually could, in fact, be
4 blood.

5 Q I'm going to show you what's been marked
6 as State's Thirty-Three, Thirty-Four, Thirty-Five,
7 and Thirty-Nine. Can you identify those four items?

8 A Yes, these four items that contain the
9 description of the item, the SLED's lab number, as
10 well as my initials on each and every one of the
11 pouches, these are collection pouches that we use,
12 envelopes that we use, to store, in this case, swabs
13 and cuttings from the right and left shoe that you
14 presented to me a moment ago.

15 Q Did you actually perform those processes?

16 A In this particular case, I performed the
17 preliminary, what's called a serological analysis,
18 yes.

19 MS. TANNER: Your Honor, the state moves
20 thirty-three, thirty-four, thirty-five, and
21 thirty-nine into evidence.

22 THE COURT: Any objection?

23 MR. COLONGELI: Your Honor, if we may approach?

24 THE COURT: You may. All right, they're in
25 evidence without objection.

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1 (State's Exhibits Number
2 Thirty-Three, Thirty-Four, Thirty-Five, and
3 Thirty-Nine, Collection Pouches with Cuttings from
4 Shoes, were entered in evidence.)

5 Q And, Mr. Ortuno, at the time you take
6 these samples, this DNA would be considered an
7 unknown?

8 A That's correct. This shoe is submitted to
9 me. I have no idea who wore the shoe or, for that
10 matter, whose stain has been transferred to that
11 shoe. So it's an unknown forensic sample.

12 Q I'll show you State's Exhibit Number
13 Seventeen. Did you perform any analysis on this
14 item?

15 A I see my initials adjacent to a cutting,
16 so, yes, I worked on that item.

17 MS. TANNER: If I may approach, Your Honor?

18 THE COURT: You may.

19 Q Can you identify State's Exhibit Number
20 Thirty-Six?

21 A Yes, this is another collection envelope.
22 It has my writing on it and is identified as
23 cuttings from shorts, also with my initials on it.

24 MS. TANNER: Your Honor, the State moves number
25 thirty-six into evidence.

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1 MR. COLONGELI: Without objection.

2 THE COURT: It's in evidence without objection.

3 (State's Exhibit Number Thirty-Six,
4 Collection Pouch with Cuttings from Shorts, was
5 entered in evidence.)

6 Q I'll show you State's Sixteen. Did you
7 perform any analysis on these items?

8 A They also contain SLED numbers as well as
9 my initials, so I have.

10 Q I'll show you State's Exhibit
11 Thirty-Eight. Can you identify that item?

12 A It's listed as a cutting from sock, also
13 with a lab number and my initials, and it consists
14 of a cutting contained within.

15 Q I have one more, State's Exhibit
16 Thirty-Seven from earlier. Can you identify that
17 item?

18 A Also with my initials and SLED's lab
19 number. It is a swab from the right shoe.

20 Q And did you take that cutting yourself?

21 A All of these were processed by me.

22 MS. TANNER: Your Honor, the State moves the
23 remaining thirty-six, thirty-seven, thirty-eight,
24 and thirty-nine into evidence.

25 MR. COLONGELI: Without objection, Your Honor.

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1 THE COURT: They're in without objection.

2 (State's Exhibit Number Thirty-Seven,
3 Swab from Right Shoe, and State's Exhibits Thirty-
4 Eight and Thirty-Nine, Cuttings, were entered in
5 evidence.)

6 Q And I'll show you State's Thirty,
7 Thirty-One, and Thirty-Two, which are already in
8 evidence. Did you perform any analysis on these
9 items?

10 A Yes, these were submitted as they appear
11 here, and I have them initialed with the SLED's lab
12 identification number and my initials on the three
13 items, State's Exhibits Thirty, Thirty-Two, and
14 Thirty-One.

15 Q And when you started your DNA comparison
16 process, did you have known standards to use?

17 A Initially, I had one known standard.

18 Q And who was that known standard from?

19 A That would be from -- it was a blood
20 standard from Josh Pringle.

21 Q And at a later date, did you receive more
22 known samples to be compared?

23 A I received an additional two buckle swabs,
24 which are simply saliva samples, collected from two
25 other individuals, Nazarene Laurent and Shella

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1 Laurent.

2 Q Starting with item number -- State's
3 Thirty-Three, which I believe is your SLED 1.1?

4 A That's the swabs from the left shoe?

5 Q Yes, sir.

6 A Uh-huh.

7 Q Based on that analysis, what was your
8 opinion about these swabs taken from the left shoe
9 of Harold Jackson?

10 A Blood was indicated on the serological
11 examination, and a DNA profile was developed from
12 those swabs. And that DNA profile was found to
13 match Joshua Pringle.

14 Q And State's Exhibit Thirty-Six is your
15 1.3, which is another swab of the left shoe of
16 Harold Jackson?

17 A The same results. Blood was indicated,
18 and the DNA profile was found to match Joshua
19 Pringle.

20 Q And State's Exhibit Thirty-Five, which is
21 your 1.4, swab from the right shoe of Harold
22 Jackson?

23 A Once again, blood was indicated, and it
24 was also found to match Joshua Pringle, the DNA
25 profile.

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1 Q Now, State's Thirty-Six, which is your
2 2.1, what was your opinion regarding that sample?

3 A SLED's item 2.1 is a cutting from the
4 shorts -- cuttings from the shorts. Blood was also
5 indicated, and it was from an unidentified female --
6 I'm sorry, I'm looking at two different reports.

7 Two point one was subsequently found to
8 match the DNA profile of Nazarene Laurent. Am I
9 pronouncing that correctly?

10 Q Yes, sir. And that was the cutting from
11 the shorts?

12 A SLED's item 2.1 is the cuttings from the
13 shorts.

14 Q And State's Exhibit Thirty, which is your
15 sixth swab from the front door?

16 A Yes, blood was indicated. And then item
17 six was also found to match the DNA profile of
18 Nazarene Laurent.

19 Q And State's Exhibit Thirty-One, which
20 would be your item seven, a swab from the bedroom
21 area?

22 A Blood was also indicated in the
23 serological analysis, and that DNA profile was also
24 found to match Nazarene Laurent.

25 Q State's Exhibit Thirty-Two, which is your

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1 nine, swab from the floor?

2 A Blood indicated, and that DNA profile was
3 found to match the DNA profile of Nazarene Laurent.

4 Q State's Thirty-Seven, which is your 1.6
5 swab from the right shoe?

6 A Blood indicated. In 1.6 what we have for
7 DNA is a mixture of at least two individuals. In
8 this case, I was able to determine a major
9 contributor -- in other words, one that has the
10 majority of the contribution.

11 That profile was identified as matching
12 Nazarene Laurent. The minor contributor was
13 insufficient for an ongoing interpretation. That
14 means there just wasn't enough DNA there to use to
15 identify with.

16 Q State's Exhibit Thirty-Eight, which is
17 your 4.1, cuttings from the socks?

18 A Blood was indicated. That was also a
19 mixture of at least two individuals. The major
20 contribution was again found to match the DNA
21 profile of Nazarene Laurent. And --

22 Q State's Exhibit Thirty-Nine, which is your
23 1.7, cuttings from the right shoe?

24 A One point seven, also blood indicated.
25 This is a mixture of at least two individuals. I

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1 have a partial DNA profile of a major contributor.

2 That means not all 15 locations are
3 present or visible. But there's enough there to
4 state that it also matches what was there -- also
5 matched the DNA profile of Nazarene Laurent.

6 Q Mr. Ortuno, you also performed analysis on
7 the black T-shirt, is that correct?

8 A Is this the shirt?

9 Q Yes, sir, the shirt. That would be your
10 three.

11 A Right. I have two cuttings from what we
12 called the shirt. It could very be a T-shirt.
13 Three point one and three point two are SLED's item
14 numbers.

15 Both had blood indicated. And they are
16 from an unidentified male individual. They did not
17 match any of the profiles that are known to be
18 present that we used as standards in this case.

19 Q Were you given a sample from Harold
20 Jackson to do known comparison?

21 A Harold Jackson, I did not.

22 Q If this were his T-shirt, would it be
23 reasonable to expect to find his DNA on his T-shirt?

24 A It's certainly possible. It's not
25 probable.

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1 Q Mr. Ortuno, you were also sent a stick for
2 analysis. Did you perform any analysis on the
3 stick?

4 A No, I did not.

5 Q Going back to the shoes, State's Exhibit
6 Fifteen, you said that Joshua Pringle's blood was on
7 these shoes belonging to Harold Jackson. Are you
8 able to quantify that in any manner?

9 A Quantify the blood?

10 Q Yes, the DNA match.

11 A Oh, oh. What number -- what SLED's number
12 was that, again?

13 Q It's my fifteen. It would be your one.

14 A One point one. Looking at the cuttings,
15 they're swatches from --

16 Q One point three and one point four.

17 A We were able to determine a frequency --
18 in other words, how common. Whatever the DNA
19 profile is on an individual, we can determine an
20 approximate value or uniqueness of that DNA profile.

21 And that's always present in a match
22 statement. In this particular case, that profile is
23 found in approximately one out of every eighty
24 quadrillion individuals.

25 Q How much is a quadrillion?

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1 A That's fifteen zeros. The world
2 population is approximately six and a half billion,
3 which is nine zeros. So eighty quadrillion would be
4 over or approximately ten million times the world
5 population.

6 Q Thank you, sir. I have no further
7 questions. Please answer anything that defense
8 counsel has.

9 THE COURT: Mr. Colongeli?

10 MR. COLONGELI: May it please the Court?

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. COLONGELI:

14 Q Mr. Ortuno, good afternoon.

15 A Good afternoon.

16 Q Just a few questions. The Solicitor may
17 have already asked this, but I just want to make
18 certain. You did not receive a sample from Harold
19 Jackson as far as sort of blood sample, saliva
20 sample, is that correct?

21 A That's correct.

22 Q And as far as the two cuttings from his
23 shirt, which is admitted in evidence, that is where
24 you determined an unidentified male, correct?

25 A That's correct. It did not match anybody

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1 that was submitted.

2 Q Okay. And, correct me if I'm wrong, was
3 there an assumption made that that unidentified male
4 was, in fact, Harold Jackson's blood?

5 A There was a statement made just a moment
6 saying that "Could it be?" and I said that it
7 certainly could be. I'm certainly going to have my
8 DNA on my shirt. However, I can't say that it has
9 to be his.

10 Q Okay. And also, do you have any
11 explanation as far as why there was no analysis
12 performed on the stick? Is that something that they
13 asked you to do?

14 A Actually, I do, if you'll permit me one
15 moment?

16 Q Sure.

17 A I spoke to I believe he's Capt. Bob Romage
18 with the Sheriff's Office on October the 21st with
19 regard to that item. And he said at the time --
20 this is a telephone conversation -- that it would
21 not be necessary to process for blood at that time
22 and that I could send the report without analyzing
23 the item.

24 Q And those are from your notes?

25 A Yes, I'm reading from my notes that I

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1 generally write whenever I have a conversation with
2 an investigator or anyone, for that matter,
3 regarding any item pertinent to a case.

4 Q And, obviously, you wouldn't be in a
5 position to question that. That's a directive you
6 got from someone here in law enforcement?

7 A Exactly, this is -- and this happens all
8 the time. It's not unusual to have us receive many
9 items, some of which may or may not become relevant,
10 for whatever reason, as the investigation proceeds.
11 And so I go based on what they ask me to do or not
12 to.

13 Q And you have no idea whether or not Capt.
14 Bob Romage was even involved in the investigation of
15 this case?

16 A I do not.

17 Q As to all the evidence, the DNA evidence,
18 you testified to here today -- correct me if I'm
19 wrong, please -- but I did not hear one DNA match as
20 to Shella Laurent, is that correct?

21 A That's correct.

22 Q Thank you very much.

23 MR. COLONGELI: I have nothing further.

24 THE COURT: Any redirect?

25 MS. TANNER: Just briefly.

1 REDIRECT EXAMINATION

2 BY MS. TANNER:

3 Q Mr. Ortuno, you said you receive many
4 items in case. Do you always analyze every item
5 that's sent to you?

6 A Oh, no.

7 Q Is there some type of prior authorization?

8 A The responsibility of the agency many
9 times is to submit everything that might belong or
10 be pertinent to a case as the investigation
11 proceeds.

12 What we try to, because of the volume of
13 the items that we have, is to narrow those down to
14 those which will serve a purpose in clarifying what
15 occurred in the incident. And that's, of course,
16 not all the items all the time.

17 Q Thank you, sir.

18 MS. TANNER: No further questions, Your Honor.

19 THE COURT: Anything from you, Mr. Colongeli?

20 MR. COLONGELI: Nothing further, Your Honor.

21 THE COURT: Any objection to Mr. Ortuno being
22 excused?

23 MS. TANNER: Nothing from the State.

24 MR. COLONGELI: No objection.

25 THE COURT: Your are excused, sir. Thank you.

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1 MR. ORTUNO: Thank you, ma'am.

2 MR. COLONGELI: Your Honor, I have a matter of
3 law that I need to take up.

4 THE COURT: Okay. Ladies and gentlemen of the
5 jury, I've got a matter of law that I need to take
6 up with the attorneys. So I'm going to send you
7 back to your jury room.

8 Please do not begin discussing this case.
9 Again, it wouldn't be appropriate to do so at this
10 time. We'll be back with you shortly. Thank you.

11 (The jury left the
12 courtroom at 3:03 p.m. after which the following
13 proceedings were had:)

14 BAILIFF: The jury is clear, Your Honor.

15 THE COURT: Thank you. Mr. Colongeli?

16 MR. COLONGELI: Your Honor, with all due
17 respect, I'm not sure whether this is necessary or
18 not. I am somewhat concerned.

19 Based on my questions to Mr. Ortuno, he
20 brought up the fact that he received this telephone
21 call from Capt. Bob Romage instructing him not to
22 perform an analysis of the blood on the stick.

23 Obviously, at the inception of this trial,
24 I have renewed my Rule 5 request. I've never been
25 given any information from the State as to Bob

1 Romage's involvement in this case.

2 I'm a little concerned as to why that
3 wasn't furnished to me if there's anything to that.
4 And out of an abundance of caution, I think I need
5 to address this at this point.

6 I'm not sure whether or not if, in fact,
7 that is, in fact, necessary. But I am concerned
8 because that's the first information I've gotten as
9 far as him having any sort of involvement.

10 And why he would make a call like that in
11 the case, I don't have any sort of documentation
12 that he was involved in this.

13 THE COURT: Solicitor?

14 MS. TANNER: Your Honor, I don't think that
15 that phone call is evidence. However, my only
16 explanation -- I know Capt. Romage assisted my
17 office, the Solicitor's Office, with trial prep,
18 especially major case trial prep.

19 It may have been that I asked him to call
20 and check on the status of the DNA in this case.
21 I've had him do that on other cases. He's very
22 familiar with the staff at SLED, and I may have
23 asked him to call and check the status.

24 And if they had a conversation about what
25 was done and what wasn't, that conversation could

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1 have occurred in that context. But as far as it
2 being evidence of culpatory or exculpatory matter,
3 it's not.

4 It was a just a phone conversation
5 apparently that they had about the status of the
6 evidence. There's no involvement by Capt. Romage
7 that I'm aware of in the investigation of the case.

8 I know he's worked with our office
9 occasionally on assisting with preparation of a
10 major case for trial. And that's the only
11 explanation I would have for that communication.

12 THE COURT: Okay. And you don't have anything
13 in your files --

14 MS. TANNER: No, ma'am.

15 THE COURT: -- in regards to what Capt. Romage
16 did or did not do in this case?

17 MS. TANNER: Oh, no, ma'am. I don't think he
18 was involved at all, unless it was on some
19 supervisory role as a captain in the Sheriff's
20 Office. But, no, ma'am, I'm not aware of anything
21 he did on the investigation. I just not aware of
22 anything.

23 THE COURT: Okay. Mr. Colongeli?

24 MR. COLONGELI: I'm actually not sure why we --

25 THE COURT: I guess you could call him as a

1 witness if you wanted to.

2 MR. COLONGELI: I guess I could have, but I
3 didn't realize --

4 THE COURT: I guess you could now.

5 MR. COLONGELI: I could. I could. I guess
6 just for purposes of preserving the record, Your
7 Honor, I don't think in the form of an objection or
8 going to the fact that I have renewed my Rule 5.

9 Obviously, this witness testified he
10 received a call from someone in law enforcement who
11 the State is now saying they had no idea was
12 involved in the case, who actually gave him a direct
13 order or directed not to perform analysis.

14 So I think there is some concern there. I
15 think it could go to exculpatory or to culpatory
16 evidence that, in fact, it wasn't analyzed. And I
17 would only ask you to note my objection based on
18 that, if that's proper.

19 I'm not sure if that's germane, but that's
20 all I can think of at this point. It just seems --
21 it came as a surprise to me. I had never heard that
22 before.

23 THE COURT: Solicitor?

24 MS. TANNER: Your Honor, like I said, the only
25 involvement Capt. Ramage would have had had would

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1 have been on my behalf. I would have asked him to
2 make a phone call and check on the status of the
3 evidence.

4 So any information Mr. Ramage would have
5 gotten would have come from me, not the
6 investigation. So he actually would have been
7 working in a capacity as my investigator at that
8 point to help assist to put a trial together, which
9 is work product.

10 But there is nothing discoverable about a
11 phone call to check on the SLED evidence.
12 Everything has been turned over to Mr. Colongeli,
13 including the SLED analyst reports.

14 THE COURT: I don't think it changes Mr.
15 Ortuno's testimony. Had he tested it and not told
16 you what the results were, then, of course, that
17 could be exculpatory and culpatory.

18 The simple fact is he did not do it,
19 which, of course, it's within their decision to do
20 or not do whatever investigation they want. And, as
21 you know, typically defense counsel makes hay of why
22 didn't they?

23 MR. COLONGELI: Yes, ma'am.

24 THE COURT: And that they should have, which
25 I'm assuming you're going to do in your closing

1 argument, which I think you also already did well
2 with Mr. Ortuno.

3 MR. COLONGELI: Right.

4 THE COURT: So, with that said, I think I don't
5 think it changes his testimony. I don't think there
6 was anything that was discoverable. You're telling
7 me that Capt. Ramage has not generated anything or
8 done anything in this case.

9 MS. TANNER: No, ma'am, he hasn't.

10 THE COURT: Okay. Respectfully, we put on the
11 record, Mr. Colongeli, so I think we're covered.

12 Solicitor, how many more witnesses do you
13 have?

14 MS. TANNER: We don't have any more.

15 THE COURT: Okay. Are you going to rest at
16 that point?

17 MS. TANNER: Yes, ma'am.

18 THE COURT: Okay.

19 Mr. Colongeli, do you have any idea if
20 you're going to put anyone up?

21 MR. COLONGELI: If I could have a moment to
22 speak to my client?

23 THE COURT: Absolutely. Why don't we do this?
24 We're going to go ahead and take about a 15-minute
25 break. I want you to go through his constitutional

1 rights with him.

2 When I come back with him, he can make a
3 decision to testify or not testify. Just explain to
4 him that I'm going to go through and ask him the
5 typical litany of questions.

6 I propose, because it's about 3:10, we'll
7 talk about the charge. And I propose to send this
8 jury home and bring them back tomorrow to argue and
9 charge, if you don't have anything to put up.

10 So that's where I'm going, although if you
11 do, I would like to get all the testimony in --
12 everything in -- today, if possible. So whatever
13 you choose, Mr. Colongeli, just let me know.

14 But right now, it's 3:10. Let's all be
15 back at 3:25, when we'll make a decision and you all
16 let me know what you want to do, okay?

17 MR. COLONGELI: Thank you, Your Honor.

18 MS. TANNER: Thank you, Your Honor.

19 THE COURT: Thank you. We'll be at ease.

20 (Court in recess.)

21 THE COURT: Thank you all. Please be seated.

22 All right, Solicitor, it's my
23 understanding that you're going to go ahead and
24 rest, is that correct?

25 MS. TANNER: That's correct, Your Honor. The

1 State's ready, and we will rest when the jury comes
2 in.

3 THE COURT: Okay. Mr. Colongeli?

4 MR. COLONGELI: Your Honor, I guess it would be
5 appropriate to make my motion after --

6 THE COURT: She rests.

7 MR. COLONGELI: -- she rests.

8 THE COURT: What I propose to do is I'll have
9 you go ahead and front of the jury, Solicitor.

10 Do you want to rest tonight, or do you
11 want to rest tomorrow morning, Mr. Colongeli? I can
12 let you rest formally, just now, but in front of the
13 jury so they aren't expecting overnight anything and
14 just tell them we're going to let them go, and argue
15 and charge tomorrow. Or would you prefer to just do
16 it now?

17 MR. COLONGELI: I appreciate that, Your Honor.
18 I think out of the best interest of my client that
19 that's okay if we just do that first thing in the
20 morning.

21 THE COURT: Sure, absolutely.

22 MR. COLONGELI: I have discussed with him his
23 ability, obviously, to testify. Is that something
24 you want to wait until the morning?

25 THE COURT: Right. Actually, we can go

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1 through it. What we're going to do is have you rest
2 on the record. You can make a directed verdict
3 motion. And then I will go through it, or tonight
4 on the record. And that way, tomorrow morning we
5 can get a quick start.

6 MR. COLONGELI: Right.

7 THE COURT: Okay, is that fine with you
8 all?

9 MS. TANNER: That sounds great.

10 THE COURT: All right, let's bring the
11 jury in. And, Solicitor, you will go ahead and rest
12 your case.

13 BAILIFF: Yes, Your Honor.

14 THE COURT: Any objection to starting at
15 9:30 in the morning? Are you all fine with that?

16 MS. TANNER: Yes, ma'am.

17 MR. COLONGELI: No objection.

18 THE COURT: Okay.

19 BAILIFF: The jurors are entering, Your
20 Honor.

21 THE COURT: Thank you.

22 (Whereupon, the jury
23 returned to the courtroom at 3:36 p.m. after which
24 the following proceedings were had:)

25 BAILIFF: Your Honor, the jury is now seated.

1 THE COURT: Thank you.

2 Welcome back, ladies and gentlemen of the
3 jury.

4 Solicitor?

5 MS. TANNER: Yes, Your Honor. The State
6 rests its case.

7 THE COURT: All right. Ladies and
8 gentlemen, at this time the State rests their case.
9 And because they are a number of matters of law that
10 I'm going to need to take up, which is going to take
11 some time, what I'm going to do is go ahead and
12 excuse you all for the remainder of the day and ask
13 that you report again tomorrow at 9:30, when we will
14 conclude this case tomorrow, all right?

15 So my only instructions to you are to go
16 home, have a good night's rest, and we'll see you
17 all back here again at 9:30 in the morning.

18 And, again, as I've instructed you before,
19 don't discuss this case with anyone. Certainly,
20 don't read anything about it in the newspaper or on
21 the news, or anywhere else.

22 And please don't do any independent
23 research. Again, it would be appropriate to do so.
24 You are going to have everything you need to decide
25 this case right here in this courtroom.

1 With that said, good night to you all.

2 We'll see you back at 9:30.

3 (Whereupon, the jury was
4 excused for the day and left the courtroom at 3:39
5 p.m.)

6 BAILIFF: The jury is clear, Your Honor.

7 THE COURT: Thank you. Mr. Colongeli, any
8 motions?

9 MR. COLONGELI: Yes, Your Honor. At this
10 point, Your Honor, I would respectfully move this
11 Court for a directed verdict in favor of the
12 defendant. We believe the evidence, when viewed in
13 a light most favorable to the State, failed to
14 create an issue for this jury.

15 That motion will be based on the fact of
16 our assertion that, as far as the charge of murder,
17 there was no evidence presented as far as the
18 intentional killing of another, particularly as to
19 the definition of malice.

20 And I would reiterate that as far as how
21 it associates with the assault and battery with
22 intent to kill as to the two other witnesses the
23 State has.

24 THE COURT: Solicitor?

25 MS. TANNER: Your Honor, I think there's

1 ample evidence to go to the jury for their
2 deliberation on all three charges.

3 THE COURT: All right. Respectfully,
4 viewing the evidence in a light most favorable to
5 the State, I do think there is a jury issue as to if
6 the defendant is guilty of these charges. So,
7 respectfully, we're going to send it to the jury at
8 this point.

9 With that said, you want me to go ahead
10 and question your client -- is that fine -- as to
11 whether or not he wishes to testify?

12 MR. COLONGELI: That's fine, Your Honor.

13 THE COURT: Mr. Jackson, if you will just
14 stand along with your attorney, I'd appreciate it,
15 sir, and I'm just going to put you under oath.

16 (The witness was sworn.)

17 THE COURT: Mr. Jackson, I'm just going to
18 ask you to speak up for the record. You have a very
19 soft voice, and I can't quite hear you, all right,
20 sir?

21 Sir, what I want to tell you at this time
22 is that you have certain rights, sir. I want you
23 to, if you don't understand anything I say to you,
24 ask me to repeat it, rephrase it. I'm happy to do
25 that, sir.

1 Mr. Jackson, we've now reached the point
2 in the trial where you may present your defense.
3 You have the right to claim the protection of the
4 Fifth Amendment to the Constitution of the United
5 States.

6 And, sir, the Fifth Amendment of the
7 Constitution simply states that no person shall be
8 compelled in any criminal case to be a witness
9 against themselves.

10 Sir, this means that you cannot be
11 required to testify in this case. Now, sir, please
12 understand, although you cannot be compelled to
13 testify, of course, you have the right to testify if
14 you so choose to.

15 However, sir, no one can make you testify.
16 Sir, this is a personal right, and no one can waive
17 this right except you -- not anyone here in this
18 courtroom and not your lawyer. This is your
19 personal right, sir.

20 But you need to understand that if you do
21 decide to testify in this case, you will be subject
22 to the same rules that govern all the other
23 witnesses, and you may be examined and cross-
24 examined on any relevant issue in this case.

25 Sir, in addition to having any convictions

1 involving dishonesty or false statements or for
2 crimes punishable by imprisonment for more than one
3 year, and the Court determines that the probative
4 value of admitting the evidence outweighs its
5 prejudicial effect to you, the Solicitor will be
6 able to introduce your record to attack your
7 credibility if you chose or choose to testify.

8 Now, sir, if you do decide to testify, as
9 I told you before, this decision on your part must
10 be done freely, voluntarily, intelligently, and
11 understanding the knowledge and the protections that
12 our Constitution under the Fifth Amendment gives
13 you.

14 Sir, if you decide not to testify, I'm
15 going to instruct this court in my jury charge that
16 the fact that you did not testify should not even be
17 discussed or considered by them back in the jury
18 room.

19 Again, you are never required to prove
20 your innocence. The burden is on the State to prove
21 your guilt beyond a reasonable doubt.

22 Now, Mr. Jackson, do you understand what
23 I've explained to you?

24 MR. JACKSON: Yes, ma'am.

25 THE COURT: And, sir, do you have any

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1 questions for me about what I've explained to you so
2 far?

3 MR. JACKSON: No, ma'am.

4 THE COURT: And have you discussed with
5 your lawyer, Mr. Colongeli, whether you should or
6 should not testify?

7 MR. JACKSON: Yes, ma'am.

8 THE COURT: All right, sir. Do you wish
9 to speak with Mr. Colongeli any further before you
10 make that decision?

11 MR. JACKSON: No, ma'am.

12 THE COURT: All right, sir. And my
13 understanding from what you just said is you do not
14 wish to testify, is that correct?

15 MR. JACKSON: Yes, ma'am.

16 THE COURT: All right, thank you, Mr.
17 Jackson. I think you are certainly knowingly and
18 intelligently choosing not to testify, and I
19 appreciate that, sir. You may be seated.

20 All right, at this point let's talk about
21 the jury charge. My understanding is that you may
22 or may not present evidence tomorrow, Mr. Colongeli.

23 But I think we need to go through that
24 possibly as much as we possibly can, given the light
25 of you haven't necessarily rested your case, sir.

1 Do you have any proposed charges?

2 MR. COLONGELI: I do not have any formally
3 prepared proposed charges, but I do have what I feel
4 that I could propose right now.

5 THE COURT: All right.

6 MR. COLONGELI: Your Honor, we feel that
7 there's been enough testimony and evidence presented
8 for the self-defense charge. Whether the Court
9 determines what may possibly be what's called an
10 imperfect self-defense, we still believe that there
11 was enough testimony elicited from not only law
12 enforcement but from the victims in this case that
13 there was a possible self-defense scenario.

14 And we would respectfully ask and urge you
15 to consider that. I'd be happy tonight to prepare
16 or supply you with any case law.

17 THE COURT: I have a standard self-defense
18 charge. That's not my issue. I think what we need
19 to look at is you need to specifically point me to
20 what evidence has been presented in this case that
21 would warrant a self-defense charge.

22 MR. COLONGELI: Okay. Basically, Your
23 Honor, I think it's undisputed that not only through
24 testimony elicited from the witnesses as well as law
25 enforcement that Mr. Jackson had informed them

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1 repeatedly, as far as law enforcement, something to
2 the effect that "They tried to kill me."

3 The victims were even aware of that. They
4 had found that out. They had discussed that with
5 law enforcement. I think the repeated attempts of
6 Mr. Jackson to tell law enforcement that in and of
7 itself is sufficient to allow that charge.

8 If the Court doesn't think that in and of
9 itself is, what we would add to that is some
10 evidence, whether it be disputed or in controversy
11 between the witnesses, as to whether or not a
12 struggle actually ensued.

13 I think it's undisputed that there was
14 evidence, based on the testimony of Nazarene, and I
15 think it can be implied if not specifically stated
16 by Shella, that there was some sort of initial
17 struggle between Josh Pringle and Harold Jackson
18 over this bat, almost to the extent where there's
19 some issue of controversy as to whether or not Josh
20 was successful in getting the bat away from Harold,
21 whether Harold voluntarily gave the bat to Josh, or
22 whether Josh actually had pinned him up or contained
23 him to the point to allow Nazarene to leave the
24 house.

25 If we go so far as to believe -- I believe

1 what the State's version of the case is -- that
2 there was a break in time from that initial struggle
3 to when the altercation between Harold and Josh may
4 have occurred at a separate time, I think there's
5 still some testimony in controversy as to who had
6 the bat and what actually took place.

7 The other testimony I think that's very
8 important here is that Shella herself said that at
9 her dire request to Josh not to go downstairs and to
10 wait to call help that Josh stated, according to her
11 testimony, "That's not the way I was brought up.
12 I'm going to handle it myself."

13 And I may be taking that out of context,
14 but it was said over and over again that he was
15 going to go down there and handle the problem.

16 It was also testified to by Shella that
17 earlier that day, they were aware of a problem that
18 existed. They weren't comfortable with it, and they
19 anticipated -- arguably anticipated -- that they
20 were going to encounter a problem when they got to
21 the house that night.

22 There's no question that this was a
23 domestic -- initially, a domestic dispute between
24 Harold Jackson and Nazarene Laurent. And what we
25 would argue, obviously, is that this domestic

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1 spiraled out of control to the point where she asked
2 or screamed for help from these other two
3 individuals, who came to the rescue.

4 Shella Laurent testifies to that.
5 Nazarene testifies to that. And Josh, in fact,
6 based on the testimony, did come to the rescue to
7 the point of getting -- allowing Nazarene to leave
8 the house.

9 What happened after that is somewhat in
10 contention. But I think that's where we get into
11 somewhat of that imperfect self-defense argument.

12 And I'll be happy to supply -- and I'm
13 sure you're aware of it. But I've researched it,
14 and I'd be happy to supply you with that.

15 But we feel very strongly that, based on
16 his repeated statements to law enforcement, which
17 were not denied by law enforcement, which were
18 asserted as, in fact, true based on their relying on
19 these other reports, that that in itself is
20 sufficient.

21 THE COURT: Mr. Colongeli, let me just ask
22 you. Just in reviewing self-defense and the four
23 elements required of it, the very first the
24 defendant must be without fault in bringing on the
25 difficulty.

1 MR. COLONGELI: Understood.

2 THE COURT: And how do you get this jury
3 to not find that your client wasn't at fault in
4 bringing on the difficulty? Because all the
5 testimony I have heard is that he created the
6 original argument with Nazarene and the original
7 fight with Nazarene.

8 There's been no testimony that she
9 initiated this fight in any way, shape, or form. So
10 --

11 MR. COLONGELI: Your Honor, if I may?

12 THE COURT: Yes.

13 MR. COLONGELI: I would respectfully
14 disagree with you to the extent that what the
15 testimony I heard came out to be is that -- and what
16 I think I could argue to the jury is that there was
17 discussions of agitation on Nazarene's part
18 throughout that day.

19 Shella verified that. Nazarene verified
20 that. It was discussions they possibly were going
21 to plan on informing Harold that night that they
22 wanted him out of the house or that Rene wanted him
23 out of the house.

24 Once they got to that house, there was the
25 further discussions as far as whether or not

1 Nazarene was going to engage him in this verbal
2 argument or not.

3 So I think it could be construed that
4 Harold Jackson alone may not be the only one at
5 fault in bringing this altercation on. Nazarene had
6 an opportunity to leave the house, which she did.

7 She made the decision to come back to the
8 house. I think there's a specific question that
9 will go to that jury, an effectual question, as to
10 who actually did bring on the fault of what led into
11 a physical altercation.

12 I think that is a specific question of
13 fact for that jury. But, with all due --

14 THE COURT: Let's go the second element,
15 then. He must have been in actual imminent danger
16 of losing his life. And I know your argument is
17 going to "Well, there was this stick there."

18 Of course, we can't determine who had the
19 stick at any point where he actually had to believe
20 he was in imminent danger. But, still, if that's
21 the case, you've got a stick versus a bat.

22 And I think it's uncontroverted there was
23 a bat. The bat was there. I think I've heard two
24 people testify to it, even though we don't have the
25 bat here.

1 MR. COLONGELI: Your Honor, with all due
2 respect, I think there's some issue and controversy
3 as to the testimony that we've heard and the jury is
4 going to have to decide as to who had the stick, who
5 had the bat, and when they had the bat.

6 So I think there is some question as to
7 that, and if I may -- and I know maybe you have
8 another question. I'll wait.

9 THE COURT: No, that's okay.

10 MR. COLONGELI: I think -- and if I may --
11 as to the imperfect self-defense argument itself, it
12 specifically refers to the issues you just have
13 brought up.

14 The issue can develop in any of three
15 situations. The defendant may have had an honest
16 but unreasonable belief in the necessity to use
17 deadly force, he may have been initially at fault in
18 provoking the altercation, or he may have used
19 excessive force.

20 And, obviously, that's from -- and I can
21 give you the case law on that. That's from
22 McAninch's most recent Criminal Law of South
23 Carolina, fifth edition. And it goes on at length
24 about that.

25 And what it says basically, though, what

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1 follows is, "A person who acts under an honest but
2 unreasonable belief in the necessity to use deadly
3 force to defend himself or who uses excessive force
4 is not acting with malice aforethought, the
5 predicate of any murder conviction.

6 "However, he has committed an unlawful and
7 intentional killing, so he is guilty of
8 manslaughter." And that's why with the imperfect
9 self-defense charge, what flows from that obviously
10 is a charge for voluntary manslaughter.

11 And that obviously would be my next
12 request for charge. There's undisputed evidence
13 here that this was a -- that there was a great deal
14 of passion, rage, something going on, a domestic
15 dispute that got very ugly.

16 I don't think there's any question -- at
17 least, I hope there isn't -- as to a voluntary
18 manslaughter charge. And that's where this
19 imperfect self-defense fits in.

20 Tied in with everything that I've been
21 able to elicit during my cross-examination and even
22 on the direct of the State's witnesses, we would
23 respectfully ask and urge you that there's enough
24 there to charge both an imperfect self-defense
25 charge as well as voluntary manslaughter.

1 THE COURT: Probably the problem I have
2 with that, Mr. Colongeli, is we don't just have a
3 murder in this case. We have a continual, ongoing
4 fight where it starts with an assault and battery
5 with intent to kill and then progresses from there.

6 And at any point, the only testimony I
7 heard is that Mr. Jackson left the house. He had an
8 opportunity to get away, came back, and it was
9 continued.

10 I think that makes it difficult for you to
11 get a voluntary manslaughter charge, and I think it
12 additionally makes it very hard to get a self-
13 defense charge.

14 If this were just one incident, I think
15 you could argue all of that. But we're talking
16 about three.

17 MR. COLONGELI: What I would argue as to
18 that, Your Honor, though, I think based on Shella
19 Laurent's testimony, there has been -- that also has
20 been brought into question.

21 That's also been brought into question. I
22 think the jury will have a question of fact as to
23 whether or not that actually did occur, whether, in
24 fact, he actually did -- there ever was a span in
25 time where he left the house and came back.

1 She wasn't specifically able to answer
2 that. That's what came across. But there was some
3 question as to whether that actually occurred, I
4 think, during my cross-examination.

5 And that's a theory of the defense's case.
6 There's a serious question as to whether or not he
7 actually ever left the house and came back. At one
8 point, he obviously did. But that's the big
9 question -- when.

10 THE COURT: And what's --

11 MR. COLONGELI: And I think we have this.
12 One of the things before that came out through the
13 direct of one of the EMS personnel -- and I don't
14 know how much this matters, and I wasn't aware of it
15 -- was that Josh Pringle was an extremely big man.

16 And when I asked her about that, "big"
17 meant stocky and muscular. I think that has -- I
18 think that goes to the self-defense argument also.

19 There's a great deal of questions
20 surrounding what happened when Josh got involved
21 with Harold with that baseball bat.

22 THE COURT: It could also mean that it's
23 less likely there was mutual combat, because if
24 there was mutual compact, he should have prevailed.
25 I think that one can go both ways.

1 MR. COLONGELI: Not against a bat.

2 MS. TANNER: Your Honor, there's a recent
3 case, I think it was earlier this year, that had --

4 THE COURT: And that begs the question of
5 who had the bat, Mr. Colongeli.

6 MR. COLONGELI: Understood.

7 THE COURT: Okay, I'm sorry, Solicitor, go
8 ahead.

9 MS. TANNER: I'm sorry. I can't remember
10 the name, but I could find it tonight. But I know
11 it dealt with both issues of a charge of self-
12 defense and manslaughter, and they were denied.

13 I don't remember the name of it, but I
14 think it was earlier this year. I believe it was
15 maybe January that it came.

16 THE COURT: Solicitor, we're going to do
17 some research. I'm going to allow both of you to do
18 some research. What I'm going to ask you is each
19 one of you has my e-mail address. I want you to e-
20 mail me tonight what you find.

21 MR. COLONGELI: If I may?

22 THE COURT: And I'll take a look at it.
23 Yes, sir?

24 MR. COLONGELI: I didn't mean to
25 interrupt, but if I may, I think what Ms. Tanner is

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1 referring to -- and I could give you the case right
2 here -- I guess some --

3 THE COURT: What case is it?

4 MR. COLONGELI: -- would argue it works
5 against me -- State v. Wharton.

6 THE COURT: Okay, yes. What's the cite on
7 that?

8 MR. COLONGELI: It is December 3, 2008,
9 opinion number 26591. I can't find the site.

10 THE COURT: What month is it?

11 MR. COLONGELI: I'm sorry?

12 THE COURT: What month is it?

13 MR. COLONGELI: December 3, 2008.

14 THE COURT: Supreme Court -- South
15 Carolina Supreme Court?

16 MR. COLONGELI: Yes.

17 THE COURT: Okay.

18 MR. COLONGELI: And that goes to
19 specifically voluntary manslaughter.

20 THE COURT: Okay, we'll read it. All
21 right, Solicitor, do you want to go ahead and put on
22 the record your position on that? I've heard from
23 Mr. Colongeli as to his request for not only a self-
24 defense charge but also a voluntary manslaughter
25 charge.

1 MS. TANNER: Yes, ma'am. Your Honor, the
2 State's position is it's not even close on either
3 issue. Again, we have three victims. We have all
4 three victims are either dead or near-dead, and Mr.
5 Jackson doesn't have a scratch on him.

6 So I don't know how he is threatened in
7 any way. There's no other weapon other than the
8 baseball bat that was used on the three victims and
9 not Mr. Jackson.

10 Again, we've heard it did start as a
11 domestic between Nazarene and Mr. Jackson. It
12 sounds like she was beaten bloody and left the house
13 to get medical attention.

14 And then Mr. Jackson went out. And Ms.
15 Shella Laurent's testimony was that he left the
16 house. I even asked her what door he went out, and
17 she said the front door, because she and Josh were
18 talking about going upstairs to get the baby, and
19 then Josh goes back around the kitchen, and she sees
20 Mr. Jackson come in the back area of the house.

21 And then he's hit from behind, with no
22 further conversation, no provocation. So there's
23 not only a cooling-off period for the manslaughter
24 charge, but there's also if it was self-defense, he
25 could have left.

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1 He was outside. He clearly was able to
2 leave. He had his keys and left in his car after he
3 killed Josh and beat Shella.

4 So once he beats Josh from behind, which
5 all the testimony and all the physical evidence
6 indicate that he beat him from behind, he was
7 beating him after he was on the ground on his hands
8 and knees.

9 He then chases Shella outside and beats
10 her in a neighbor's yard. I'm not sure what threat
11 she's posing at that point. But there's no self-
12 defense for that.

13 It's not even close to a defense. There's
14 no evidence. Even though Mr. Colongeli wants there
15 to be, there's been no evidence of it.

16 And I understand his position. He wants
17 there to be some self-defense issue, but that's just
18 not been presented at all in the State's case.

19 There's not even a hint of it. The fact
20 that he told his cousin in Jasper "They were trying
21 to kill me. I hit somebody with a bat, and I don't
22 know if they're dead," that doesn't give rise to the
23 level that's need for a self-defense charge.

24 THE COURT: Mr. Colongeli?

25 MR. COLONGELI: We would add to that, but

1 we disagree that it's not only his cousin he told.
2 He told an officer who he voluntarily turned himself
3 into.

4 The only statements he ever made
5 repeatedly were that they tried to kill him. I
6 think under the totality of the circumstances of
7 what we've dealt with in this case and some of the
8 issues particularly dealing with the lead criminal
9 investigative officer, some questions surrounding
10 this investigation, and the inconsistencies in the
11 statements of both Shella and Nazarene, which
12 obviously will be questions of fact for that jury to
13 decide, that it limits me greatly based on what we
14 feel was adequately presented.

15 I mean, there was never any objection from
16 the State as far as every time it was mentioned that
17 Harold Jackson stated "They tried to kill me." It
18 was done repeatedly with each witness that was put
19 up.

20 And it came not just from a cousin. It
21 came from a member of law enforcement, who Master
22 Sgt. Purdy attested to and said that was, in fact,
23 true.

24 I think the mere mention of "They tried to
25 kill me" in and of itself is enough. And I

1 obviously stand to be corrected, but based on my
2 research of case law and what I'm seeing, I think
3 the defendant is obliged the benefit of that charge
4 based on the seriousness of what we're dealing with.

5 THE COURT: All right. Well, Mr.
6 Colongeli, I'm giving you the opportunity to up
7 until midnight tonight or even after, if you find
8 something better, to go ahead and forward to my e-
9 mail any case law that you think is good that would
10 support your opinion of even just the simple fact of
11 him declaring "They were going to kill me" is enough
12 evidence to charge not only self-defense but really
13 voluntary manslaughter along with it.

14 So I welcome whatever research you can
15 find. I'm going to go ahead and read State v.
16 Wharton, and I'll do my own research as well. But I
17 don't necessarily think the facts as presented here
18 bear out the four elements that are required for
19 self-defense.

20 MS. TANNER: No, Your Honor. And one more

21 --

22 THE COURT: Yes.

23 MS. TANNER: -- if I could add. Just the
24 fact that he got through one witness that he heard
25 from another witness that he told another person

1 "They tried to kill me," that statement is not
2 enough to give rise to that.

3 That would be like them saying, you know,
4 Elvis was there, and then him getting third-party
5 guilt charges. It's just not enough. There has to
6 be some -- something they put up there through --

7 THE COURT: Evidence of a wound on your
8 client or something.

9 MS. TANNER: Some evidence -- something
10 other than a possible statement that was made to a
11 third party.

12 THE COURT: Okay. Well, we don't need to
13 argue back and forth. You all do some research and
14 forward it to me, and we'll revisit this in the
15 morning.

16 I'm going to ask that you be back at 9:00.
17 The jury is coming in at 9:30. I'll hear anything
18 else briefly that you still have to add, but don't
19 be walking in with research in the morning. I want
20 it with the benefit of being able to read it.

21 MS. TANNER: Yes, ma'am.

22 THE COURT: Because I do think this is
23 fact-driven, and I do think the case law as to this
24 issue is fact-driven.

25 And I think unless you can find cases that

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1 are close on point, Mr. Colongeli, I think it's a
2 hard road.

3 MR. COLONGELI: I'll concede as to the
4 self-defense, Your Honor. But I particularly have a
5 problem with the voluntary manslaughter charge based
6 on what we've heard. State v. Wharton pretty much
7 lays it, and I can do whatever other research I can
8 find.

9 THE COURT: I'll read State v. Wharton.
10 And like I said, if you find something that supports
11 your position, I'll read it, okay?

12 MR. COLONGELI: Thank you.

13 THE COURT: All right, anything else from
14 anyone before we convene?

15 MS. TANNER: Nothing from the State.

16 THE COURT: Rema, make sure you secure all
17 this evidence. There's a lot of it.

18 CLERK OF COURT: It will be locked up in
19 the Clerk's office, Your Honor.

20 THE COURT: Very good.

1 Thursday, April 23, 2009

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom.)

5 THE COURT: All right, just a couple of
6 housekeeping issues before we begin this morning.

7 Mr. Colongeli, do you believe you're going
8 to have any evidence to put up, witnesses?

9 MR. COLONGELI: At this point in time, we
10 do not, Your Honor.

11 THE COURT: Okay. What we'll do, sir,
12 then, is when the jury comes in, if you just want to
13 formally rest in front of the jury. And then if you
14 all are prepared, we'll then just go into closing
15 arguments, if that's fine by you -- is that correct?

16 MS. TANNER: Yes, ma'am. And just to
17 clarify, I was speaking with the Court Reporter this
18 morning, the only defense items in evidence are
19 photographs. The transcripts are only used for ID,
20 is my understanding. I don't believe they were ever
21 moved into evidence.

22 MR. COLONGELI: I'm sorry. Could you
23 state that again?

24 MS. TANNER: The transcripts of the
25 interviews are not --

1 MR. COLONGELI: Yes, we --

2 MS. TANNER: -- are not in evidence.

3 MR. COLONGELI: We wanted to clear that
4 up. I agree with her --

5 THE COURT: Okay.

6 MR. COLONGELI: -- on that.

7 THE COURT: Okay. I want to make
8 absolutely sure. We had a lot of Court's exhibits
9 ID'd, both things that were objected to that I
10 didn't let in and things that I were -- they were
11 just Court's exhibits.

12 I want to make sure we're real careful
13 with what goes back with this jury. You understand
14 that, I know.

15 So, Mr. Colongeli, I'm going to leave it
16 to you at the end of this to make sure you go
17 through every last piece and make sure we separate
18 out what were for ID purposes and what actually got
19 in, okay, sir?

20 MR. COLONGELI: That's fine, Your Honor.

21 THE COURT: All right. Respectfully, I
22 did a whole lot of reading last night in regards to
23 your two requests to charge, Mr. Colongeli, as far
24 as self-defense is concerned and voluntary
25 manslaughter.

1 I can tell you that I went through and I
2 looked at the cases of State v. Tyson, State v.
3 Dickey, State v. Wharton, State v. Walker, and the
4 ones that you had forwarded to me, State v. Karen,
5 State v. Cornarons, and just a number of other
6 voluntary manslaughter and self-defense charges I
7 looked at.

8 I can tell you that I do not think that a
9 self-defense charge in this case is appropriate. I
10 don't think there's any evidence in the record
11 whatsoever that Mr. Jackson was without fault in
12 bringing on the difficulties and also the fourth
13 element, that he had no other probable means of
14 avoiding danger of losing his own life or sustaining
15 serious bodily injury.

16 I don't think there is any evidence in the
17 record whatsoever as to those two. I can tell you
18 as to the voluntary manslaughter charge, I think
19 that's a difficult call.

20 As you've seen recently, Solicitor, a lot
21 of Circuit Court Judges have been reversed as a
22 result of not charging voluntary manslaughter. You
23 know that.

24 I will tell you where I am slightly hung
25 up on this is not the sudden heat of passion.

1 That's not the problem. I think what I'm more
2 concerned about is whether or not he had legal
3 provocation, if there is any evidence supporting
4 legal provocation to reduce it from murder to
5 voluntary manslaughter.

6 That's where my issue lies. And I'm just
7 going to tell you that, Solicitor. I've gone
8 through and looked at the cases.

9 If you accept the facts as Mr. Colongeli
10 has argued, that Mr. Pringle came down the stairs,
11 approached him, grabbed the bat, and if you believe
12 that he never left the house but stayed and that
13 struggle ensued in some way -- although I'm not real
14 confident there was any testimony to that extent --
15 and, Mr. Colongeli, you're going to have to help me
16 out -- I think it would be possibly appropriate for
17 a voluntary manslaughter charge.

18 MS. TANNER: Your Honor, I believe the
19 evidence and the testimony was to the contradictory
20 of that. Both surviving eyewitnesses report that
21 Harold Jackson left the house.

22 Shella, who stayed in the house, said she
23 saw him go out the front door, because he had said
24 he was going after Nazarene, and she and Josh tried
25 to talk him out of it.

1 He leaves the home. Nazarene testified
2 that she saw him while she's hiding under the
3 neighbor's trailer, walking up and down the road
4 with the bat in his hand, and she could hear him
5 hitting the road with the bat.

6 Then you have Hercules Washington, who was
7 not involved in any of this that night, says when
8 he's taking Nazarene to the hospital, he sees a man
9 with something in his hand that looks like a bat.
10 And I don't know how he --

11 THE COURT: Yes, but he couldn't identify
12 it as Mr. Jackson.

13 MS. TANNER: But how many people are on
14 the road that night with something in their hand
15 that looks like a bat? Nobody else was there. It's
16 all family that lives right in that area.

17 You've got Cynthia Allen, you've got
18 Nazarene, and then you have Mr. Hercules Washington.
19 He's the only person out there. So you've got
20 another person unrelated to the events who sees him
21 outside the house.

22 He leaves the house. And Shella testifies
23 he comes back in through a back door, and comes in
24 behind Josh and hits him from behind. So there's
25 not only a cooling-off period where he goes outside.

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1 He's got his car outside, because clearly
2 he leaves in his vehicle after he assaults Shella.
3 He's able to leave. There's nothing preventing him
4 from leaving.

5 There's no cooling-off. There's no reason
6 he can't leave. There is no argument prior to the
7 assault on Josh. Shella said he comes back in.
8 Josh doesn't even know he's there when he hits him
9 in the back of the head with the bat.

10 She can't even get out "Look out!" before
11 he's hit with the bat. There's no confrontation.
12 There's actually no heat of passion between these
13 two at this point.

14 There's nothing but anger and vengeance on
15 the part of the defendant coming back in the house
16 when he cannot find the original source of his
17 anger, which was Nazarene.

18 He comes in back to murder the two
19 remaining eyewitnesses in the house. That's what
20 that was about. It's not a fight between these
21 people. There's no heat of passion left from Josh
22 or Shella. There never was.

23 THE COURT: I understand there was a
24 break, according to your version of the facts.

25 But, Mr. Colongeli?

1 MR. COLONGELI: Thank you, Your Honor.
2 May it please the Court. As this Court is well
3 aware, the jury is entitled to believe all, some, or
4 none of the witnesses' testimony.

5 There is a dispute in the facts as to what
6 actually occurred after Josh and Shella came
7 downstairs. There's testimony by Shella, even, that
8 at some point in time, Harold didn't even have the
9 bat, that Josh had the bat. As to specifically --

10 THE COURT: Wait a minute. When was that
11 testimony? Was that in her testimony here, or was
12 that in your sworn statement?

13 MR. COLONGELI: That was in her testimony.
14 And I stand to be corrected, but that was in her
15 testimony. She said that Josh took the bat, that
16 Josh had the bat.

17 Harold didn't even have the bat at that
18 point. And that's why we think that's a
19 determination of fact for the jury either to believe
20 or disbelieve, or somewhere in between.

21 As far as -- we have testimony of some
22 sort of struggle. Whether the jury wants to believe
23 that or not, we have that. Whether it happened at
24 the initial confrontation or if the jury believes he
25 actually left the house to come back in and in a