

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Horry County
Honorable Kristi F. Curtis, Circuit Court Judge

SANDY LEE LOCKLEAR,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000864

APPENDIX

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 28-30, JUNE 2-4, AND JUNE 9-12, 2014	1
INDICTMENTS AND SENTENCE SHEET	1485
APPLICATION FOR POST-CONVICTION RELIEF	1490
RETURN AND PARTIAL MOTION TO DISMISS	1498
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED NOV. 28, 2018	1509
ORDER OF DISMISSAL	1535

Damon Vescovi - Direct by Mr. Richardson

1001

1 review these records prior to handing them off?

2 A I did. I remember them. I remember looking at them.

3 Q Did you note anything about them? Was there anything of
4 particular interest to you?

5 A Yes, sir. There was a text communication between what we
6 now know to be one of the principal participants and Ms.
7 Locklear referring to the back door of the crime scene.
8 I don't know exactly which page that's on.

9 Q I'm handing you what's folded over to four page from the
10 back of State's Number 13 I believe. If you'd look down at
11 the bottom of that page. Do you recognize that communication?

12 A Yes, sir. That's the one -- to the one I was referring,
13 the text message.

14 Q Okay. And can you tell from looking at that -- you're
15 familiar with cell phone records; correct?

16 A Yes, sir.

17 Q And do all cell phone providers send records in the same
18 format?

19 A Oh, no. No, sir. No, sir.

20 Q It would be too easy for them to do that.

21 A Yes, sir.

22 Q Okay. From that can you tell what number was texting at
23 that point?

24 A You can. It, it identifies the sender and the receiver.

25 Q Okay.

1 A In this particular text the sender was 91 -- the number
2 is [REDACTED].

3 Q [REDACTED]?

4 A Yes, sir.

5 Q And that is to the Defendant's cell phone?

6 A Yes, sir.

7 Q And the time of that is 2:39 in the morning?

8 A Yes, sir. 2:39 in the morning on the 19th.

9 Q And in looking through all those documents, it's multiple
10 pages that you got; correct?

11 A Yes, sir.

12 Q Was that the first thing that grabbed your attention?

13 A Yes, sir.

14 Q And why did it grab your attention?

15 A Because of the content of the message. It is obvious
16 that the sender at the time unknown was communicating with Ms.
17 Locklear to unlock the back door.

18 Q Okay. Was the timing of the message, it being at 2:39 in
19 the morning --

20 A Yes, sir.

21 Q -- was that important?

22 A Because that was the time of the crime.

23 Q Okay. Now, and there are other text messages after that;
24 correct?

25 A Yes, sir.

Damon Vescovi - Direct by Mr. Richardson

1003

1 Q Back and forth between the phone. We don't need to go
2 through all those.

3 A Right.

4 Q But that -- that's what really triggered you into looking
5 deeper in these records?

6 A Yes, sir.

7 Q And then you provided that to Detective Frebowitz?

8 A Yes, sir.

9 Q In your experience are the times and dates in cell phone
10 records are those accurate?

11 A Oh, yeah. Yes, sir.

12 Q Kind of GPS coordinator or whatever?

13 A Yes, sir.

14 Q All right. Did you ever receive any information with
15 regard to the locations from where calls were made or received
16 from the phone number [REDACTED]?

17 A Yes, sir.

18 Q Now, at the time these texts were made, where -- do you
19 recall anything you did to determine where that phone was,
20 [REDACTED]?

21 A Ms. Locklear's number?

22 Q Yes.

23 A I mean, I didn't have to. It was there, but yes, we did,
24 we did receive the information, the data, to discern that
25 fact.

1 Q And that confirmed that Ms. Locklear's phone was in the
2 same tower area?

3 A Yes, sir.

4 Q And so that we can all learn a little bit here, if you
5 get, if you get your -- you said you get longitude and
6 latitude on each time a phone is pinged or used; correct?

7 A Yes, sir.

8 Q And what's that referring to?

9 A It's referring to the coordinates where that device is.
10 It's referring to information received from the tower and
11 that's done, that's done through the phone company. What I do
12 from a historical aspect is use the tower information along
13 with the call detail record which contains certain information
14 to allow me to plot it on a map.

15 Q Okay. So longitude and latitude actually corresponds to
16 the cell towers?

17 A The tower. Yes, sir.

18 Q And whenever a phone call is made, I assume that you're
19 familiar with how cell phones work.

20 A Uh-huh.

21 Q Can you just briefly tell us how cell phones work?

22 A Yeah. Basically, a cell phone has -- is capable of
23 looking at six different options at any given time. It picks
24 the closest and the best receiving tower, interacts with that
25 tower, goes through a network, and basically, calls are

Damon Vescovi - Direct by Mr. Richardson

1005

1 received or made in that respect. It talks to a tower.
2 Towers are located -- are broken up into a market, then on a
3 smaller scale into a switch or a lack, and then the switch and
4 a lack has their own respective cell phone antennas, a tower,
5 if you will, that has a specific number. Those towers are, in
6 turn, usually for the most part, are broken into three sides,
7 usually denoted sectors one, two and three or alpha, beta,
8 gamma. The information that you receive on a call detail
9 record identifies the switch that these transactions occur in
10 as well as the cell phone antenna or the tower, and it gives
11 you the side of that tower and the azimuth which basically
12 that particular sector is facing. So and, and in, in a case
13 where you have an azimuth of 65 degrees that would be 65
14 degrees from dead north. Pulling that direction that would be
15 whatever that sector is.

16 Q Okay. And that's a lot of technical terms, but as I
17 understand it you've got three sides to a tower?

18 A Yes, sir.

19 Q Okay. So if it says, and we'll use the term if it says
20 off of A, comes out at one triangle?

21 A Uh-huh.

22 Q Says B comes off at another triangle?

23 A Yes, sir.

24 Q And C is off yet another one?

25 A Yes, sir.

1 Q And so if those cell phone records tell you that is in A,
2 it's within that cone of A?

3 A Yes, sir.

4 Q And that's -- so you can't say the person is within two
5 feet, three feet, 40 feet of the cell phone tower?

6 A No, not always. There are some records that allow you to
7 do that, but not these, not the ones in question.

8 Q And how does a phone know when to switch over to a new
9 tower?

10 A Based on signal strength. It's what they refer to as a
11 handoff. Like I said, a cell, a cell device is looking at six
12 different options at one time. So that's how you are able to
13 go mobile. It knows that when it's -- it gives out a range of
14 one, it's talking, already talking to another.

15 Q And the closest tower to [REDACTED], do you know
16 about how far away it was?

17 A I know it's -- yeah. It's not far at all. I have the
18 longitude and latitude.

19 Q Okay.

20 A I would, I would estimate within a mile easily.

21 Q Okay. And that is where the Defendant's cell phone
22 number was bouncing off of at 2:39 in the morning?

23 A Yes, sir.

24 Q Okay. Did you get anything about where the phone was
25 pinging later on that day?

Damon Vescovi - Direct by Mr. Richardson

1007

1 A Yes, sir. The -- at 5:27 a.m. that same morning, it was
2 located in an area off of -- in Longs off of Highway 905. I
3 had the longitude and latitude as well. That, but that -- the
4 tower in question at 5:27 was in the -- basically on top of
5 where the Defendant's car was found burned, destroyed.

6 Q Were there any, were there any other numbers you were
7 able to track to that same location?

8 A The, the -- I have the number. I don't know which person
9 it belonged to.

10 Q Is it [REDACTED]?

11 A Yes, sir.

12 Q Okay. The same number that had been texting to Ms.
13 Locklear's phone before?

14 A Ms. Locklear. Yes, sir.

15 Q The same number that had gotten texts from Ms. Locklear?

16 A Yes, sir.

17 Q And both those phones are side by side at 5:30 in the
18 morning, bouncing off the same tower?

19 A Right. That, at 2:41 and then 5:27.

20 Q How about any of the times in between there?

21 A I don't recall right off --

22 Q That's all right.

23 A -- the top of my head. I know the [REDACTED] at 2:41 it
24 had registered a tower near the crime scene, and then at 5:27
25 a.m. it registered a tower basically right beside the

1 Defendant's burned vehicle.

2 Q Okay. Now, did -- you had the opportunity to speak with
3 the Defendant at some point; correct?

4 A Briefly.

5 Q Okay. And when did that occur?

6 A On scene initially, and I believe I may have stepped in
7 the interview room or spoken with her at the police department
8 concerning the records.

9 Q Late in the evening?

10 A Yes, sir.

11 Q And what was the purpose of you going in the interview
12 room?

13 A To confirm some of the information that I was analyzing
14 at the time.

15 Q Do you recall anything else she told you? That's fine if
16 you don't recall.

17 A No. No. Not right off the top of my head I don't.

18 Q All right. And your main purpose in there was to ask her
19 about the cell phones?

20 A Yes, sir.

21 Q Okay. Now, let's move on to the next day. Did you
22 further assist in the investigation?

23 A I did. Yes, sir.

24 Q You did? Give me one second.

25 MR. RICHARDSON: The Court's indulgence, Your Honor.

Damon Vescovi - Direct by Mr. Richardson

1009

1 THE COURT: All right.

2 BY MR. RICHARDSON:

3 Q Now, where did you go to assist in the investigation?

4 A Initially the crime scene.

5 Q How about the next day, Monday?

6 A The, yeah, the Tabor City Police Department, Tabor City,
7 North Carolina. There was a ---

8 Q Did you have the, did you have the opportunity to assist
9 in a search, in a search of [REDACTED]?

10 A Yes, sir.

11 Q Okay. And whose house was that?

12 A I do not recall the -- I only remember the nickname, the
13 nickname being Pig.

14 Q Pig?

15 A Yeah.

16 Q Okay. And I think we've heard testimony that's Coteara
17 Todd.

18 A Yeah. I believe so. Yeah.

19 Q Now, in, in looking at Pig's house, did you all ever
20 request any kind of permission to look in Pig's house?

21 A Yes, sir. She was present when we, when we responded,
22 and she gave consent to look into her house.

23 Q Let me see what that is. And how was Pig related to this
24 as far as you knew?

25 A I believe she was dating the individual we were looking

1 for, dating or related to him somehow.

2 Q That being Nehemiah James Evans?

3 A Yes, sir.

4 Q And did you witness her sign a consent form or anything?

5 A Yes, sir. She did.

6 Q Okay. Just a moment. While you were, while you were
7 searching, did you assist in that search?

8 A I did.

9 Q Okay. Did you have any law enforcement from Tabor City
10 with you all?

11 A Yes, sir.

12 Q And why were they there?

13 A Well, basically because they had jurisdiction, and we
14 didn't.

15 Q Their jurisdiction?

16 A Yes, sir.

17 Q Did you find anything of any evidentiary value while
18 searching [REDACTED]?

19 A Yes, sir.

20 Q Tell us about it.

21 A I found a piece of paper with Ms. Locklear's name, I
22 believe her name was on it with her, this telephone number,
23 the [REDACTED], and a form of ID for the Jeremiah
24 individual.

25 Q Nehemiah James Evans?

Damon Vescovi - Direct by Mr. Richardson

1011

1 A Yeah.

2 Q Allow me to show you what has been -- I'll let Madam
3 Clerk mark that. Let me show you what's been marked as
4 State's 135 and 136. Tell me if you can identify those items.

5 A Yes, sir. These are the two items in which I was
6 referring, the phone number to Ms. Locklear and Mr. Evans'
7 South Carolina identification card.

8 Q Also State's 137 and 138?

9 A Yeah. Mr. Evans' Social Security card and a South
10 Carolina beginner's permit.

11 Q Okay. And those are items you actually found where?

12 A These were found in the front left bedroom facing the
13 house, and I believe it was some sort of entertainment center,
14 shoe box, shoe box maybe or a drawer in that entertainment
15 center.

16 Q Okay. And both IDs were for Nehemiah James Evans?

17 A Yes, sir.

18 Q And the, the note with the phone number on it, whose
19 phone number?

20 A Ms. Locklear's.

21 Q Okay. The same one you had searched records on earlier?

22 A Yes, sir.

23 Q And the Social Security card what, whose name is on
24 there?

25 A Mr. Evans, Nehemiah James Evans.

1 MR. RICHARDSON: The State would seek to introduce all
2 those items, Your Honor, 135, 136, 137, 138.

3 THE COURT: Any objection?

4 MR. WILSON: No objection, Your Honor.

5 THE COURT: All right. State's Exhibits 135, 136, 137
6 and 138 are admitted into evidence without objection.

7 (Whereupon, State's Exhibit Number 135 [Note with
8 telephone number], State's Exhibit Number 136 [Evans' ID
9 Card], State's Exhibit Number 137 [Evans' Social Security
10 Card], and State's Exhibit Number 138 [Evans' Beginner's
11 Permit] admitted into evidence and appropriately marked.)

12 BY MR. RICHARDSON:

13 Q In searching the house, did you all find any weapons in
14 that house?

15 A I don't recall.

16 Q Would that be something you would recall if you all had
17 found one?

18 A More than likely I would imagine.

19 Q And you've already identified that the [REDACTED]
20 number, that was, that was bouncing off the same tower as Ms.
21 Locklear's at 2:39 in the morning?

22 A Yes, sir.

23 Q And again at approximately 5:30 in the morning?

24 A Yes, sir. Yes, sir.

25 Q And the tower it was bouncing off of at 5:30 in the

Damon Vescovi - Cross by Mr. Wilson

1013

1 morning, the 212 number as well as the 918 number, those are
2 both located near where the burning car was?

3 A Yes, sir.

4 Q And that was the rental car that was burned up?

5 A The one that she claimed had been stolen.

6 MR. RICHARDSON: The Court's indulgence.

7 THE COURT: All right.

8 BY MR. RICHARDSON:

9 Q Detective, thank you. Is that the -- does that conclude
10 your involvement in this case?

11 A Yes, sir.

12 Q If you will answer any questions Mr. Wilson may have.

13 A Okay.

14 CROSS EXAMINATION

15 BY MR. WILSON:

16 Q Detective, how you doing today?

17 A Good. Good.

18 Q All right. Let me ask you this, did you have an
19 opportunity to go with Frebowitz to Tabor City and meet with
20 Teresa Phillips in this case?

21 A The name again?

22 Q Teresa Phillips. She was the girlfriend of Odom Bryant.
23 Didn't you meet with her?

24 A I was present. I was present. I did not ---

25 Q You were present?

1 A Yes, sir.

2 Q Okay. Didn't you actually go on her cell phone and get
3 some pictures off her cell phone?

4 A I personally did not.

5 Q You did not?

6 A I don't, I don't remember -- I remember the cell phone,
7 but I don't know if -- who specifically went into the phone.
8 I remember some pictures being shown.

9 Q Let me ask you a question. Can you identify this as a
10 picture you took off Teresa Phillips cell phone during that
11 interview?

12 A I don't -- I didn't take any pictures off anybody's phone
13 I don't believe.

14 Q Your testimony is that you never took a picture off
15 Teresa Phillip's cell phone, that this is not the picture you
16 took off her cell phone?

17 A I remember seeing pictures from her phone, but I, I don't
18 recall taking any, personally taking any pictures off of it.

19 Q Okay. Well, did Detective Frebowitz take a picture off
20 her cell phone in your presence?

21 A I don't remember if he actually took it or not. I
22 remember looking at them. I don't know if they were actually
23 --

24 Q So your testimony to this jury is that either you or
25 Detective Frebowitz talked to Teresa Phillips about a gun that

Damon Vescovi - Cross by Mr. Wilson

1015

1 she had on her cell phone that belonged to her baby's father?

2 A Yes, sir.

3 Q You did talk to her about it?

4 A I, I didn't specifically, but I was present.

5 Q Okay. Well, you overheard the conversation that they
6 were talking about, yes or no?

7 A Yes, sir.

8 Q Okay. So you were there in the room?

9 A Yes, sir.

10 Q Okay. All right. So did Teresa Phillips tell you and
11 Detective Frebowitz ---

12 MR. RICHARDSON: Your Honor, objection. If he's trying
13 to elicit testimony about anything said by Teresa Phillips
14 that would be hearsay.

15 MR. WILSON: Judge, I'm not talking about Teresa
16 Phillips.

17 MR. RICHARDSON: He's just asking did Teresa Phillips
18 tell you?

19 THE COURT: That's true. Sustain the objection.

20 MR. WILSON: I'll rephrase, Judge.

21 THE COURT: Yeah.

22 MR. WILSON: Withdrawn.

23 BY MR. WILSON:

24 Q Let me ask you this question. During your investigation
25 and your conversation with Teresa Phillips, without telling me

1 what she said, did you discover she had a gun, a picture of a
2 gun on her cell phone before this murder?

3 A To the times when this picture was developed on her
4 phone, I, I don't remember. I don't recall those times, and I
5 didn't, I didn't speak to her specifically. I was just
6 present at the station when she talked to, and I believe it
7 was Detective Frebowitz.

8 Q My question --

9 A The, the, the meat and potatoes, if you will, from her
10 talking with the investigators was relayed to me. I wasn't
11 privy to the conversation.

12 Q So you weren't a part of the conversation?

13 A No, sir.

14 Q You were never in the room?

15 A I was in the room with her at one point in time but for
16 questioning, no. I don't believe so. I really don't recall.
17 I know I was there. I don't remember being in a room where
18 she was interviewed.

19 Q All right.

20 A But I do remember the information that was gained from
21 her interview.

22 Q All right. Well, let me ask you this. Do you recall a
23 conversation that was recorded by you or Detective Frebowitz
24 with this witness, Teresa Phillips?

25 A I don't recall.

Damon Vescovi - Cross by Mr. Wilson

1017

1 Q Okay. Then let me ask you this. Do you recall making
2 statements or asking questions to Teresa Phillips about this
3 investigation?

4 A I could have. I just don't recall it.

5 Q You just don't recall it?

6 A Yes, sir.

7 Q Okay.

8 A I'm not disputing it.

9 Q Are you disputing that the picture I just showed you was
10 taken by you and Detective Frebowitz?

11 A I'm, I'm not disputing it. No. I don't recall taking a
12 picture, but that looks like, to the best of my recollection,
13 something that she showed us from her phone.

14 Q Okay.

15 MR. WILSON: Your Honor, I'd like to have this marked for
16 identification purposes only.

17 THE COURT: All right.

18 BY MR. WILSON:

19 Q Let me ask you this since you don't dispute it. Let me
20 ask you this.

21 A Uh-huh.

22 Q What sort of gun is that?

23 A It appears to be some sort of silver or chrome pearl
24 handle, white handle compact semiautomatic pistol.

25 Q Okay. Well, you've been a police officer and I know a

1 good one for a long time, tell this jury what caliber of
2 weapon you believe that is.

3 A What I believe it is?

4 Q Yes, sir.

5 A A 22 or a 25, maybe a 38.

6 Q 22 or 25, maybe a 38.

7 A Yes, sir.

8 Q And can you describe that pistol in that picture for the
9 jury?

10 A Yeah. It's a silver, small, appears to be small compact,
11 maybe a pearl handle or white handle pistol.

12 Q Okay. Let me ask you this. Still hold on to it because
13 we're not done with it just yet.

14 A Okay.

15 Q Let me ask you this. During your conversation, during
16 the time that you interviewed or sat in on the interview of
17 this particular witness, did Detective Frebowitz ever get up,
18 look at the witness's cell phone and take that picture off her
19 cell phone?

20 A I honestly do not remember. I remember them looking at a
21 cell phone, her cell phone. As far as taking, removing a
22 picture, I do not know.

23 Q Okay. During your investigation, did you discover who
24 Odom Bryant was? Let me ask you that.

25 A I'm sure they did. Yeah.

Damon Vescovi - Cross by Mr. Wilson

1019

1 Q Okay. Well, how'd you get to Teresa Phillips? You all
2 got there at some point in time. Who was Teresa Phillips to
3 Odom Bryant?

4 A I really don't remember.

5 Q Well, didn't you just testify about this under direct
6 examination?

7 A I, I believe she's a girlfriend, maybe, but I --

8 Q Well, that's what you told the Prosecutor; isn't it?

9 A I didn't tell him anything about Teresa.

10 MR. RICHARDSON: Your Honor, I object. I said nothing
11 about Teresa Phillips before.

12 Q Didn't you say that she was a girlfriend --

13 THE COURT: I'll allow it. Hold for a second. I'll
14 allow the question. Go ahead.

15 A No. No. No. No. We were referring to Pig, whoever
16 that lady was.

17 Q Did you ever discover that Teresa Phillips was a
18 girlfriend of Odom Bryant?

19 A I believe so, but I'm -- I, I wasn't part of that. I was
20 doing the phone analyst. I did attend the, the search warrant
21 or the consent at Queen Street, but my main, my main concern,
22 my main objectives was the cell phones.

23 Q So your testimony to this jury is is that you never
24 investigated or questioned or had any conversation about a gun
25 on Teresa Phillips' cell phone?

1 A No, sir.

2 Q Which matched the caliber of gun in this case?

3 MR. RICHARDSON: Your Honor, I object. He did not
4 testify to that previously.

5 THE COURT: Sustained.

6 Q Which could have matched the caliber in this case? Did
7 you ever talk with her about that?

8 A No, sir.

9 Q You never talked to her about that?

10 A No, sir.

11 Q Now, your testimony to this jury under direct examination
12 you're not testifying to this jury that you know that Sandy
13 Locklear sent a text message to another number? That's not
14 what you're testifying to; is it?

15 A I'm sorry?

16 Q Are you testifying to this jury that you know for a fact
17 that this Defendant sent a text message at 2:39 in the
18 morning?

19 A Yes, sir.

20 Q This Defendant, you were there?

21 A This cell phone, the -- which was identified by her as
22 [REDACTED] had ---

23 Q That's not what I asked you. What I'm asking, what I'm
24 asking you is this, did you -- were you there when this text
25 message was sent?

Damon Vescovi - Cross by Mr. Wilson

1021

1 A No. I would solve the crime if that was the case.

2 Q Exactly. So you weren't there; were you?

3 A No. I wasn't.

4 Q Okay. But you track numbers; right? You track what a
5 number does. If a number calls, you can track that. If
6 someone sends a text message, you can track that. You can't
7 tell this jury whether this Defendant sent a text message; can
8 you?

9 A No, sir. No.

10 Q Okay. All right. Well, then, let me ask you this.
11 Right now I send a text message from your phone that says, "I
12 love so and so," doesn't mean it necessarily came from you;
13 does it?

14 A Correct.

15 Q Okay. So you can't tell us whether she sent a text
16 message or who sent the other messages; correct?

17 A Correct.

18 Q Okay. Now, during your investigation, did you discover
19 at any point in time that Nehemiah James cut the grass of this
20 Defendant?

21 A I believe -- I remember hearing that.

22 Q You remember hearing it?

23 A Yes, sir.

24 Q Is that the case or not? Did you recall discovering that
25 no? Yes or no?

1 A The detectives did. Yes, sir. The lead detective. I
2 was not part of that --

3 Q Okay. Well, let me ask you --

4 A -- investigative avenue, if you will.

5 Q All right. My apologies. I didn't mean to interrupt
6 you.

7 A No.

8 Q My -- let me ask you this then. You said you found a, a
9 number that you say belonged to this Defendant at Nehemiah
10 James' house; correct?

11 A A piece of paper with her number on it. Yes, sir.

12 Q All right. It said Sandy's number or something like
13 that?

14 A Sandy Locklear and it had -- the phone number at the
15 bottom.

16 A Okay. Well, if she [sic] cut his grass would that be
17 atypical to have the number of the person she's cutting grass?

18 A I would imagine so.

19 Q During your investigation, I mean, doesn't that make
20 sense to you as a detective?

21 A Uh-huh. Yes, sir.

22 Q Okay. Now, you said that you recall going into the
23 interrogation room, the interview room, whatever you want to
24 call it. Do you recall going into the room at some point in
25 time while this Defendant was handcuffed; correct?

Damon Vescovi - Cross by Mr. Wilson

1023

1 A I don't remember if she was or wasn't.

2 Q Well, do you recall ever going in the room and talking to
3 her?

4 A I believe so.

5 Q Okay. Do you recall what time it was? Was it dark
6 outside? Was it light outside?

7 A I don't recall.

8 Q All right. Was it late at night?

9 A I don't recall that either.

10 Q Is it possible that you were the last detective to talk
11 with her that evening?

12 A Possible.

13 Q Okay. Well, let me ask this. During your conversation
14 with this Defendant, what did she tell you?

15 A Just confirmation on what I had asked her about this,
16 this phone number.

17 Q This Defendant didn't tell you anything else?

18 A Not that I recall. No.

19 Q Did you not sit in this conference room with this
20 Defendant at 10:20 at night and have a conversation with her
21 about what happened? Yes or no?

22 A I don't, I don't remember interviewing her at all.

23 Q You never talked to her?

24 A Not specifically about any of the facts, just this phone
25 number.

1 Q All right.

2 A That's the extent of my knowledge speaking with Ms.
3 Locklear.

4 Q So you're saying this Defendant never told you that Amos
5 and her planned to only scare Tommy? She never told you that?
6 Is that your testimony to this jury?

7 A I do not recall it. I don't.

8 Q Are you disputing that?

9 A No, I'm not. I just don't recall it. I don't recall
10 the, the conversation.

11 Q You don't recall this Defendant telling you while you
12 were in the conference room with her, interview room or
13 whatever you want to call it, you don't recall her telling you
14 that not only were they trying to scare him, that he had drug
15 problems. Do you recall talking to her? Do you recall
16 talking very softly to her, being nice to her?

17 A I remember the information from the interviews, but I
18 don't remember me getting it. I remember Detective Frebowitz
19 interviewing her. I remember Detective Strickland
20 interviewing her. As far as me sitting down with her and
21 interviewing her, I do not recall any of that.

22 Q Detective, let me ask you this, what time did you get
23 back to the M.L. Brown Building that day from doing all the
24 things you were doing?

25 A I would have, I would estimate at probably 10:00 o'clock,

Damon Vescovi - Cross by Mr. Wilson

1025

1 11 o'clock.

2 Q P.M. or A.M?

3 A A.M.

4 Q A.M.

5 A I believe so. I'm not sure.

6 Q Okay. And so you would have had an opportunity to go in
7 the room and talk with her; correct?

8 A Yes, sir. I have had -- I would have an opportunity.
9 Yes, sir.

10 Q Okay. And your testimony here today is that you don't
11 recall ever talking to her at the end of the night?

12 A No, sir.

13 Q No recollection whatsoever?

14 A I'm, I'm not disputing it either, though. I just don't
15 recall it.

16 Q Well, would you dispute it if I told you that you had a
17 long conversation with her over 20 minutes where she told you
18 what she said was the truth?

19 A She could have. I just do not recall it.

20 Q Okay. Well, let me ask you this. After she told you
21 that, did you go out and do any investigation on what she told
22 you? Since you don't recall it, I would assume not, but I'm
23 asking you.

24 A Specifically related to that -- a conversation you're
25 saying took place, I do not. I know we went to North Carolina

1 and followed up on leads that were obtained through interviews
2 from Detective Strickland, Frebowitz and whoever else sat, sat
3 in that -- in the room with her.

4 Q And if you -- you say you don't recall in Tabor City;
5 correct, that you don't recall the details of what happened in
6 that interview with Teresa Phillips?

7 A Oh, I'm sorry.

8 Q I'm sorry. You just said that you went to Tabor City,
9 North Carolina; right?

10 A Yes, sir.

11 Q All right. And you all went through the trouble of
12 actually getting a warrant; right?

13 A Yes, sir.

14 Q Okay. And you actually sat down with Teresa Phillips?
15 You recall being in the room; correct?

16 A I don't dispute it. I don't remember if we were in the
17 room when she was being interviewed or --

18 Q Did you take notes from that interview at all?

19 A I don't believe so.

20 Q Okay. So you just don't remember anything about Teresa
21 Phillips or you don't recall anything about talking with this
22 Defendant?

23 A I remember the investigators --

24 Q Okay.

25 A -- locating Teresa Phillips. She came to the police

Damon Vescovi - Redirect by Mr. Richardson

1027

1 department.

2 Q Right.

3 A She sat down and she talked to other detectives, but as
4 far as me leading an interview with her, I did not. I may
5 have been in the room when this transpired, but as far as me
6 leading an interview, that did not -- I don't believe that
7 took place.

8 Q Have you heard the tape of that interview? Did you
9 review it before you came today?

10 A No, sir.

11 Q Would you be surprised if your voice is on there talking
12 to her about this picture?

13 A No. I just don't recall it.

14 Q Okay. Thank you much.

15 MR. WILSON: No further questions, Your Honor.

16 THE COURT: All right. Redirect?

17 MR. RICHARDSON: Very briefly.

18 REDIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q Have you got a picture up there? This photo Mr. Wilson
21 showed to you, any date on it?

22 A No, sir. Not that --

23 Q Anything you can see?

24 A No, sir.

25 Q Any idea to tell who's taking the picture?

1 A No, sir.

2 Q Anything else you can tell about it?

3 A No, sir.

4 Q And once again, your focus when you spoke with Ms.

5 Locklear on that Sunday night the 19th was on the cell phone
6 records basically?

7 A Yes, sir.

8 MR. RICHARDSON: No further questions, Your Honor. I'd
9 ask that Detective Vescovi be allowed to return to his duties.

10 THE COURT: Any objection?

11 MR. RICHARDSON: Your Honor, just subject to recall
12 for Defense.

13 THE COURT: All right. As long -- can the State make him
14 available?

15 MR. RICHARDSON: I do know that he's got some issues with
16 family, Your Honor. I believe he would be around though.

17 A Yes, sir. If you need me, I can come.

18 THE COURT: All right. Subject to recall by the Defense
19 we'll allow him. I'll allow him to go.

20 MR. WILSON: Thank you, Your Honor.

21 THE COURT: Thank you. All right. The State can call
22 their next witness.

23 MS. WOOTEN: The State next calls Dr. Edward Lee Proctor,
24 pathologist from Grand Strand Regional Medical Center.

25 Whereupon, Edward Leroy Proctor, Jr., was called to the

E.L. Proctor, Jr. - Direct by Ms. Wooten

1029

1 stand, duly sworn by the clerk and testified as follows:

2 THE CLERK: Please state your full name and spell your
3 last name.

4 MR. PROCTOR: Yes, ma'am. I'm Edward Leroy Proctor, Jr.,
5 and that's P-R-O-C-T-O-R.

6 DIRECT EXAMINATION

7 BY MS. WOOTEN:

8 Q Good afternoon, Dr. Proctor. How are you?

9 A Doing good.

10 Q Thank you so much for being here. Could you please tell
11 the courtroom and the jury where you're employed and in what
12 capacity?

13 A I am self-employed. I have an office at Grand Strand
14 Medical Center, and I'm engaged in the practice of pathology.

15 Q And how long have you been with Grand Strand?

16 A Well, I have been -- had an office at Grand Strand since
17 1986.

18 Q And what kind of educational background do you have to
19 have to be a pathologist?

20 A I have a Bachelor of Science Degree from Clemson
21 University, an MD Degree from the Medical University in
22 Charleston, a four-year residency certificate from Walter-Reed
23 Army Medical Center and subspecialty training in forensic
24 pathology.

25 Q And could you explain to everybody what, what is a

1 pathologist?

2 A Okay. Pathologist is engaged in the study of disease,
3 and as a pathologist, we do anatomic pathology, where we look
4 at biopsies and stuff to determine what they are. We also run
5 the clinical side, which includes the microbiology, blood bank
6 and chemistry labs. Forensic pathology we do the medical,
7 legal investigation of death, trying to determine cause and
8 manner of death.

9 Q So not only do you work with evidence in possibly persons
10 or bodies for -- after, after they're deceased and determine
11 cause of death, but you also work with disease, illness and
12 things like that?

13 A That's correct.

14 Q And out of all your years of experience, I know you've
15 been doing this for a really long time, how many autopsies do
16 you think you've performed?

17 A Probably over 5000.

18 Q And, and could you just give your kind of definition of
19 what an autopsy is?

20 A Okay. What we do specifically for forensic autopsy we,
21 we are asked by the coroner to do a medical, legal
22 investigation of a death. We get whatever history the coroner
23 may or may, you know, usually has or law enforcement, and we
24 take that history. Then we get the deceased. We do an
25 external examination. We do an internal examination. We

E.L. Proctor, Jr. - Direct by Ms. Wooten

1031

1 obtain samples that we may need for microscopic evaluation,
2 and we obtain samples for toxicology, and once all of those
3 things are done and we get all of the results, we put that
4 together and come up with a cause and manner of death.

5 Q And have you ever testified in court before?

6 A Yes. I have.

7 Q And have you ever testified in a courtroom about an
8 autopsy?

9 A Yes, ma'am.

10 Q How about autopsies involving a shooting of any kind or a
11 murder investigation?

12 A I have.

13 Q And ballpark, how many times have you testified in court
14 as an expert of forensic pathology?

15 A Probably 1500 to 2000 times.

16 Q That's a lot of times.

17 MS. WOOTEN: Your Honor, at this time the State would
18 request to tender Dr. Proctor as an expert in the field of
19 forensic pathology.

20 THE COURT: Any questions or objections?

21 MR. WILSON: Your Honor, we're well aware, and we
22 stipulate to the expertise of this doctor, Judge.

23 THE COURT: All right, I find this witness to be an
24 expert in the field of forensic pathology.

25 BY MS. WOOTEN:

1 Q Dr. Proctor, you've explained to us -- what's the
2 difference between an autopsy and a forensic autopsy?

3 A Regular autopsies is a medical autopsy. We, we find what
4 disease processes are present in the deceased, not necessarily
5 coming up with a definitive cause and manner of death.

6 Forensic autopsy specifically designed for medical legal
7 evaluation we determine why they died and give the manner of
8 why they died.

9 Q Thank you. In the course -- and the purpose of the
10 specific forensic autopsy is because it's -- the manner and
11 cause of death is probably under investigation?

12 A That's correct.

13 Q Did you in the course of your work in 2012 have the
14 opportunity to work with the forensic autopsies of Amos and
15 Thomas or Tommy Hatfield around August 19th, 2012?

16 A I performed an autopsy on a Mr. Amos Hatfield and a Mr.
17 Thomas Hatfield on the 19th of August that year.

18 Q And I see that you're looking at some notes. Did you
19 bring some notes with you today?

20 A I brought copies of the autopsy reports. Yes. I did.

21 Q Okay. And please feel free to look over your notes at
22 any time to assist you in testifying if you need to recollect
23 your memory. Where were these autopsies performed?

24 A They were performed in the morgue at Grand Strand
25 Hospital.

E.L. Proctor, Jr. - Direct by Ms. Wooten

1033

1 Q And how do -- how did the bodies in this case, and
2 forgive me for calling them bodies, how did the victims'
3 bodies get from wherever they were to Grand Strand Regional
4 Medical Center?

5 A The, the case -- the coroner involved in the case was Mr.
6 Robert Edge, and Mr. Robert Edge goes to the scene along with
7 law enforcement, and at the scene he determined that there
8 needed to be a forensic examination, and from that point they
9 have a service that has a contract with the county that
10 actually brings the deceased to the hospital for us.

11 Q And they have a form of transport for that kind of thing?

12 A That's correct. Uh-huh.

13 Q Okay. And when were you called in?

14 A Mr. Edge probably called me in, let's see, they died,
15 they died in the early morning hours of the 19th. He may have
16 called me from the scene because it looks like I performed
17 these that afternoon of the 19th.

18 Q Could you tell us the specific time of death listed on
19 both autopsies?

20 A I can tell you that the time, the date and time of death
21 listed on these autopsies approximately 3 a.m. was a time
22 given to me by the coroner.

23 Q And was that on August 19th, 2012?

24 A That is correct.

25 Q And did you determine the time of death or is that done

1 at the scene?

2 A That was done at the scene by the coroner and his
3 investigators.

4 Q And he's most likely trained to do something like that.

5 A I, I can't attest to that.

6 Q Okay. Thank you. Prior to conducting these two
7 autopsies that afternoon, did you get any information about
8 this case? I know you said Mr. Edge, the coroner, called you.
9 Did you know anything in specific about this case?

10 A The only thing that I knew is what you see in that case
11 history. I was told there was a probable home invasion during
12 which time these men were shot.

13 Q Okay. Now, let's -- I'm going to talk with you about the
14 external examination because you do that first; correct?

15 A That's correct.

16 Q And then we'll discuss a little bit about the internal
17 investigation.

18 A Okay.

19 Q If that's okay.

20 MS. WOOTEN: Your Honor, may I approach the witness?

21 THE COURT: Yes.

22 BY MS. WOOTEN:

23 Q I've kind of -- we've got some photos here, and I'm just
24 going to show them to you for identification purposes as of
25 right now.

E.L. Proctor, Jr. - Direct by Ms. Wooten

1035

1 MR. WILSON: Judge, no objection to that for
2 identification purposes only.

3 THE COURT: All right.

4 MR. WILSON: Thank you, Your Honor.

5 Q And I believe that the numbers are out of order.

6 A Okay.

7 Q I've kind of put them in --

8 A Okay. That's fine.

9 Q -- stacks where they -- so this is --

10 MS. WOOTEN: I'm showing the witness, Dr. Proctor,
11 State's 128, 129, 130, 131 and 132.

12 BY MS. WOOTEN:

13 Q Could you tell us what you see here?

14 A Okay. These photographs reveal --

15 Q And I can give you these two at the same time. That
16 might help you differentiate.

17 A Okay. Okay.

18 Q State's Exhibit 121, 122 and 126 for identification
19 purposes.

20 A Okay.

21 Q All right. The, the first group 128, 29, 30, 31 and 32
22 appear to be of the older gentleman, and there is a gunshot
23 wound visible within the posterior aspect of the head pretty
24 much in the midline occipital area, fairly uniform, showing no
25 residue, which is the powder or burning powder that comes out

1 of the gun.

2 A And those photos you said were 128, 29, 31 and 32?

3 A 32, that is correct.

4 Q Of the older gentleman?

5 A That's the older gentleman. Yes, sir. Yes, ma'am.

6 Q So, Mr. Amos Hatfield most likely?

7 A Be Amos Hatfield.

8 Q Okay.

9 A Okay. The second group is of the younger man, which
10 would be Thomas Hatfield, and it shows a -- above the right
11 ear a semicircular looks like a blunt force traumatic injury
12 above the ear.

13 Q Okay. And what number exhibits are those?

14 A Those are 121, 122 and 126.

15 Q Thank you, Dr. Proctor. And I'm going to ask you some
16 more details about these photos. I understand that this
17 autopsy was almost two years ago. So will these photos assist
18 you in your testimony today?

19 A They, they can. Yes.

20 Q Well, do they provide you information that might not be
21 in your notes?

22 A I don't think so.

23 Q Okay. If you need to look over them or explain anything
24 in placement just --

25 A Okay.

E.L. Proctor, Jr. - Direct by Ms. Wooten

1037

1 Q -- go right ahead and take a look. We'll start with,
2 with Tommy. What time did you begin Tommy's external autopsy?

3 MR. WILSON: Judge, I'm going to go ahead and object.

4 THE COURT: Okay. Come on up for a second.

5 MR. WILSON: Thank you, Your Honor.

6 (Whereupon, a bench conference is held in the presence
7 but out of the hearing of the jury.)

8 THE COURT: All right. Overruled, go ahead.

9 MR. WILSON: Thank you, Your Honor.

10 MS. WOOTEN: Thank you, Your Honor.

11 BY MS. WOOTEN:

12 Q I apologize, Dr. Proctor. What -- around what time did
13 you do -- perform Tommy's autopsy, Mr. Thomas Hatfield's
14 autopsy before Mr. Amos?

15 A I, I performed that autopsy on Mr. Thomas Hatfield at
16 approximately 1 p.m. and the -- followed by that of Mr. Amos
17 Hatfield at approximately 1:45.

18 Q Could you tell us how the forensic autopsy was conducted
19 on Thomas Hatfield?

20 A This autopsy consisted first of the external exam, then
21 the internal evaluation, then the obtaining of samples for
22 further evaluation as needed and the drawing of blood for the
23 toxicologic evaluation.

24 Q Okay. And I'll ask you a bunch of questions about that
25 soon. After the initial external examination of Tommy's body,

1 what, if any, and I know you already stated some, but just to
2 clarify for the jury, what, if any, injuries did you find on
3 Thomas Hatfield?

4 A Thomas Hatfield had two injuries. The first was a blunt
5 force traumatic injury above the right ear. This injury did
6 cause a depressed skull fracture. Depressed skull fracture
7 means you've actually fractured the skull. It appeared to be
8 with some sort of rock or something because there was a piece
9 of rock, granite, or whatever it was from that blunt force
10 object within the bony area adjacent to the subdural space.
11 The second wound was in the right occipital area, which was a
12 gunshot wound to the right occipital area. Of interest there
13 was no residue present around the entrance site.

14 Q Now, the, the first injury, on what side did you say? I
15 apologize.

16 A It was on the right side above the ear.

17 Q Do you know the cause of that injury at all?

18 A The -- I can tell you that it was a blunt force traumatic
19 injury, and when I say blunt force, it was an object used to
20 hit this man in the head, and we found a piece of rock or some
21 sort of foreign matter in the entrance site where it caused
22 the depressed skull fracture.

23 Q And, and can you identify a specific weapon at all?

24 A Other than a blunt force object. No, ma'am.

25 Q And you say blunt force trauma, you mean something hit --

E.L. Proctor, Jr. - Direct by Ms. Wooten

1039

1 A Hit, he was hit. That's blunt force. Correct.

2 Q Any evidence externally on Mr. Tommy or Thomas Hatfield
3 of extensive beating or any other blunt force trauma?

4 A He, he, he had no evidence of any beating other than the
5 one blunt force injury to the right head. The gunshot wound,
6 did external inspection, there were no defense wounds, and
7 that's pretty much it.

8 Q Okay. So just the two injuries over his entire body.

9 A That's correct.

10 Q In your experience, which you clearly have a lot, if
11 there was extensive beating, brutal in nature, of any kind to
12 a victim's body prior to dying, is it possible that there's
13 evidence, have you ever seen evidence of that on the external
14 part of the victim's body?

15 A There -- it's always a possibility that there could be.
16 Depending on the objects used to beat someone with, they may
17 or may not leave bruises or whatnot. That's a very difficult
18 question to answer. Sometimes they're there. Sometimes
19 they're not.

20 Q If it was any kind of object is it -- have you seen
21 bruises on --

22 A Yes, ma'am. I have.

23 Q Have you seen redness?

24 A I have.

25 Q And along with external injuries, you didn't see many in

1 this case with Tommy except for the two injuries. Could there
2 possibly be internal injuries as well?

3 A Well, we did an internal examination.

4 Q Okay.

5 A Internally there was the gunshot wound to the right
6 occiput, passed in a posterior to anterior and left direction
7 through this brain. It caused extensive maceration or just
8 injury to the brain with associated hemorrhage into the head.
9 We recovered a small bullet in the left frontal area of his
10 brain. The remaining dissection, internal examination
11 revealed some disease processes, but no specific traumatic
12 injury.

13 Q Okay. And I'll -- so no defensive or offensive wounds
14 that you could detect outside or inside Thomas's body?

15 A No, ma'am.

16 Q And could you explain to the jury what an offensive or a
17 defensive wound could be?

18 A Well, not exactly sure what an offensive wound is because
19 he'd be the one administering that, but a defensive wound
20 would be any wound say on the hands, arms as if he were
21 putting up his hands to avoid some sort of injury. That I did
22 not see.

23 Q And I apologize. Could you tell us if there was an exit
24 wound where the bullet --

25 A There was no exit wound.

E.L. Proctor, Jr. - Direct by Ms. Wooten

1041

1 Q And where did the bullet enter?

2 A The bullet entered the right occiput, which is the right
3 side of the back of the head, and was lodged in the brain on
4 the left front. So it passed posterior to anterior, right to
5 left through the brain.

6 Q And when you're explaining this, do you think it would be
7 helpful to the jury if they saw photos, black and white photos
8 from the autopsy to assist them throughout this trial?

9 A I have --

10 MR. WILSON: Your Honor, Your Honor, objection. That
11 calls for speculation by this witness.

12 THE COURT: Sustained.

13 MS. WOOTEN: I apologize, Your Honor.

14 BY MS. WOOTEN:

15 Q Did you make any conclusions -- we talked about residue.
16 Did you make any conclusions about the distance from which the
17 firearm was fired in your notes?

18 A Okay. When a, a gunshot wound occurs, there can be a
19 contact wound, which usually you see residue from the end of
20 the weapon in the wound site. Close contact up to about 18 to
21 24 inches, you should see some of the gunpowder or burning of
22 the skin from the hot, burning powder that comes out of the
23 end of the gun. In this case I did not.

24 Q And what conclusion did you have?

25 A Based upon that, I, I, I conclude that the gunshot was

1 fired from a distance probably greater than 18 to 24 inches.

2 Q Okay. And is it possible whenever you make that kind of
3 conclusion, is that a typical conclusion, the 18 to 24 inches?

4 A It's, it's, it's pretty concrete evidence based on
5 usually in handguns, which this was a bullet type weapon, that
6 that's the distance. Now, shotguns and larger caliber weapons
7 may be slightly further, but most, most handguns is 18 to 24
8 inches.

9 Q And is it possible that something could have been placed
10 in between the gun and the victim's head to come --

11 A It's certainly possible. Yes, ma'am.

12 Q In order to come to that kind of conclusion?

13 A Well, if something was placed between the barrel of the
14 gun and the head where the bullet entered, it certainly could
15 have absorbed the residue. So, I, I, I was not given any of
16 that information. So other than the fact that there was no
17 residue, that's what I have to say.

18 Q Okay. If -- in your examination of Tommy, did you make
19 any conclusions about the kind of gun used or the kind of
20 caliber?

21 A This was a small caliber. It's -- I did not other than
22 say that it was small.

23 Q That it was small.

24 A Uh-huh.

25 Q Okay. And you'd mentioned before that you had to remove,

E.L. Proctor, Jr. - Direct by Ms. Wooten

1043

1 I believe, you said two objects.

2 A That's correct.

3 Q And would you explain how that's done, and again, what
4 those objects are --

5 A Okay.

6 Q -- from Mr. Tommy.

7 A The, the, the first object was the piece of rock or hard
8 material from the blunt force object that was used to hit him
9 in the right side of the head. That was removed from the
10 subdural space on the right side and the bullet was removed
11 from his left frontal brain.

12 Q Let's talk about, you mentioned a tox screen. What is a
13 toxicological screen?

14 A All right. On all forensic cases, we do a basic
15 toxicology, which includes blood alcohol and drugs of abuse,
16 and the standard toxicology drugs of abuse are marijuana,
17 cocaine, opiate drugs, benzodiazepines and barbiturates.

18 Q And did you perform a toxicology --

19 A Yes. We did. We did.

20 Q -- on Tommy?

21 A We did.

22 Q Okay. And this is something you usually do as you said;
23 correct?

24 A We perform these on all forensic cases. Yes.

25 Q And how's that process performed?

1 A We actually take blood from the heart, and it is under
2 chain of custody transferred to a national forensic testing
3 lab called National Medical Laboratories, and they perform the
4 forensic evaluation.

5 Q And what kind of findings were found in Tommy's tox
6 screen?

7 A Okay. The toxicologic screen on or toxicologic
8 evaluation on Mr. Thomas Hatfield revealed a negative blood
9 ethanol, and the blood drug screen was positive for
10 hydrocodone.

11 Q Okay. So, negative for ethanol. What does that mean?

12 A No alcohol.

13 Q And positive for hydrocodone.

14 A That means that he had, had some opiate drug within his
15 system.

16 Q And is hydrocodone a prescription medication or an
17 illegal narcotic?

18 A Hydrocodone is, is a prescription medication.

19 Q Okay. And you don't possibly know if Tommy was
20 prescribed that kind of medication?

21 A I have no idea.

22 Q Okay. Did the blood test show anything like cocaine in
23 his system?

24 A No. The, the -- it was screened, it was screened for
25 opiates, which include the hydrocodone, alcohol, cocaine,

E.L. Proctor, Jr. - Direct by Ms. Wooten

1045

1 marijuana, valium drugs and barbiturates, and none of the
2 others were positive.

3 Q So, if there was something like that, illegal drugs in
4 his system, at the time of death, it would have picked it up
5 on the, on the toxicology screen?

6 A It would have picked it up. Yes.

7 Q So, the only thing in Tommy's body, no alcohol, it was
8 just hydrocodone.

9 A Hydrocodone.

10 Q And that's something you can -- a doctor can legally
11 prescribe; correct?

12 A That's correct.

13 Q Okay. Let's talk about Mr. Amos Hatfield, his external
14 examination. What time did you begin his examination?

15 A His examination began approximately 45 minutes to one
16 hour after the first exam.

17 Q That afternoon?

18 A That's correct, the same day.

19 Q And is it normal to, to do the autopsies that -- say the
20 time of death was at three a.m. at night --

21 A Uh-huh.

22 Q -- is it normal to not start the autopsies until say
23 around 1:00, 1:45 that day?

24 A Depending on my work schedule, time I can get into the
25 morgue, those kind of things, that's -- this is, this is, this

1 is fairly rapidly. Usually, usually about 24 hours before we
2 can get in there.

3 Q I figured that. Okay. Could you describe to us how you
4 conducted the forensic autopsy on Amos Hatfield?

5 A Okay. The, the examination on Mr. Amos Hatfield was
6 performed in exactly the same manner as it was on Mr. Thomas
7 Hatfield, to include external examination, internal
8 examination, and maintaining samples and doing a toxicology.

9 Q And after your initial examination, your external
10 examination of Amos, what, if any, injuries did you note or
11 find?

12 A The significant injury of Mr. Amos Hatfield was a single
13 gunshot wound in the midline occiput, which is midline back of
14 the head. There was no residue around that entrance site, and
15 remaining external exam revealed no evidence of traumatic
16 injury or defense wounds.

17 Q Okay. And so besides the gunshot wound, you did not note
18 in doing the external examination any other exterior wounds
19 that you could see.

20 A No, ma'am.

21 Q Okay. Any blunt force trauma?

22 A No, ma'am.

23 Q And let's talk about the gunshot wound a little bit more.
24 Was there an exit for the bullet?

25 A There was not.

E.L. Proctor, Jr. - Direct by Ms. Wooten

1047

1 Q Did you extract a bullet or a projectile from --

2 A It was removed -- there was a small caliber projectile
3 removed from the midline frontal area.

4 Q Okay. I'm going to show you the rest of the photos.

5 MS. WOOTEN: Your Honor, may I approach?

6 THE COURT: All right.

7 (Ms. Wooten and Mr. Wilson confer.)

8 MR. WILSON: No objection for identification, Your Honor.

9 THE COURT: All right.

10 MS. WOOTEN: For identification purposes.

11 BY MS. WOOTEN:

12 Q I'm showing you State's Exhibit 127, 123, 124 and 125.

13 Could you tell us if you recognize those photos and what you
14 see?

15 A Yes, ma'am. Number 127 is a small caliber deformed but
16 jacketed projectile. Number 123 looks like a, a small piece
17 of rock. Number 124 and 125 are, also, photographs of a small
18 caliber deformed jacketed projectile.

19 Q And in all those photos, were those items that were
20 extracted or removed by you from Amos and Tommy Hatfield?

21 A That is correct.

22 Q That, that afternoon?

23 A That's correct.

24 Q Okay. And did you take these photos?

25 A I did not.

1 Q Was there someone else in the room?

2 A There was -- I think this was probably an Horry County
3 case. So, it would have probably been done by the Horry
4 County crime scene division.

5 Q Okay. Did you make any conclusions about the distance
6 on, on Mr. Amos Hatfield, between the head and the firearm?

7 A Again, in Mr. Amos Hatfield there was no residue present.
8 So, based on the information and all that I had at the time of
9 autopsy, I would surmise that it was greater than 18 to 24
10 inches.

11 Q And just like Tommy, could something have been placed
12 like a pillow --

13 A Absolutely.

14 Q -- or something between --

15 A Something could have been placed in the intervening
16 space. That's correct.

17 Q And that would make up for the lack of gunshot residue?

18 A That would -- any, any type of object that the bullet
19 could pass through could absorb a lot -- pretty much all of
20 the residue.

21 Q And did you make the same conclusions about the gun or
22 caliber in Amos?

23 A The -- looking at the photos and whatnot, it was a small
24 caliber projectile. The rounds looked very similar, but
25 someone would have to do a complete exam on those, which is

E.L. Proctor, Jr. - Direct by Ms. Wooten

1049

1 beyond my scope of training.

2 Q You don't have to do that part?

3 A No.

4 Q Did you do a toxicological test on Amos?

5 A We did.

6 Q And did you pick up anything from that?

7 A No. This was also performed by National Medical
8 Laboratory Services, and the blood ethanol and the blood drug
9 screen were negative, no drugs or alcohol.

10 Q Okay. And just a few more questions. Did you -- on the
11 internal examination could you just tell us what exactly does
12 that cover?

13 A Well, internal examination we look at all of the organs
14 to include heart, lungs, liver, abdominal organs, and again,
15 in -- as in Mr. Thomas Hatfield, Amos Hatfield had some
16 medical issues, but none of which that would account for his
17 death at that time.

18 Q And the purpose of all of that is that just to make sure
19 the cause of death and manner of death?

20 A Well, that, that is part of the forensic examination from
21 the standpoint -- it's listed as findings in the case, but not
22 as cause and manner.

23 Q You're just making sure you're being thorough?

24 A We are being, being thorough. Yes, ma'am.

25 Q And what -- upon removing the piece of rock or granite or

1 whatever it could have been and the two projectiles, what did
2 you do with those items?

3 A They were transferred directly to members of the crime
4 scene division, who took photographs. They took charge of
5 all, all items that we -- projectiles, rocks, that kind of
6 stuff that we took out at autopsy.

7 Q So, you didn't have any other --

8 A No.

9 Q -- involvement with those once you took --

10 A No, ma'am. They were turned directly over to them.

11 Q And during your internal examination of both Amos and
12 Tommy, did you see any, any wounds or blood pooling or
13 anything to indicate trauma, beating, anything like that?

14 A I did not.

15 Q Okay. And, and sometimes is that possible that you would
16 see that?

17 A It, it depends on the type of injuries that could have
18 been received. You may see it. You may not.

19 Q So, to your knowledge, even though it's possible that it
20 might not have shown up, no evidence of beating or anything
21 besides the one blunt force trauma?

22 MR. WILSON: Objection. Your Honor, asked and answer
23 several times.

24 THE COURT: Sustained.

25 MS. WOOTEN: Thank you, Your Honor.

E.L. Proctor, Jr. - Direct by Ms. Wooten

1051

1 BY MS. WOOTEN:

2 Q Dr. Proctor, with regard to Tommy Hatfield what was the
3 cause of death?

4 A Okay. The cause of death of Mr. Tommy Hatfield was two
5 specific things, the most significant being the gunshot wound
6 to the head with massive trauma with secondary contributing
7 cause being the blunt force injury to the right side of the
8 head.

9 Q And what was the manner of death?

10 A The manner of death would have been homicide.

11 Q And with regard to Amos Hatfield?

12 A Amos Hatfield would be the gunshot wound to the back of
13 the head with extensive traumatic injury to the brain, and
14 again, manner of death would also have been homicide.

15 Q And I know that you mentioned some illnesses they might
16 have had, but for the gunshots to the head, do you know of any
17 -- do you know if they would have passed away that night by
18 your observations?

19 A Based on my observation, even though they had some
20 disease processes, in all likelihood they would not have.

21 MS. WOOTEN: Your Honor, at this time the State would
22 move to introduce photos, and I'll repeat the numbers, into
23 evidence 128, 129, 131, 132, 121, 122, 126 and 123, 124, 125
24 and 127.

25 THE COURT: All right. Let me see them. Objections?

1 MR. WILSON: Your Honor, obviously, the prejudicial value
2 outweighs the probative value. This witness obviously was
3 able to go through, in some detail I might add, and the
4 Prosecutor went through some length in asking him questions
5 about the, the trauma and about the injuries to the victims.
6 Obviously, also, I think this evidence is not being tendered
7 to the jury to offer -- be offered for the truth of the matter
8 asserted. I think it's being offered to inflame the passions
9 of the jurors, and I would ask that the Court, in an abundance
10 of caution, keep those photos out. I think the Doctor did a
11 very good job. Obviously, I can cross examine him about any
12 issues that we believe are, are available.

13 MS. WOOTEN: Your Honor, the State, in no way, shape or
14 form, is trying to inflame any emotion or passion from the
15 jury. This is a homicide case, and these are autopsy photos
16 from the homicide taken by a trained professional from Horry
17 County Police Department. I understand that in a homicide
18 case there are prejudicial things that are going to come
19 through in evidence; however, the probative value explains,
20 the doctor explained several medical terms that the jury is
21 not expected to understand, nor do I. This will better help
22 and assist the trier of fact in understanding what to conclude
23 in this trial, what to understand from the autopsy in this
24 case, which was a major part of the case. Also, it's not
25 unduly prejudicial, whatsoever, considering the probative

E.L. Proctor, Jr. - Cross by Mr. Wilson

1053

1 value and that they are black and white photos, and we are not
2 entering anything grotesque or internal at all. These are
3 only external examination photos.

4 THE COURT: All right. All right. I'm going to allow
5 State's Exhibits 124, 125, 123 and 127. I think from his
6 testimony the prejudicial value outweighs the probative value
7 on 128, 129, 126, 122, 121, 130, 131 and 132. So, I'm
8 sustaining the Defendant's objections to Plaintiff's Exhibits
9 128, 129, 126, 122, 121, 130, 131 and 132.

10 MS. WOOTEN: Thank you, Your Honor.

11 MR. WILSON: Thank you, Your Honor.

12 THE COURT: Thank you.

13 (Whereupon, State's Exhibits Numbers 123, 124, 125 and
14 127 [Photographs] admitted into evidence and appropriately
15 marked.)

16 BY MS. WOOTEN:

17 Q Dr. Proctor, at this time, I have no further questions
18 for you. Please answer any questions Mr. Wilson may have.

19 CROSS EXAMINATION

20 BY MR. WILSON:

21 Q Doctor, how you doing today?

22 A I'm good, Ralph. How you doing?

23 Q Pretty good, sir.

24 A Nice to see you.

25 Q Let me ask you this question, and I don't have a lot of

1 questions, but just so the jury's not confused, when you talk
2 about gunshot residue on the burn -- on the, on the actual
3 victim, you look for that on the victim, but you're not
4 talking about hand or gunshot residue that might transfer to
5 someone's body; are you?

6 A No, sir. We are not.

7 Q Okay. You're just talking about what would have occurred
8 if there had been a close proximity shot to any victim?

9 A That's correct.

10 Q Okay. All right. And also, and I just wanted to make
11 sure I wasn't incorrect, I think you testified under direct
12 examination that Amos had only one injury. Did he have one
13 injury or two injuries?

14 A No. All right. The older gentleman, who I think is
15 Amos, is that correct?

16 Q Yes, sir.

17 A He had the midline occipital wound.

18 Q Yes, sir.

19 A And the younger gentleman had the two, the blunt force
20 and the occipital wound.

21 MR. WILSON: Your Honor, may I approach the witness?

22 THE COURT: Yes.

23 BY MR. WILSON:

24 Q And if you could, just read that first paragraph --

25 A Okay.

E.L. Proctor, Jr. - Cross by Mr. Wilson

1055

1 Q -- for me regarding external injuries.

2 A All right. I did -- there is a -- okay. There is a
3 contusion on the front of his head.

4 Q Okay. All right. Thank you, Doctor.

5 A I am remiss.

6 Q No. That's okay. That's all right. Thank you, Doctor.

7 A Yes, sir.

8 Q And my last question is this, and I know that you
9 obviously as a doctor know this, and I may know this, but the
10 jury may not, when you do a pathology report or when you do a
11 pathology on a particular victim, you can't come up with an
12 actual identity of a person who may have committed a homicide
13 even though you deem it to be a homicide; correct?

14 A That is correct.

15 Q Okay. So you haven't identified this Defendant as being
16 the person who committed this homicide?

17 A The only thing I can identify, Mr. Wilson, is where the
18 injuries are, what they look like, and based on our training,
19 distances and whatnot, but in no way, shape or form can I tell
20 you who administered those injuries.

21 Q I have no further questions. Thank you, Doctor.

22 A Yes, sir.

23 THE COURT: Redirect?

24 MS. WOOTEN: Very briefly, Your Honor. I just wanted to
25 ask one question of the Doctor just to make and -- but I

1 wanted to see what photos were entered. Thank you. Just to
2 protect us. I have no further questions, Your Honor. Thank
3 you. Thank you, Dr. Proctor.

4 THE COURT: All right, you may step down.

5 A Thank you, Your Honor.

6 MS. WOOTEN: Your Honor, at this time, the State would
7 request that Dr. Proctor be excused.

8 THE COURT: Any objection?

9 MR. WILSON: No objection, Your Honor.

10 THE COURT: All right. He's free to go.

11 MS. WOOTEN: Thank you, Dr. Proctor.

12 THE COURT: Thank you very much. Let me see the
13 attorneys for a second.

14 (Whereupon, a bench conference is held in the presence
15 but out of the hearing of the jury.)

16 THE COURT: Oh, okay. You all are going to rest at this
17 time?

18 MR. RICHARDSON: Yes, sir.

19 THE COURT: Oh, okay. Well, good.

20 MR. RICHARDSON: Trying to head you off on things.

21 THE COURT: Thank you.

22 MR. RICHARDSON: At this time the State would rest, Your
23 Honor.

24 THE COURT: All right.

25 MR. RICHARDSON: It's presented all its evidence.

E.L. Proctor, Jr. - Cross by Mr. Wilson

1057

1 THE COURT: All right. Ladies and gentlemen, the State
2 has rested their case, which means they have presented their
3 case in chief in full, and now is the time of the trial where
4 I have to take up some matters of law with the attorneys.
5 Given the time of day, I think it's a good time for us to go
6 ahead and break for the day. So, I'm going to excuse you to
7 go home. I'm going to ask that you please be back in the jury
8 room at 9:00 o'clock tomorrow morning, and again, I want to
9 thank everyone for being prompt. Everyone has been very
10 prompt and returning on time, and I want to thank you for
11 that.

12 I do have some matters of law that I need to take up with
13 the attorneys, and I'll tell you why we do that outside the
14 presence of the jury, it's not that we're trying to hide
15 anything from you or keep anything from you, but as I told you
16 at the beginning of the trial, you and you alone decide the
17 facts of this case, and you decide those facts based upon the
18 testimony and evidence presented during the trial. Now, when
19 we decide these legal matters or these issues of law, what law
20 is to be applied, it requires the attorneys and it requires me
21 as the Judge sometimes to reference factual issues. Well,
22 what we say is not evidence, and so, when we decide these
23 matters of law, we do not want you to be influenced by
24 anything that we might say in deciding what law to apply to
25 influence your decision on the facts, and that's why we

1 exclude you from the courtroom when we decide that, but given
2 the time of day, it is a good time for us to go ahead and take
3 a break. Please leave your pads in the jury box. I hope
4 everybody has a good evening. Do not discuss the case even
5 among yourselves. Don't conduct any independent
6 investigations, and we'll see you back at 9:00 o'clock
7 tomorrow.

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: All right. Any motions at this time?

11 MR. WILSON: Judge, we, obviously, are going to motion
12 for a directed verdict at this time, Your Honor, and if it
13 please the Court, I'd like to start arguments today if, if the
14 Court's so willing or I can wait till the morning.

15 THE COURT: Okay. Let's go ahead and do them now.

16 MR. WILSON: Thank you, Your Honor. Judge, I'm not going
17 to belabor the point regarding -- the rulings regarding or the
18 law regarding, obviously, directed verdicts. I think the
19 Court is well aware of the law on directed verdict, but I do
20 want to point the Court to State versus -- excuse me, State of
21 South Carolina versus Kevin Tyrone Bennett, Appellant. This
22 was a case that was reversed in the Court of Appeals, Judge,
23 and I do want to go over in some detail with the Court this
24 particular case. I think it's, obviously -- it came from or I
25 think it was derived from the ruling that the Supreme Court

Motions

1059

1 made in 2011 regarding directed verdicts or regarding
2 circumstantial evidence cases, and in this case that we have
3 before you, Judge, my concern is is that there is some tenuous
4 at best circumstantial evidence which tends to show some
5 suspicion on this particular Defendant, but it doesn't go
6 beyond that, and if I could read from this particular case,
7 Judge, this is State versus Bennett where a -- let me actually
8 move -- (as read), "After the State rested, Bennett moved for
9 a directed verdict on all charges arguing, through the Court,
10 there was no evidence or there was evidence of the presence of
11 his fingerprint and blood in the Center, it was public
12 building and the evidence showed he often visited the
13 building. The State countered, viewing that the evidence in
14 light most favorable to the State, based on the presence of
15 the fingerprint near the television with damaged brackets as
16 well as blood near the missing television, the jury could
17 infer Bennett was the burglar in this particular case. The
18 trial court recognized this was circumstantial evidence, but
19 denied Bennett's motion finding there was substantial
20 circumstantial evidence from which the jury could conclude
21 Bennett was the perpetrator of the crime."

22 (As read) "In an appeal in this case from the denial of
23 the motion for the directed verdict, this court must view the
24 evidence in a light most favorable to the State, which is the
25 review, and if there is any direct evidence or any substantial

1 circumstantial evidence reasonably tending to prove the guilt
2 of the accused, we must find that the case was properly
3 submitted to the jury, and on appeal, Bennett contends that
4 the trial court erred in denying his motion for directed
5 verdict, because the evidence against him was solely
6 circumstantial, and the circumstantial evidence was not
7 substantial." The court said, "We agree."

8 "The State's case consisted solely of circumstantial
9 evidence. It relied" -- excuse me -- "it relied or relied
10 primarily upon the following: that Bennett's fingerprint was
11 found on the community room television set that may have been
12 manipulated by the burglar in an attempt to remove the
13 television, and that two small droplets of blood matching
14 Bennett's DNA were found below the space where a stolen
15 television was once in the computer room. However, it is
16 uncontroverted that Bennett was a frequent visitor to the
17 Center prior to the crime, spending much of his time in the
18 computer room. Additionally, while the director of the Center
19 testified she was in the habit of monitoring Bennett when he
20 was at the Center, she acknowledged that she typically left
21 the Center at least one hour before it closed." The
22 conclusion in this case, Your Honor, is that "based on the
23 foregoing, we the trial court" -- excuse me -- "we find that
24 the trial court erred in refusing to grant Bennett's motion
25 for a directed verdict," and that's just one of the cases,

Motions

1061

1 Judge.

2 There is another case out of 2011. The Court's
3 indulgence, Your Honor. This is State, excuse me, South
4 Carolina State versus Kevin Cornelious Odems, and I'm not
5 going to go into too much details, Judge, but I am going to
6 give the Court a little background. (As read), "A police
7 search of the Cadillac recovered in this case, several items
8 were identified as stolen from the victim's home, including a
9 camcorder, a money jar containing between \$300, \$400, a
10 camera, three watches, and a gun. The estimated total value
11 of the stolen items was" -- excuse me -- "\$1,000. The York
12 County grand jury indicted Petitioner for first degree
13 burglary, grand larceny, criminal conspiracy, and malicious
14 injury to electrical systems. At trial, Petitioner moved for
15 a directed verdict, and at close of the State's evidence, the
16 circuit court denied the motion. The jury convicted
17 Petitioner on all four charges, and the circuit court
18 sentenced Petitioner to 15 years imprisonment. The issue
19 presented, did the Court of Appeals err in holding the circuit
20 court properly refused to direct a verdict for Petitioner on
21 the charges of first degree burglary, grand larceny, criminal
22 conspiracy, and malicious injury to property. On appeal from
23 the denial a directed verdict, this Court must view the
24 evidence in the light most favorable to the State," and I
25 won't belabor the point, Judge.

1 THE COURT: All right.

2 MR. WILSON: (As read) "The circumstantial evidence
3 presented in Petitioner's case is analogous to that found in
4 Bostic and Lawless. The State's case against petitioner
5 relied primarily on three pieces of circumstantial evidence,
6 (1) the fact that the -- there was less than 90 minutes after
7 the burglary, police located Petitioner in the getaway car
8 also Petitioner fled from law enforcement; and (3) Petitioner
9 asked an uninvolved person to lie for him or saying that he
10 asked an uninvolved person to lie for him. Even when viewed
11 in the light most favorable to the State, circumstantial
12 evidence presented does not reasonably tend to prove
13 Petitioner's guilt. The sole eyewitness to the Petitioner's
14 case described only two men at the scene. Conclusion, the
15 circumstantial evidence presented by the State does not
16 reasonably tend to prove Petitioner's guilt, and fails this
17 Court's well-settled directive that circumstantial evidence
18 that is not substantial is insufficient to go to the jury,
19 should not. Thus, we reverse the Court of Appeals' decision
20 affirming Petitioner's 2005 convictions."

21 My concern in this case is is that you have no weapon.
22 You have text messages which the State has not confirmed who
23 the actual other people are who were receiving or sending
24 those text messages. You actually have a case in this, in
25 this situation where you have an insurance policy that they're

Motions

1063

1 trying to hang their hats on and say that, you know, this was
2 the motive for this particular murder, and on top of that,
3 Judge, there is no forensic evidence, none. In one of the
4 cases, there was blood evidence. There is no forensic
5 evidence which ties this Defendant to this crime, not one
6 single piece, not anything, nothing, not an iota, and this
7 Defendant is entitled, I think, Judge, to a directed verdict,
8 not for just those reasons. The fact that they haven't
9 produced anyone, no one says that they saw this Defendant
10 shoot anybody. No one says that there's a conspiracy.
11 There's been no talk of conspiracy. There's no evidence of
12 it. I haven't seen the Co-Defendants testify about it. I
13 haven't seen anyone who knows the Co-Defendants get up on the
14 stand and testify about it. I haven't seen anything. All you
15 have now is suspicion, and I would say it doesn't go beyond
16 that, Judge, and, and the circumstantial evidence that the
17 State is trying to put up to convict her it should never make
18 it to the jury. It should never make it to the jury because
19 they don't have enough evidence to convict this Defendant by
20 law.

21 Now, the facts are bad, which is one of the reasons the
22 Court says that you shouldn't allow the State to enter into
23 this kind of activity where they have weak circumstantial
24 evidence which is tenuous at best, and then throw bad facts
25 into a case, which obviously is going to inflame anyone, and

1 then send the circumstantial evidence to the jury and then
2 allow them to convict this, this Defendant, and the Court's
3 trying to protect this very thing from happening. I would
4 challenge anyone to show one piece of forensic evidence that,
5 that, that points to this Defendant, anything, and I'm not
6 talking about the testimony of the police officers, who have
7 an obvious motive to fabricate evidence, and obviously --

8 MR. RICHARDSON: Oh, I object to that, Your Honor.

9 MR. WILSON: Hold, this is --

10 MR. RICHARDSON: They have a motive to fabricate
11 evidence?

12 THE COURT: Okay. He's --

13 MR. WILSON: This -- Judge --

14 MR. RICHARDSON: I'd ask that be stricken from the
15 record.

16 THE COURT: Okay. He's just arguing a motion. It's not
17 in front of the jury. Go ahead.

18 MR. WILSON: Judge, my concern here, and not just the
19 credibility of the officers themselves, who have testified in
20 this case, my concern here is that most of what's on that
21 tape are the officers giving testimony. That in itself is
22 weak circumstantial evidence, which is going to the jury, and
23 I would ask the Court, in an abundance of caution, allow a
24 directed verdict to be entered in this case because I think
25 under the law she's entitled to that. Thank you, Your

Motions

1065

1 Honor.

2 THE COURT: All right. Mr. Richardson or Ms. Wooten, who
3 wants to argue?

4 MR. RICHARDSON: Your Honor, with regard to the two cases
5 that the Defense cited, number one, in Odems, the Defense
6 neglected to say that the two other guys that got convicted in
7 this also stated that Odems was not involved. That was a key
8 piece the Court relied on, in addition to the fact that it was
9 weak, he was only seen in the car, they only saw two guys
10 enter the house. There's no evidence Odems ever entered the
11 house.

12 With regard to Bennett, I think that came out just a
13 couple of weeks ago, and it was a burglary of a common area
14 where the only evidence was two drops of blood in the common
15 area where the Defendant testified he had been. Other people
16 said he had been in there, and there was a fingerprint near
17 where a TV that was stolen. Once again, that's a common area,
18 a common TV, Your Honor, and so, they didn't have enough in
19 that case.

20 In this case, however, actually got it two ways. First,
21 by the Defendant's own statement, she states that it was
22 supposed to be a robbery. Under questioning, she stated that
23 she allowed James and his buddy, she said, I think, Bo Bo, at
24 the time in for the purpose of the robbery. There's a death
25 that occurred during that robbery. Under hand of one, hand of

1 all she's an active participant by letting them in, and
2 allowing them to come in as evidenced by her text messages,
3 and it would be under felony murder that would be on that
4 direction, but more so, Your Honor, there's no doubt that a
5 murder did take place. The elements are met for murder.
6 It's been ruled a homicide. It was an execution style murder.
7 I can't think of anything more malice filled than that. The
8 facts are that the credibility that's actually in question
9 isn't the officers. They, they don't stand anything to gain.
10 They don't get a bonus per arrest. It's the Defendant's
11 credibility. She, she talked to officers. She lied again and
12 again, admits to her lies later on, Your Honor. Only when
13 confronted with the fact her own cell phone records, her own
14 cell phone records does she finally say, "Okay, well, it was
15 supposed to be a robbery," because she knows that quicksand is
16 closing in on her, Your Honor. The evidence that'd be before
17 the Court were that a 25-caliber was used, that -- and given
18 it's circumstantially, but that Amos had a 25-caliber pearl,
19 pearl-handled, that was the most distinctive thing about it,
20 he had had it. Faye Hunt, if to be believed, stated she saw a
21 pearl-handled. The most distinctive thing for her was the
22 pearl-handled that the Defendant had and then that Odom Bryant
23 had a pearl-handled handgun.

24 The, the [REDACTED] number, the number that was texting back
25 and forth, Your Honor, I agree we didn't put up -- put forward

Motions

1067

1 information that -- who that particular belongs to, but the
2 Defendant states that she talked with those fellows that day,
3 they were talking about a rape -- I'm sorry, robbery. She
4 lied again and again, and every time that lie came undone she
5 cried rape, Your Honor, and there's no physical evidence in
6 that. You heard from Janet Moore, heard from her own mouth
7 after she was very descriptive on who broke in, "White boy,
8 light-skinned black dude, white dude was good looking, blonde
9 hair, blue eyes, looked like he had a tan, saw him at the
10 Sonoco about 10:30, 11:00 o'clock." They could find no
11 evidence of that. "Okay, well, maybe I saw him at the IGA,
12 10:30, 11:00 o'clock." No evidence of that. What we do have
13 is a receipt showing she was at, at the IGA right before 9:00
14 o'clock, at least she was. We don't have any evidence about
15 who was there with her, Your Honor, but we do have the text
16 messages back and forth, Your Honor. She changed her story
17 time and again. She, she admitted to being involved in this.
18 It's only later after she's had some time to think about it
19 she says, "Well, here was the plan, that we were going to
20 scare Tommy, and it went bad," and yet she still doesn't give
21 up the names, Your Honor.

22 THE COURT: Well, let me ask you this. Is it the State's
23 case that she is guilty of murder by the hand of one is the
24 hand of all because she participated in a burglary or is it
25 the State's case that she collaborated with two other

1 individuals to kill her husband for insurance?

2 MR. RICHARDSON: It would be the State's case that she
3 collaborated to kill for the, for the insurance -- that's,
4 that's the case that the State has argued from the get go,
5 Your Honor. It's for the insurance money.

6 THE COURT: Okay. Well, then what does --

7 MR. RICHARDSON: I'm just saying that that is something
8 in the evidence most favorable to the State as the non-moving
9 party, Your Honor. I just put that forward.

10 THE COURT: Okay. Well --

11 MR. RICHARDSON: There's no evidence of any robbery other
12 than, than, than what she said, and even in that, she later on
13 says she was lying about that, "No. You've got to believe
14 this story now."

15 THE COURT: So, what evidence has the State presented
16 that says she corroborated or collaborated with these other
17 two individuals to kill her husband so she can collect
18 insurance?

19 MR. RICHARDSON: Your Honor, I think that they can draw,
20 draw an inference from the statement she made to Faye Hunt
21 about when he died she'd be a rich bitch, and when Ms. Hunt
22 testified, she said, "I don't care. I can talk about him
23 however I want," that she had possession of a weapon, that,
24 that she was in correspondence with, with the, with the
25 killers that night, Your Honor, and then she lied.

Motions

1069

1 THE COURT: Well, let me ask you this. Let me ask you
2 this because I never did, and I may be wrong. I may have
3 just missed it. What is the timeframe between that -
4 when that statement was made and when the crime was
5 perpetrated?

6 MR. RICHARDSON: She just -- as I understand that she
7 said it was -- she thought it was about the summertime, Your
8 Honor. This happened in August. The summertime could have
9 been August, could have been July, could have been June, Your
10 Honor.

11 THE COURT: Of the same year?

12 MR. RICHARDSON: That is my understanding from the
13 testimony, Your Honor. She said she didn't start hanging out
14 till the end of 2011, and then she, she finds out about the
15 insurance policy sometime summertime. So, from the end of
16 2011, the only summertime that would be available is summer of
17 2012.

18 Your Honor, the -- that shows --

19 THE COURT: So, the State is not looking for a charge in
20 this case to the jury that when a person participates in the
21 commission of a crime if a murder is committed ---

22 MR. RICHARDSON: A felony murder doctrine, no, sir, Your
23 Honor.

24 THE COURT: Okay.

25 MR. RICHARDSON: I'm not looking for felony murder

1 doctrine. What I am looking -- I will be looking for hand
2 of one, the hand of all because I wish I could tell you
3 exactly who pulled that trigger. I wish we had the gun
4 today.

5 THE COURT: But the State is not looking for a felony
6 murder charge or anything?

7 MR. RICHARDSON: No, sir. I'm not going to ask for a
8 felony murder doctrine, Your Honor.

9 THE COURT: Okay.

10 MR. RICHARDSON: But you know, Your Honor, while the
11 State doesn't have to prove motive, we've got motive aplenty
12 here. She was present during the commission of this as
13 evidenced by what she identifies as her cell phone, texting
14 somebody agreeing to open the door, and then the murder
15 occurs, and a short time later she's making a 911 call, Your
16 Honor, saying she's been raped. That gig goes up at some
17 point. She says, "All right. They tried to rape me." That
18 gig goes up when the cell phone records come in. "Okay, well,
19 I wasn't a rape. It was just supposed to be a robbery." She
20 lies time and again, Your Honor. She had the motive. She had
21 her cohorts from Tabor City, and we have to remember that all
22 the time before she said, "These boys must be from Loris,
23 never seen them before, didn't know them." She's trying to
24 distract away from her cohorts with no fear because she thinks
25 the police are believing it, Your Honor. I think there is

Motions

1071

1 sufficient evidence to go to the jury. This is very different
2 than both Odem and Bennett, certainly different than Bennett,
3 and while the Defense argues there's no forensics tying her to
4 the scene, she admits to being at the scene, Your Honor. She
5 admits to being there. And Your Honor, finally, the, the --
6 at this stage the, the motion should be weighed in the light
7 most favorable to the State.

8 THE COURT: All right. Anything in reply?

9 MR. WILSON: Your Honor, just briefly. Judge, in this
10 case, there is still -- the question still remains unanswered.
11 There is still no evidence of malice aforethought. There's no
12 evidence that this Defendant caused a murder or facilitated
13 the murder to happen. Not only that, they don't even have the
14 Codefendants in here saying, "Yes, she was a part of a
15 conspiracy." If that was the case, then I would say, you know
16 what, they have enough to go to the jury. There's not even
17 that. There's not fingerprints, and mere presence is not a
18 sign of guilt. That's black letter law, settled, Judge. Now,
19 and my concern is is that, again, the, the, the bad facts in
20 this case, how bad the facts are, is really what the State's
21 relying on, not evidence. There is tenuous circumstantial
22 evidence at best, tenuous, and I say tenuous and that is I
23 think being quite gracious because there is nothing still in
24 the record that ties this Defendant to malice aforethought to
25 her actually committing a murder at all, nothing, not one

1 thing. I haven't seen one piece of evidence that went up
2 other than the police officers testifying about what they say
3 she said. That's it, nothing else.

4 THE COURT: All right. Well, I mean, that -- why is that
5 not evidence? I mean, they gave a statement. She gave a
6 statement and why is that not evidence?

7 MR. WILSON: They gave -- Judge, if you'd listen to what
8 the sergeant said today, his testimony conflicted with what
9 Frebowitz said earlier. Frebowitz clearly said on the stand
10 that this Defendant said, "I guess it was a robbery." This --
11 then sergeant gets up there and says during the same
12 conversation, because I asked him was Frebowitz in the room,
13 he said, "Yes," he then says, "Oh, yeah, she admitted to me
14 there was a robbery," none of which can be heard by the jury,
15 but I know weight is not an issue for the Court. I still
16 argue, Judge, that there is no evidence which tends to prove
17 she was a part of a conspiracy with anyone to actually commit
18 a murder.

19 THE COURT: Okay. All right. Well, all I have to do is
20 to decide whether or not there is any existence of evidence,
21 and I don't go on the weight of the evidence. That's a jury
22 question. So, I'm going to deny your motion for a directed
23 verdict.

24 MR. WILSON: Thank you, Judge.

25 THE COURT: All right.

Motions

1073

1 MR. RICHARDSON: Thank you, Your Honor.

2 THE COURT: All right. Anything else?

3 MR. RICHARDSON: From the State, Your Honor, for
4 scheduling purposes, I understand Mr. Wilson has, has an
5 expert, Dr. Best. Is he going to be here tomorrow?

6 MR. WILSON: Dr. Best, I'm going to call him, Judge, and
7 when I choose to call him.

8 THE COURT: Okay.

9 MR. RICHARDSON: The question I ask, Your Honor, I had
10 Dr. David Eagerton on my witness list and he's solely as a
11 rebuttal witness.

12 THE COURT: All right.

13 MR. RICHARDSON: He'd be traveling in from Greenwood. So
14 I can talk with him this evening. I didn't know if you wanted
15 -- I could have him down here Wednesday morning, and he
16 wouldn't take terribly long, Your Honor, if it came time for
17 reply.

18 THE COURT: All right. All right. Well, I would go
19 ahead if you think you're going to need him for reply and go
20 ahead and set him up and be getting him available. I just
21 don't know at this point in time.

22 MR. RICHARDSON: Talking about for tomorrow afternoon,
23 Your Honor or --

24 THE COURT: I have no idea.

25 MR. RICHARDSON: Okay.

1 THE COURT: I don't know how long their defense or if
2 they're going to present a defense. I don't know what they're
3 --

4 MR. RICHARDSON: Yes, sir. Do you want to --

5 THE COURT: -- what their plan is. All right. Yeah, I
6 am going to go ahead and let's question your client or let me
7 advise her on her rights, and then tomorrow morning we'll come
8 back and she can let me know at that time.

9 MR. WILSON: Yes, Your Honor.

10 THE COURT: Okay. All right.

11 MR. WILSON: Yes, Your Honor.

12 THE COURT: All right, let's place her under oath,
13 please.

14 (Whereupon, the Defendant is sworn by the clerk.)

15 THE COURT: All right. Ma'am, hold for a second. All
16 right. Ma'am, you are Sandy Lee Locklear?

17 MS. LOCKLEAR: Yes, sir.

18 THE COURT: All right, Ms. Locklear, at this time I'm
19 going to explain to you certain rights that you have under the
20 United States Constitution, and if you do not understand
21 anything I say please let me know, okay? If you want me to
22 explain anything in more detail I want you to let me know,
23 okay?

24 MS. LOCKLEAR: Yes, sir.

25 THE COURT: All right. Do you understand that so

Questioning of Defendants Re: Rights

1075

1 far?

2 MS. LOCKLEAR: Yes, sir.

3 THE COURT: All right. We've now reached the stage of
4 the trial where you may present your defense. You have the
5 right to claim the protections given to you by the Fifth
6 Amendment to the United States Constitution which states in
7 part that no person shall be compelled in any criminal case
8 to be a witness against his or her -- him or herself. This
9 means that you cannot be required to testify in this case.
10 You have the right to testify on your own behalf. However, no
11 one can make you testify. This is a personal right. No one
12 can waive this right except for you. If you decide to
13 testify, you will be subject to the same rules that govern
14 other witnesses and you may be examined and cross-examined on
15 any relevant issue in this case. In addition, if you have any
16 convictions involving dishonesty or false statement or for
17 crimes punishable by imprisonment for more than a year and
18 this Court determines that the probative value of admitting
19 that evidence outweighs its prejudicial effect to you then
20 the Solicitor will be able to introduce your record to attack
21 your credibility. Does the State have any prior convictions
22 or any prior bad acts that they intend to cross-examine her
23 on?

24 MR. RICHARDSON: No, sir, Your Honor.

25 THE COURT: Okay. All right. If you decide to testify,

1 this decision on your part must be freely, voluntarily and
2 intelligently made, with knowledge of the protections given to
3 you by the Fifth Amendment and the consequences of your
4 decision to testify. If you decide not to testify, I will
5 instruct the jurors that they cannot give the fact that you
6 did not testify any consideration whatsoever, and that there
7 is to be absolutely no prejudice to you because you did not
8 testify. It is left entirely up to you whether or not you
9 testify. You may talk with your attorney, your family and
10 friends or anyone else, but the final decision will be left
11 entirely up to you. All right. Do you understand what I have
12 explained to you?

13 MS. LOCKLEAR: Yes, sir, I do.

14 THE COURT: All right. Do you have any questions about
15 what I've explained to you?

16 MS. LOCKLEAR: No, sir.

17 THE COURT: All right. Have you had ample opportunity to
18 discuss this matter with your attorney?

19 MS. LOCKLEAR: I have.

20 THE COURT: Okay. Since we're going to go ahead and
21 break for the day, I want you to go ahead and consider it some
22 more, speak with whoever you want to speak about it, but when
23 we come back tomorrow morning I'm going to ask you at that
24 point in time whether or not you wish to testify in this case.
25 Okay?

Questioning of Defendants Re: Rights

1077

1 MS. LOCKLEAR: Yes, sir.

2 THE COURT: All right. Anything further the State wants
3 placed on the record in that regard?

4 MR. RICHARDSON: Your Honor, I may have misspoke
5 whenever I said there was no record. I do see a 1994 looks
6 like a conviction for theft by deception with a guilty
7 disposition.

8 THE COURT: All right.

9 MR. RICHARDSON: It was out of the State of New Jersey, I
10 believe.

11 THE COURT: All right. So, if they -- if you do take
12 the stand since that was theft by deception that's a crime
13 -- it's called a crime of moral turpitude. In other words,
14 it's a crime that tends to show dishonesty or deceitfulness
15 or something of that nature. They would be allowed to cross
16 examine you on that issue. You understand that?

17 MS. LOCKLEAR: Yes, sir.

18 THE COURT: Okay. Anything else?

19 MR. RICHARDSON: There was a fleeing and eluding police,
20 but that was '98, and that -- I don't really think that
21 pertains to moral turpitude, Your Honor.

22 THE COURT: I don't think so either.

23 MR. RICHARDSON: Or dishonesty.

24 THE COURT: All right. So, we're just talking about the
25 -- what was the charge, the New Jersey charge?

1 MR. RICHARDSON: Theft by deception out of New Jersey,
2 Your Honor.

3 THE COURT: All right. So, theft by deception is the
4 only --

5 MR. RICHARDSON: I think it is a misdemeanor, Your
6 Honor.

7 THE COURT: -- crime that we have at that time, but, but
8 if it is a crime of moral turpitude they will be able to
9 cross-examine you on that to attack your credibility. You
10 understand that?

11 MS. LOCKLEAR: Yes, sir. I do.

12 THE COURT: All right. Anything further the State wants
13 placed on the record in that regard?

14 MR. RICHARDSON: Not at this time, Your Honor.

15 THE COURT: All right.

16 Anything further the defense wants placed on the
17 record?

18 MR. WILSON: Nothing at this time, Your Honor.

19 THE COURT: All right. Let's stand in recess. I've got
20 the jury coming in at 9:00 o'clock. I'll take the bench at
21 9:15. Okay?

22 MR. RICHARDSON: Yes, sir, Your Honor.

23 MR. WILSON: Thank you, Judge.

24 THE COURT: Thank you very much.

25 MS. WOOTEN: Thanks, Your Honor.

Questioning of Defendants Re: Rights

1079

1 (Adjourned for June 9th, 2014.)
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1 (State v. Sandy Lee Locklear, 2013-GS-26-302, 304. On
2 the record, June 10, 2014. The following takes place outside
3 the presence of the jury.)

4 THE COURT: All right. As we discussed in chambers, Mr.
5 Wilson, if your client is going to testify then before you
6 call her just ask for a recess and I'll question her on her
7 right to testify.

8 MR. WILSON: Yes, Your Honor.

9 THE COURT: If she's not going to testify then before you
10 rest ask for a recess and I'll question her at that time, and
11 we'll do it that way.

12 MR. WILSON: Yes, Your Honor.

13 THE COURT: Okay. All right. Anything from the State
14 before we bring the jury in?

15 MR. RICHARDSON: No, sir, Your Honor.

16 THE COURT: Anything from the Defense?

17 MR. WILSON: Nothing, Your Honor.

18 THE COURT: All right. Let's go ahead and bring the jury
19 in. Well, let me see the attorneys quick up here.

20 (Whereupon, a bench conference is held.)

21 (Whereupon, the following takes place in the presence of
22 the jury.)

23 THE COURT: All right. Are we squared away? Ladies and
24 gentlemen, welcome back. I hope everyone had a good evening.
25 We are now ready to resume the trial of this case. Make sure

State v. Locklear

1081

1 you've got your own notepads with you and no one else's
2 notepad before we proceed. Now, the State has presented their
3 case in chief, and now is the time of the trial where the
4 Defense, if the Defense chooses, can present their case in
5 this trial. All right. Mr. Wilson, the Defendant can call
6 its first witness.

7 MR. WILSON: Your Honor, if it please the Court, the
8 Defense calls John Rowe, III. Your Honor, may I step outside
9 one second?

10 THE COURT: Yeah.

11 MR. WILSON: Thank you, Judge.

12 THE COURT: All right. Let me, let me see the attorneys
13 for a second.

14 (Whereupon, a bench conference is held.)

15 THE COURT: All right. Sir, if you want to go ahead and
16 call him.

17 MR. WILSON: John Rowe, III.

18 Whereupon, John Rowe, III, was called to the stand, duly
19 sworn by the clerk and testified as follows:

20 THE CLERK: Speak into the microphone. State your full
21 name and spell your last name.

22 MR. ROWE: Sure. John William Rowe, III. Last name is
23 spelled R-O-W-E.

24 THE COURT: All right. Ladies and gentlemen of the jury,
25 I did not ask if anyone had any type of association with Mr.

1 Rowe when we went through voir dire earlier when you were
2 chosen to be as jurors on this case. So, I need to ask you at
3 this point in time is there any member of the jury who has a
4 personal relationship, social relationship, business
5 relationship or any other type of relationship with this
6 witness; if so, please raise your right hand.

7 (No response.)

8 THE COURT: All right. Let the record reflect no one
9 raised their right hand. All right. Mr. Wilson, you can go
10 forward with your questioning.

11 MR. WILSON: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. WILSON:

14 Q Mr. Rowe, could you tell the jury where you're employed
15 at?

16 A First Federal Bank.

17 Q Okay. And could you tell the jury what you do at First
18 Federal Bank?

19 A Yes, sir. Senior vice president, retail area manager for
20 the Grand Strand and Wilmington branches.

21 Q Okay. And what are your duties at the bank under that
22 title?

23 A Oversee our daily operation at 25 First Federal offices
24 or branch locations.

25 Q Okay. And you would be familiar with the operations

John Rowe, III - Direct by Mr. Wilson

1083

1 obviously of First Federal; correct?

2 A Yes, sir.

3 Q Okay. And you would know how the bank would operate in
4 its day-to-day, I guess, activities?

5 A Yes, sir.

6 Q Okay. All right. Now, let me ask you this. When
7 anyone, any person comes to the bank to open up an account
8 tell me the process, tell the jury the process of doing that?

9 A Well, we require multiple forms of identification. Most
10 commonly it's going to be a state issued ID or driver's
11 license, Social Security card, birth certificate. We just
12 need forms of identification to verify the individual that's
13 wanting to do business with us, and then we run a series of
14 checks, most typically a credit check or what we would call a
15 ChexSystems check, which is where we're cross-referencing to
16 see if there's been any prior insufficient checks presented on
17 that particular individual and their Social Security number,
18 and then once that's done then we proceed with establishing a
19 new deposit relationship or loan relationship or savings
20 relationship.

21 Q Okay. So, at some point in time during the course of, I
22 guess, the application process or the intake process the bank
23 actually does a credit check and then they also run, I guess,
24 you know, I guess some sort of analysis on whether or not
25 they've have had insufficient funds on other checking

1 accounts?

2 A Absolutely. Yes, sir.

3 Q Okay. All right. And do you know -- let me ask you
4 this.

5 MR. WILSON: Your Honor, may I approach the witness?

6 THE COURT: Yes.

7 BY MR. WILSON:

8 Q Let me ask you if you can identify that particular
9 document and tell me what it is and what its purpose is?

10 A This is a new account holders agreement, which is most
11 commonly called a signature card form.

12 Q Okay. And what's the purpose of having a signature card
13 form at a banking institution?

14 A To authenticate the signature of the account owner.

15 Q Okay. All right. And on this particular document do you
16 know if it has any other information on it as well?

17 A Yes, sir.

18 Q What information does it give you?

19 A Basically, all the necessary information on the
20 individual sitting in front of us such as their address,
21 Social Security number, date of birth, their signature,
22 telephone number, etcetera.

23 Q All right. And would this document have been a document
24 that you would have taken in the course of adopting an account
25 for an individual?

John Rowe, III - Direct by Mr. Wilson

1085

1 A Yes, sir.

2 Q Okay.

3 MR. WILSON: Your Honor, at this time I'd like to have
4 this marked as -- for identification purposes only.

5 THE COURT: All right. That would be which one, Five?
6 Okay.

7 (Defense Exhibit Number Five [First Federal Account
8 Application] marked for identification.)

9 BY MR. WILSON:

10 Q Now, I'm not going to have you read the whole thing, but
11 I'm going to ask that you, one, tell me that if this document
12 was actually taken from Amos Hatfield, and if so, tell me how
13 you know that?

14 A Yes, sir. It is. There's two signatures on this
15 particular document that do match, and all the pertinent
16 information appears to be on the document for the individual
17 claiming to be Amos Hatfield.

18 Q Okay. And when you take that document in you said that
19 you always request ID, state ID; correct?

20 A Yes, sir. A photo identification, a state issued or
21 government issued.

22 Q Okay. And so you would use that to make certain that he
23 is who he says he is?

24 A Yes, sir.

25 Q All right. And so is that to prevent fraud?

1 A Absolutely.

2 Q Okay. All right. Can you read to this jury -- well, let
3 me do this first. I apologize.

4 MR. WILSON: Your Honor, at this point in time, I'd like
5 to have this moved in as Defense Exhibit Five.

6 THE COURT: Any?

7 MR. RICHARDSON: No objection, Your Honor.

8 THE COURT: All right. Defendant's Exhibit Number Five
9 admitted into evidence without objection.

10 (Defense Exhibit Number Five [First Federal Account
11 Application] admitted into evidence and appropriately marked.)

12 MR. WILSON: Thank you, ma'am. Permission to publish to
13 the jury, Judge?

14 THE COURT: All right.

15 BY MR. WILSON:

16 Q If you could, please, read this document, not in its
17 entirety, but read the important sections which give the
18 information regarding Amos Hatfield and if there are any other
19 signatories on this particular account?

20 A Well, the first thing we're going to look at is the date
21 that it was opened, which -- you want me to read all this
22 information, sir?

23 Q Yes, please, sir.

24 A Okay. All right. Established on August the 15th, 2001.
25 The branch manager that opened the account was Mr. Kevin

John Rowe, III - Direct by Mr. Wilson

1087

1 Lowder, who is a former branch manager for the company. \$50
2 was the initial deposit that was made. It was made in cash.
3 There's a home telephone number, area code [REDACTED].
4 Driver's license identification is gathered and stated on here
5 as well. It's a South Carolina driver's license [REDACTED],
6 and the employment of the individual opening the account is a
7 retired military representative. There's a signature
8 collected along with a Social Security number. The Social
9 Security number is [REDACTED], and we established a checking
10 account. The checking account number is also stated, and
11 then, again, we've got multiple signatures and the date of
12 birth, which was [REDACTED] [REDACTED], [REDACTED].

13 Q Thank you very much. Now, on accounts you can have one
14 -- more than one signatory; correct?

15 A Yes, sir. You can have a joint account.

16 Q Fair enough. And is there more than one signatory on
17 this account?

18 A Yes, sir.

19 Q All right. Can you tell me who the two signatories are
20 on this particular account?

21 A Amos Hatfield and Sylvia Adkins.

22 Q Okay. Now, how long have you been employed with First
23 Federal?

24 A Ten years.

25 Q Okay. And back in 2001 it wasn't called First Federal;

1 was it?

2 A No, sir.

3 Q Okay. What was it called?

4 A People's Federal.

5 Q All right. And then People's Federal was bought out, I
6 guess, by First Federal?

7 A Yes, sir. First Federal of Charleston purchased People's
8 Federal.

9 Q But it's still the same bank?

10 A Yes, sir.

11 Q Okay. All right. Thank you very much. Thank you,
12 ma'am. Now, also, I guess, as a part of the operations at a
13 bank when someone goes to purchase an item if it's from a
14 store, a convenience store, grocery store or from the mall, if
15 they write a check, those checks would come through First
16 Federal; correct?

17 A Through item processing and debit the account. Yes.

18 Q All right. Could you explain that process to the jury
19 how that works when somebody cuts a check and what happens?

20 A When you, when you present a check to a merchant for
21 payment on a particular item that you'd like to purchase that
22 check will be processed at the end of the day or when that
23 particular merchant batches their work. Upon batching that
24 work that information is sent to the bank. Sometimes that
25 information can take two to three to four days in order to get

John Rowe, III - Direct by Mr. Wilson

1089

1 to the bank depending on the speed and size of the merchant.
2 Once the bank receives that item then we charge or debit the
3 account based on the amount that's notated on the, on the
4 check.

5 Q Okay. All right. Let me ask you to identify this
6 document. Can you identify this document and tell me what
7 that document is?

8 A It's a First Federal check.

9 Q Does that seem to you to be a First Federal check based
10 on your understanding of the check system at First Federal?

11 A It, it appears to be a blown-up image of a check. Yes,
12 sir.

13 Q Okay. All right. And can you identify for me the actual
14 account holder on that check?

15 A Amos Hatfield.

16 Q Okay. And can you read the account number that's on the
17 check?

18 A Yes, sir. Three -- you want me to read it now?

19 Q Yes, sir.

20 A 3605154616.

21 Q Okay. And is there any doubt in your mind that that
22 check belongs to the checking account of Amos Hatfield from
23 First Federal?

24 A No, sir.

25 Q Okay.

1 MR. WILSON: Your Honor, at this time I'd move to have
2 this identified. Any objection?

3 MR. RICHARDSON: No objection to it being introduced,
4 Your Honor.

5 THE COURT: Put it in?

6 MR. RICHARDSON: It can be moved into evidence.

7 MR. WILSON: Thank you, Judge.

8 THE COURT: You're putting it in evidence now?

9 MR. WILSON: Yes, Your Honor.

10 THE COURT: All right. So, that'd be Defendant's Exhibit
11 Six?

12 REPORTER: Yes, sir.

13 THE COURT: All right. Defendant's Exhibit Number Six
14 admitted into evidence without objection.

15 (Whereupon, Defense Exhibit Number Six [Check #3055 to
16 IGA] admitted into evidence and appropriately marked.)

17 MR. WILSON: Permission to publish, Judge?

18 THE COURT: All right.

19 BY MR. WILSON:

20 Q Could you read the check for me, the information on there
21 as well as the written information on the check?

22 A Yes, sir. Check number 3055, pay to the order of IGA in
23 the amount of \$45.89 it appears.

24 Q Okay.

25 A And the check is dated for August the 18th, 2012.

John Rowe, III - Direct by Mr. Wilson

1091

1 Q Okay. And let me ask you this. The signature on that
2 check was signed by who?

3 A Amos Hatfield.

4 Q Okay. And in your process of actually when you get these
5 checks is there some sort of fraud protection to make sure
6 that the actual signatures, the signature card matches up with
7 the checks?

8 A Yes, sir. The check is imaged and scanned and then we do
9 cross it through a database.

10 Q Okay. And that computer basically will detect if there
11 is some sort of fraudulent signature on the check?

12 A Not that, not that there's a fraudulent signature on the
13 check, but that the check is an authentic check.

14 Q Okay. All right. Well, would this have been an
15 authentic check passed through his account?

16 A Yes, sir. This appears to be an authentic check. The
17 routing number matches the bank's routing number. Everything
18 looks standard.

19 Q All right. Thank you very much.

20 MR. WILSON: Your Honor, I have no further questions.

21 THE COURT: All right.

22 MR. WILSON: Please answer any questions that co-counsel
23 may have.

24 A Sure.

25 THE COURT: Cross.

1 CROSS EXAMINATION

2 BY MR. RICHARDSON:

3 Q Thank you, Mr. Rowe. I'll try and get you out of here
4 kind of quick; okay? You were talking about that verification
5 system, and I think you just told us that whenever that check
6 comes through the system all you're doing is verifying the
7 routing number?

8 A We're verifying the routing number and the authenticity
9 that it is a First Federal check. Yes, sir.

10 Q So somebody's not going to Office Depot getting a bunch
11 of checks and saying, "Hey?"

12 A Correct.

13 Q So there's not forgery. Well, let's talk, talk about
14 forgery real quick. When this check was written you weren't
15 at the IGA; correct?

16 A No, sir.

17 Q Okay. And what happens if there's a forgery? What takes
18 place? How does a forgery complaint get lodged?

19 A Customers will come to us and notify us that their
20 account has been compromised, someone has stolen their checks
21 or they have lost their checkbook, etcetera. A police report
22 has to be filed for us to move forward with that because
23 basically they're going on record with a local police
24 department or with a state company stating that this was not
25 them and then, and then we hand that over to our fraud

John Rowe, III - Redirect by Mr. Wilson

1093

1 department to verify. We pull cameras. We work with the
2 merchant to file a dispute to take care of our customer.

3 Q Okay. And so the owner of the account would have to come
4 in and file a complaint?

5 A Yes, sir. He'd have to notify us that he did not
6 process that check.

7 Q Okay. And so there'd be no way for you independently to
8 tell whether or not that is, indeed, Amos Hatfield who signed
9 the check?

10 A We could cross reference to a signature card to look for
11 verification, but we do not do that at the time that it is
12 processed.

13 Q Okay. What he put in before, I can't remember which
14 Defense Exhibit it was, but that was the signature card;
15 correct?

16 A Correct.

17 Q And you don't independently verify that?

18 A No, sir.

19 Q Okay.

20 MR. RICHARDSON: No further questions, Your Honor.

21 THE COURT: All right. Redirect.

22 MR. WILSON: Yes, Your Honor, just briefly.

23 REDIRECT EXAMINATION

24 BY MR. WILSON:

25 Q If anyone ever, anyone on the account, the signatory of

1 the account, Sylvia Adkins is a signatory on that account;
2 correct?

3 A Correct.

4 Q All right. Did she ever come back and say this was a
5 fraudulent check?

6 A I've never met her before, sir.

7 Q Okay. Have you had any information on this check as
8 being fraudulent?

9 A Not to my knowledge. No, sir. I'm not aware of that.

10 Q Thank you so much.

11 THE COURT: All right. You may step down.

12 A Yes, sir.

13 MR. WILSON: Your Honor, I would ask that this witness be
14 excused to go back to his regular duties.

15 MR. RICHARDSON: Without objection, Your Honor.

16 THE COURT: All right. He's free to go. Thank you very
17 much.

18 MR. RICHARDSON: Thank you, sir.

19 (Whereupon, a bench conference is held in the presence
20 but out of the hearing of the jury.)

21 THE COURT: All right. The Defense can call their next
22 witness.

23 MR. WILSON: Thank you, Your Honor. Your Honor, may we
24 approach?

25 THE COURT: Yes.

Karen Maldet - Direct by Mr. Wilson

1095

1 (Whereupon, a bench conference is held in the presence
2 but the hearing of the jury.)

3 MR. WILSON: Karen Maldet.

4 Whereupon, Karen Maldet was called to the stand, duly
5 sworn by the clerk and testified as follows:

6 THE CLERK: Please speak into the microphone and state
7 your full name and spell your last name.

8 MS. MALDET: Karen Maldet, M-A-L-D-E-T.

9 THE COURT: All right. Ladies and gentlemen of the jury,
10 likewise, with this witness as well I did not question you
11 during voir dire whether or not you had any relationship with
12 this witness. Is there any member of the jury that has any
13 personal relationship, business relationship, social
14 relationship or any other type of relationship with Ms.
15 Maldet, if so, please raise your right hand.

16 (No response.)

17 THE COURT: All right. Let the record reflect no one
18 raised their right hand. All right. Mr. Wilson.

19 MR. WILSON: Thank you, Your Honor. If it please the
20 Court?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 BY MR. WILSON:

24 Q Ms. Maldet, how you doing today, ma'am?

25 A I'm fine.

1 Q Can you tell this jury where you're employed?

2 A The Loris magistrate's office.

3 Q And can you tell me what your title is there?

4 A Administrative assistant.

5 Q Okay. And what are your duties at the Loris magistrate's
6 office?

7 A To file evictions, enter tickets, bond hearings,
8 warrants.

9 Q Let me ask you this. If anyone wanted to go to the Loris
10 magistrate's court office and file an eviction notice what's
11 the process and step they would take?

12 A They would have to, depending on what their lease
13 agreement says, they would have to give the tenant a notice, a
14 five or a 10-day notice, or if it's a notice to quit they
15 don't have to give a notice.

16 Q Okay. So, if it's a notice to quit they don't have to
17 provide notice to the actual person who's on the property?

18 A Correct.

19 Q Okay. All right. And, and if someone wanted to come
20 down right now to the magistrate court's office what would
21 they have to do? Do they have to file any documentation?

22 A They would have to fill out a form.

23 Q Okay. All right. And then the Loris magistrate court's
24 office would then intake that form?

25 A Yes.

Karen Maldet - Direct by Mr. Wilson

1097

1 Q And then is there a process or procedure for letting the
2 magistrate's court know when someone actually brought that
3 form in? Would someone have clocked?

4 A Yes.

5 Q Okay. All right. So, the magistrate's court would
6 actually clock a document that actually comes in that someone
7 wants to file?

8 A Yes.

9 Q Okay. All right. I'm just going to give you a set of
10 documents and ask you if you can identify those documents as
11 being forms that you would basically use in the ordinary
12 course of keeping public records?

13 A Yes.

14 Q Okay. Can you identify each form for the jury?

15 A This would be an information sheet that they fill out.
16 That's just so we have their information, their phone number,
17 their address.

18 Q Okay.

19 A There's one missing.

20 Q I apologize. That's my fault. My apologies to you. My
21 apologies.

22 A This is the actual summary ejectment application where
23 the Plaintiff would fill out all the information on here and
24 this is the actual form that you would file.

25 Q Okay. And these are kept as public records; correct?

1 A Yes.

2 Q Okay. All right.

3 MR. WILSON: Your Honor, at this time I'd move to have
4 this information, these documents put into evidence, excuse
5 me, marked for identification purposes.

6 THE COURT: All right. That'll be fine. How many are
7 there?

8 MR. RICHARDSON: If he wants to go ahead and put them in,
9 Your Honor, I don't have any objection to it.

10 MR. WILSON: There are multiple. They're just one packet
11 though, Judge.

12 THE COURT: Okay. You're marking them all as one?

13 MR. WILSON: Just as one, Your Honor.

14 THE COURT: Okay. So that'd be Defendant's Exhibit
15 Seven?

16 REPORTER: Yes, sir.

17 THE COURT: All right.

18 MR. WILSON: Thank you, Madam.

19 THE COURT: Defendant's Exhibit Seven admitted into
20 evidence without objection.

21 (Defendant's Exhibit Number Seven [Eviction Packet]
22 admitted into evidence and appropriately marked.)

23 By MR. WILSON:

24 Q Okay. Now, let me ask you this. On -- can you tell the
25 jury on what date someone would have come down and filed this?

Karen Maldet - Direct by Mr. Wilson

1099

1 A It was 10-20 of 2010.

2 Q 10-20, 2010?

3 A Yes.

4 Q Okay. And what is the gentleman's name who would have
5 filed this particular notice to quit? This is a notice to
6 quit; correct?

7 A Correct.

8 Q Okay. And who would have filed this notice to quit?
9 What was his name?

10 A Amos Hatfield.

11 Q Okay. And can you tell me who actually he was trying to
12 evict from a piece of property?

13 A His son, Thomas Hatfield, and his son's friend, Michael
14 Jackson.

15 Q Okay. And so, those were the people that he was actually
16 trying to get off a piece of property?

17 A Yes.

18 Q Okay. And can you tell this jury what happened in this
19 particular matter?

20 A We tried to serve them, and it said that no one was at
21 the trailer or the residence. So, on November the 24th the
22 Plaintiff called and said that the trailer was empty and that
23 they had gone.

24 Q Okay?

25 A And it was settled out of court.

1 Q All right. And did the Loris magistrate's court have
2 anything else to do with this matter?

3 A No, sir.

4 Q Okay. Thank you very much. I have no further questions.

5 A Thank you.

6 THE COURT: All right.

7 Q Please answer any questions that counsel may have for
8 you.

9 THE COURT: Cross-examination.

10 CROSS EXAMINATION

11 BY MR. RICHARDSON:

12 Q Ms. Maldet, I'll try and get you out of here quick. Does
13 it say anywhere in there why the -- why Mr. Amos Hatfield was
14 going to evict Thomas Hatfield or Michael Jackson?

15 A No.

16 Q And I believe you said that Mr. Hatfield said it was all
17 solved outside of even having to go back to court?

18 A Correct. It was never served.

19 Q Okay. So they never served them?

20 A No.

21 Q Okay. And that was way back in October 2010?

22 A Correct. Well, it was -- the papers were filed in 2010.
23 It was settled in November 24, 2010.

24 Q 2000 -- but I'm saying back in 2010? I'm not trying to
25 say it was settled right then.

Karen Maldet - Cross by Mr. Richardson

1101

1 A Yes. Yeah.

2 Q It was settled over ---

3 A Within a month.

4 Q --- two, three months?

5 A Yeah.

6 Q Okay. All right. That's all I was asking, Ms. Maldet.

7 A Okay.

8 Q I'm sorry if I was confusing you.

9 MR. RICHARDSON: Your Honor, I have no further questions
10 of this witness.

11 THE COURT: All right. Redirect?

12 MR. WILSON: No redirect, Your Honor, and I'd ask that
13 this witness be allowed to go back to her regular duties and
14 we appreciate you being here.

15 THE COURT: Any objection?

16 MR. RICHARDSON: No, sir, Your Honor. Fully endorse it.

17 THE COURT: All right. You may step down and you're free
18 to go.

19 A Thank you.

20 MR. RICHARDSON: Thank you, Ms. Maldet.

21 THE COURT: All right. Call your next witness.

22 MR. WILSON: Your Honor, at this time I'd like to call
23 Detective Chatfield to the stand.

24 THE COURT: All right.

25 Whereupon James Mark Chatfield was called to the stand,

James Chatfield - Direct by Mr. Wilson

1102

1 duly sworn by the clerk and testified as follows:

2 THE CLERK: State your full name and spell your last
3 name.

4 MR. CHATFIELD: James Mark Chatfield, C-H-A-T-F-I-E-L-D.

5 THE COURT: All right.

6 MR. WILSON: May it please the Court, Your Honor?

7 THE COURT: Yes, sir.

8 DIRECT EXAMINATION

9 BY MR. WILSON:

10 Q Detective Chatfield.

11 A Yes, sir.

12 Q Is that correct?

13 A Yes, sir.

14 Q Okay. How you doing today, sir?

15 A Good, Mr. Wilson.

16 Q All right. Let me ask you a couple of questions. I want
17 to talk to you first about when you first arrived on the scene
18 at the actual murder scene. Can you tell me when that
19 happened?

20 A Mr. Richardson, could I see my investigative report, sir?

21 THE COURT: If he needs to refresh.

22 A Would you mind, Mr. Wilson?

23 MR. RICHARDSON: I just don't know if he didn't have
24 his notes. I've got a copy here, Your Honor.

25 THE COURT: All right. Let Mr. Wilson take a look at it.

James Chatfield - Direct by Mr. Wilson

1103

1 MR. WILSON: And I have no objection to him using it.

2 THE COURT: All right. That'll be fine.

3 MR. WILSON: May I approach, Your Honor?

4 THE COURT: Yes.

5 A Thank you, sir.

6 Q Yes, sir. Yes, sir. You just take your time and look
7 over it and then whenever you get ready to answer just let me
8 know.

9 A Okay. Mr. Wilson.

10 Q Okay. Can you tell the jury when you arrived at Red
11 Bluff Road that morning?

12 A Yes, ma'am [sic]. I was called out on August 19th, 2012,
13 and at 4:27 hours. I was notified by my lieutenant, Jamie
14 DeBerry, to respond to a homicide.

15 Q Okay. And, and when you got there tell me what you did
16 and what you found.

17 A When I got there I was told by my lieutenant and
18 Detective Frebowitz to transport a young lady to Conway
19 Hospital.

20 Q Okay. And that young lady, did you find her to be this
21 particular Defendant, Sandy Locklear?

22 A Yes, sir. I did.

23 Q Okay. So, she was never transported by an ambulance;
24 correct?

25 A No, sir. She was in the front seat of my Impala. Yes,

1 sir.

2 Q Okay. Is then the Impala a police car?

3 A Yes, sir. Unmarked. Yes, sir.

4 Q Okay. Now, let me ask you this, did this Defendant ever
5 ask you to take her to the hospital?

6 A I'm sorry. I can't recall that, sir.

7 Q Okay. Well, you testified just a few seconds ago that
8 Detective Frebowitz told you to take her to the hospital.

9 A Yes, sir.

10 Q Okay. So I guess my question is did she ever say, "Yes,
11 I want to go with you to the hospital?"

12 A Not sure on that, sir. I'm not sure.

13 Q Fair enough. Fair enough. Okay. So, you're in the car
14 with her. You have an opportunity to observe her; correct?

15 A Yes, sir.

16 Q Okay. How did she look to you when you first saw her?

17 A Normal.

18 Q Normal?

19 A Yes, sir.

20 Q She was normal. There was nothing -- she wasn't crying?

21 A No, sir. I actually turned the radio on a little bit
22 lower. It was quiet, and no -- wasn't crying, wasn't
23 hysterical, wasn't just -- I guess just like me sitting in the
24 car, just, just quiet, sir.

25 Q Let me ask you this. Is your police car is it equipped

James Chatfield - Direct by Mr. Wilson

1105

1 with a camera in the actual front of the, front of the
2 vehicle?

3 A No, sir. It's -- no, sir.

4 Q No, no camera.

5 A No camera, sir.

6 Q Okay. Well, let me ask you this. Do you recall talking
7 with her before you actually transported her?

8 A No, sir. I just asked her to get in my vehicle when I
9 was told to. I'm -- you know, I responded and we try to work
10 it as a team and that was my task that day, to take her to
11 Conway, sir.

12 Q So, Frebowitz gave you a task and that's what your job
13 was ---

14 A Yes, sir.

15 Q --- to take her to Conway Hospital?

16 A Yes, sir.

17 Q Did Frebowitz tell you to stay with her at Conway
18 Hospital?

19 A Yes, sir. Until he got there to interview her, sir.

20 MR. RICHARDSON: Your Honor, he is leading the witness a
21 little bit. Did Frebowitz tell you to do this, do this.

22 THE COURT: Overruled. I'll allow it. Go ahead.

23 Q Did Frebowitz tell you to take this Defendant to the
24 hospital?

25 A Yeah. He asked me to take her to the hospital and he

1 would be there later to interview her. Yes, sir. They were
2 going to perform a sexual assault kit.

3 Q Okay. All right.. Now, in the car ride did you have a
4 conversation with this Defendant?

5 A No, sir.

6 Q You never talked to her?

7 A We just -- I didn't -- I don't know her, sir, and she
8 doesn't know me, and just didn't have a conversation. I think
9 because maybe we were, we were probably both tired.

10 Q Let me ask you this. You were briefed on what happened
11 that day at the house; correct?

12 A No, sir. I was just told that there was an alleged
13 homicide. No, sir. I just got there and probably was there
14 just a few minutes I had to leave.

15 Q Okay. How long is the ride from, I think it was, was it
16 Loris?

17 A Yes, sir. I, I didn't google a map. I -- 20, 20, 30
18 minutes. I'm not sure, sir.

19 Q Okay. Well, how long you been living in this county?

20 A Gosh, since '83.

21 Q How long you been a detective in this county?

22 A Probably ten years.

23 Q Okay. So, how long is the ride from Loris, South
24 Carolina, to -- you went to Grand Strand or did you go to
25 Myrtle -- to Conway.

James Chatfield - Direct by Mr. Wilson

1107

1 A Conway, sir.

2 Q You went to Conway Hospital. How long is that ride,
3 approximately?

4 A Five -- four, 40 or 5, or whatever, probably 40 minutes,
5 but I'm not sure.

6 Q Okay. It could be 40 minutes?

7 A Yes, sir. It could be longer or it could have been
8 shorter.

9 Q Okay. All right. And during that entire time your
10 testimony to the jury is that you did not speak with this
11 Defendant?

12 A Yes, sir. I just --

13 Q No conversation?

14 A No, sir.

15 Q Okay. All right. So, you get to the hospital, and
16 what's the first thing you do?

17 A Put her in the waiting room with her and they were
18 setting up a sexual assault to see a nurse.

19 Q Okay. And where were you at the time when they were
20 performing the sexual assault kit?

21 A They don't allow you to be inside a room. I was outside.

22 Q Okay. So, where were you?

23 A Outside of her room.

24 Q You were outside of her room.

25 A Yeah. As I recall it may have been a little bit farther,

1 but we put her in a room and they don't allow males to watch a
2 sexual assault kit on a female.

3 Q I can understand that, but so where were you in proximity
4 to her room?

5 A Probably a few rooms down in the waiting room.

6 Q Okay. And so, you were waiting on her to get done with
7 the sexual assault kit?

8 A Yes, sir. And Detective Frebowitz come and take over.
9 Yes, sir.

10 Q Okay. All right. So, while you were there waiting, did
11 you ever have an opportunity to talk with any hospital staff
12 at all?

13 A I'll be honest with you, I don't recall. I just said
14 hello. I know some, but --

15 Q Okay. Did anyone ever give you the results of the rape
16 kit test?

17 A No, sir.

18 Q Never gave you that?

19 A No, sir.

20 Q Did you ever report to Frebowitz that you got the results
21 of the rape kit test?

22 A If I -- if you're insinuating about -- no, sir. No, sir.

23 Q Didn't do that?

24 A Anything that was to me, sir, that was e-mailed or passed
25 on, I was working another case at the time, I would just pass

James Chatfield - Direct by Mr. Wilson

1109

1 it on to them, sir.

2 Q So, let me ask you this, part of your duties would be to
3 assist a lead detective?

4 A Yes, sir. Yes, sir.

5 Q Okay.

6 A If he told me to do something, Mr. Wilson, I would, you
7 know, I would do it for him.

8 Q You would do it for him?

9 A Yes, sir.

10 Q Okay. Absolutely. You have your investigative report;
11 correct?

12 A Yes, sir.

13 Q Okay. And what's the purpose of the investigative
14 report?

15 A Pass it on to the detective, sir, the information. Yes,
16 sir.

17 Q Okay. All right. And is that your investigative report?

18 A Yes, sir.

19 MR. WILSON: Your Honor, I'd just like to have this at
20 this time marked for identification purposes only.

21 THE COURT: All right.

22 MR. WILSON: Any objection?

23 MR. RICHARDSON: For identification purposes, no.

24 MR. WILSON: This is only for identification. Thank you,
25 ma'am.

James Chatfield - Direct by Mr. Wilson

1110

1 (Defendant's Exhibit Number Eight [Investigative Report -
2 Chatfield] marked for identification.)

3 BY MR. WILSON:

4 Q Can you begin reading here in your report and let the
5 jury know what you said you did at 10:18?

6 A Okay. At 10:18 --

7 MR. RICHARDSON: Your Honor, I'd object. He's asked it
8 to be in for identification purposes and certainly the officer
9 could refresh his recollection, but to publish it to the jury
10 it would have to be into evidence and it's not a record that's
11 subject to business records exception.

12 THE COURT: Sustained.

13 MR. WILSON: Your Honor, I withdraw, Judge.

14 BY MR. WILSON:

15 Q Please read that quietly to yourself and then tell them
16 what you did from 10:18 on?

17 A Yes, sir. At 10:18 hours I completed the Horry County
18 evidence record and took custody of the sexual assault kit and
19 her dress from Nurse Janet Moore and drove the property direct
20 to the Horry County Police Department, put the sexual assault
21 kit in the refrigerator and her dress was placed into an
22 evidence locker.

23 Q Okay. So, you took all that evidence from Horry County
24 -- excuse me from the hospital; correct?

25 A Yes. From Ms. Janet Moore. Yes, sir.

James Chatfield - Direct by Mr. Wilson

1111

1 Q Okay. All right. So, you did have some interaction with
2 the nurse?

3 A Yeah. You all, I apologize. I know it was two years
4 but, yes, sir.

5 Q Okay. All right. So, when you got back to M.L. Brown
6 Building who did you have with you in the car when you got
7 back to the M.L. Brown Building?

8 A Just myself, sir.

9 Q You didn't transport this Defendant back to the M.L.
10 Brown Building?

11 A I'm sorry. I don't recall.

12 Q You don't recall taking this Defendant back to the M.L.
13 Brown Building? Is that your testimony today?

14 A Yes, sir.

15 Q That's your testimony?

16 A Yes, sir.

17 Q Okay. Do you know if she came back or got back to the
18 M.L. Brown Building? How you think she got there?

19 A Unsure, sir.

20 Q Unsure?

21 A Yes, sir.

22 Q Okay. Well, let me ask you this, if you had transported
23 her, and if she told you that she wanted to go home, would you
24 have taken her home?

25 A I would have conferred with the lead detective, sir.

1 Q Well, let me ask you this then. When you picked her up
2 that morning, when you picked up Sandy Locklear, was she in
3 custody?

4 A Not that I was aware of, sir.

5 Q Okay. So, and now your testimony is you don't recall
6 what happened? You waited for her at the actual hospital;
7 didn't you?

8 A Yes, sir. And --

9 Q That's what you testified to; correct?

10 A Yes, sir. And Detective Frebowitz. Yes, sir.

11 Q Okay. Well, what was the purpose of you waiting for her
12 if you weren't going to take her back and you don't recall
13 that?

14 A I was waiting for Detective Frebowitz, sir.

15 Q You're waiting for Detective Frebowitz?

16 A Yes, sir.

17 Q Well, do you know if Detective Frebowitz transported this
18 Defendant back to the M.L. Brown Building?

19 A Unsure, sir.

20 Q Unsure?

21 A Yes, sir.

22 Q Just don't recall?

23 A Yes, sir.

24 MR. WILSON: No further questions, Your Honor.

25 THE COURT: All right. Cross examination.

James Chatfield - Cross by Mr. Richardson

1113

1 CROSS EXAMINATION

2 BY MR. RICHARDSON:

3 Q Detective Chatfield, you stated that you were working
4 another case at the same time?

5 A Yes, sir.

6 Q Contemporaneously?

7 A Yes, sir.

8 Q And your main duty was to transport the Defendant?

9 A Yes, sir.

10 Q And at that time she was a victim; correct?

11 A Yes, sir.

12 Q A rape victim?

13 A Yes, sir.

14 Q Is it common protocol, practice to, to escort or even
15 take rape victims to the hospital?

16 A Yes, sir. Anything we can do to help a victim out. Yes,
17 sir.

18 Q It's something you've done before?

19 A Yes, sir.

20 Q As lead agent?

21 A Yes, sir.

22 Q And as auxiliary agent?

23 A Yes, sir.

24 Q And whenever you take a victim to the hospital it's
25 customary to wait with them; correct?

1 A Yes, sir.

2 Q And your main focus on this was, was the transportation
3 of the Defendant?

4 A Yes, sir.

5 Q And whenever you say you don't recall if you took the
6 Defendant back to the M.L. Brown Building, you're not saying
7 that you didn't do it?

8 A That's correct. I'm sorry. I just don't recall.

9 Q You just don't have any independent recollection. It was
10 two years ago and you were working other cases?

11 A Yes, sir.

12 Q And we'd have to depend on the other -- the lead case
13 agent?

14 A Yes, sir.

15 Q Because he's the one who did the assignments?

16 A Yes, sir.

17 Q Okay. Ballpark it, how many times have you escorted rape
18 victims to the hospital?

19 A Been a police officer for 31 years, 700. It's a lot, you
20 all, a lot.

21 Q Now, would it be customary if the Defendant would have
22 said, "Hey, I want to go home," you would have documented
23 that?

24 A Yes, sir.

25 Q Did you document that?

James Chatfield - Cross by Mr. Richardson

1115

1 A No, sir.

2 Q Now, whenever you took her to the hospital, was she in
3 handcuffs?

4 A No, sir.

5 Q When she left the hospital was she in handcuffs?

6 A No, sir.

7 Q And whenever you got the sexual assault kit from Nurse
8 Janet Moore --

9 A Yes, sir.

10 Q -- did you have an extended conversation with her?

11 A No, sir.

12 Q Okay. Is it customary to have an extended conversation?

13 A No, sir.

14 Q You're just there as a delivery service?

15 A Yes, sir.

16 Q No doubt about it you made your way back to the M.L.

17 Brown Building because you had that sexual assault, assault
18 kit?

19 A Yes, sir. Yes sir.

20 Q You didn't tamper with it in any way?

21 A No, sir.

22 Q When the Defendant rode with you to the hospital do you
23 recall if she was in the front seat, back seat?

24 A Front right passenger seat.

25 Q Okay. Front right passenger seat?

- 1 A Yes, sir.
- 2 Q Now, people you got in custody do you put them in the
3 front seat?
- 4 A No, sir.
- 5 Q Why?
- 6 A Put them in the back, and generally speaking, unless an
7 extreme emergency, we have another officer back there for
8 officer safety issues.
- 9 Q And that wasn't the case here?
- 10 A No, sir.
- 11 Q And Red Bluff Road, you stated you were familiar with
12 Horry County. Is Conway the closest hospital to that?
- 13 A Yes, sir.
- 14 Q Closest hospital with a SANE nurse?
- 15 A Yes, sir.
- 16 Q I mean, you have, what is it, Loris Hospital?
- 17 A Yes, sir.
- 18 Q Loris is not equipped with a SANE nurse?
- 19 A No, sir.
- 20 Q Little River is not equipped with a SANE nurse?
- 21 A No, sir.
- 22 Q So you took her to the -- she's a rape victim. You took
23 her to the nearest SANE hospital?
- 24 A Yes sir. Yes, sir.
- 25 Q And a victim can refuse a rape kit; correct?

James Chatfield - Redirect by Mr. Wilson

1117

1 A That's correct.

2 Q One's not going to be done on them if they refuse?

3 A That's correct.

4 Q And no doubt about it you got one in this?

5 A Yes, sir.

6 Q You dealt with a lot of rape victims?

7 A Yes, sir.

8 Q You're familiar with behaviors, whatnot?

9 A From my experience. Yes, sir.

10 Q Was there anything unusual about the Defendant?

11 A No, sir. She was as normal, just about like everybody
12 sitting here, just normal. We were both tired, normal.

13 Q And you stated, I believe, that she was -- you don't
14 recall excessive crying?

15 A No.

16 Q Detective Chatfield, thank you very much.

17 THE COURT: Redirect.

18 MR. WILSON: If it please the Court?

19 REDIRECT EXAMINATION

20 BY MR. WILSON:

21 Q Detective Chatfield, are we here talking about another
22 case?

23 A No, sir.

24 Q We're not talking about any other case you were working
25 on; are we?

1 A No, sir.

2 Q You worked on this case; didn't you?

3 A Yes, sir.

4 Q All right. And this is a serious case; wouldn't you say
5 so?

6 A Yes, sir.

7 Q I'm going to ask you to read the last sentence in your
8 investigative report to this jury. You just testified under
9 oath that you don't recall transporting this Defendant;
10 correct?

11 A Yes, sir.

12 Q All right. Read your last sentence.

13 A It says, (as read), "As I was transporting Locklear to
14 the hospital and then later to the Horry County Police
15 Department did not act as if she had been sexually assaulted."

16 Q Now, you just misled this jury when you said --

17 MR. RICHARDSON: Your Honor, I object to his
18 characterization of he misled the jury.

19 MR. WILSON: Judge, he can object all he wants. It's my
20 question, Your Honor.

21 THE COURT: Ask your question.

22 BY MR. WILSON:

23 Q Did you not just mislead this jury by saying that you did
24 not recall actually transporting Ms. Locklear to M.L. Brown
25 Building?

James Chatfield - Redirect by Mr. Wilson

1119

1 A Yeah.

2 Q Wasn't that a misrepresentation?

3 A I did not read and I apologize for the 2012 report. I
4 didn't read my last sentence, but I sure wouldn't mislead
5 anybody.

6 Q But my question is this, according to your report -- you
7 wrote that report; correct?

8 A Yes, sir. I typed it up. Yes, sir.

9 Q Okay. You knew you were going to testify today; correct?

10 A No, sir.

11 Q You didn't know?

12 A Yeah, this morning at 8:00 o'clock. Yes, sir.

13 Q My question is this. Okay. You knew you were involved
14 in this case, yes or no?

15 A Yes, sir.

16 Q Okay. My question is why didn't you tell this jury a
17 second ago -- it's in your report, obviously -- that you
18 actually did drive her back to the M.L. Brown Building?

19 A I never want to lie to a jury or anybody, and I just
20 didn't read my last sentence. It wasn't on this paper here
21 that I didn't see it. I made a mistake, sir.

22 Q Okay. Well, made a mistake. All right. Well, tell me
23 this then, now that you know that you did -- or, oh, let me
24 ask you this. Do you admit now that you actually drove her
25 back?

1 A Yes, sir.

2 Q Okay. Did you have a conversation when you drove her
3 back to the M.L. Brown Building?

4 A No, sir. No, sir.

5 Q You don't even have a conversation?

6 A Right.

7 Q And your testimony is this Defendant never told you she
8 wanted to go home?

9 A No, sir.

10 Q No further questions.

11 THE COURT: All right. You may step down.

12 A Thank you, Your Honor.

13 THE COURT: All right.

14 MR. RICHARDSON: Your Honor, he's not my witness, but
15 what's the status of the detective? Can he --

16 MR. WILSON: Your Honor, would you please allow him to go
17 back to his regular duties?

18 THE COURT: All right.

19 MR. WILSON: And we appreciate him being here.

20 THE COURT: You're free to go.

21 MR. RICHARDSON: Thank you, Your Honor.

22 MR. WILSON: Thank you.

23 THE COURT: Thank you very much.

24 MR. RICHARDSON: Thank you.

25 THE COURT: All right. Mr. Wilson, you can call your

James Chatfield - Redirect by Mr. Wilson

1121

1 next witness.

2 MR. WILSON: Thank you, Your Honor. Your Honor, at this
3 time we would call -- and I think, Your Honor, may we
4 approach, Judge?

5 THE COURT: Yeah.

6 (Whereupon, a bench conference is held in the presence
7 but out of the hearing of the jury.)

8 THE COURT: All right. Ladies and gentlemen, it's a good
9 time for us to go ahead and take a short break. I'm going to
10 excuse you for about 10 or 15 minutes back to the jury room.
11 Please do not discuss the case even among yourselves at this
12 point in time. Leave your notes in the jury box. Thank you
13 very much.

14 (Whereupon, the following takes place outside the
15 presence of the jury.).

16 THE COURT: All right. I understand that you are going
17 to call -- who is the witness now?

18 MR. WILSON: Her name, Your Honor, is Lauren Johnson.

19 THE COURT: All right. And I understand she is currently
20 incarcerated?

21 MR. WILSON: That's correct, Judge.

22 THE COURT: All right. And she has charges pending
23 against her?

24 MR. WILSON: She does, Your Honor, and I spoke with, just
25 for the record, Judge, I spoke with Alex Hyman, informed him

1 that I was calling her to testify in this case. He informed
2 me that it was okay to go ahead and serve a subpoena on her,
3 which I did.

4 THE COURT: Okay. All right. Well, I think I probably
5 need to go ahead and advise her of her constitutional rights
6 before she testifies then. If we could go ahead and bring her
7 in.

8 MR. WILSON: Thank you, Your Honor.

9 THE COURT: All right. Let's go ahead and place her
10 under oath.

11 Whereupon, Lauren Rebecca Johnson is called to the stand,
12 duly sworn by the clerk and testified as follows:

13 THE COURT: All right. Ma'am, your name?

14 MS. JOHNSON: Lauren Rebecca Johnson.

15 THE COURT: All right. Ms. Johnson, you have been called
16 as a witness to testify in this case. This is the case of the
17 State of South Carolina versus Sandy Lee Locklear, and I
18 understand that you are currently in jail awaiting charges
19 that are pending against you; is that correct?

20 MS. JOHNSON: No, sir. Actually I'm in, I'm incarcerated
21 for child support.

22 THE COURT: Okay. Are there any criminal charges pending
23 against you?

24 MS. JOHNSON: Yes, sir.

25 THE COURT: Okay. All right. So you're in jail for

State v. Locklear

1123

1 child support payments.

2 MS. JOHNSON: Yes, sir.

3 THE COURT: But there are criminal charges pending?

4 MS. JOHNSON: Yes, sir.

5 THE COURT: Okay. All right. Well, I think it's best
6 that I go ahead and advise you of certain rights that you have
7 before you testify in this case. All right. All right. I
8 now advise you that as a witness you have the right to invoke
9 the protections given to you by the Fifth Amendment of the
10 Constitution of the United States. This amendment provides in
11 part that no person shall be compelled in any criminal case to
12 be a witness against himself. This provision means that you
13 cannot be required to be a witness against yourself. This is
14 a personal right which can only be claimed by you. You have
15 the right to refuse to answer any question asked of you which
16 you think gives you reasonable cause to believe that the
17 answer to the question if given might tend to incriminate you.
18 If you wish to exercise this right when a question is asked,
19 you will state to the Court that you refuse to answer the
20 question because the answer may tend to incriminate you. Do
21 you understand that?

22 MS. JOHNSON: Yes, sir.

23 THE COURT: All right. I also advise you that you are
24 not the final decision-maker on the issue of whether an answer
25 to a question will violate the protections afforded to you by

1 the Fifth Amendment. It is for this Court to determine if
2 silence on your part is justified. All right. So, in other
3 words, if they ask a question of you, you feel that it might
4 incriminate you, then you assert your Fifth Amendment Right to
5 remain silent. I will then make a decision as to whether or
6 not you're required to answer the question, okay? All right.
7 Do you understand what I've explained to you?

8 MS. JOHNSON: Yes, sir.

9 THE COURT: All right. Do you have any questions about
10 what I've explained to you?

11 MS. JOHNSON: No, sir.

12 THE COURT: All right. Let's go ahead -- I think since
13 we just sent the jury out let's go ahead and take about a 10-
14 minute break. I'm going to have them take you back there to
15 the holding cell for just a few minutes. Hold for one second.

16 MR. RICHARDSON: Your Honor, you want to go over her
17 record real quick?

18 THE COURT: Hold for one second. All right. What is the
19 record?

20 MR. RICHARDSON: Let's see. We've got a couple of counts
21 in 2013 of receiving goods or services fraudulently. That's
22 warrant numbers I219851 and 52. She got convictions on those.
23 We've got a receiving stolen goods, date of conviction 3-12-
24 14. We've got a possession of looks like cocaine or cocaine
25 base or meth, 2009; shoplifting, 2008; violation -- looks like

State v. Locklear

1125

1 she got received. So assume that's a violation in 2009 on the
2 previous drug charge where she got probation. She's got a
3 2011 conviction for possession of other controlled substance.
4 She's got a giving false information misdemeanor charge back
5 in August of 2012, August 27th, 2012, as a matter of a fact. I
6 believe that's about it, Your Honor.

7 THE COURT: All right. Now, what are the charges pending
8 against you now?

9 MS. JOHNSON: Two possessions and a distribution.

10 THE COURT: Okay. So, they're drug-related charges?
11 Okay. All right. When you take the stand during cross
12 examination, they're going to be able to ask you about those
13 convictions against you to attack your credibility. Do you
14 understand that?

15 MS. JOHNSON: Uh-huh.

16 THE COURT: But you can still assert your Fifth Amendment
17 Right if you think that it incriminates you as to any charges
18 now pending against you. Okay? Or any charges that may be
19 brought against you and then I'll make a decision on that.
20 Okay?

21 All right. Let's take her back to the -- excuse me,
22 before we go, anything further the State wants placed on the
23 record?

24 MR. RICHARDSON: No, sir, Your Honor. I just don't want
25 to get into the position where she starts testifying, halfway

1 through she claims the Fifth.

2 THE COURT: Well, she may.

3 MR. RICHARDSON: It's hard to unplug the --

4 THE COURT: Well, once she starts -- well, she can assert
5 her Fifth Amendment Right at any time, and then I'll make a
6 decision as to whether she continues it. There's -- that's
7 just the way it works.

8 MR. RICHARDSON: I'm just saying if when it comes time
9 for cross she all of a sudden asserts her Fifth Amendment
10 Right I would ask that her testimony be stricken. I'm just
11 putting the Court on notice.

12 THE COURT: Well, I don't know. It depends on whether --

13 MR. RICHARDSON: She wouldn't be available for cross
14 examination at that point in time.

15 THE COURT: If the cross examination tends to incriminate
16 her and she asserts her right, then, then she'll be allowed to
17 claim her Fifth Amendment Right. If the cross examination
18 does not incriminate her --

19 MR. RICHARDSON: Yes, sir.

20 THE COURT: -- then I'll make a decision and I'll direct
21 her to answer the question or not answer the question, but we
22 won't know that until I hear the question --

23 MR. RICHARDSON: I understand the Court's ruling, Your
24 Honor.

25 THE COURT: -- and, and determine whether or not it

State v. Locklear

1127

1 incriminates her on the pending charges against her now.

2 Okay.

3 MR. RICHARDSON: Thank you, Your Honor.

4 THE COURT: All right. All right. Anything further the
5 Defense wants placed on the record?

6 MR. WILSON: Nothing further, Your Honor.

7 THE COURT: All right. We're going to go ahead and take
8 about a 10-minute break and then we'll come back and call this
9 witness.

10 MR. WILSON: Thank you, Judge.

11 THE COURT: Thank you.

12 OFF THE RECORD

13 (On the record. The following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. Anything from the State before we
16 bring the jury in?

17 MR. RICHARDSON: No, sir, Your Honor.

18 THE COURT: Anything from the Defense?

19 MR. WILSON: Nothing, Your Honor.

20 THE COURT: All right. Let's go ahead and bring the jury
21 in.

22 (Whereupon, the following takes place in the presence of
23 the jury.)

24 THE COURT: All right. Ladies and gentlemen, welcome
25 back. We're ready to resume the trial of the case. Make sure

1 you have your own notepads and no one else's. All right, Mr.
2 Wilson, the Defense can call their next witness.

3 MR. WILSON: If it please the Court, Your Honor, the
4 Defense at this time, Judge, calls Lauren Johnson.

5 THE COURT: All right.

6 Whereupon, Lauren Rebecca Johnson was called to the
7 stand, duly sworn by the clerk and testified as follows:

8 THE CLERK: Slip up, speak into the microphone. State
9 your full name and spell your last name.

10 MS. JOHNSON: Lauren Rebecca Johnson, J-O-H-N-S-O-N.

11 MR. WILSON: May it please the Court, Your Honor?

12 THE COURT: All right, sir.

13 MR. WILSON: Thank you, Judge.

14 DIRECT EXAMINATION

15 BY MR. WILSON:

16 Q Ms. Johnson?

17 A Yes, sir.

18 Q Would you tell the jury right now where you're actually
19 house, located?

20 A Right now I'm in J. Reuben Long Detention Center.

21 Q Okay. And what pod are you in right now?

22 A A-2.

23 Q Okay. Can you tell the jury why you're incarcerated at
24 this point in time?

25 A I'm here for child support.

Lauren Johnson - Direct by Mr. Wilson

1129

1 Q Okay. Now, I just want to give the jury a little
2 background. So I'm just going to ask you a couple of
3 questions about your past. Okay?

4 A Okay.

5 Q Can you tell the jury, have you had run-ins with the law
6 before?

7 A Absolutely.

8 Q Okay. Have you ever had convictions for receiving stolen
9 goods?

10 A Yes.

11 Q Okay. Have you had convictions for drug usage?

12 A Yes.

13 Q All right. And you don't deny any of that; do you?

14 A No, sir.

15 Q Okay. Have you had theft offenses as well?

16 A Yes, sir.

17 Q Okay. And those are things you've been convicted of
18 before or pled guilty to?

19 A Yes, sir.

20 Q Okay. And you admit that readily to the jury; correct?

21 A Yes.

22 Q All right. Now, I want to take you back -- let me first
23 ask you this. Where -- well, let me ask you this. Did you
24 ever live at Wagon Wheel Court?

25 A Yes, sir. I still do.

1 Q Okay. And when did you begin living at that particular
2 location?

3 A When I was four. So '84.

4 Q '84?

5 A Uh-huh.

6 Q And have you lived there continuously ever since?

7 A Yes, sir. Give or take a few years.

8 Q Okay. Can you tell the jury where that's located?

9 A It's by the Sleep Inn on -- off of 548, Highway 548 in
10 Conway.

11 Q Okay. Thank you very much. Now, did you have an
12 opportunity to get to know Amos Hatfield or Thomas Hatfield?

13 A Yes, sir. I grew up with them.

14 Q You grew up with them?

15 A Uh-huh.

16 Q So you grew up with Thomas Hatfield and Amos Hatfield?

17 A Yes, sir.

18 Q Okay. And what time or what year did you remember
19 meeting them? And if you don't recall just tell the jury you
20 don't recall.

21 A I remember meeting Tom I was probably in eighth grade
22 maybe.

23 Q Okay. So, thank you very much. So, you were around 12
24 or 13 years old?

25 A Yeah.

Lauren Johnson - Direct by Mr. Wilson

1131

1 Q Okay. All right. And during that time you had an
2 opportunity to actually talk with him, spend time with them?

3 A Uh-huh.

4 Q You've got to say yes or no.

5 A Yes.

6 Q Okay. All right. And you had an opportunity to actually
7 interact with Thomas?

8 A Yes.

9 Q Okay. Can you tell me did there come a time when you
10 became involved in drug activity?

11 A I started smoking marijuana when I was like 13 and he
12 was, I think, one of the first people that I was around at
13 that time doing drugs.

14 Q Okay. Do recall how old he was at the time?

15 A I'm not sure how much older than me he is. He's a few
16 years older than I am, and I'm 34 today, so.

17 Q Okay. All right. Let me ask you this question. Now,
18 you said you started smoking marijuana at 13?

19 A Yes, sir.

20 Q Okay. Well, did you do drugs with Tommy around that
21 time?

22 A I smoked marijuana with him.

23 Q Okay. All right. And did you progress to other drugs
24 yourself?

25 A Yes, sir.

1 Q Okay. What other drugs did you progress to, start using?

2 A I started using cocaine a few years after that and crack
3 cocaine, also.

4 Q Okay. Did you have an opportunity to interact with
5 Thomas Hatfield later on doing those drugs as well?

6 A Yes, sir.

7 Q Did you ever personally observe Thomas Hatfield doing
8 cocaine or crack?

9 A Yes, sir.

10 Q So you actually were in his company when he was doing
11 that?

12 A Yes, sir.

13 Q Okay. Can you tell me where that was, what locations you
14 all would go to, where you would be at when you'd be doing
15 those drugs?

16 A Well, at Thomas's house. I'm not sure of the address but
17 it's on Wagon Wheel.

18 Q Okay.

19 A I would go to his house.

20 Q Okay. So, you would go to his house and smoke drugs?

21 A Yes, sir.

22 Q Okay. How -- I'm sorry. How often did you do that?

23 A Like twice a week maybe.

24 Q Twice a week. For how long did you do that?

25 A A few years, at least five.

Lauren Johnson - Direct by Mr. Wilson

1133

1 Q Okay. All right. And you also said you knew Amos
2 Hatfield?

3 A Yes, sir.

4 Q Okay. Tell me about your interaction with Amos and what
5 you know about him?

6 A Well, I started staying in the trailer that Tom lived in,
7 let's see, I was like -- I think my dad had just passed away.
8 So I was like 29 or 30, and I stayed in his trailer for about
9 six months, and I got to see him like every Friday he would
10 come over to make sure that I was okay because I didn't have a
11 car and I didn't have a phone. So he would come by on Fridays
12 to make sure that I was all right. And I would give him or
13 try to give him some money. He would never take it from me.

14 Q Okay. So, he was really kind to you; wasn't he?

15 A Yes, sir.

16 Q All right. And he also allowed you to stay at the
17 trailer?

18 A Yes, sir.

19 Q Okay.

20 A He said that -- the trailer had been messed up. So I
21 guess somebody had like vandalized it or whatever on the
22 inside. So he told me that I could stay there whenever he got
23 the house fixed. Well, I asked him if I fixed everything
24 inside that needed to be fixed could I stay there for a month
25 free of rent and he said yes. Well, he never took any rent

1 money from me.

2 Q Okay.

3 A So --

4 Q So you had an opportunity to witness and to interact with
5 Amos Hatfield quite a bit; haven't you?

6 A Yes, sir.

7 Q All right. Did you ever know anything about Tommy's
8 problems with drug dealers?

9 A Yes. He owed drug dealers money, a lot as far as I know.

10 Q Okay. Did you ever personally know of any in particular?

11 A I know of one person. I'm not sure of his last name, but
12 his name was Mike. That's what they called him. I don't know
13 if that was even his real name.

14 Q Okay. And through the years that you've known Amos and
15 Thomas did his father ever try to help his son out of trouble?

16 A All the time.

17 Q Okay. Can you tell the jury about some of those times
18 when his father tried to help him out of trouble?

19 A Well, I can recall once. I think that was whenever the
20 people had came in. They were staying at Tom's house with
21 Tom. It was a couple of black people, and I'm not sure of
22 their names. So I'm not going to say any names. He owed them
23 a lot of money. So they ended up staying in his trailer, and
24 Tom didn't stay there anymore. He went and stayed with his
25 dad.

Lauren Johnson - Direct by Mr. Wilson

1135

1 Q Okay. And there's no doubt that through the times that
2 you know -- you knew Thomas and Amos that Tommy had a drug
3 problem?

4 A Yes, sir.

5 Q A serious drug problem?

6 A As he always did drugs as far as I know.

7 Q Okay. All right. Did you ever know him to do pills?

8 A Yes.

9 Q Okay. Let me ask you this. You knew them intimately for
10 years; correct?

11 A Uh-huh. Yes, sir.

12 Q There's no doubt about it in your mind that Amos loved
13 his son?

14 A Yes. He did.

15 Q And he would have done anything for him?

16 A Yes, sir.

17 Q And he did actually do a lot for his son?

18 A He did a lot for him.

19 MR. RICHARDSON: Your Honor, is he going to continue to
20 lead his witness? I would object to his leading questions.

21 MR. WILSON: I withdraw. Judge, I'll withdraw the last
22 question.

23 THE COURT: Sustained.

24 MR. WILSON: Thank you, Your Honor.

25 BY MR. WILSON:

1 Q My last question is this, ma'am. Is it your testimony to
2 this jury today that you actually did narcotics with and
3 participated in drug activity with Thomas Hatfield?

4 A Yes, sir.

5 Q Thank you very much.

6 MR. WILSON: No further questions, Your Honor.

7 THE COURT: Cross examination.

8 MR. RICHARDSON: Thank you.

9 CROSS EXAMINATION

10 BY MR. RICHARDSON:

11 Q Mr. Wilson asked you about your prior convictions. He
12 left out the one for giving false information, correct?

13 A Yes, sir.

14 Q Okay. That was 2012, and your theft convictions, you've
15 had shoplifting, a couple of counts of receiving stolen goods?

16 A Yes, sir.

17 Q Okay. When's the last time you saw Tommy?

18 A Probably about two, a year or two before he passed away.

19 Q So, if he passed away in 2012, that would've been 2010?

20 A I guess so. Yes, sir.

21 Q Okay. So, you --

22 A I saw his father now. I saw his father, but I didn't see
23 him because he was hiding from everybody.

24 Q You didn't see him but --

25 A I didn't. His dad told me.

Lauren Johnson - Cross by Mr. Richardson

1137

1 Q Okay. You think his dad might have told you he was
2 hiding so you wouldn't get back around him bringing drugs
3 around?

4 A Maybe.

5 Q Okay.

6 A That could be possible.

7 Q Because you're a drug user?

8 A Yes, sir.

9 Q It'd be a bad influence on Tommy?

10 A Yes, sir.

11 Q And you haven't seen him since 2010. How many times have
12 you met with the Defense on this?

13 A How many times have I what?

14 Q Have you met with the Defense and talked to them?

15 A Would that be him?

16 Q Uh-huh?

17 A Just once.

18 Q Anybody else from his office?

19 A No, ma'am. No, sir.

20 Q Okay. Who'd you contact with this information?

21 A Nobody.

22 Q Now, you hadn't seen Tommy since 2010?

23 A Yeah, give or take. I don't even remember. It's been a
24 long time.

25 Q Okay. So a long time?

1 A Yeah.

2 Q Were you aware he was clean for two years by 2012?

3 A No, sir.

4 Q Now, you talked about some problems Tommy had with drug
5 dealers. He solved the drug problems one time by letting
6 people move into the house; correct?

7 A Uh-huh.

8 REPORTER: Is that a yes?

9 A Yes, sir. Yes. I'm sorry.

10 Q And these drug dealers when Tommy did go to them, were
11 they local or would he go up to Tabor City?

12 A Now, I'm not sure about that.

13 Q Okay.

14 A I just went over there when I had my own drugs. I went
15 to his house to use them. I don't know where he went per se
16 to --

17 Q Okay. When you -- when you purchased your drugs or got
18 your drugs --

19 A Uh-huh.

20 Q -- would you go all the way up to Tabor City or was it
21 local?

22 A I have -- it was local. I don't know anybody in Tabor
23 City.

24 Q Okay. You don't go far and get drugs; correct?

25 A No, sir.

Lauren Johnson - Redirect by Mr. Wilson

1139

1 Q You never ever heard anybody threaten to kill Tommy?

2 A No. I've never heard that. No, sir.

3 Q Never heard anybody threaten to kill Amos?

4 A No, sir.

5 Q And Amos loved his son?

6 A Yes, sir.

7 Q Didn't want any harm to befall his son?

8 A No, sir. If he did, I don't think he would have helped
9 him so much.

10 Q Okay. Wouldn't want anybody to beat up his son?

11 A No.

12 MR. RICHARDSON: No further questions, Your Honor.

13 THE COURT: Redirect?

14 MR. WILSON: Just one question. Actually a couple of
15 questions.

16 REDIRECT EXAMINATION

17 BY MR. WILSON:

18 Q How many years have you known the Hatfields?

19 A Let's see. More than 15, 15 years.

20 Q All right. And you had an occasion to talk with Amos
21 Hatfield on a daily basis or a weekly basis over the last
22 several years before he passed away?

23 A Yes, sir.

24 Q And you actually were staying on his property; correct?

25 A Yes, sir.

1 Q He came by and smoked cigarettes with you; is that
2 correct?

3 A Uh-huh. And drank coffee.

4 Q Okay. And drank coffee with you. Did he ever tell you
5 that his son was clean?

6 A No, sir. Not that I, not that I recall.

7 Q Thank you very much.

8 THE COURT: All right. You may step down.

9 A Thank you.

10 MR. WILSON: Your Honor, I would ask at this time this
11 witness obviously be excused, Judge.

12 THE COURT: Any objection?

13 MR. RICHARDSON: No, sir, Your Honor.

14 THE COURT: All right. She's free to go. Thank you.
15 All right. You can call your next witness.

16 MR. WILSON: Thank you, Your Honor. Your Honor at this
17 time I would call Teresa Phillips to the stand.

18 THE COURT: All right.

19 Whereupon, Teresa Phillips was called to the stand, duly
20 sworn by the clerk and testified as follows:

21 THE CLERK: Please state your full name and spell your
22 last name.

23 MS. PHILLIPS: My name is Teresa Phillips, P-H-I-L-L-I-P-
24 S.

25 THE CLERK: Spell your first name.

Teresa Phillips - Direct by Mr. Wilson

1141

1 MS. PHILLIPS: Teresa, T-E-R-E-S-A.

2 MR. WILSON: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. WILSON:

6 Q Ms. Phillips, will you tell the jury a little bit about
7 yourself? Tell them where you're from.

8 A My name is Teresa Phillips. I'm from Tabor City, North
9 Carolina.

10 Q Okay. And at the time of this incident in 2000, I
11 believe, it was 12, 11 you were dating Odom Bryant; correct?

12 A Yes, sir.

13 Q Okay. Were you ever approached by the police at all in
14 this matter?

15 A Yes.

16 Q Okay. Can you tell the jury a little bit about that,
17 what happened and where they approached you? Don't tell me
18 what they said, just tell me what, what happened.

19 A I was at the gas station playing the lottery machine, and
20 the -- I just got surrounded by police, and they snatched my
21 phone out of my hand and took me to the Tabor City Police
22 Department.

23 Q Okay. Which gas station were you at? Tell the jury
24 where you were at.

25 A I was at Vascos.

1 Q You were at Vascos?

2 A Uh-huh.

3 Q Okay. So, while you're at Vascos you were playing the
4 dollar machine; is that my understanding?

5 A That's right.

6 Q Okay. And then the police came and snatched the phone
7 out your hand?

8 A They pulled me, pulled me over to the drink machines
9 first and they were trying to talk to me and then they -- my
10 phone rung and he -- one of the -- I don't know which police,
11 but someone come from side -- beside me and snatched the phone
12 out of my hand. That was the last time I seen my phone till I
13 was at the police station.

14 Q Okay. Now, were you transported to the police station or
15 did you go on your own?

16 A They transported me, one of the South Carolina
17 detectives.

18 Q Okay. Transported you?

19 A Uh-huh.

20 Q Okay. All right. Now, when you got there were they
21 asking you questions about a murder?

22 A Yeah.

23 Q Okay. And did you have an opportunity to talk to them
24 and tell them anything?

25 A They, they asked me questions --

Teresa Phillips - Direct by Mr. Wilson

1143

1 Q Don't tell me what they said.

2 A Sorry.

3 Q Just tell me what you said to them. Did you ever tell
4 them about any gun that was on your phone?

5 A Yes, sir.

6 Q Okay. And what did you tell them about a picture of a
7 gun that was on your phone?

8 A The picture of the gun that was on my phone was my
9 children's father's. He was trying to sell it.

10 Q Okay. And at that point in time they actually had your
11 phone; correct?

12 A Yes.

13 Q The police detectives?

14 A Uh-huh.

15 Q Do you recall speaking with Detective Frebowitz?

16 A Uh-huh.

17 Q Okay.

18 REPORTER: I need her to say yes or no.

19 THE COURT: Excuse me. You need to answer yes or no.

20 A I'm sorry. I'm sorry. Yes.

21 Q Yeah. Just say yes because she's recording everything
22 you say? Okay?

23 A Okay. I'm sorry.

24 Q All right. So did you talk with Detective Frebowitz that
25 day?

1 A Yes.

2 Q All right. And did you also talk with Detective Vescovi
3 that day?

4 A Yes.

5 Q All right. And you had a lengthy conversation with them;
6 correct?

7 A Yes.

8 Q Okay. Now, during the time that you were talking with
9 them you said that at some point in time you told them, "Yes,
10 that's a gun on my phone?"

11 A Yes.

12 Q "A picture of a gun?"

13 A Yes.

14 Q And there was some conversation between you and the
15 detectives about that gun; correct?

16 A Yes.

17 Q Okay. And at some point in time they call you a liar;
18 correct?

19 A Yes.

20 Q Okay. All right. And I'm going to ask you now if you
21 can identify this particular phone and that particular picture
22 of the gun.

23 A That's the picture that was taken of my children's father
24 gun on the back of my car, my red Chevrolet Malibu.

25 Q And there's no doubt about that in your mind; correct?

Teresa Phillips - Direct by Mr. Wilson

1145

1 A No. Uh-huh.

2 Q All right. And the police asked you about that
3 particular weapon; didn't they?

4 A Yes.

5 Q Okay. And you told them that -- what, what'd you tell
6 them? In the end, what'd you tell them?

7 A That my children's father was trying to sell the gun, and
8 I had took a picture of it, and I told him I would ask if
9 anyone was trying -- was interested.

10 Q Okay. And would you dispute that this actual interview
11 took place on August 21st?

12 A I'm not sure of the correct date.

13 Q Well, if I told you it did, would you dispute that?

14 A I'm not sure. I'm not aware of the date. I don't recall
15 it.

16 Q Okay. All right. Well, when you spoke with detectives,
17 did you tell them that that picture was taken a week and a
18 half or two weeks before --

19 A Yes.

20 Q -- this murder happened?

21 A Yes.

22 Q Okay. You did; correct?

23 A Yes.

24 Q Okay.

25 MR. WILSON: Your Honor, at this time I'd move to have

1 Defense Four in evidence at this time, Judge.

2 THE COURT: Any objection?

3 MR. RICHARDSON: No, sir, Your Honor.

4 THE COURT: All right. Defense Exhibit Number Four
5 admitted into evidence without objection.

6 (Defense Exhibit Number Four [Photograph] admitted into
7 evidence and appropriately marked.)

8 MR. WILSON: Permission to publish to the jury, Judge?

9 THE COURT: All right.

10 MR. WILSON: Thank you, Your Honor.

11 BY MR. WILSON:

12 Q Now, during that interview Detective Vescovi and
13 Detective Frebowitz were speaking to you about a murder;
14 correct?

15 A Uh-huh.

16 MR. RICHARDSON: Your Honor.

17 THE COURT: Excuse me. Is that a yes?

18 A Yes. I'm sorry.

19 MR. RICHARDSON: Your Honor, once again, the State would
20 just object to leading questions.

21 THE COURT: All right. Sustained.

22 BY MR. WILSON:

23 Q During that time when you were actually in the interview,
24 did anyone threaten your children?

25 A Yes.

Teresa Phillips - Direct by Mr. Wilson

1147

1 Q Okay. Can you tell me about that?

2 A The detectives told me that, that they were -- that they
3 were -- that I would lose my children. They told me that I
4 could look for five years or something like that. I'm not
5 sure exactly how he -- it was worded, but basically they just
6 told me they were -- that my -- I was going to lose my
7 children.

8 Q And did you tell them that you were afraid to lose your
9 children?

10 A Yes.

11 Q Okay. And actually you began to cry?

12 A Yes.

13 Q Did you begin to cry during that interview?

14 A Yes. I was crying. Yes.

15 Q Okay. Were you upset during that interview?

16 A Yes.

17 Q Now, they also ask you about your relationship with one
18 of the Co-Defendants in this case, Odom Bryant; correct?

19 A Yes.

20 Q What was your relationship at the time with Odom Bryant?

21 A We were together.

22 Q All right. He was your boyfriend, yes or no?

23 A Uh-huh. Yes.

24 Q Okay.

25 Q Now, just a couple of more questions. You don't know

1 this Defendant; do you?

2 A No.

3 Q Did you all ever interact or talk or hang out?

4 A I've never seen the lady.

5 Q You've never seen her before a day in your life?

6 A No.

7 Q The last question I want to ask you is what sort of
8 relationship do you have with Coteara Todd?

9 A We know each other. It was my ex-boyfriend's aunt.

10 Q Okay.

11 A So we knew each other. It was a -- we, we knew each
12 other. We didn't hang out or we didn't go to each other's
13 houses. We didn't go out like that. It was nothing like
14 that.

15 Q Okay.

16 A I worked all the time. I'm a single mom.

17 Q Okay. And at the time, do you know who Coteara Todd was
18 dating?

19 A All, all I know is his name was James. I don't know
20 anything further than that.

21 Q You really didn't --

22 A I don't know his last name. I, I don't.

23 Q Fair enough. You really didn't spend a lot of time with
24 --

25 A Huh-uh.

Teresa Phillips - Cross by Mr. Richardson

1149

1 Q -- James; did you?

2 A Huh-uh.

3 Q Or Coteara?

4 THE COURT: Is that a no?

5 A No. No, sir.

6 Q Okay. Thank you very much.

7 MR. WILSON: Your Honor, I have no further questions.

8 THE COURT: All right. Cross-examination.

9 MR. RICHARDSON: Thank you, Your Honor.

10 CROSS EXAMINATION:

11 BY MR. RICHARDSON

12 Q I'm going to ask you about that picture in a second. Ms.
13 Phillips, have you listened to your statement?

14 A Yes, sir.

15 Q It's been played for you how many times?

16 A Just once.

17 Q When was that?

18 A Refreshed, refreshed today.

19 Q When you got here today?

20 A Yes, sir.

21 Q So you've listened to it today? You've had the
22 opportunity to review your statement?

23 A Yes, sir.

24 Q Okay. And so that's how you're able to recall things
25 today; correct?

1 A Yes, sir.

2 Q Prior to hearing that statement again, were you able to
3 just independently recall everything?

4 A No, sir. No, sir. I wasn't. I have some health issues
5 and --

6 Q And it's been two years?

7 A Yeah. And well, I was incubated [sic] three times due to
8 asthma. So like I've lost a lot of my memory on certain
9 things and stuff.

10 Q I'm sorry.

11 A It's okay.

12 Q No doubt about it, back, back in -- it was August 21st,
13 2012, you were still dating Odom Bryant?

14 A Yes. Yes, sir.

15 Q And you talked with him throughout the day on Sunday;
16 correct, Sunday?

17 A I'm not sure of the days.

18 Q Okay. You listened to your statement. I think you told
19 police that you and Odom had gone to a birthday party?

20 A Yes.

21 Q Okay. And that was on the Sunday that they were talking
22 about; correct?

23 A Uh-huh.

24 Q Okay.

25 THE COURT: Is that a yes?

Teresa Phillips - Cross by Mr. Richardson

1151

1 A Yes, sir. I'm sorry.

2 Q And that birthday party was in the late afternoon;
3 correct?

4 A Yes, sir. I had worked that day. So it was later that
5 -- it was later that evening.

6 Q And Mr. Wilson asked you about you told the police that
7 the picture had been taken a week and a half, two weeks
8 before?

9 A That, that was an estimate. I, I don't know the correct
10 -- I asked them could they get the time stamp on it. I don't,
11 I don't know really.

12 Q Okay. Is that a date stamp right there, 8-15, 2012?

13 A I don't know.

14 Q Could that be a date stamp there?

15 A Could be. I, I really don't know.

16 Q And if that is that'd be August 15th, 2012; correct?

17 A Honestly, I don't know. I don't know.

18 Q You identified Odom Bryant's cell number as [REDACTED]?

19 A I don't recall his number.

20 Q You identified his phone number for the police?

21 A I may have then, but now I don't recall it.

22 Q It's been two years?

23 A Yes, sir.

24 Q That's understandable, but, but at the time -- you just
25 listened to your statement. You identified what his cell

1 number was?

2 A Okay. I didn't listen to the whole statement, but okay.

3 All right.

4 Q You just listened to parts of it?

5 A It -- I meant -- yes, sir. I didn't hear the whole
6 thing.

7 Q Who played it for you?

8 A I'm not sure of the guy's name.

9 Q They just wanted you to play -- they just wanted you to
10 listen to certain parts of it?

11 A No, sir. He was playing it, but --

12 MR. WILSON: Objection, Your Honor, speculation.

13 THE COURT: Overruled. Go ahead.

14 A No, sir. I just didn't remember everything, and he had
15 just played -- he was just playing it, but I was also
16 speaking.

17 Q Okay. So you did or did not listen to the whole thing?

18 A No. I did not listen to the whole thing.

19 Q Now, when the police came to you they asked you about
20 Pooh Pooh; correct?

21 A Yes.

22 Q Okay. And just so we can all get it settled, who's Pooh
23 Pooh?

24 A Odom Bryant.

25 Q Odom Bryant?

Teresa Phillips - Cross by Mr. Richardson

1153

- 1 A Uh-huh.
- 2 Q Were you and Odom Bryant always together 24 hours a day?
- 3 A No.
- 4 Q Because you worked?
- 5 A I worked.
- 6 Q And if you work, you sleep at night; correct?
- 7 A That's correct. And then I have four children on top of
- 8 that so.
- 9 Q So you're kind of busy in the evening?
- 10 A Very busy.
- 11 Q Okay. On a Saturday night, would you be tied up?
- 12 A I would be home if I wasn't at work. The only other
- 13 place I would've been was my sister and my cousin.
- 14 Q Do you recall the last time that you had seen Odom Bryant
- 15 prior to the murders?
- 16 A No. I don't, not right offhand.
- 17 Q So he wasn't with you on that Saturday night before?
- 18 A He had went to a party like two or three nights in a row.
- 19 So I really don't know which night.
- 20 Q And you didn't go out and party with him?
- 21 A No. No. I did not.
- 22 Q So you wouldn't meet everybody that he knew?
- 23 A No.
- 24 Q You didn't hang with everybody he knew?
- 25 A No. No.

1 MR. RICHARDSON: The Court's indulgence, Your Honor.

2 BY MR. RICHARDSON:

3 Q And you -- Mr. Wilson asked you about the police were
4 talking about your children and you were scared?

5 A Uh-huh.

6 REPORTER: Is that a yes?

7 THE COURT: Is that a yes?

8 A Yes. Yes. Yes, sir.

9 Q And they were telling, and they were telling you that
10 Pooh Pooh, Odom Bryant might have killed somebody; correct?

11 A Yes. They did.

12 Q And you had a picture of a handgun; correct?

13 A Yes.

14 Q And that's when you volunteered that this was your baby
15 daddy's gun; correct?

16 A Yes. That was correct information.

17 Q And you didn't want to be tied up in this, this murder;
18 correct?

19 A No. I don't know anything about it. So, I mean, no,
20 sir. I did not want to be tied in it.

21 Q Okay. And you don't have independent recollection of
22 what went on that day; correct?

23 A Huh-uh.

24 Q Just what you heard --

25 A No, sir.

Teresa Phillips - Redirect by Mr. Wilson

1155

1 Q -- on your statement? All right. Thank you.

2 A That's all.

3 THE COURT: Redirect?

4 MR. WILSON: Thank you, Your Honor

5 REDIRECT EXAMINATION

6 BY MR. WILSON:

7 Q Just for the record, did you and I spend hours and hours
8 and hours prepping you to testify today?

9 A No, sir. No, sir.

10 Q Okay. How long did we actually talk today?

11 A Four minutes tops.

12 Q Okay. And you explain to me or tell me, did you tell me
13 that you had some trouble remembering?

14 A Yes. I did.

15 Q Okay. And will you explain that to the jury what your
16 problems is remembering?

17 A Well, I've had three -- I've been incubated [sic] three
18 times due to asthma. So I've lost a lot of memory, not just
19 on, on certain things like, I meant, I may be asked something
20 today, can remember tomorrow, and there's some things that I,
21 I've not been able to get any of my memory back on. I'm also
22 dealing with my daughter was raped, and I'm in court with
23 that, also. So I have a lot of emotions.

24 Q Did listening to your taped statement allow you or help
25 you refresh some of your memory about what you said to the

1 detectives?

2 A Yes, sir. Yes, sir.

3 Q And anything that you said in this court today differ
4 from what you said on that tape?

5 A Not that I'm aware of. No, sir. No. No.

6 Q Thank you so much.

7 MR. WILSON: No further questions.

8 THE COURT: All right. You may step down.

9 MR. WILSON: Your Honor, can this witness be excused,
10 please?

11 THE COURT: Any objection?

12 MR. RICHARDSON: No, sir, Your Honor.

13 MR. WILSON: Thank you, Judge.

14 THE COURT: All right. She's free to go. You can call
15 your next witness.

16 MR. WILSON: Thank you, Your Honor. At this time, Judge,
17 I would call Coteara Todd to the stand.

18 THE COURT: All right.

19 Whereupon, Coteara Todd was called to the stand, duly
20 sworn by the clerk and testified as follows:

21 THE CLERK: State your full name and spell your first
22 name and your last name.

23 MS. TODD: Coteara Maria Todd, first name C-O-T-E-A-R-A.

24 MR. WILSON: May it please the Court, Your Honor?

25 THE COURT: All right.

Coteara Todd - Direct by Mr. Wilson

1157

1 MR. WILSON: Thank you, Judge.

2 DIRECT EXAMINATION

3 BY MR. WILSON:

4 Q Ms. Todd, I just want to ask you a few questions about
5 your relationship to James Nehemiah Evans as well as your
6 relationship to Odom Bryant.

7 A Okay.

8 Q How are you related to Odom Bryant?

9 A That's my nephew.

10 Q He's your nephew, okay. And James Nehemiah during this
11 time was your boyfriend; is that correct?

12 A Yes, sir.

13 Q Okay. All right. Well, tell me about, a little bit
14 about yourself, where you're from?

15 A Tabor City.

16 Q How long have you lived in Tabor City?

17 A All my life.

18 Q Okay. Are you familiar with a place called the bottom?

19 A Uh-huh.

20 Q Okay. All right.

21 THE COURT: Excuse me. You're going to need to answer
22 yes or no.

23 A Yes. Yes, sir.

24 MR. WILSON: I apologize, Judge.

25 A Yes, sir.

1 BY MR. WILSON:
2 Q Answer yes or no; okay?
3 A Yes, sir. Yes, sir.
4 Q So they can take down your statement. All right. Where
5 is the bottom at? Where is it located?
6 A Do you know where Tabor City Middle School is?
7 Q Can't ask me any questions but --
8 A Well, it's --
9 Q -- is it near?
10 A Tabor City Middle School.
11 Q Thank you very much. Now, during this time you -- were
12 you ever approached by police in this case?
13 A Yes, sir.
14 Q Okay. So they came to talk to you; correct?
15 A Yes, sir.
16 Q Okay. And tell me about that interaction. Don't tell me
17 what they said. Just tell me about where they contacted you.
18 Where did they come see you at?
19 A They stopped me right there at the -- on Fifth Street --
20 Q Okay.
21 A -- if I'm not mistaken.
22 Q All right. Did you ask --
23 A No. That wasn't Fifth Street. That was Sixth Street.
24 Q On Sixth Street?
25 A Yes, sir. The next street over.

Coteara Todd - Direct by Mr. Wilson

1159

1 Q Okay. All right. And do you recall asking them any
2 questions when they stopped you?

3 A Sir?

4 Q Do you recall asking them any questions when they stopped
5 you?

6 A No, sir.

7 Q Okay. All right. At some point in time, did you tell
8 them that you might know where James is?

9 A Yes, sir.

10 Q Okay. And did you try to lead them to James?

11 A Yes, sir.

12 Q And did you, in fact, lead them to James?

13 MR. RICHARDSON: Your Honor.

14 A Yes, sir.

15 MR. RICHARDSON: Once again, leading questions.

16 THE COURT: Overruled. That's not leading.

17 Q Did you show them where James was?

18 A Yes, sir.

19 Q Okay. And when they got there, what did James do?

20 A He stood out there and was listening to the man what he
21 said and then he broke and ran.

22 Q He broke and ran?

23 A Yes, sir.

24 Q All right. And do you know if detectives ever caught him
25 that day or not?

1 A No, sir.

2 Q Is that no, they did not catch him, or no, you don't
3 know?

4 A No. I don't know.

5 Q Okay. All right. No further questions, Judge.

6 THE COURT: All right. Cross-examination.

7 MR. RICHARDSON: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MR. RICHARDSON:

10 Q Good morning, Ms. Todd.

11 A Good morning.

12 Q Ms. Todd, when you talked to police you went willingly
13 back to your house; correct?

14 A Yes, sir.

15 Q And Nehemiah James Evans he was living there?

16 A Yes, sir.

17 Q Okay. And when officers -- actually, when Detective Cox
18 hollered, "Police," James broke off and ran; correct?

19 A Yes, sir.

20 Q And they couldn't find him that night?

21 A Not as I know of. No, sir.

22 Q Okay. And you let them search your house; correct?

23 A Yes, sir.

24 Q Do you remember telling police that -- I mean, you're a
25 hard-working woman; correct?

Coteara Todd - Cross by Mr. Richardson

1161

1 A No, sir.

2 Q Well, at the time you were working I think --

3 A No, sir. I ain't worked since 2010, if I'm not mistaken.

4 Q Okay.

5 A Don't recall it.

6 Q Do you remember telling the people or telling Myrtle
7 Beach Police that you worked for -- worked housekeeping for a
8 resort?

9 A No, sir. I worked at Century 21.

10 Q I'm sorry?

11 A Century 21.

12 Q Okay. And that was doing housekeeping?

13 A That was at 2010. Yes, sir.

14 Q Okay, back in 2010.

15 A If I'm not -- don't recall it.

16 Q Do you remember telling police that, that you tended to
17 your children and you were asleep by 10 or 11 o'clock on that
18 Saturday night?

19 A No, sir. I usually go to bed about 9:30, 10:00 o'clock,
20 put my kids in the bed at nine.

21 Q Okay.

22 A Yes, sir.

23 Q And then you went to bed?

24 A Yes, sir. I lay down with my kids.

25 Q On that Saturday night, the police spoke to you on a

1 Monday; right?

2 A Yes, sir.

3 Q Monday night?

4 A Yes, sir.

5 Q And that Saturday night before --

6 A Uh-huh.

7 Q -- when was the last time you saw Nehemiah James Evans?

8 A Saturday. I saw him Friday, Saturday, the weekend.

9 Q Okay. When's the last time, time-wise, on Saturday

10 night?

11 A Time-wise Saturday night, it may be like nine, right

12 before I lay down I seen him. Yes, sir.

13 Q Okay. And after you laid down you was out; right?

14 A Yes, sir.

15 Q I mean, you didn't wake up till the next morning?

16 A Right. Correct.

17 Q Okay. You had a little red Dodge Neon?

18 A Yes, sir.

19 Q And did James have access to that?

20 A Well, he had the key. Yes, sir.

21 Q He had -- he could get in it and drive it when he needed

22 to?

23 A Yes, sir.

24 Q And did you give him permission to drive that night?

25 A Well, he drove it at work. I wouldn't recall that he

Coteara Todd - Cross by Mr. Richardson

1163

1 drove it at night. No, sir.

2 Q What time did you wake up on that Sunday morning?

3 A Probably like 9:00 o'clock, 9:30. I go to church.

4 Q You go to church. Okay.

5 A Yes, sir. I usually leave out my house anywhere from 11,
6 11:15, maybe 11:30.

7 Q Okay. So you went to bed, let's go with the late, 10:00
8 o'clock that night, that Saturday night; okay?

9 A Yes.

10 Q It's Saturday. You can party a little bit.

11 A No. I don't party.

12 Q You can watch some late-night TV?

13 A Oh, well.

14 Q And we're gone. You didn't wake up again until the next
15 Sunday morning?

16 A Right. Correct.

17 Q And you said you woke up about 9:00 o'clock?

18 A Sir?

19 Q You said you woke up about 9:00 o'clock or went to church
20 about nine?

21 A 9:30, 10:00 o'clock.

22 Q 9:30.

23 A I don't go to church until 11. I leave out my house
24 anywhere from 11, 11:15, go to church.

25 Q Okay. So you didn't wake up till 9:30 the next morning?

1 A Yes, sir.

2 Q At the earliest. So you didn't wake up throughout the
3 night?

4 A No, sir.

5 Q So throughout the night you didn't see Nehemiah James
6 Evans?

7 A No, sir. Because I didn't get back up after I lay down
8 and went to sleep.

9 Q And you didn't see -- you didn't see Pooh Pooh, your
10 cousin, at that point?

11 A My nephew.

12 Q Nephew. I'm sorry. I'm sorry. All the familial
13 relations I'm getting confused with it. You didn't see Odom
14 Bryant?

15 A No, sir.

16 Q Okay. And you didn't see the Defendant?

17 A Who?

18 Q The Defendant, the woman sitting down to the end of that
19 table?

20 A No, sir.

21 Q So, after you went to bed, you don't know what happened
22 --

23 A What happened after I went to sleep.

24 Q --- near your house? Whenever you woke up the next
25 morning, was, was James there?

Coteara Todd - Cross by Mr. Richardson

1165

- 1 A Was he there when I woke up Sunday morning? Church. Let
2 me think. Yes, sir. He was there.
- 3 Q Did he appear agitated or upset or anything?
- 4 A No, sir.
- 5 Q Okay. So, he wasn't upset. He wasn't agitated. Normal?
- 6 A Yeah. He acted normal.
- 7 Q Later on in that Sunday did you ever see your nephew, I'm
8 sorry, Odom Bryant?
- 9 A My nephew, Sunday?
- 10 Q Uh-huh.
- 11 A Yes. They had something at my niece house with my
12 sister. It was her birthday.
- 13 Q What time was that?
- 14 A Maybe like three or four, maybe.
- 15 Q Three, four.
- 16 A Afternoon.
- 17 Q Was he upset or anything?
- 18 A No.
- 19 Q He wasn't upset.
- 20 A We was just having a good time.
- 21 Q They were all --
- 22 A It was my sister birthday.
- 23 Q James was having a good time. Odom was having a good
24 time. It was a birthday. They were celebrating.
- 25 A Yes, sir.

1 Q Okay.

2 MR. RICHARDSON: Your Honor, I have no further questions
3 of Ms. Todd.

4 THE COURT: All right. Redirect?

5 MR. WILSON: No redirect, Judge.

6 THE COURT: All right. You may step down.

7 MR. WILSON: Your Honor, may this witness be excused,
8 also?

9 THE COURT: Any objection?

10 MR. RICHARDSON: Oh, no, sir, Your Honor.

11 THE COURT: All right. You're free to go.

12 A Okay. Thank you.

13 THE COURT: Thank you.

14 All right. You can call your next witness.

15 MR. WILSON: Your Honor, at this time I would call
16 Detective Wilson to the stand.

17 THE COURT: All right.

18 Whereupon, Brian Wilson was called to the stand, duly
19 sworn by the clerk and testified as follows:

20 THE CLERK: State your full name and spell your last
21 name.

22 MR. BRIAN WILSON: Brian Wilson, W-I-L-S-O-N.

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

24 THE COURT: Yes, sir.

25 MR. WILSON: Thank you, Judge.

Brian Wilson - Direct by Mr. Wilson

1167

1 DIRECT EXAMINATION

2 BY MR. WILSON:

3 Q Detective Wilson, how you doing today?

4 A Good. Yourself?

5 Q Doing well. Doing well. Let me ask you, what do you do
6 for the Horry County Police Department?

7 A I'm a detective with the major crimes unit.

8 Q Okay. How long have you been doing that now?

9 A I've been assigned with major crimes for two years.

10 Q Two years. Okay. And during the time of this
11 investigation did you have an opportunity to talk with this
12 Defendant?

13 A No. I did not.

14 Q You didn't speak with her at all?

15 A No.

16 Q Okay. Were you involved in this investigation at all?

17 A Yes. I was.

18 Q All right. So, you're saying you never asked her any
19 questions at all in the interrogation room?

20 A No.

21 Q So, you never spoke with her that day?

22 A No.

23 Q All right. Did you do anything that day as far as the
24 investigation was concerned?

25 A The -- yes. I did. The first day I was called to the

1 scene, did a canvas, and I responded to where they reported
2 the burning car.

3 Q The burning car?

4 A Yes, sir.

5 Q So, you never came back to the M.L. Brown Building?

6 A Yeah. Later that afternoon I did.

7 Q Okay. Did you ever observe the Defendant while she was
8 being questioned?

9 A No. I didn't.

10 Q All right. Where -- what were you doing at the M.L.
11 Brown Building during that time?

12 A We call it victimology. I was given tasks to try to get
13 background information on some of the people involved.

14 Q Okay. So it's your testimony today you never talked to
15 her. Right?

16 A Yes.

17 MR. WILSON: No further questions, Judge.

18 THE COURT: All right, cross examination.

19 CROSS EXAMINATION

20 BY MR. RICHARDSON:

21 Q You never interviewed her during that day; correct?

22 A No.

23 Q Is it possible you may have poked your head in, asked if
24 she was all right, something to that effect?

25 A I may have. Yeah.

Brian Wilson - Cross by Mr. Richardson

1169

1 Q Because the room she was in, I mean, the door was open a
2 lot of time; correct?

3 A Yes.

4 Q And it's a common hall, back and forth, back and forth?

5 A Absolutely.

6 Q Okay. And in the middle of all your tasks, could it be
7 possible that you may, like I said, poked your head in and
8 asked her, "How you doing? What's your husband's name?"
9 something like that?

10 A I could have. Yes.

11 Q Because you were looking for victimology?

12 A Yes.

13 Q You didn't write a report?

14 A I wrote a brief report of investigation but what my
15 doings were with the burning of the car.

16 Q Okay. But as far as you -- you didn't take an active
17 participation in the interview?

18 A No.

19 Q No extensive questioning?

20 A No.

21 Q And that's what you mean by saying you didn't really have
22 any contact with her?

23 A Yes.

24 MR. RICHARDSON: No further questions, Your Honor.

25 THE COURT: All right. Redirect?

Todd Cox - Direct by Mr. Wilson

1170

1 MR. WILSON: No redirect, Judge.

2 THE COURT: All right, you may step down. All right.
3 You can call your next witness.

4 MR. WILSON: Your Honor, at this time I'd call Detective
5 Cox to the stand.

6 THE COURT: All right.

7 MR. RICHARDSON: Your Honor, is the detective excused
8 from his subpoena now? He was asking if he can just stay in
9 the courtroom.

10 MR. WILSON: Not at this time, Judge.

11 THE COURT: All right. Not at this time.

12 MR. RICHARDSON: You have to go back to the waiting room.
13 Thank you.

14 Whereupon, Todd F. Cox was called to the stand, duly
15 sworn by the clerk and testified as follows:

16 THE CLERK: Please state your full and spell your last
17 name.

18 MR. COX: Todd F. Cox, C-O-X.

19 DIRECT EXAMINATION

20 BY MR. WILSON:

21 Q Detective Cox, how you doing?

22 A I'm doing well. How are you, sir?

23 Q Doing well. You're the lead or acting lead investigator
24 now in this case; correct?

25 A I am. Yes, sir.

Todd Cox - Direct by Mr. Wilson

1171

1 Q Okay. And at the time you were actually the supervisor?

2 A No, sir.

3 Q Were you a supervisor ever in this case?

4 A No, sir.

5 Q Okay. All right. So tell me what your job was at the
6 time when this Defendant was being interrogated.

7 A I was a detective at essentially the same rank as any
8 other detective on the case.

9 Q All right.

10 A There, there were supervisors that were working that day.

11 Q Okay. But you weren't one of them?

12 A No, sir. No.

13 Q Okay. Did you have an opportunity to talk with this
14 Defendant that day?

15 A I believe I did briefly. Yes, sir.

16 Q You talked to her?

17 A Yes, sir.

18 Q Do you recall what time it was you spoke with her?

19 A No, sir.

20 Q Well, let me ask you this. You were present during the
21 time she was being interrogated; correct?

22 A For a small portion I was. Yes, sir.

23 Q A small portion?

24 A Yes, sir.

25 MR. WILSON: Your Honor, I'd like to play a portion for

1 the jury.

2 MR. RICHARDSON: Your Honor, he's not -- he's a non-
3 party.

4 THE COURT: Sustained.

5 MR. WILSON: It's already in evidence, Judge. It's in
6 evidence, Judge.

7 THE COURT: Oh, this --

8 MR. WILSON: Of the audio from the interview.

9 THE COURT: Okay. If it's in evidence then if it's ---

10 MR. RICHARDSON: Okay.

11 THE COURT: -- if it's an exhibit. What exhibit is that?

12 MR. RICHARDSON: Is he playing it from the disk that's
13 the exhibit, Your Honor? Otherwise, the Court --

14 THE COURT: That's what we need to find out. If it's an
15 exhibit into evidence then he's entitled to show it.

16 MR. RICHARDSON: That's fine, Your Honor.

17 MR. WILSON: Thank you so much. Exhibit 17, Judge. We
18 can cue it up. It's going to be a second.

19 THE COURT: All right.

20 MR. WILSON: The Court's indulgence, Your Honor.

21 THE COURT: Yeah. When you, when you cue it up for the
22 court reporter so she'll know what the time marker is.

23 MR. WILSON: Yes, sir. Yes, Your Honor.

24 REPORTER: Thank you so much.

25 MR. WILSON: Thank you, Madam. Yes, ma'am.

Todd Cox - Direct by Mr. Wilson

1173

1 THE COURT: All right.

2 MR. WILSON: Your Honor, we're going to be starting from
3 22:01:47, that is the time stamp, and then the actual lower
4 time on there is going to be 5:33, Judge.

5 THE COURT: All right.

6 (Whereupon, State's Exhibit Number 17 is played in open
7 court.)

8 MR. WILSON: Judge, and the time now that it stops, Your
9 Honor, is 13:10 is the lower time and the time stamps on the
10 time is 22:09:59.

11 THE COURT: All right.

12 BY MR. WILSON:

13 Q You're familiar with all the detectives; correct?

14 A Yes, sir.

15 Q Okay. Do you know whose voice was on that tape?

16 A I do.

17 Q Who is that detective in that room with that Defendant?

18 A That is Detective Damon Vescovi.

19 Q So that was Detective Vescovi; correct?

20 A Yes, sir.

21 Q No doubt in your mind?

22 A Not a doubt.

23 Q Thank you very much.

24 MR. WILSON: Judge, I have no further questions for this
25 witness, Your Honor. May we approach?

1 THE COURT: All right.

2 (Whereupon, a bench conference is held in the presence
3 but out of the hearing of the jury.)

4 THE COURT: All right, cross examination.

5 CROSS EXAMINATION

6 BY MR. RICHARDSON:

7 Q Detective Cox.

8 A Yes, sir.

9 Q That part we just heard, 22 -- I think Mr. Wilson said
10 22:05, 22:10, something like that. Don't kill me with it, but
11 what time is that again?

12 A 22:05 is 10:05 p.m.

13 Q Okay. So that's towards the very end, right before the
14 Defendant is transported?

15 A I believe so. Yeah. Getting later in the day.

16 Q And you were at M.L. Brown Building a good bit of that
17 day?

18 A I was.

19 Q Okay. And when you said you weren't in there for all the
20 interviews, there was still an observation room where you
21 could watch; wasn't there?

22 A Yes, sir.

23 Q And you did watch some of those; correct?

24 A Yes, sir. I did.

25 Q Along with doing other work?

Todd Cox - Cross by Mr. Richardson

1175

1 A Yes, sir. There was plenty to be done.

2 Q Okay. And so you were aware of how many times the
3 Defendant had a break that day?

4 A Yes, sir.

5 Q I think the interview, I think we've heard testimony
6 about it going over the course of 11 and a half, 12 hours.
7 About seven hours worth of break that day, does that sound
8 right?

9 A Yes, sir. There was a significant amount of break.

10 Q Substantial periods of time where she had a break?

11 A Yes, sir.

12 Q And no doubt about it, at one point you all cuffed her
13 behind her back?

14 A She was cuffed behind her back. Yes, sir. At one point.

15 Q Okay. That was for about 30 or 45 minutes?

16 A Yes, sir.

17 Q Okay. Now, this portion we heard at the end of the
18 interview, approximately what number of the version of this
19 robbery was this?

20 A I don't know. I was thinking the same thing as I was
21 listening to it a minute ago. I, I don't know. I don't know
22 which version it was.

23 Q And this was after she's been hit with the cell records?

24 A Yes, sir.

25 Q Okay. Were you present shortly after the cell records

1 were presented to her?

2 A Yes, sir. Uh-huh.

3 Q And at that point, when she's presented with the cell
4 records, did she say anything about a plan to scare Tommy?

5 A No. I believe, I believe she said that the plan was to
6 rob them. It was only supposed to be a robbery.

7 Q Okay, that's the basic tenor of it?

8 A Yes, sir. Uh-huh.

9 Q Okay. And you actually spoke to her at some point with
10 Detective Frebowitz in the room; correct?

11 A I did. Uh-huh.

12 Q And that was -- three o'clock sound about right?

13 A Yeah. It was, it was well before that. Yes, sir. It
14 was mid-afternoon at some point.

15 Q Is that about -- it was during that interview whenever he
16 handcuffed her?

17 A Yes, sir.

18 Q During that interview it's true that she identified still
19 at that point it was a white guy?

20 A Yes, sir.

21 Q She described him white boy, good looking.

22 A Blue eyes.

23 Q Tanned.

24 A Uh-huh.

25 Q Blue eyes?

Todd Cox - Cross by Mr. Richardson

1177

- 1 A Yes, sir.
- 2 Q Blonde hair?
- 3 (Statement plays out loud in court.)
- 4 THE COURT: All right. Go ahead.
- 5 MR. RICHARDSON: That's quite all right. I've done the
- 6 same.
- 7 BY MR. RICHARDSON:
- 8 Q And the other, the other suspect she identified as a
- 9 light-skinned black male with short dreads?
- 10 A With dreads. Yes, sir.
- 11 Q And she doesn't even give the name Bo-Bo till the end of
- 12 that portion; correct?
- 13 A Correct.
- 14 Q So at the point when you first start talking with her she
- 15 still doesn't know a name?
- 16 A Right. Well, she, she wouldn't tell us the name.
- 17 Q She wouldn't tell you the name?
- 18 A Right.
- 19 Q Okay. And she didn't -- as a matter of a fact she
- 20 finally does give the name James at some point; correct?
- 21 A Yes.
- 22 Q But at that point she says --
- 23 A And indicates that he cut her grass.
- 24 Q --- James has nothing to do with it.
- 25 A Right.

1 Q "He just cuts my grass."

2 A Uh-huh.

3 Q And that's until she's hit with those cell phone records?

4 A Right. That's correct.

5 Q And then she knows James was there?

6 A Yes, sir. It was like baby steps.

7 Q Are you familiar with the term minimization --

8 A Absolutely.

9 Q -- during an interview? Explain to us what minimization
10 is.

11 A You see minimization in interviews and interrogations.
12 Typically, when you're talking with someone who had some
13 degree of involvement in a case, some culpability, and they
14 try to -- when they know that there's evidence against them or
15 that law enforcement, an interrogator such as myself or
16 another detective, has information against them, when they
17 tend to feel boxed in, "I'm in trouble, they're on to me,"
18 they will let out a small piece of their involvement. They
19 try to minimize their involvement to, to kind of appease both
20 sides, try to, try to appease their sense of self preservation
21 as well as appease that person who is applying that pressure
22 through, through interrogation to them. They basically let a
23 small piece of information out or a small piece of culpability
24 they admit to.

25 Q Let a little bit of air out at a time?

Todd Cox - Cross by Mr. Richardson

1179

1 A Just, just a little bit. Yes, sir.

2 Q And now, prior to those cell records, your observance of
3 the interviews, the Defendant said that she was at the gas
4 station where she saw this white guy and a light-skinned black
5 dude between 10:30 and 11:00 o'clock; correct?

6 A That's right.

7 Q And that would have been the timeframe that you -- that
8 officers would have gone out and looked for video?

9 A Right. As, as, as those stories were divulged during the
10 interview or interrogation process, other detectives went out
11 in the field and tried to follow up on those, either confirm
12 or deny those stories.

13 Q And it would have been -- and it would have been based
14 off the information she got.

15 A Solely off, off the information that she provided.

16 Q Do you recall during the course of the interview the
17 Defendant ever said she was at the IGA at 9:00 o'clock?

18 A I don't believe so. Huh-uh.

19 Q The time she kept giving you was 10:30 to 11:00 o'clock
20 --

21 A Correct.

22 Q -- somewhere in that timeframe, and she was still saying,
23 "Look for a white guy, light-skinned black guy?"

24 A Light-skinned black guy. Yes, sir.

25 Q Now, what we just heard during that interview with

1 Detective Vescovi, did the Defendant ever say anything about
2 Tommy giving a gun to anybody for drugs?

3 A No.

4 Q And no doubt about it her story changed significantly
5 over time?

6 A Absolutely, multiple times.

7 MR. RICHARDSON: The Court's indulgence.

8 THE COURT: All right.

9 BY MR. RICHARDSON:

10 Q After she was confronted with the cell records, after
11 she, she told police that, "Maybe it was a robbery. Okay, it
12 was a robbery. My job was to leave the door open," was there
13 a significant break after that point where she was left alone?

14 A There was a break, but I don't recall the duration of it.

15 Q Would it have been customary after that to go and try and
16 track down these other names she's provided?

17 A Yes, sir.

18 Q Would that take some time?

19 A Absolutely.

20 Q And was she left alone with those cell records during
21 that period of time?

22 A I don't know if she was or wasn't. I don't know.

23 Q Detective Cox, thank you.

24 A Yes, sir.

25 Q Answer any redirect the Defense might have.

Todd Cox - Redirect by Mr. Wilson

1181

1 A Sure.

2 MR. WILSON: Thank you, Your Honor. May it please,
3 please the Court, Judge?

4 THE COURT: All right.

5 REDIRECT EXAMINATION

6 BY MR. WILSON:

7 Q Detective Cox, you talk about this statement -- well, let
8 me ask you this first. You've been doing interrogations for
9 some time; correct?

10 A Yes, sir.

11 Q All right. Isn't it fairly intimidating already to be in
12 front of detectives who are very seasoned? Isn't that, isn't
13 that intimidating? Would you say so?

14 A I would say it can be.

15 Q It can be.

16 A It depends on the, depends on the person. Sure.

17 Q Okay. Well, let me ask you this then. If a suspect is
18 handcuffed and she's been told she's not going to see her
19 children again and she's been told that she's going to leave
20 the jail in a coffin, would you think that was intimidating?

21 A Again, it would depend on the person. It could be.
22 Sure.

23 Q In this case, do you think it's intimidating?

24 A I don't know. She could best answer that, sir.

25 Q Well, let me ask you this. Is the -- what is the

1 purpose, in your opinion, of saying this Defendant is going to
2 leave in a coffin, leave the jail in a coffin?

3 A It would, and I have, I have used the term several times
4 in interrogations. It's an effort to make the subject of an
5 interrogation recognize just how significant or serious the
6 situation is, that --

7 Q All right. I'm sorry. I apologize. Go ahead.

8 A -- that certainly people in similar positions have gone
9 to prison and actually died in prison, and the way in which
10 they actually got out of prison was they -- when they were
11 carried out of there in a coffin, and that's the purpose of
12 it.

13 Q That's the purpose.

14 A Sure.

15 Q To let them know that other people have been carried out
16 in prison?

17 A Have died in prison, absolutely.

18 Q Yeah.

19 A People die all the time in prison. Sure.

20 Q Don't normal people know that?

21 A I don't know. I don't know if they do or don't.

22 Q Let me ask you this. Before she gave this other
23 statement, do you recall what was happening right before she
24 gave that statement?

25 A Right before this one that was just played?

Todd Cox - Redirect by Mr. Wilson

1183

1 Q No, no, no. Right before the other one you were just
2 talking with the Prosecutor about, right before the statement
3 you say where she says she committed a robbery?

4 A No, sir. Huh-uh.

5 Q You don't recall what was being done to her?

6 A No. Huh-uh.

7 Q Do you recall anyone telling her that she was going to
8 have warm fluid running through her veins? Do you recall
9 that?

10 A I recall hearing it here in court. Yes, sir.

11 Q Do you recall Frebowitz telling her that that's what was
12 going to happen, that someone was going to put a needle in her
13 arm and run warm fluid through her veins?

14 A I don't believe I was in the interview room or observing
15 that. I recall hearing it here in court. Yes, sir.

16 Q Hearing it in court?

17 A Yes, sir. I did.

18 Q Okay. So you don't deny it happened?

19 A No. And that was Detective Frebowitz's voice. So yes,
20 sir.

21 Q And you're lead detective in this case; correct?

22 A I am at this point. Yes, sir.

23 Q Okay. All right.

24 A I wasn't then.

25 Q Now, what's the purpose, after you tell them they're

1 going to leave going in a coffin, what's the purpose of then
2 telling them that they're going to have warm fluid running
3 through their veins? What is that indicative of to you?

4 A I would guess the same thing, to try to make a subject of
5 an interrogation understand the consequences of dishonesty or
6 any involvement in the crime.

7 Q Okay. And the purpose of that is to elicit statements
8 from the actual person, right? That's the whole purpose of
9 doing the interrogation?

10 A To elicit truthful statements. Yes, sir.

11 Q All right. You want them to tell you what the truth is;
12 right?

13 A Absolutely.

14 Q And you do what you got to do to get that truth? Right?

15 A Within the confines of the law. Yes, sir. I would agree
16 with that.

17 Q Well, it's okay to lie to Defendants; correct?

18 A Sure it is.

19 Q All right. And based on what Horry County Police
20 Department, I guess, policy is that I've heard on the stand,
21 you, also, because you've been in the courtroom?

22 A Absolutely.

23 Q It's okay also to slap your hands (claps hands) in their
24 face? That's okay?

25 A I don't know that the policy speaks specifically to

Todd Cox - Redirect by Mr. Wilson

1185

1 clapping your hands in someone's face. However, I would
2 consider that to be an acceptable practice. Yes, sir. I
3 would.

4 Q Okay. It's also okay to use children against and
5 threaten Defendants with their children, correct, or suspects
6 with their children?

7 A How so?

8 Q Is it okay to say, "You're never going to see your
9 children again. I'll make sure of that?" Is that okay?

10 A If it's a possibility, I would say sure it's okay.

11 Q That's okay?

12 A Yeah.

13 Q All right. So, threatening a suspect who is in custody
14 and in cuffs is okay?

15 A It depends on the type of the threat. Again, a threat is
16 a very vague and general term. So, I -- it depends, it
17 depends on the threat.

18 Q It depends on the --

19 A You know, there, there are some threats that are actually
20 criminal violations of the law. Obviously, that wouldn't be
21 permissible or acceptable in any circumstance, interrogation
22 or non-interrogation.

23 Q Now --

24 A But there are, are things that could be perceived as
25 threatening that are absolutely acceptable and actually means

1 of interrogation that are, that are taught. So, you know,
2 it's a, it's a yes and no answer, basically.

3 Q It's a gray area?

4 A Sure it is.

5 Q Oh, okay.

6 A Uh-huh.

7 Q Very good. Let me ask you this question. Do you recall
8 Frebowitz's testimony in this case?

9 A I do.

10 Q You were here in the courtroom; correct?

11 A I was.

12 Q And as lead detective you're allowed to be in here;
13 correct?

14 A Yes, sir.

15 Q Okay. Do you recall him saying that this Defendant said,
16 "I guess?" Do you recall that testimony?

17 A No, sir.

18 Q You don't recall him getting on the stand and saying that
19 this Defendant said, "I guess there was a robbery"? I asked
20 him the question. You don't recall that?

21 A No. I don't. Uh-huh.

22 Q All right. You don't remember that?

23 A I don't. No, sir.

24 Q May I have it cued up?

25 A I don't dispute it. I just don't recall.

Todd Cox - Redirect by Mr. Wilson

1187

1 Q I understand. You got it cued up?

2 MR. WILSON: Your Honor, I'd like to publish at this
3 time. We're going to start at 14:55:39 and the time is 7:22,
4 Madam Clerk.

5 (Whereupon, State's Exhibit Number 17 is played in open
6 court.)

7 Q All right. So --

8 REPORTER: I need to know when you stopped. I'm sorry.

9 MR. WILSON: I apologize, Madam Clerk.

10 REPORTER: I'm sorry.

11 MR. WILSON: No. That's my fault. I stopped at the time
12 is 10:24 and the actual time time will be 14:58:42, Madam
13 Clerk. My apologies.

14 REPORTER: Thank you, sir.

15 BY MR. WILSON:

16 Q Now, was that you in there telling her she was going to
17 go to jail in a coffin?

18 A Yes, sir.

19 Q That's you on there; right?

20 A Sure.

21 Q There's no doubt about that?

22 A Not a, not a doubt.

23 Q Now, I want to get back to the Frebowitz issue. You were
24 in this courtroom the entire time and you don't recall
25 Frebowitz saying, your testimony is, that, "Okay. Yeah. What

1 she said was I guess?"

2 A I don't recall that. No.

3 Q Okay. All right.

4 A He testified for quite a long time.

5 Q He did.

6 A I don't -- again, I don't dispute it. I just don't
7 recall it, sir.

8 MR. WILSON: The Court's indulgence, Your Honor.

9 THE COURT: All right.

10 MR. WILSON: Your Honor, we're going to start at
11 16:55:17, Madam Clerk, and then it is 1:28:50.

12 MR. RICHARDSON: Your Honor, for the record, the witness
13 has stated that he doesn't dispute it.

14 THE COURT: So, he can play that to refresh his memory.

15 MR. RICHARDSON: That's fine, Your Honor.

16 THE COURT: It's in evidence.

17 MR. RICHARDSON: I understand, Your Honor. I just am
18 stating for the record. Thank you.

19 THE COURT: All right. Go ahead.

20 MR. RICHARDSON: Thank you.

21 (Whereupon, State's Exhibit Number 17 is played in open
22 court.)

23 MR. WILSON: The time stop, Madam Clerk, is 16:56:47 and
24 the time is 1:30:19, Madam Clerk.

25 A I still didn't catch it, sir. Could -- is it possible to

Todd Cox - Redirect by Mr. Wilson

1189

1 play just that snippet again? Could --

2 Q Absolutely.

3 A I'm sorry.

4 Q That's okay. The sound quality is bad. I apologize.

5 A It's not your fault, sir.

6 (Whereupon, State's Exhibit Number 17 is played in open
7 court.)

8 BY MR. WILSON:

9 Q Did you hear what she said?

10 A I did.

11 Q What did she say in that based on what you heard?

12 A I believe she said, "I guess it was a robbery."

13 Q Thank you very much.

14 A You're welcome.

15 Q Now, if she's telling the police at this time that she
16 guessed it was a robbery, what does that mean to you as a
17 detective? Is she saying to you definitively that she robbed
18 somebody, that she wanted to rob somebody? Is that what she
19 said?

20 A No. I take it in this case in particular as her most
21 recent, at that time her most recent motive that she was
22 offering for -- as to what had occurred there.

23 Q Her most recent motive that she was offering meaning that
24 you didn't believe her at the time; correct?

25 A I wasn't interviewing her.

1 Q Well, I'm asking. You're lead detective.
2 A I wasn't the lead detective at the time.
3 Q You're lead detective now; correct?
4 A I am.
5 Q Okay.
6 A I, I, as I sit here now, no, I don't believe that, that
7 she was telling the truth at that place and time.
8 Q Thank you very much. So you believe that she was lying
9 at the time; correct?
10 A Right.
11 Q That she had made up a bunch of lies?
12 A Uh-huh. That she had lied a tremendous amount.
13 Q A number of times, that's what you told the Prosecutor
14 under direct or, excuse me, under cross; correct?
15 A Right.
16 Q Okay. So, when she then goes and tells that story, did
17 you hear Frebowitz before that say, "I'm going to put warm
18 stuff in your arm " --
19 A Certainly.
20 Q -- "and your heart is going to stop?"
21 A Absolutely.
22 Q You heard that; correct?
23 A Sure.
24 Q And after that, right after that, she began to tell
25 another story; correct?

Todd Cox - Redirect by Mr. Wilson

1191

1 A Yes, sir.

2 Q Now, do you think that's intimidating sitting there in
3 handcuffs and someone's telling you that they're going to run
4 warm fluid through your veins and your heart is going to stop
5 and how is your daughter going to feel about that? Is that
6 intimidating?

7 A Again, it would depend on the person.

8 Q I'm asking you based on your personal experience is that
9 a statement that would intimidate somebody in cuffs?

10 A It could intimidate somebody in cuffs.

11 Q Thank you.

12 A It -- I'm not, I'm not testifying that it would
13 intimidate anybody that's in cuffs. It could.

14 Q Fair enough. Fair enough.

15 MR. WILSON: Your Honor, I have no more questions.

16 THE COURT: All right.

17 MR. RICHARDSON: No recross, Your Honor.

18 THE COURT: All right. You may step down.

19 A Thank you, Your Honor.

20 MR. WILSON: Your Honor, could this witness please be
21 excused, Judge?

22 THE COURT: Any objection? Well, I mean, it's up --

23 MR. RICHARDSON: He's going to stay in the courtroom
24 anyway, Your Honor.

25 THE COURT: All right. He's free to go if he chooses to

1 leave. That'll be fine. All right. Let me see the attorneys
2 for a second.

3 (Whereupon, a bench conference is held in the presence,
4 but out of the hearing of the jury.).

5 THE COURT: All right. Ladies and gentlemen, we've been
6 discussing some scheduling matters, and so we're going to go
7 ahead and break for lunch today. I'm going to allow you to go
8 to lunch on your own today, and I'm going to give you a little
9 bit longer because we do have some scheduling matters that we
10 need to work into this trial. I'm going to ask that you be
11 back in the jury room at 1:30. That will give you an hour and
12 a half for lunch. Leave your pads in the jury box. Do not
13 discuss the case. Don't conduct any independent
14 investigations. I hope everybody has a good lunch, and as I
15 said, please be back in the jury room at 1:30. Thank you very
16 much.

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 THE COURT: All right. Anything from the State before we
20 break for lunch?

21 MR. RICHARDSON: No, sir, Your Honor.

22 THE COURT: Anything from the Defense?

23 MR. WILSON: Nothing, Your Honor.

24 THE COURT: All right. We'll be in recess until 1:30.

25 MR. WILSON: Thank you, Your Honor.

State v. Locklear

1193

1 MR. RICHARDSON: Thank you, Your Honor.

2 THE COURT: All right. Thank you.

3 OFF THE RECORD

4 (On the record. Whereupon, the following takes place outside
5 the presence the jury:)

6 THE COURT: All right, anything from the State before we
7 bring the jury back in?

8 MR. RICHARDSON: Yes, sir, Your Honor. As I understand,
9 Detective Vescovi is going to be the next witness up. Don't
10 know if it's accurate, but it's my belief yesterday the
11 testimony was that he did not recall speaking with Ms.
12 Phillips, Teresa Phillips, and I believe the Defense had
13 indicated they were going to try to refresh his recollection
14 as to whether or not he spoke with her. The State would at
15 this time request that if he's going to have his recollection
16 refreshed with regard to the statement if it can be played
17 outside the presence of the jury. Otherwise, you're going to
18 have Detective Frebowitz, you're going to have Teresa Phillips
19 on there, and you're going to have hearsay coming in, not for
20 the purpose of refreshing his recollection, but he could, he
21 could listen to it now, and say, "Yes, okay, I did
22 -- I have listened to it. I did do that," but you can't get
23 into hearsay whenever the Defense is the one calling the
24 party.

25 THE COURT: I mean, is his testimony going to be he

1 doesn't recall?

2 MR. RICHARDSON: That's what he testified to yesterday,
3 Your Honor. I, I haven't talked with him about it. He was
4 sequestered. So I haven't discussed it with him.

5 THE COURT: All right.

6 MR. WILSON: Judge, I'm obviously going to ask him if his
7 testimony yesterday was correct, and if that was his
8 testimony, does he still not recall. If he doesn't recall,
9 then I'm going to ask that we be allowed to play it because
10 it's his statements.

11 THE COURT: Okay. Well, if everybody agrees that his
12 testimony yesterday was he doesn't recall, let's go ahead and
13 refresh his memory.

14 MR. RICHARDSON: At this juncture?

15 THE COURT: Outside the presence of the jury, and then
16 you can call him back up and ask him is that the way he
17 answered yesterday and is that still his answer today.

18 MR. WILSON: Yes, Your Honor.

19 THE COURT: And we can do it that way.

20 MR. WILSON: Yes, Your Honor.

21 THE COURT: Okay?

22 MR. RICHARDSON: Thank you, Your Honor. Your Honor,
23 would you like Detective Vescovi --

24 THE COURT: Hold for one second.

25 MR. RICHARDSON: I'm sorry.

State v. Locklear

1195

1 THE COURT: There we go. All right.

2 MR. WILSON: Your Honor, would you like me to play the
3 entirety or would you like me to skip? We have time stamps of
4 the statements that he made, and I could make it fairly
5 quickly for the Court of the statements that I'm going to ask
6 him about.

7 THE COURT: Well, I mean, and I'm kind of at a loss here
8 because ordinarily if it's a sheet of paper you give it to
9 him, he looks over it until it refreshes his memory.

10 MR. WILSON: Yes, Your Honor.

11 THE COURT: If it's going to take the whole tape to
12 refresh his memory, we're going to have to play the whole
13 tape.

14 MR. WILSON: Yes, Your Honor.

15 THE COURT: If it's going to take a portion to refresh
16 his memory, we only play a portion of it. I don't know.

17 MR. RICHARDSON: Yes, sir, Your Honor. If I may offer,
18 Detective Vescovi can certainly take the stand, and if at some
19 point he says, "Yeah. Okay. I remember now," if he could
20 just indicate at that point. It's in the Court's discretion
21 and the Defense's discretion.

22 MR. WILSON: Judge, I'll play the whole thing and allow
23 him to take the stand and he can tell me when he recalls.

24 THE COURT: Okay. So, we want to go ahead and just play
25 it now?

1 MR. WILSON: Yes, Your Honor.

2 THE COURT: All right. So, is he here now?

3 MR. RICHARDSON: Yes, sir.

4 MR. WILSON: Yes, Your Honor.

5 MR. RICHARDSON: Detective Vescovi is right here.

6 THE COURT: Okay. Well, let's -- I mean, he hasn't been
7 called to testify at this point in time, but let's go ahead
8 and play it for him and so he can listen to it to refresh his
9 memory.

10 MR. WILSON: Would you like him to take the stand, Your
11 Honor?

12 THE COURT: He can just stay right there while you, while
13 you do it.

14 MR. WILSON: All right, Judge.

15 REPORTER: I'm going to have to mark a copy of that now
16 for the record.

17 MR. WILSON: Yes, ma'am.

18 THE COURT: Yeah. Let's, let's get that out and get it
19 marked.

20 MR. WILSON: My apologies. Defense.

21 THE COURT: It would be a Defense Exhibit, for
22 identification Defense Exhibit. How long is it?

23 MR. WILSON: Judge, the whole thing, I think, is about 30
24 minutes.

25 THE COURT: Okay.

State v. Locklear

1197

1 MR. WILSON: About 30 minutes.

2 THE COURT: Okay. Well, just start playing it. Once his
3 memory is refreshed, just have him raise his hand or indicate,
4 and we can stop it at that time unless you're going to
5 question him on certain specifics of it.

6 MR. WILSON: There are going to be specific questions
7 regarding statements that Detective Vescovi made to the actual
8 witness, Judge.

9 MR. RICHARDSON: Your Honor, of course, any, any
10 responses Ms. Phillips or Detective Frebowitz made, would have
11 made, would have said would be hearsay, not subject to cross
12 examination.

13 MR. WILSON: Judge, his -- I apologize, Your Honor, for
14 intervening, but his statements are not hearsay. He said the
15 statements.

16 MR. RICHARDSON: His statements are fine. I'm talking
17 about any responses Ms. Phillips may have given.

18 MR. WILSON: Oh, absolutely. Yeah. I'm not going to ask
19 him about anything that Ms. Phillips said. She already
20 testified, Judge.

21 THE COURT: All right. Let's go ahead and get it marked
22 and --

23 (Defense Exhibit Number Nine [CD, Phillips Statement]
24 marked for identification.)

25 MR. WILSON: Your Honor, I have what's now been marked as

1 exhibit, Defense Exhibit Number Nine for identification
2 purposes only, Judge.

3 (Defense Exhibit Number Nine played in open court.)

4 MR. WILSON: That's the ending, Your Honor.

5 THE COURT: All right. Let's take about a 10-minute
6 break. Then we'll come back and bring the jury in. All
7 right?

8 MR. RICHARDSON: Yes, sir. Thank you, Your Honor.

9 MR. WILSON: Thank you, Judge.

10 THE COURT: All right.

11 OFF THE RECORD

12 (On the record. The following takes place outside the
13 presence of the jury.)

14 THE COURT: All right. Anything from the State before we
15 bring the jury in?

16 MR. RICHARDSON: No, sir. Your Honor, I believe in
17 talking with -- the Defense has already talked with Detective
18 or now Sergeant Strickland and has excused him from his
19 subpoena that he, that he served him.

20 THE COURT: All right. Any objection?

21 MR. WILSON: No objection, Your Honor.

22 THE COURT: All right. That's fine. He's free to go.
23 Anything from the Defense before we bring the jury --

24 MR. RICHARDSON: And Detective Brummett is here as well.

25 MR. WILSON: Yes, sir.

State v. Locklear

1199

1 MR. RICHARDSON: I think I saw her earlier.

2 MR. WILSON: Yes, Your Honor. I talked to her earlier.

3 MS. WOOTEN: Yeah. She's sitting.

4 MR. RICHARDSON: Okay.

5 MR. WILSON: Detective Brummett is here, Judge. I talked
6 to her, spoke to her. She's ready to go after Detective
7 Vescovi.

8 THE COURT: Okay. So, you got -- well, I was going to
9 ask you, is now a good time to question, advise the Defendant
10 or do you want to still hold off on that for a while? I
11 didn't know --

12 MR. WILSON: Can we hold off? Can we hold off, Judge?

13 THE COURT: Well, as long as the next two witnesses are
14 not 10 minute witnesses and then we're sending the, the jury
15 back out. I mean, if, if there's going to be some time to
16 them, but I don't want to bring this jury back in for five,
17 10, 15 minutes and then turn around and send them right back
18 out if it's -- unless there's nothing that's going to happen
19 in the interim --

20 MR. WILSON: Judge, we --

21 THE COURT: -- that affects the decision of the
22 Defendant.

23 THE COURT: Judge, what I'm trying to get is her family
24 to go out and see her. They couldn't go see her yesterday.
25 They can go see her today is my understanding. She wants to

1 speak with her family before she makes the decision. Tomorrow
2 we have three witnesses that we're putting up, and I've
3 already discussed this and disclosed this to the Prosecution
4 this morning. Dr. Bob West is going to be my final witness.
5 If the Defendant testifies it will be after that witness.

6 THE COURT: Okay. All right. Let's go ahead and bring
7 the jury in.

8 MR. WILSON: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (Whereupon, the following takes place in the presence of
11 the jury.)

12 THE COURT: All right. Ladies and gentlemen, welcome
13 back. I apologize for holding you in the jury room for so
14 long, but these situations arise from time to time. We did
15 have some legal matters that I needed to take up with the
16 attorneys before we could proceed in this case, but I do
17 appreciate your patience and thank you for that. Please make
18 sure that you have your own notepads and no one else's. All
19 right. Mr. Wilson, the Defense can call their next witness.

20 MR. WILSON: Your Honor, if it please the Court, the
21 Defense at this time would call Detective Vescovi to the
22 stand, Damon Vescovi.

23 THE COURT: All right.

24 Whereupon, Damon Vescovi was called to the stand, duly sworn
25 by the clerk and testified as follows:

Damon Vescovi - Direct by Mr. Wilson

1201

1 THE CLERK: Please state your name and spell your last
2 name.

3 MR. VESCOVI: Damon Vescovi, V-E-S-C-O-V-I.

4 MR. WILSON: Your Honor, if it please the Court?

5 THE COURT: All right.

6 DIRECT EXAMINATION

7 BY MR. WILSON:

8 Q Detective Vescovi, how you doing today?

9 A Good. Thank you.

10 Q Very well. Do you recall yesterday you and I had some
11 discourse, and you were testifying in this particular case;
12 correct?

13 A Yes, sir.

14 Q And I asked you several questions about if you recall
15 having an interview with a one Teresa Phillips. Do recall
16 that?

17 A Yes, sir.

18 Q Okay. And do you recall your testimony to the jury
19 yesterday?

20 A Yes, sir.

21 Q All right. And what was your testimony to the jury
22 yesterday?

23 A That I did not recall, neither did I dispute it.

24 Q Okay. All right. And you've had a chance now to go back
25 over your statement and have a refresher?

1 A Yes, sir. I did.

2 Q Okay. And you listened to your statement now?

3 A I did.

4 Q Okay. All right. I just have a few questions for you.

5 Okay?

6 A Yes, sir.

7 Q All right. The first question is did you actually

8 participate in the interview of Teresa Phillips?

9 A Yes, sir.

10 Q Okay. And there's no doubt about that; correct?

11 A Yes, sir.

12 Q All right. You were there with Detective Frebowitz?

13 A Yes, sir.

14 Q Okay. Now, you asked Teresa Phillips, "What do you call

15 her?" Do you recall asking her that? You were talking about

16 Coteara Todd? Do you remember asking her about Coteara Todd?

17 A Yes, sir. Yes, sir.

18 Q Okay. And you asked her what she called her?

19 A Yes, sir.

20 Q Correct? Now, you also asked her questions about her

21 relationship with Coteara Todd. Do you recall asking her

22 about her relationship with Coteara Todd?

23 A Yes, sir.

24 Q What sort of questions did you ask her about her

25 relationship with Coteara Todd?

Damon Vescovi - Direct by Mr. Wilson

1203

1 A Just what it was, what it stemmed from.

2 Q Is that all you asked her?

3 A I don't remember it verbatim, but yeah. I mean, that was
4 the extent of it. I was looking at her phone at the time.
5 There was some text communications that alluded to meeting up,
6 having a drink sort of thing. It contradicted, basically,
7 what she was saying, and I asked her about it to qualify her
8 statement.

9 Q Okay. All right. I apologize for interrupting you.

10 A No. No. That's fine.

11 Q All right. Let me ask you this then. Did you at some
12 point in time have her cell phone or hadn't got that yet that
13 you already mentioned?

14 A I believe I had it from the beginning. I don't know that
15 for certain but I -- listening back now, it seems like I did
16 have it from the beginning.

17 Q Okay. Well, do you recall saying at one point in time,
18 "I'm holding your cell phone?"

19 A Yes, sir.

20 Q Okay. So you would've had the cell phone at some point
21 in time?

22 A Oh, yeah. For certain.

23 Q Okay. Now, at some part of the conversation you're
24 looking at her cell phone; correct?

25 A Yes, sir.

1 Q And you see a gun, a picture of a gun on the cell phone?

2 A Yes, sir.

3 Q Okay. And you recall that now?

4 A Yeah. Yeah. Vaguely.

5 Q Okay. Well, did you listen to your statement?

6 A I did.

7 Q All right. You --

8 A As far as what it looked like, that sort of thing, I

9 vaguely --

10 Q You don't recall what it looked like. Is that your

11 testimony?

12 A Vaguely, I do.

13 Q Okay. But you recall seeing a gun on the phone?

14 A Yes, sir.

15 Q Do you recall saying to her, "I see a gun on your phone?"

16 A Yes, sir.

17 Q Okay. And so you were looking at her phone at the time;

18 correct?

19 A Yes, sir.

20 Q Okay.

21 MR. WILSON: May I approach the witness, Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. WILSON:

24 Q Does that refresh your memory as to the gun that you saw

25 on Coteara -- excuse me -- on Teresa Phillips's phone?

Damon Vescovi - Direct by Mr. Wilson

1205

1 A It appears to be the gun of interest for this specific
2 crime, but I do not recall looking at -- I don't, I don't
3 recall the photo enough to say that this was the actual photo.
4 I apologize, but I just -- I don't recall.

5 Q That's okay. If you don't, if you don't recall that's
6 okay. But you do recall saying to her, "I see a gun on your
7 phone?"

8 A Yes. I do.

9 Q There's no doubt about that; correct?

10 A Yes. Yes, sir.

11 Q Okay. All right. Now, after you asked her about the
12 actual gun being on her phone, you then say to her, "I'm going
13 to call somebody?"

14 A Yes, sir.

15 Q So during your investigation, during the time that you
16 were interviewing her, you get up and say, "Look, I want to
17 get the number for Ronnie"; correct?

18 A Yes, sir.

19 Q All right. And do you get the number from Ronnie?

20 A I got a number to get in touch with Ronnie. It wasn't
21 his number specifically.

22 Q Okay. All right. And did you ask Teresa Todd or --
23 excuse me -- Teresa Phillips whether or not she had a number
24 where you can get in touch with Ronnie?

25 A Yes, sir.

1 Q Okay. And she gave you the numbers; didn't she?

2 A Yes, sir.

3 Q All right. And after she gave you that number, what did
4 you proceed to do?

5 A I went to corroborate what she was saying.

6 Q All right. You called it; correct?

7 A Yes, sir.

8 Q Okay. And when you got done with that phone call you
9 came back and you said, and I quote, (as read) "I just talked
10 to Ronnie and with his boy. Ronnie said, 'I absolutely don't
11 have a gun,' and his son said, 'Well, O.B.'s got one,' and he
12 described it to me and described it just like that." Isn't
13 that exactly what you said?

14 A I believe so.

15 Q All right. And which -- when you said, "Just like that,"
16 what were you talking about?

17 A I'm assuming the gun in question that -- the gun of
18 interest.

19 Q The gun that you had the picture on the phone; correct?

20 A I don't remember if it was that or the description of the
21 gun that we had.

22 Q What I'm asking you --

23 A Or both. I, I don't recall.

24 Q What, what I'm asking you is is that you were there
25 investigating this homicide; correct?

Damon Vescovi - Direct by Mr. Wilson

1207

1 A Yes, sir.

2 Q Okay. And you were there questioning Teresa Phillips
3 about whether or not there was a gun on the phone? Yes or no?
4 Yes or no?

5 A She had a picture of a gun on her phone.

6 Q All right. And so --

7 A We assumed that it was the gun of interest, and she was
8 questioned about it.

9 A Okay. And then you called someone to verify whether or
10 not it belonged to who she said it belonged to; right?

11 A Correct.

12 Q All right. And during your investigation, you determined
13 that it belonged to who?

14 A I don't know if we ever actually determined who it
15 actually belonged to.

16 Q Didn't you come back and tell her, "You're a lie -- you
17 lied?"

18 A About her statement that she gave us, correct.

19 Q Right. And, and, and she basically led you to believe
20 that the gun belonged to her baby's father, Ronnie; right?
21 Isn't that why you called Ronnie?

22 A I don't believe that she was alluding that it was OB --
23 Odom's gun.

24 Q No --

25 A That is the whole point of corroborating her statement.

1 Q No. I'm not talking about her. I'm talking about what
2 you did that day?

3 A Okay.

4 Q I'm not talking about her. I'm asking you what you did.
5 Did you not call Ronnie to determine whether or not it was
6 Ronnie's gun?

7 A That if he was -- he had the gun and was selling it.
8 That was her statement.

9 Q That's, that was her statement; correct?

10 A Right.

11 Q But --

12 A I don't know whose gun it belongs -- I don't know who the
13 gun belonged to.

14 Q I'm not asking you to tell me who the gun belonged to.
15 I'm only asking you one question.

16 A Uh-huh.

17 Q The reason that you called Ronnie was to -- you said it
18 earlier -- to corroborate what she told you; right?

19 A Correct.

20 Q And during your investigation, what did you find out
21 about that gun? Did you find out that it belonged to Robbie
22 [sic] or did you find it belonged to somebody else?

23 A The individual said that -- I believe he said that it --
24 he was -- it was trying to be sold, that it belonged to Odom.

25 Q Odom who?

Damon Vescovi - Direct by Mr. Wilson

1209

1 A Bryant.

2 Q Odom Bryant, the Co-Defendant in this case?

3 A Yes, sir.

4 Q Okay. All right. So at some point in time, you had a
5 conversation with her during this interview where she said to
6 you, "It belonged to my baby's father"; correct? You just
7 said that.

8 A I don't think she ever said that.

9 Q She never told you that?

10 A I don't, I don't believe, in that tape that was just
11 played, I don't think she actually said that. I don't believe
12 she did.

13 Q Detective.

14 A She said that there was, there was a gun on her phone.

15 Q Detective, I'm asking you --

16 A That it belonged -- that it was in the possession of this
17 -- the guy that I was calling. That was the whole point for
18 me calling him.

19 Q I'm asking you one question. Why would you have called
20 Ronnie?

21 A To corroborate what she was telling me.

22 Q Exactly. And so if you're calling Ronnie about a gun
23 which the witness is saying that belongs to him, and then he
24 tells you, "No, it doesn't belong to me," then what does that
25 tell you about that gun? Did she tell you the truth or was

1 she lying and you called her a liar, I might add.

2 A Yeah. That, that she was being untruthful.

3 Q So you said that she was lying about it; right?

4 A Yes.

5 Q All right. So there's no doubt about that.

6 A No.

7 Q Okay. All right. So, now, at some point in time you
8 determined through your investigation who that gun belonged
9 to.

10 A On assumptions.

11 Q Okay. Well, tell me what you learned through your
12 investigation.

13 A That the individual I called as a result of that
14 interview, I'm assuming is Ronnie, that Ronnie's son said that
15 that was not his gun, that it belonged to Odom Bryant and that
16 either him or somebody that he's acquainted with was trying to
17 sell it.

18 Q All right. And didn't you confront her about that
19 information?

20 A Yes. I believe we did.

21 Q Thank you. You also asked her if she was scared of Odom
22 Bryant; didn't you?

23 A Yes, sir.

24 Q Why'd you ask her that?

25 A The manner in which she was answering questions.

Damon Vescovi - Direct by Mr. Wilson

1211

1 Q Made you believe that she was afraid; correct?

2 A In part, yes, sir.

3 Q Okay. Now, let's move on to another subject. Yesterday
4 you also testified that you had no extensive conversation with
5 this Defendant on the day that she was placed in custody at
6 the M.L. Brown Building. Do you recall testifying about that?

7 A I recall saying that I didn't recall, that I didn't
8 dispute it.

9 Q Okay. You don't dispute it. Do you recall her talking
10 to you at all now?

11 A Ms. Locklear?

12 Q Yes. That day at around 10:20 at night?

13 A Not specifically I don't. I'm sorry.

14 Q Not specifically?

15 A No, sir.

16 MR. WILSON: Your Honor, I'm going to publish for the
17 jury, if it's okay with the Court, just a portion of where
18 he's speaking to the client at 10:20 p.m.

19 THE COURT: What is -- what are you referencing?

20 MR. WILSON: I'm sorry. This is Exhibit 17. This is
21 State's Exhibit 17.

22 THE COURT: Okay. And that's already in?

23 MR. WILSON: It's in evidence, Your Honor.

24 THE COURT: Yeah. All right. Go ahead.

25 MR. WILSON: Thank you. The Court's indulgence, Your

1 Honor --

2 THE COURT: All right.

3 MR. WILSON: -- while we work out the computer situation.
4 We're having some technical difficulties, Judge. It won't
5 play.

6 BY MR. WILSON:

7 Q Let me ask you this. Would you dispute if I told you
8 that you actually had a conversation with this Defendant from
9 about 10:20 until about 10:40 at night?

10 A No, sir.

11 Q Okay. And you don't recall her actually -- you talking
12 to her and she actually tells you regarding the matter of her
13 and Amos wanting to scare Thomas Hatfield? You don't recall
14 her telling you that?

15 A I don't recall her telling me that. I recall her saying
16 it to somebody or it was relayed back to me. I heard -- I
17 remember hearing that.

18 Q So, you're saying --

19 A But as to how it was delivered to me, I don't. Sorry.

20 Q So you're telling me that you never were in the room with
21 her when this happened? Is that your testimony?

22 A No. No. No. No. I'm saying I don't recall it. I
23 remember the storyline, if you will, her, her admittance to
24 whoever, but I don't -- to say that she delivered that to me
25 or somebody else, I couldn't tell you. I just remember --

Damon Vesćovi - Cross by Mr. Richardson

1213

1 this happened, what, two years ago.

2 Q Well, if Detective Cox identified you as being the
3 detective in the room, would you dispute that?

4 A No. I would not.

5 Q Okay. All right.

6 MR. WILSON: No further questions, Your Honor, and I
7 apologize about the technical difficulties, Judge.

8 THE COURT: All right. Cross examination.

9 MR. RICHARDSON: The Court's indulgence.

10 CROSS EXAMINATION

11 BY MR. RICHARDSON:

12 Q Detective, you're familiar with cell phones; correct?

13 A Yes, sir.

14 Q And we were looking at the cell phone picture, and it's a
15 picture of a picture. You see this is a -- looking at Defense
16 Exhibit Four, .jpg, that's a form of --

17 A A picture file.

18 Q -- picture file. The 08-15-12 would that denote August
19 15th, 2012?

20 A Very possible. Yes, sir.

21 Q Very possible. That's European way of keeping time;
22 correct?

23 A Yes, sir.

24 Q The date. So, the murder occurred the 19th; correct?

25 A Yes, sir.

1 Q So, that would've been the 18th was Saturday, 17th, about
2 Wednesday before the murder?

3 A Yes, sir.

4 Q Okay.

5 MR. RICHARDSON: No further questions of this witness,
6 Your Honor.

7 THE COURT: Redirect?

8 MR. WILSON: Nothing, Your Honor.

9 THE COURT: All right. You may step down.

10 MR. WILSON: Your Honor, I'd ask that Detective Vescovi
11 be excused from these proceedings.

12 THE COURT: Any objection?

13 MR. RICHARDSON: Fully endorse it, Your Honor.

14 THE COURT: All right. You're free to go. Thank you
15 very much.

16 A Thank you.

17 MR. WILSON: May I approach, Judge?

18 THE COURT: Yes, sir.

19 (Whereupon, a bench conference is held in the presence
20 but out of the hearing of the jury.)

21 THE COURT: All right. You can call your next witness.

22 MR. WILSON: Your Honor, the Defense would call Detective
23 Brummett to the stand, Judge.

24 THE COURT: All right.

25 MR. WILSON: Heather Brummett.

1 Q All right. Now, what is it that you do at this point in
2 time for Horry County Police Department?

3 A I'm a detective with their major crimes unit.

4 Q Okay. Now, at the time that this case was going on, what
5 was your -- what were your duties?

6 A I was a crime scene investigator with our crime scene
7 unit which is also attached to our evidence section.

8 Q And what would your responsibilities have been during
9 that time as a crime scene investigator?

10 A A wide range of responsibilities from responding to crime
11 scenes, working those, also assisting our evidence personnel
12 with logging in evidence, also transporting it to Columbia.

13 Q Okay. And did you have an opportunity to get involved in
14 this particular case?

15 A Yes. I did.

16 Q Okay.

17 MR. WILSON: Your Honor, may I approach?

18 THE COURT: Yes.

19 BY MR. WILSON:

20 Q Can you identify these documents and tell me what they
21 are?

22 A Yes. I can. This is an intake sheet for SLED. Anytime
23 we take items to SLED, which is South Carolina Law Enforcement
24 Division, laboratory we have to log those items into a form,
25 and it's kind of like their chain of custody, sign it over to

Heather Brummett - Direct by Mr. Wilson

1217

1 one of their intake ladies.

2 Q Okay. All right. And let me ask you something just
3 about this process. When you get something that comes into
4 Horry County Police Department, what happens to those, those
5 things that come in, any evidence?

6 A Okay. All evidence -- it, it depends. Let's say an
7 officer gets an item of evidence and it's after hours, then
8 it's either placed in a secured locker with a lock, which they
9 lock it with a key. The key then goes into the locker itself
10 through a little hole, or if it's a rape kit or something like
11 that and it needs to be refrigerated, there are locks on the
12 refrigerators themselves. The only people that have access to
13 those lockers are the people that work in evidence and in
14 crime scene, which is a total of seven people. You have the
15 supervisor over the entire unit. Then you have the supervisor
16 over the evidence section. She has two employees, and then
17 you have three crime scene techs. Those are the only people
18 that have access. Again, if the evidence personnel are busy,
19 then the crime scene investigators will help. So one of the
20 seven of us will log that item in, and then it'll go in its
21 storage, secured location, whether it be the vault or the
22 warehouse. Then when something is called up and it needs to
23 go to court or it needs to go to SLED, the laboratory, it is
24 then pulled, paperwork is done to send it to wherever it needs
25 to go, and then whoever is responsible for taking it pulls

1 that item along with the paperwork and transports it to where
2 it needs, needs to go.

3 Q Thank you, ma'am.

4 MR. WILSON: Your Honor, at this time I'd move to have
5 this entered in for identification purposes only.

6 THE COURT: All right. Be Defense Exhibit Ten?
7 All right.

8 (Defense Exhibit Number 10 [SLED Intake Form] marked for
9 identification.)

10 BY MR. WILSON:

11 Q Now, more specifically, your involvement in this matter,
12 can you tell me what items you actually transported to SLED?

13 A On this form there's a -- it says I took three items. To
14 my knowledge it's probably only one item, a CSC kit, which is
15 a criminal sexual assault kit, for Sandy Locklear.

16 Q Okay. And what else is listed on the actual manifest?

17 A There is blood with in parentheses says, (as read)
18 "Toxicology and also urine".

19 Q Okay. And those things you would have transported to
20 SLED yourself?

21 A Yes.

22 Q Okay. And what date did you transport those items?

23 A September 17th, 2012.

24 Q Okay. And what time would you have left, not
25 specifically. Do you recall what time you left that day?

Heather Brummett - Cross by Mr. Richardson

1219

1 A I don't recall.

2 Q Okay. But you would have put those into, into the actual
3 custody of SLED; correct?

4 A Yes.

5 Q Okay. And do you recall who you gave those items to?

6 A It has Doris Yarborough listed.

7 Q Thank you very much.

8 MR. WILSON: Your Honor, at this time I'd move to have
9 the actual SLED Laboratory Forensic Services request put into
10 evidence at this time.

11 THE COURT: Any objection?

12 MR. RICHARDSON: I don't know that it's needed, Your
13 Honor, but I don't object.

14 THE COURT: All right. Defendant's Exhibit Number 10
15 admitted into evidence without objection.

16 (Defense Exhibit Number 10 [SLED Intake Form] admitted
17 into evidence and appropriately marked.)

18 MR. WILSON: Thank you, Your Honor. I have no further
19 questions. Thank you, ma'am.

20 A Thank you.

21 THE COURT: Cross examination.

22 CROSS EXAMINATION

23 BY MR. RICHARDSON:

24 Q Detective, used to saying investigator with you.

25 Detective Brummett, you transported the rape kit up September

1 2012?

2 A Yes.

3 Q Okay. And to your knowledge is there a severe backlog
4 with SLED with regard to testing rape kits?

5 A Yes. All DNA is extremely backlogged.

6 Q Okay. And would it be customary not to have things
7 tested if somebody recanted the rape story?

8 A Yes. It would.

9 Q No further questions.

10 THE COURT: All right, redirect?

11 MR. WILSON: Just one question.

12 REDIRECT EXAMINATION

13 BY MR. WILSON:

14 Q The Solicitor asked you whether or not there is a backlog
15 on DNA tests, and you said that if someone requests obviously
16 or recants a rape story that there's no need to test that
17 item; correct?

18 A Yes. That's correct.

19 Q Okay. Well, let me ask you this. Are you saying that
20 about all evidence or just rape evidence?

21 A No. That is all DNA evidence. They send us a list --
22 well, not me anymore, but when I was in crime scene and
23 evidence, they would send a list about once a month with all
24 kinds of case numbers asking if these case numbers still
25 needed to be tested because of their backlog issues. So if

Heather Brummett - Redirect by Mr. Wilson

1221

1 the case is closed or if the victim declines cooperation or if
2 the victim recants their story, then those cases are told to
3 SLED and SLED doesn't test them. So, it could be anything
4 from touch DNA to blood to a rape kit.

5 Q But if you call SLED and said that, "I need these
6 tested," they're going to go ahead and test it for the open
7 cases; correct?

8 A They will when they get around to it. Yes.

9 Q Thank you so much, ma'am .

10 THE COURT: All right. You may step down.

11 A Thank you. May I be released?

12 MR. WILSON: Your Honor, please release this witness.

13 THE COURT: Any objection?

14 MR. RICHARDSON: Once again, fully endorse it, Your
15 Honor.

16 THE COURT: All right, you're free to go. .

17 A Thank you, sir.

18 THE COURT: Thank you. All right. You can call your
19 next witness.

20 MR. WILSON: Your Honor, may we approach?

21 THE COURT: Yeah.

22 (Whereupon, a bench conference is held in the presence
23 but out of the hearing of the jury.)

24 THE COURT: All right. Ladies and gentlemen, we have
25 some scheduling matters, and so, that's all of the witnesses

1 that will be presented today. So I'm going to excuse you for
2 the remainder of the day. Please leave your pads in your
3 seats. Do not conduct any independent investigations. Don't
4 talk to anybody about the case, and we're going to ask that
5 you be back in the jury room tomorrow morning at 9:00 o'clock.
6 Again, I want to thank you for your service and thank you for
7 being prompt every morning. You're free to go for the
8 remainder of the day. Thank you very much.

9 (Whereupon, the following takes place outside the
10 presence of the jury.)

11 THE COURT: All right. Anything from the State before we
12 recess?

13 MR. RICHARDSON: No, sir, Your Honor.

14 THE COURT: All right. Anything --

15 MR. RICHARDSON: And I've been in contact with my
16 rebuttal witness. He'll be here tomorrow morning.

17 THE COURT: Okay. Anything from the Defense?

18 MR. WILSON: Just my sincerest apologies, Judge.

19 THE COURT: That's all right.

20 MR. WILSON: The, the timing problem is my issues, and I
21 accept full responsibility for that. That's my fault.

22 THE COURT: That's no problem.

23 MR. WILSON: But we'll have the expert here tomorrow and
24 I think we've --

25 MR. RICHARDSON: We understand the travel issues, Your

1 Honor.

2 MR. WILSON: Yeah.

3 THE COURT: Okay. That's no problem. Since we are --

4 that is everybody for today, I'm going to wait and question
5 your client tomorrow morning on her right to testify.

6 MR. WILSON: Okay, Your Honor.

7 THE COURT: That gives her another night to think about
8 it. Okay?

9 MR. WILSON: Thank you, Judge.

10 THE COURT: All right.

11 MR. WILSON: I appreciate it.

12 THE COURT: Thank you very much.

13 MR. WILSON: Thank you.

14 THE COURT: We'll be in recess till 9:00 o'clock tomorrow
15 morning.

16 MR. WILSON: Thank you, Your Honor.

17 MR. RICHARDSON: Thank you, Your Honor.

18 MS. WOOTEN: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (Adjourned for June 10, 2014.)

21

22

23

24

25

1 (State v. Sandy Lee Locklear, 2013-GS-26-302, 304. On
2 the record, June 11, 2014. The following takes place outside
3 the presence of the jury.)

4 THE COURT: All right. Anything from the State before we
5 bring the jury in?

6 MR. RICHARDSON: No, sir, Your Honor. Are you going to
7 wait to inquire of the Defendant?

8 THE COURT: Well, yeah. I mean, we're bringing them in?

9 MR. RICHARDSON: And Your Honor, my rebuttal witness
10 stated he could be here by 11 o'clock.

11 THE COURT: Good. All right. Anything from the Defense
12 before we bring the jury in?

13 MR. WILSON: Your Honor, nothing at this time.

14 THE COURT: All right. Any problem with me going ahead
15 and questioning your client --

16 MR. WILSON: No, Your Honor.

17 THE COURT: -- on her right to testify at this time?

18 MR. WILSON: No, Your Honor.

19 THE COURT: Okay.

20 MR. WILSON: Prepared.

21 THE COURT: All right. Let's place Ms. Locklear under
22 oath.

23 (Whereupon, the Defendant is sworn by the clerk.)

24 THE COURT: All right. Ma'am, your name is Sandy Lee
25 Locklear?

Questioning of Defendant Re: Rights

1225

1 MS. LOCKLEAR: Yes, sir.

2 THE COURT: All right. Ms. Locklear, as you'll recall I
3 explained to you certain rights you had under the United
4 States Constitution and your right to testify or not testify
5 in this case. Do you recall that?

6 MS. LOCKLEAR: Yes, sir, I do.

7 THE COURT: All right. I'm going to go over that again
8 from the very start to make sure that we're clear on
9 everything. Okay?

10 MS. LOCKLEAR: Yes, sir.

11 THE COURT: At this time I'm going to explain to you
12 certain rights that you have. If you do not understand
13 anything I say please let me know. If you want me to explain
14 anything in more detail please let me know. Do you understand
15 that?

16 MS. LOCKLEAR: Yes, sir.

17 THE COURT: All right. We've now reached the stage of
18 the trial where you may present your defense. You've already
19 presented part of a defense, but we're now at that part of the
20 trial coming up where you must decide whether or not you wish
21 to testify in this case. You have the right to claim
22 protections given to you by the Fifth Amendment to the
23 Constitution of the United States. This amendment states in
24 part that no person shall be compelled in any criminal case to
25 be a witness against himself. This means that you cannot be

1 required to testify in this case. You have the right to
2 testify on your own behalf. However, no one can make you
3 testify. This is a personal right and no one can waive this
4 right except for you. If you decide to testify you will be
5 subject to the same rules that govern any other witnesses, and
6 you may be examined and cross-examined on any relevant issue
7 in this case. In addition, if you have any convictions
8 involving dishonesty or false statement or for crimes
9 punishable by imprisonment for more than one year and this
10 Court determines that the probative value of admitting the
11 evidence outweighs its prejudicial effect to you the Solicitor
12 will be able to introduce your record to attack your
13 credibility. I understand that you said that there is one
14 conviction for -- of a crime of moral turpitude.

15 MR. RICHARDSON: The Court's indulgence, Your Honor.

16 THE COURT: Yeah.

17 MR. RICHARDSON: I know that I said there was a '94 theft
18 by deception.

19 THE COURT: Right. But I just wanted to make sure that
20 you all hadn't uncovered anything since that time.

21 MR. RICHARDSON: Trying to make sure I didn't say
22 anything else, Your Honor. I just wanted to --

23 THE COURT: Okay.

24 MR. RICHARDSON: Your Honor, I believe I -- I believe I
25 indicated to the Court the only other thing I saw was a

Questioning of Defendant Re: Rights

1227

1 fleeing or attempting to elude police, and I don't believe
2 that'd be. And that was in '98.

3 THE COURT: All right.

4 MR. RICHARDSON: So I believe that falls outside of the
5 purview.

6 THE COURT: All right. So if you decide to take the
7 stand they will be able to cross examine you on your
8 conviction for the property theft by deception -- okay -- to
9 attack your credibility. Do you understand that?

10 MS. LOCKLEAR: Yes, sir.

11 THE COURT: All right. If you decide to testify this
12 decision on your part must be freely, voluntarily and
13 intelligently made with knowledge of the protections given to
14 you by the Fifth Amendment of the United States Constitution
15 and the consequences of your decision to testify. If you
16 decide not to testify I will instruct the jurors that they
17 cannot give the fact that you did not testify any
18 consideration whatsoever and that there is to be absolutely no
19 prejudice to you because you did not testify. It is left
20 entirely up to you whether or not you testify. You may talk
21 with your attorney, your family and friends or anyone else,
22 but the final decision will be left entirely up to you. All
23 right. Do you understand what I've explained to you?

24 MS. LOCKLEAR: Yes, sir.

25 THE COURT: Do you have any questions about what I've

1 explained to you?

2 MS. LOCKLEAR: No, sir.

3 THE COURT: Have you discussed this with your attorney
4 whether or not you should testify in this case?

5 MS. LOCKLEAR: Yes. I have, sir.

6 THE COURT: Do you wish to talk with your lawyer anymore
7 at this time about this issue?

8 MS. LOCKLEAR: No, sir.

9 THE COURT: Do you wish to talk to anybody about this
10 issue?

11 MS. LOCKLEAR: No, sir.

12 THE COURT: All right. Do you wish to testify in this
13 case?

14 MS. LOCKLEAR: No, sir.

15 THE COURT: All right. Anything further the State wants
16 placed on the record?

17 MR. RICHARDSON: No, sir, Your Honor.

18 THE COURT: All right. Anything further the Defense
19 wants placed on the record?

20 MR. WILSON: Nothing, Your Honor.

21 THE COURT: All right. Thank you very much. All right.
22 Anything further before we bring the jury in from the State?

23 MR. RICHARDSON: If Mr. Wilson wants to go ahead and
24 bring in his first witness, Your Honor.

25 THE COURT: Okay. Anything before we bring the jury in?

Questioning of Defendant Re: Rights

1229

1 MR. WILSON: Nothing, Your Honor.

2 THE COURT: Okay. All right. Well, let's go ahead and
3 bring the jury in. If you want to go ahead and have them
4 bring your witness in so we can go ahead and get ready when
5 they get here. We've had to move the jury down the hall.

6 MR. RICHARDSON: I understand, Your Honor.

7 THE COURT: Because of the heating. So it might take
8 them a little bit longer to get down the hall and get in the
9 courtroom. They said it was --

10 MR. RICHARDSON: Would have had to charge them a fee for
11 a sauna if we kept them in there any longer.

12 THE COURT: I tell you. They said it was 80 degrees in
13 the jury room this morning so.

14 MR. WILSON: That's a little too hot, Judge.

15 THE COURT: Yeah.

16 MR. WILSON: The witness is in the courtroom, Judge.

17 THE COURT: Do what? Oh, okay. Good. Thank you.

18 (Whereupon, the following takes place in the presence of
19 the jury.)

20 THE COURT: All right. Ladies and gentlemen, welcome
21 back. I hope everyone had a good, restful evening. We're now
22 ready to resume the trial of this case. Please make sure that
23 you have your own notepads with you. I want to thank
24 everybody for being prompt again this morning, and before we
25 get started, I want to apologize for the heat in the jury

Ila Simmons - Direct by Mr. Wilson

1230

1 room. I hope we have moved you to a little bit cooler jury
2 room that'll accommodate you a little bit better. So I
3 appreciate your patience on that. All right. Mr. Wilson,
4 Defense can call their next witness.

5 MR. WILSON: May it please the Court, Your Honor? The
6 Defense at this time would call Ila Simmons.

7 Whereupon, Ila Simmons was called to the stand, duly
8 sworn by the clerk and testified as follows:

9 THE CLERK: If you'd just state your full name and spell
10 your last name.

11 MS. SIMMONS: My name is Ila Simmons. My last name is S-
12 I-M-M-O-N-S.

13 MR. WILSON: May it please the Court, Your Honor?

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. WILSON:

17 Q Good morning, Ms. Simmons.

18 A Good morning.

19 Q Around February 5th of 2013, were you employed with the
20 South Carolina Department -- excuse me -- South Carolina State
21 Law Enforcement Division?

22 A Yes, sir.

23 Q Okay. And you were an agent with that division; correct?

24 A Yes, sir.

25 Q Okay. And you're not currently working for the division

Ila Simmons - Direct by Mr. Wilson

1231

1 right now; correct?

2 A No, sir. I'm not.

3 Q Okay. But at the time you were employed with them, tell
4 the jury what you were employed as?

5 A I worked in the forensic services laboratories, trace
6 evidence department as a trace evidence examiner.

7 Q Okay. And explain to us what a trace evidence examiner
8 would do. What were your normal duties when you were working
9 for SLED?

10 A We analyzed gunshot residue, gunpowder residues. We
11 performed comparisons of fibers, glass and paints, as well as
12 analyzing debris from fires and post blast explosive
13 incidents.

14 Q Okay. And did you have an opportunity to get involved in
15 this case at all?

16 A Yes, sir.

17 Q Okay. And can you tell the jury briefly how you got
18 involved in this particular case?

19 A Evidence was submitted for us to analyze from the Horry
20 County Sheriff's Department and it was a gunshot residue kit,
21 which is standard as part of my analysis that I do when I was
22 working at SLED.

23 Q Okay. And when you do an analysis, can you tell the jury
24 what you do, and, and begin from when you go to the evidence
25 locker and get it out and take them through the process of how

1 you would test an item like gunshot residue.

2 A Okay. It's a standardized kit. So, it would have been
3 brought in by the Sheriff's Department. It would have been
4 locked downstairs in our central log-in area where it would
5 have been logged in, given a unique identification number and
6 item number. I would have gone down, gotten it from one of
7 our evidence log-in technicians, brought it back up to my
8 laboratory and began analysis on it. I would have taken the
9 samples out, made sure that there was no possibility for
10 contamination, being sure that the kit was sealed and
11 initialed as it should have been. I would have then placed
12 the samples on a very powerful microscope. It's a scanning
13 electron microscope. It can see down 100,000 times greater
14 than the human eye can see. So, it can see gunshot residue,
15 which you could fit about a hundred of them on the end of a
16 pin. So we can see that very clearly, and I would begin
17 analysis using this microscope, and I could see any particles
18 that were present on the particle lifts that are in the GSR
19 kit and the GSR kit would have contained samples from
20 someone's hands. A sample would have been collected from the
21 palm of the right hand, a sample from the back of the right
22 hand, a sample from the palm of the left hand and a sample
23 from the back of the left hand. I would have analyzed those
24 all for the presence of gunshot residue.

25 Q And at this time would you explain to the jury exactly

Ila Simmons - Direct by Mr. Wilson

1233

1 what gunshot residue is, how it comes about?

2 A Uh-huh. Gunshot residue is a mixture of microscopic
3 chemicals that come out of a gun when it's discharged. They
4 are present in the primer cap of the cartridge, and when the
5 firing pin falls, strikes the primer cap, a small explosion
6 occurs igniting the gunpowder and pushing a projectile or
7 bullet out of the gun. Well, these mixtures of chemicals also
8 come out of the gun with the bullet and can get on anything in
9 close proximity to the gun, including the hands of the person
10 firing the gun or someone standing very close to the gun or
11 inanimate objects around the gun.

12 Q I also want to ask you this before I show you this
13 document, and obviously, you're going to testify to this jury
14 to the truth of the matter. You can wash off gunshot residue;
15 can't you?

16 A Yes, sir.

17 Q Okay. Tell the jury how simple it is to wash it off.

18 A Gunshot residue has the consistency of flour. So, if
19 you've ever had flour on your hands you know you can wash it
20 off with soap and water. You can wipe it on a towel, just by
21 sweating or putting your hands in and out of your pockets. It
22 can be removed from your hands just like flour can.

23 Q And when you do a gunshot residue analysis, you can't
24 determine if someone has done that; correct?

25 A No, sir. I can't.

1 Q You're only basing it on the swabs that are taken by
2 Horry County Police Department?

3 A Yes, sir.

4 Q Okay. Or any police department that submits it?

5 A Yes, sir.

6 Q Let me show you this document. Just let me know, if you
7 can read over it, take your time and let me know if you can
8 identify that document?

9 A Yes, sir. I can.

10 Q Okay. And what is that document?

11 A This is a copy of the laboratory report that we produce
12 in each case that we send back to the submitting agency. In
13 this case it would have been Horry County Police Department.

14 Q Okay. Thank you very much.

15 MR. WILSON: Your Honor, at this time I would like to
16 have this marked for identification purposes only.

17 THE COURT: All right.

18 MR. WILSON: Any objection?

19 MR. RICHARDSON: Without objection, Your Honor.

20 THE COURT: That'll be 11?

21 (Defense Exhibit Number 11 [SLED Report - GSR Kit] marked
22 for identification.)

23 BY MR. WILSON:

24 Q Now, I'm handing you what's been marked now as Defense
25 Exhibit 11. Did you have an opportunity to receive and test a

Ila Simmons - Direct by Mr. Wilson

1235

1 gunshot residue kit for one Sandy Locklear?

2 A I did.

3 Q Okay. And can you tell me what the results of that
4 particular test were?

5 A No gunshot residue was found.

6 Q So no gunshot residue was found on either palms?

7 A On either palm or on the backs of either hand.

8 Q Okay. All right.

9 MR. WILSON: Your Honor, at this point in time I'd like
10 to have moved into evidence and publish to the jury the
11 gunshot residue test.

12 THE COURT: Any objection?

13 MR. RICHARDSON: It's, it's Ms. Simmons' report. She's
14 already testified to it, Your Honor. Other than that, no.

15 THE COURT: Okay. Defendant's Exhibit Number 11 is
16 admitted into evidence over Plaintiff's objection.

17 (Defense Exhibit Number 11 [SLED Report - GSR Kit]
18 admitted into evidence and appropriately marked.)

19 MR. WILSON: Permission to publish, Judge?

20 THE COURT: All right.

21 BY MR. WILSON:

22 Q Now, after you get done doing the analysis, what do you
23 do then with the actual gunshot residue kit?

24 A It would be sealed back up and returned to the Horry
25 County Police Department in this case.

1 Q And would not have been altered by you while you're doing
2 the actual test; correct?

3 A No, sir.

4 Q All right.

5 MR. WILSON: I have no further questions, Your Honor.

6 THE COURT: All right. Cross examination.

7 CROSS EXAMINATION

8 BY MR. RICHARDSON:

9 Q Agent Simmons, congratulations on retirement.

10 A Thank you.

11 Q You've been doing it for a while; right?

12 A Yes, sir.

13 Q Just a few quick questions. When a firearm is fired how
14 far out does the gunshot residue go?

15 A With -- depending upon the caliber and the make and model
16 of the gun, it can go out to as far as six feet with a
17 handgun.

18 Q Okay. And how about a -- like a 25 caliber, a small
19 handgun?

20 A Probably not more than two feet.

21 Q About two feet or something like that?

22 A Yes, sir.

23 Q And an automatic actually produces less gunshot residue
24 than say a revolver?

25 A Yes, sir. It will.

Ila Simmons - Cross by Mr. Richardson

1237

1 Q Or expelled out?

2 A Expels it out. Yes, sir.

3 Q Because that revolver is open and just like a big old
4 exhaust on a car; correct?

5 A Yes, sir.

6 Q Okay. And I believe you testified already that gunshot
7 residue is pretty fragile?

8 A Yes, sir. It is.

9 Q I mean, it doesn't take much more than wiping it off?

10 A Yes, sir.

11 Q And or soap and water do a pretty good job on it,
12 cleaning it?

13 A Yes, sir. It will.

14 Q And would an hour be enough time to clean gunshot residue
15 off?

16 A Yes, sir. Depending upon how long it took someone to
17 wash their hands. It would only take minutes.

18 Q Okay. So just minutes. So even five minutes would
19 provide more than enough time to clean your hands off?

20 A It's a possibility if the hands were cleaned. Yes, sir.

21 Q And there's no gunshot residue found on, on the samples
22 given to you by Horry County Police Department?

23 A No, sir. There was not.

24 Q All right. Thank you.

25 THE COURT: All right. Redirect?

1 MR. WILSON: Just one question, Judge.

2 REDIRECT EXAMINATION

3 BY MR. WILSON:

4 Q Your testimony earlier was that it takes an actual
5 microscope to find these objects because they can't be seen
6 with the naked eye; correct?

7 A That's correct.

8 Q So if there was any gunshot residue available on the
9 hands of a person who fired a firearm, even the smallest
10 particles you'd be able to see under the microscope; correct?

11 A Yes, sir.

12 Q Thank you very much.

13 THE COURT: All right. You may step down.

14 MR. WILSON: Your Honor, I would ask that this witness be
15 released.

16 THE COURT: Any objection?

17 MR. RICHARDSON: No, sir. Please let her go on back.

18 THE COURT: All right. She's free to go.

19 A Thank you.

20 THE COURT: Thank you.

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: All right. The Defense can call their next
23 witness.

24 MR. WILSON: Your Honor, at this time we would call
25 Shannon B. Sorrells, Agent Sorrells, Your Honor.

Ila Simmons - Redirect by Mr. Wilson

1239

1 THE COURT: All right. All right. Let me see the
2 attorneys for a second.

3 MR. RICHARDSON: Certainly, Your Honor.

4 (Whereupon, a bench conference is held in the presence
5 but out of the hearing of the jury.)

6 MR. WILSON: Agent Sorrells, Your Honor.

7 THE COURT: All right.

8 Whereupon, Shana Sorrells was called to the stand, duly
9 sworn by the clerk and testified as follows:

10 THE CLERK: State your full name and spell your last
11 name.

12 MS. SORRELLS: My name is Shana Sorrells. Last name S-O-
13 R-R-E-L-L-S.

14 REPORTER: Can you spell your first name, please?

15 MS. SORRELLS: S-H-A-N-A.

16 THE COURT: All right. Ladies and gentlemen of the jury,
17 likewise, during voir dire, I did not question you as to this
18 witness's appearing in this case or any relationship you might
19 have with Ms. Sorrells. So I ask all members of the jury, is
20 there any member of the jury that has any personal
21 relationship, social relationship, business relationship or
22 any other type of relationship with this witness; if so,
23 please raise your right hand.

24 (No response.)

25 THE COURT: All right. Let the record reflect that no

Shana Sorrells- Direct by Mr. Wilson

1240

1 jurors raised their right hand. All right. Mr. Wilson.

2 MR. WILSON: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. WILSON:

6 Q Good morning, Ms. Sorrells.

7 A Good morning.

8 Q Thank you for being here. On or around February 19,
9 2014, were you employed with South Carolina State Law
10 Enforcement Division?

11 A Yes. I was.

12 Q Okay. And can you tell the jury what your title was or
13 is?

14 A 2014 or 2013.

15 Q I have 2014.

16 A 2014.

17 Q Yes, ma'am.

18 A Okay. It's kind of confusing because during that time I
19 was working in two different departments. I was considered a
20 forensic toxicologist with SLED and a forensic drug chemist.

21 Q All right. And what are your duties as a forensic
22 toxicologist with SLED?

23 A As a forensic toxicologist I analyze biological and
24 chemical samples including blood, urine, any type of bodily
25 tissue. I analyze those samples for the presence of alcohol,

Shana Sorrells- Direct by Mr. Wilson

1241

1 drugs or any other poisons, and then I interpret what I find
2 to coroners, pathologists and in courts of law.

3 Q Okay. And let me ask you how you go about doing that.
4 Could you explain to the jury the process? If you received a
5 blood sample or a urine sample, explain to the jury the
6 process of actually testing that for any narcotic or alcohol
7 or any other sorts of combines?

8 A As soon as a case would come to me, it would usually get
9 -- the first thing it gets, almost every case, depending on
10 the situation, gets a blood alcohol. Our technicians are
11 given the case. They run the sample. The data is given to
12 the analyst. The analyst looks at the QC, the quality and
13 control, and quality assurance data packets and say, "Yes.
14 This looks correct." We sign off on that. Then the sample
15 gets a drug screen, a 12-panel drug screen, and again, the
16 samples are pipetted out and then just handed to our
17 technicians who run them. They are run in duplicate so that
18 they cannot be mixed up. They also have QA QC data that has
19 to be met, and if anything shows up positive on those screens,
20 we then confirm them using gas chromatography/mass
21 spectroscopy or GCMS, as we call it, and we get an exact
22 number. We can actually quantitate the value of the drug
23 present.

24 Q What is GCMS? I mean, that's a -- what is that exactly?
25 Is that what you said, GCMS?

1 A GCMS.

2 Q Now, can you explain, and I know it's obviously a
3 difficult term, but can you explain to the jury what that is
4 and how that works?

5 A Yes. GCMS is, again, gas chromatography. So, a sample
6 is heated in -- well, in this case, the blood is actually
7 separated out from any contaminants that can be there such as
8 drugs, alcohol, poisons, and those contaminants are then
9 placed into a gas form, sent through the GC. They are then
10 injected onto a column in the GC in which they bind with the
11 mobile phase or the stationary phase. I'm sorry. The mobile
12 phase pushes it through, and binds with the stationary phase
13 until it's heated enough to where it can break off of it.
14 This causes the drugs to actually separate from each other
15 because they bind in different manners. They have different
16 polarities, different boiling points. Every drug is
17 different, and we can differentiate this by what time they
18 come off of the GC. Once they come off of the GC, when they
19 exit the column, they go into a mass spec. All the mass spec
20 does is bombard each individual drug with electrons until you
21 can break it down into individual ions and then gives you a
22 printout of each of those ions. Every drug has a very
23 specific what we call a fingerprint or ion spectrum. And so
24 based off of the mass spec ion and the retention time from the
25 GC we can determine exactly what drug it is.

Shana Sorrells- Direct by Mr. Wilson

1243

1 Q Thank you very much. Now, would you produce a report or
2 a, a results page based on your analysis of the blood and
3 urine?

4 A Yes. I would.

5 Q Let me ask you if you can identify this particular
6 document.

7 A I'm just going to compare it.

8 Q And take your time.

9 A It appears to be a copy of my report.

10 Q Okay. And in this report you basically would have put
11 down what would have been the results of the analysis in the
12 blood and urine; correct?

13 A Correct.

14 Q Okay. All right.

15 MR. WILSON: Your Honor, at this time I'd like to have
16 this marked for identification purposes only.

17 THE COURT: All right.

18 MR. WILSON: Thank you.

19 (Defense Exhibit Number 12 [Toxicology Report] marked for
20 identification.)

21 BY MR. WILSON:

22 Q Now, I'm going to show you what's been marked now as
23 Defense Exhibit 12.

24 A Yes.

25 Q Is that a true and accurate copy of your report?

1 A Yes. It is.

2 Q Okay. And can you tell me what the results were from the
3 tests as far as the drugs that you tested for?

4 A Of course, we have a negative alcohol in this situation.
5 Out of the 12 panel drug screen, it screened positive for
6 cannabinoids, which is more commonly known as marijuana, and
7 zolpidem. When we ran the marijuana confirmation, all we
8 found was the metabolite, which is the 11 carboxy THC or
9 tetrahydrocannabinol, which is just the metabolite or
10 breakdown of marijuana. We got a result of 7.2 micrograms per
11 liter, and then we also found zolpidem, and we got a result of
12 a 0.08 milligrams per liter.

13 In the urine we also ran a 12-panel screen. We also
14 found the metabolite of the marijuana, the 11 carboxy THC. We
15 also found the zolpidem, positive for the zolpidem. We also
16 have a positive cyclobenzaprine, more commonly known as
17 Flexeril, a muscle relaxer, and its metabolite
18 desmethylocyclobenzaprine, and then we found alprazolam, more
19 commonly known as Xanax, hydroxyalprazolam and meprobamate,
20 which is the metabolite of Soma.

21 Q Let me ask you a question. You pronounced it zolpidem;
22 is that correct?

23 A Zolpidem.

24 Q Thank you very much. It's a little difficult. Is that
25 Ambien?

Shana Sorrells- Cross by Mr. Richardson

1245

1 A It is Ambien. Yes.

2 Q Thank you very much. And did you find anything else?

3 A No.

4 Q Okay. All right. And after you get done with the
5 analysis, what then do you do with the actual kit or the blood
6 and urine? What happens to it?

7 A The blood is saved in our refrigerator, our walk-in
8 refrigerator. It is stored at 10 degrees for three months,
9 and then it is sent back, packaged up and sent back to the
10 arresting agency.

11 Q All right.

12 MR. WILSON: I have no further questions, Your Honor.

13 THE COURT: All right, cross examination.

14 CROSS EXAMINATION

15 BY MR. RICHARDSON:

16 Q Agent, how are you doing?

17 A Hi. Doing good.

18 Q I think we kind of skipped ahead. We got an opinion on
19 something without establishing the expert. So, let's go for
20 it; okay?

21 A Okay.

22 Q What's your background like, educational background as
23 far as forensic toxicology?

24 A Okay. I have my bachelor's of science in chemistry from
25 the University of South Carolina. I have my master's of

1 science or master's in analytical chemistry from the
2 University of South Carolina. I have eight years experience
3 as a forensic toxicologist, two years -- I'm sorry. I was
4 shortened to nine months extensive in-house training, two
5 years where I was watched over as a toxicologist. I have been
6 to multiple seminars all over the U.S.

7 Q And so how long have you been working or how long did you
8 work, and I was trying to get it right whenever you said it.
9 I know you've worked kind of split time. How long have you
10 been doing forensic toxicology?

11 A For forensic toxicology I -- it was almost eight years.
12 It was seven years, 11 months.

13 Q And now they moved you over into the --

14 A And now I have moved over into drug identification. Yes.

15 Q And that's basically whenever if I turn in a bag of white
16 powder to you, you're going to take it out and tell me if it's
17 cocaine or not; correct?

18 A Exactly.

19 Q Now, as a forensic toxicologist, have you testified in
20 court previously as an expert?

21 A Yes, I have. Nineteen times.

22 Q Nineteen times.

23 MR. RICHARDSON: Your Honor, so that the record can be
24 clear, the State would, would move that she be allowed to
25 testify as an expert witness.

Shana Sorrells- Cross by Mr. Richardson

1247

1 THE COURT: All right, any challenges as to her
2 expertise?

3 MR. WILSON: Your Honor, no challenges to this witness's
4 expertise.

5 THE COURT: All right. I find this witness to be an
6 expert in the field of forensic toxicology.

7 MR. RICHARDSON: Thank you, Your Honor.

8 THE COURT: All right.

9 BY MR. RICHARDSON:

10 Q Now, in the present case you got a blood -- you got the
11 stuff from a rape kit in, urine, urine sample and a blood
12 sample; correct?

13 A That is correct.

14 Q Let's talk about the blood sample first, please, ma'am.
15 Agent Sorrells, the blood sample, when you got it, what
16 condition was it in? I'm asking was it in a test tube?

17 A Yes. It was. Sorry. I had to look at my report to see.

18 Q And as you're working on these things --

19 MR. RICHARDSON: And we'll stipulate to all the chain
20 on it as well, Your Honor, on the blood and the urine.

21 BY MR. RICHARDSON:

22 Q As you're working on the, on the -- whenever you get a
23 sample of blood from a rape kit or from a felony DUI or
24 whatever, whatever you're trying to do forensic toxicology on,
25 when you got this particular sample in was it sealed?

1 A If it is -- if it is not sealed properly we make
2 notations in our system. In this case there were no notations
3 made.

4 Q Okay. And you make notes as you go along?

5 A Yes. That is correct.

6 Q Did you notate at what time the blood was taken?

7 A I did not. No.

8 Q Okay. Okay.

9 A I don't believe we had that information at the time.

10 Q Okay. We don't have the blood sample here today?

11 A No. We do not.

12 Q Okay. That's fine. Now, whenever you're looking at the
13 blood, you do blood first, urine first, both at the same time,
14 what?

15 A Usually -- this case came in as a rape case, and it was
16 originally sent out as no analysis performed. Usually in
17 those events, depending on the timeframe, we would choose
18 which is more beneficial to the case, blood or urine. It was
19 sent out as no analysis performed because there was no history
20 of drugs, no history of alcohol, and the timeframe was a
21 little too far outside of when most of your date rape drugs,
22 they're very fast-acting, and they go away very quickly. So
23 it was outside that timeframe where we could detect date rape
24 drugs.

25 Q Okay.

Shana Sorrells- Cross by Mr. Richardson

1249

1 A So it was originally sent out as no analysis performed.
2 I then received a phone call or our department received a
3 phone call saying they needed further analysis done on this
4 case because they weren't sure if it was really a rape case.
5 In this case I did both the blood and the urine at the same
6 time.

7 Q Okay. And when you say date rape drugs you're talking
8 about ---

9 A Rohypnol, your, your Mickey Finns, GHB.

10 Q So we're not talking about Flexeril or meprobamate or ---

11 A No. None of the drugs ---

12 Q Excuse me. I know I butchered --

13 A -- none of the drugs found here are considered your
14 common date rape drugs.

15 Q Okay. And the Rohypnol that's a roofie?

16 A Yeah.

17 Q Rohypnol.

18 A Your roofie, yeah, Rohypnol.

19 Q I can't ever say that.

20 Q GHB, those are all liquid form. You give it basically in
21 a drink; correct?

22 A You do. You can mix it in with a drink.

23 Q All right. So let's go to the blood first. You did, you
24 did screens on both.

25 A Yes. I did.

1 Q And let's go -- in the blood, the only things you found
2 were THC metabolite; correct?

3 A Correct.

4 Q Tell us what the metabolite is.

5 A A metabolite is -- well, the easiest way to explain it is
6 as soon as you take in anything into your body your body
7 immediately starts breaking it down, whether it be a drug,
8 food, something you drink. It's trying to get rid of it.
9 It's trying to take whatever it can out of it and get rid of
10 it, and sometimes to do that, enzymes in your body attack it.
11 In this case, if you're ingesting marijuana, your enzymes are
12 going to attack it and break it down into a smaller form. In
13 this case the form is 11 carboxy THC, and that makes it easier
14 for it to pass through the blood, pass through the membranes,
15 get to where it needs to go and out of your system eventually
16 in the urine.

17 Q Okay. And if marijuana was still active in the system, a
18 person just takes a hit of a marijuana joint or off a bong,
19 are you going to see metabolites or would you see something
20 different?

21 A You will actually -- you can actually see THC, which is
22 the active ingredient in metabolite. If it is just taken, you
23 will see that parent. You can actually shorten the timeframe
24 to within four hours if you see the metabolite, the 11 hydroxy
25 metabolite. In this case we have the 11 carboxy which can

Shana Sorrells- Cross by Mr. Richardson

1251

1 actually stay in the system and it has been proven for up to
2 30 days.

3 Q So it can stay in the bloodstream for up to 30 days?

4 A It can stay in your bloodstream. It can show up in your
5 urine for longer.

6 Q Okay. Okay. So stuff stays in the urine longer than it
7 ever stays in the blood?

8 A Yes.

9 Q Okay. Now, the 7 -- was it 7.2?

10 A Micrograms per liter.

11 Q Micrograms, you're looking for a threshold of 2.0?

12 A Our threshold is that is as accurately low as we can see.
13 We can actually see lower than that, but we are not
14 comfortable enough to call anything below that at a certain
15 number. So we say the lowest that we can possibly detect is
16 two micrograms per liter.

17 Q Okay. And the result of 7.2 micrograms per liter ---

18 A That is correct.

19 Q --- is that a high level of 11 carboxy
20 tetrahydrocannabinol.

21 A No. It is not.

22 Q Okay. So it's pretty low?

23 A It's, it's low. Yes.

24 Q Okay. And if I understand your testimony, that'd be
25 indicative that it had been smoked way more than four hours

1 before?

2 A It was, it was definitely more than four hours prior.

3 Q As much as --

4 A Usually you can see the parent within 24 hours. So since
5 the parent is not present, you're looking at a 24 to 48-hour
6 minimum.

7 Q Okay. So more likely than not it was smoked some time
8 ago?

9 A Right.

10 Q Okay. And the present of, presence of the zolpidem in
11 the bloodstream --

12 A Yes.

13 Q -- if I were to ingest an Ambien right now, and I know it
14 has a lot to do with my weight as to how many micrograms per
15 liter will be in there, your result was .08 micrograms per
16 liter; correct?

17 A Milligrams per liter.

18 Q Milligrams, I'm sorry. I'm sorry, milligrams. My
19 contacts are floating on me.

20 A It's a minor difference in the report, but yes.

21 Q Okay. .08 milligrams per liter.

22 A Milligrams per liter.

23 Q How long does Ambien stay in the system detectable in the
24 blood?

25 A Ambien can stay in the system detectable in the blood for

Shana Sorrells- Cross by Mr. Richardson

1253

1 up -- anywhere from 8 to 12 hours.

2 Q Okay.

3 A It has just recently been shown that women actually
4 metabolize it slower. And so what they thought was --
5 Ambien's only supposed to stay in the system for seven to
6 eight hours, but in some women it has been shown to stick
7 around for up to 12.

8 Q Up to 12 hours. And how long is Ambien active?

9 A Ambien is active as long as it is in the bloodstream.

10 Q Okay. And what, what is the purpose of Ambien? What
11 kind of drug is it?

12 A Ambien is a, a sleep drug. It is -- but what it's
13 supposed to be used for it's not for you to go to sleep and
14 then sleep all night. It is for those that have trouble going
15 to sleep. So it is a sleep-inducing drug is what it does. It
16 helps you get into the REM cycle of your sleep faster, those
17 that have trouble falling asleep, those that stay awake all
18 night, but that's just what it's for. It's just to help you
19 go to sleep. That's why it was considered to be a short-
20 acting drug. It's supposed to only last seven to eight hours.
21 So you get that seven to eight-hour window of sleep that
22 you're supposed to have. At that point Ambien is supposed to
23 be out of your system. You're supposed to be awake, alert and
24 be able to go about your day without any impairment.

25 Q Okay. So, it's designed to act for seven to eight hours?

1 A Yes. It is.

2 Q Okay. So you can sleep, get up.

3 A Sleep, get up and go --

4 Q Be clearheaded?

5 A Exactly.

6 Q Okay. And the .08 milligrams per liter --

7 A Yes.

8 Q -- is that a high quantity?

9 A It is. It's -- most people, what was shown, is that
10 about an hour and a half, when the first FDA studies came out,
11 people were tested, and about an hour and a half after they
12 ingested the Ambien their blood levels ranged from a .05 to a
13 .12. So you're looking at possibly an hour and a half after
14 the event a .08 is, is relatively on the higher side, or
15 actually, it's right in the middle, doing the math real quick,
16 it's right in the middle, but you're looking at an hour and a
17 half later. Any longer than that it's going to be decreasing
18 slowly or rather quickly over time.

19 Q And from your experience, from your education, can you
20 tell how long before the blood was taken approximately when
21 this was taken or ingested?

22 A I, I cannot do that, one, because I can -- people
23 metabolize differently. Again, weight is a factor. Sex is a
24 factor. Again, how much you take is a factor. I couldn't
25 tell you if this was a ten milligram tablet or a five

Shana Sorrells- Cross by Mr. Richardson

1255

1 milligram tablet. The most common one out there is a ten
2 milligram tablet. That is the strongest that they prescribe
3 other than the extended release, which is only 12.5
4 milligrams.

5 Q If the blood was taken after 6:30 a.m. and the Ambien was
6 taken around midnight, in your expert opinion would you expect
7 to find a lower milligram per liter than that amount?

8 A Yes. I would.

9 Q Significantly lower?

10 A If the right amount of medication was taken, even if you
11 took the maximum ten milligram, you should see significantly
12 lower results. Yes.

13 Q Significantly lower results?

14 A Yes.

15 Q Okay. Now, let's move on to the urine. Now, whenever
16 you're testing urine, blood shows what's actively in the
17 blood; correct?

18 A Correct.

19 Q Shows drugs that are possibly active?

20 A Correct.

21 Q And I think with marijuana you said it -- the 11 carboxy
22 THC, I'm not going to try and say the other word now, the
23 carboxy THC, that can stay in the bloodstream for a long time?

24 A Yes. It can.

25 Q And that's just the aftereffects, the --

1 A Right. That's just what's --

2 Q -- leftovers, no active ingredients.

3 A -- right. It's very inactive. It doesn't cause any
4 effect on the system.

5 Q Now, in the urine, how long does drugs stay in the urine?

6 A Depending on the drug, it can stay in the urine anywhere
7 from 24 to 72 hours, again, marijuana being the exception.

8 Q So, it could stay in the urine -- other drugs could stay
9 in the urine, did you say 24 to 72 hours?

10 A 24 to 72 hours. Yes.

11 Q Okay. Now, we've already talked about THC. How long
12 does Ambien stay in the urine?

13 A Ambien is also a very short-acting drug. You will see it
14 anywhere from eight to 12 hours in the blood.

15 Q Okay.

16 A But again, you can see it anywhere from 24 to 48 in the
17 urine.

18 Q In the urine. So --

19 A Again, depending on dosage.

20 Q And that's because the metabolites and whatnot of these
21 drugs they're stored in fatty acids -- correct -- or stored in
22 the fat or have I got that wrong?

23 A No. You're, you're correct, fat.

24 Q In the fat.

25 A They can, they can be stored in the fat. That's why

Shana Sorrells- Cross by Mr. Richardson

1257

1 marijuana takes so long. It's known to hide in the fat is
2 what we call it, and it will just hang out, and then slowly
3 over time leak out of the system, but most of, most of your
4 drugs go straight through the liver, through first-pass
5 metabolism and start breaking down and get sent straight to
6 the urine to be eliminated.

7 Q Okay. All right. The -- let's go over the, the
8 analytes. Cyclobenzaprine, that's Flexeril; correct?

9 A That is. Yes.

10 Q And do you know how long Flexeril will stick around in
11 the urine?

12 A It can stick around for 24 to 48 hours depending on how
13 much you drink, how often you urinate, how hydrated you are.
14 It's --

15 Q And I'm sorry. Were you finished?

16 A No, no. It's -- yeah, it's, again, it's such a huge
17 window depending on -- every person's slightly different in
18 their metabolism, their weight, their size, their enzymes.
19 So, it, it changes from person to person.

20 Q Okay. And Flexeril or cyclobenzaprine, would it show up
21 in a blood analysis?

22 A Yes. It would.

23 Q What would it show up as?

24 A It would show up as cyclobenzaprine.

25 Q Okay.

1 A That is actually the drug -- the drug beneath that, the
2 desmethylocyclobenzaprine is its metabolite.

3 Q Okay. And do you have a copy of your report? I think it
4 was identified.

5 A Yes. This is the --

6 Q I'm just going to ask you on Defense Exhibit Number 12 I
7 just did not see a cyclobenzaprine up there.

8 A No.

9 Q What was screened for.

10 A It was not screened. We do not screen for
11 cyclobenzaprine.

12 Q Okay.

13 A So, yes, it possibly could have been in the blood, but we
14 did not look for it at the time.

15 Q Okay. You didn't look for it at the time.

16 A No.

17 Q Let's go on to the same thing with the cyclobenzaprine
18 metabolite. That's the same thing; correct?

19 A Correct.

20 Q The alprazolam or Xanax, how long does that stick around
21 in the urine?

22 A Alprazolam can stay in the urine, again, 24 to 48 hours.
23 We usually cut it off at 24 hours because it is so short
24 acting, but there are people out there that abuse it and take
25 more than the average dose, and it does stay around longer.

Shana Sorrells- Cross by Mr. Richardson

1259

1 Q Okay. And how does that test out in the bloodstream?

2 A It is considered a benzodiazepine and we did screen for
3 it.

4 Q Okay. And that was negative; correct?

5 A That was negative. Yes.

6 Q Okay. And the absence of the Xanax or the benzodiazepine
7 in the bloodstream but the presence in the urine does that
8 tell you anything?

9 A It shows a history that at some point Ambien was taken --
10 not Ambien, I'm sorry. At some point Xanax was taken, but it
11 had not been taken recently.

12 Q Okay. So it would not have been taken at the same time
13 as the Ambien?

14 A No. It would not have. We would have still seen it in
15 the blood.

16 Q You would have seen it in the bloodstream. And let's go
17 on down to the meprobamate.

18 A Meprobamate.

19 Q Meprobamate, I'm sorry. And that's commonly known as
20 Equanil, Soma, Miltown; correct?

21 A It's the Soma breakdown. Soma is considered a
22 carisoprodol.

23 Q Okay.

24 A Again, which we do screen for, and it actually -- well,
25 it screened negative in the -- it did screen negative in the

1 blood. It screened positive in the urine, but we believe the
2 meprobamate is what was triggering the carisoprodol positive
3 screen.

4 Q Okay, and the carisoprodol screen, that was negative in
5 the blood.

6 A It was negative in the blood.

7 Q But positive in the urine.

8 A But positive in the urine. Yes.

9 Q Once again, what does that tell you?

10 A That says that at some point in time Soma had been taken.
11 Soma, which is another muscle relaxer, had been taken within
12 the past 24 to 48 hours, probably -- you're looking more
13 towards the 48 hours since we did not actually see the parent
14 Soma in the urine. We only saw the metabolite.

15 Q Okay. And so you're saying that -- I'll say Miltown or
16 Soma so I don't have to pronounce that other term. That would
17 have been taken two days ago probably, two days before the
18 blood was taken?

19 A Within -- most likely.

20 Q It would not have been active at the same time as the
21 Ambien?

22 A Not in this case, no.

23 Q Okay. How long do the effects of Soma last?

24 A Again, they can last anywhere from 12 to 24 hours. Soma
25 is a very strong muscle relaxer. Meprobamate is actually what

Shana Sorrells- Cross by Mr. Richardson

1261

1 it breaks down into, which is even more potent than Soma is,
2 and so it will last a long time, and you can see effects for
3 up to 24 hours.

4 Q Okay. But if it was taken over 48 hours before,
5 certainly after 24 hours, there's no more effect.

6 A As long as it is out of the bloodstream you will not see
7 any effect of it.

8 Q Okay. And how long do the effects of Xanax last?

9 A The effects of Xanax last between six to 12 hours is
10 about the timeframe you're looking at. It's a very short-
11 acting benzodiazepine. It was originally prescribed for
12 people that have panic attacks, and when you start to feel the
13 onset of that panic attack, you, you take Xanax. It calms you
14 down. It slows your nerves, but then it's not supposed to
15 last for an extended period of time. It's just supposed to
16 help for that one quick moment and then keep you calm for a
17 little while and then you're back to your normal state.

18 Q In the absence of the Xanax in the blood but the presence
19 in the urine indicates that it was taken more than 24 hours
20 before?

21 A It can -- I would say more than 12. I wouldn't --

22 Q More than 12.

23 A More than 12 is more accurate. Yes.

24 Q More than 12. Certainly the effects would have worn off?

25 A Correct.

1 Q Prior to the time in the bloodstream?

2 A Correct.

3 Q Okay. And was not taken in conjunction with the Ambien?

4 A As far as I can tell, no. Unless, unless -- I have to go
5 into it, unless it was a very, very low dosage that was taken.

6 Q Okay. Okay.

7 A They do prescribe --

8 Q And a low dose would have a lesser effect.

9 A Yes. A low dose would have a lesser effect.

10 Q Okay.

11 MR. RICHARDSON: The Court's indulgence.

12 THE COURT: All right.

13 MR. RICHARDSON: Your Honor, I have no further questions
14 of this agent.

15 THE COURT: All right, redirect.

16 MR. WILSON: Yes, Your Honor.

17 REDIRECT EXAMINATION

18

19 BY MR. WILSON:

20 Q You said on cross examination, Agent, that drugs actually
21 metabolize differently in different folks; correct?

22 A Correct.

23 Q Okay. And you also mentioned that one of the drugs in
24 particular breaks down differently in women; correct?

25 A Correct.

Shana Sorrells- Redirect by Mr. Wilson

1263

1 Q Which drug is that?

2 A Ambien.

3 Q Okay. And tell the jury why that is.

4 A Studies are still ongoing. They believe that women carry
5 a hormone that just slows down the enzyme that breaks down
6 zolpidem. It just binds to the GABA sites in the brain for a
7 longer period of time because of some hormone in women.
8 They're still studying it.

9 Q Okay. And let me ask you this, also. If this
10 Defendant's blood, Sandy Locklear's blood wasn't taken until
11 after 7:00 o'clock and she ingested this let's say at 2:00
12 o'clock, it would show a decrease, correct, and it would be
13 higher at 2:00 o'clock versus testing it at 7:00 o'clock,
14 which is five hours later.

15 A It would be higher, yes.

16 Q Okay. So, all the results actually would have been
17 higher if it had been tested earlier.

18 A If they had been tested earlier, yes, the results would
19 be much higher.

20 Q Okay. Is that because they continue to break down?
21 That's what the body does? It breaks down drugs.

22 A It is -- again, as your body is constantly breaking down
23 anything you put into it, food, water, drugs, tablets,
24 vitamins, anything. It's breaking it down into a form it can
25 use ---

1 Q And so --

2 A -- constantly until it's eliminated.

3 Q I apologize.

4 A No. That's okay.

5 Q So, these drugs which have a six to 12-hour window to
6 break down, if they're taken six to seven hours before, they
7 would literally disappear from the blood; correct?

8 A They would. Yes.

9 Q Okay. All right.

10 MR. WILSON: Your Honor, at this time I'd ask that the
11 report be moved into evidence at this time.

12 THE COURT: Any objection?

13 MR. RICHARDSON: No, sir, Your Honor.

14 THE COURT: All right. Defendant's Exhibit Number 12
15 admitted into evidence without objection.

16 (Defense Exhibit Number 12 [SLED Toxicology Report]
17 admitted into evidence and appropriately marked.)

18 MR. WILSON: Your Honor, may I publish to the jury?

19 THE COURT: Yes.

20 MR. WILSON: Thank you.

21 BY MR. WILSON:

22 Q Based on your expert opinion, which drugs were still
23 active in the blood?

24 A The only one that I can say for certain from my expert
25 opinion, the only drug that was active when the blood was

Shana Sorrells- Redirect by Mr. Wilson

1265

1 drawn was Ambien.

2 Q Were any other drugs still possibly active but you just
3 can't determine that?

4 A Anything could be possible. I would feel comfortable
5 saying that the meprobamate and the THC were not active --

6 Q Okay.

7 A -- in the system. The benzodiazepines screened negative.
8 So, it -- the alprazolam would not have been active at the
9 time the blood was drawn.

10 Q Okay.

11 A But at the time of the incident, I, I can't, I can't tell
12 you because I don't have a --

13 Q I understand. Thank you so very much.

14 MR. WILSON: No further questions, Judge.

15 THE COURT: All right. You may step down. You can step
16 down.

17 A Thank you.

18 THE COURT: Thank you.

19 MR. WILSON: Your Honor, I would ask that this witness be
20 excused.

21 THE COURT: Any objection?

22 MR. RICHARDSON: No, sir. Please let her go on back to
23 Columbia.

24 THE COURT: All right. She's free to go. Thank you very
25 much.

1 MR. WILSON: Thank you, Your Honor.

2 MR. RICHARDSON: Thank you, Agent.

3 THE COURT: The Defense can call their next witness.

4 MR. WILSON: Your Honor, at this time the Defense would
5 call Dr. Bob West. May we approach, Your Honor?

6 THE COURT: Yes, sir.

7 (Whereupon, a bench conference is held in the presence
8 but out of the hearing of the jury.)

9 THE COURT: All right. Let's go ahead and take about a
10 10-minute break, give you an opportunity to stretch your legs,
11 use the restroom. You can check your phones, return phone
12 calls, but please do not discuss this case. Leave your pads
13 in the jury box.

14 (Whereupon, the following takes place outside the
15 presence of the jury.)

16 THE COURT: All right. Anything from the State before we
17 recess?

18 MR. RICHARDSON: No, sir, Your Honor.

19 THE COURT: Anything from the Defense?

20 MR. WILSON: Nothing, Your Honor.

21 THE COURT: All right. Let's go ahead and take about a
22 10, 15-minute recess. If you want to go ahead and get your
23 witness in here so it'll -- we can move a little bit smoother.

24 MR. WILSON: Yes, Your Honor. I will.

25 MR. RICHARDSON: Thank you, Your Honor.

Bob West - Direct by Mr. Wilson

1267

1 THE COURT: All right, thank you.

2 OFF THE RECORD

3 (On the record. Whereupon, the following takes place outside
4 the presence of the jury.)

5 THE COURT: All right. Anything from the State before we
6 bring the jury in?

7 MR. RICHARDSON: No, sir, Your Honor.

8 THE COURT: Anything from the Defense?

9 MR. WILSON: Nothing, Your Honor.

10 THE COURT: All right. Let's go ahead and bring the jury
11 in.

12 (Whereupon, the following takes place in the presence of
13 the jury.)

14 THE COURT: All right. Ladies and gentlemen, welcome
15 back. We're ready to resume the trial of the case. Make sure
16 you have your own notepads and no one else's. Mr. Wilson, the
17 Defense can call their next witness.

18 MR. WILSON: May it please the Court, Your Honor? The
19 Defense at this time would call Dr. Bob West.

20 THE COURT: All right.

21 Whereupon, Bob West was called to the stand, duly sworn
22 by the clerk and testified as follows:

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

25 MR. WEST: My full name is Bob West, W-E-S-T.

1 MR. WILSON: May it please the Court, Your Honor?

2 THE COURT: Yes, sir.

3 MR. WILSON: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. WILSON:

6 Q Dr. West, good morning.

7 A Good morning.

8 Q Can you tell me and tell the jury a little bit about who
9 you are?

10 A Yes. I am a pharmacologist, toxicologist, been around
11 for a good while. I got my bachelor's degree in pharmacy from
12 Union University, Albany College of Pharmacy and got a MS and
13 a PhD at Purdue University in pharmacology and toxicology.

14 Q Okay. And how long have you been involved in
15 pharmacology and toxicology?

16 A Over 50 years.

17 Q Okay. And can you tell this jury a little bit more about
18 things that you've done over the years, where you've worked
19 and any publications you may have published?

20 A I was at Jefferson Medical School in Philadelphia for a
21 couple of years, worked on heavy metal toxicity and toxicity
22 of industrial chemicals, developed an antidote for the
23 treatment of nickel carbonyl poisoning, published the first
24 paper with my colleagues demonstrating that nickel carbonyl
25 was a lung carcinogen, also studied iron carbonyl at the time,

Bob West - Direct by Mr. Wilson

1269

1 and subsequently worked for the American Cyanamid Company as a
2 pharmacologist, toxicologist, published a couple of papers on
3 pesticides and pesticide toxicity, and I'm a charter member of
4 the Society of Toxicology which celebrated its 50th
5 anniversary two years ago. I am also a member of the American
6 Society for Pharmacology and Experimental Therapeutics for
7 over 50 years. Both of these societies are learned societies,
8 that means you don't just pay your dues and get in. You have
9 to be reviewed, that you have an adequate number of
10 publications of quality, and then you are endorsed and
11 sponsored by two usually very known, very well-known academic
12 people in order to get into the societies.

13 Subsequently, I worked in Chicago as an assistant
14 director, and then subsequently vice president of an
15 independent testing laboratory that tested drugs,
16 pharmaceuticals, cosmetics, vitamins and nutritionals and
17 evaluated them for safety and adequacy of their requirements
18 to meet the Food and Drug Administration standards. After
19 that, I was director of scientific and regulatory affairs for
20 the division of Richardson Merrell for eight and a half years,
21 responsible for the interactions with the Food and Drug
22 Administration in the United States and Canada. Also was, in
23 essence, the internal FDA chief for the company in that
24 division.

25 Subsequently, I went out and started a consulting

Bob West - Direct by Mr. Wilson

1270

1 practice to the pharmaceutical, chemical, healthcare, cosmetic
2 industries helping companies that had new products to go
3 through the process of approval at the Food and Drug
4 Administration and the Environmental Protection Agency and
5 also the Department of Agriculture and was successful in
6 getting a number of new drugs approved by the agency, a number
7 of which are still on, on the market, and also began getting
8 into expert witness work over the years around the country,
9 and those cases have covered -- some of you may remember the
10 diet control products, the fen-phen. Well, I was an expert in
11 a number of those cases. Reglan, some of you may remember the
12 Reglan, which was a drug that was used by cancer patients
13 originally and also by diabetics who have gastric problems,
14 and unfortunately, that was one that the Food and Drug
15 Administration erred on, and a number of experts, apart from
16 myself, people who were once with the Food and Drug
17 Administration criticized the agency, and we were involved in
18 a number of cases, which ultimately led to about two or three
19 years ago, after 25 or 30 years on the market, changing the
20 labeling on the part of the Food and Drug Administration.

21 MR. RICHARDSON: Your Honor, I hate to interrupt, but I
22 would object to talking about other cases. It's not relevant
23 to the matter at hand.

24 THE COURT: All right. Sustained.

25 MR. WILSON: Thank you. Thank you, Your Honor.

Bob West - Direct by Mr. Wilson

1271

1 BY MR. WILSON:

2 Q Can we -- currently what are you doing right now?

3 A I'm more or less retired.

4 Q Okay. All right. And you've been asked to come and give
5 today testimony in this case. You aware of that?

6 A Pardon me?

7 Q Are you aware that you've been called to come give
8 testimony in this case?

9 A Yes. I have.

10 Q Okay. All right. And so, you've been involved as a
11 pharmacologist, toxicologist for a long period of time. Where
12 are you from?

13 A Well, I grew up in New York State.

14 Q Okay. And where are you currently residing?

15 A Sarasota, Florida.

16 Q Okay. All right. And you flew in specifically for this
17 particular case?

18 A That is correct.

19 Q Okay. All right.

20 MR. WILSON: Your Honor, at this time I would offer up
21 this witness as an expert in the areas of pharmacology as well
22 as toxicology.

23 THE COURT: All right. Any challenges or questions?

24 MR. RICHARDSON: Your Honor, he's indicated that he's
25 testified previously as an expert. He's, he's got the

Bob West - Direct by Mr. Wilson

1272

1 credentials. No objections.

2 THE COURT: All right. Find this witness to be an expert
3 in the field of pharmacology and toxicology.

4 MR. WILSON: Thank you, Your Honor.

5 THE COURT: Thank you.

6 BY MR. WILSON:

7 Q Now, Dr. West, can you tell this jury what pharmacology
8 is?

9 A Pharmacology is the study of the effect of drugs on the
10 human systems or animal systems and their effects of how they,
11 how they work and what are the physiological effects that they
12 may produce. No drug that's given is a pure drug. What you
13 see is the predominant effect. It always has other effects
14 that go with it.

15 Q Okay. And, and is that different from the study of or
16 the expertise of toxicology?

17 A Toxicology is the -- sort of the other side of the coin.
18 That is the issue of what are the side effects of the drug or
19 chemical and the toxic manifestations associated with it and
20 what levels or dosages are safe for its intended use.

21 Q Okay.

22 A Whether it be a drug or it be a cosmetic or it be a
23 medical device or a biologic.

24 Q Okay. And what sort of training must you have before you
25 can become a pharmacist or a doctor in pharmacology?

Bob West - Direct by Mr. Wilson

1273

1 A Well, you take courses in physiology, biochemistry,
2 pharmacology, analytical chemistry, organic chemistry,
3 medicinal chemistry, and you do have to do a master's thesis
4 and a PhD thesis in both instances.

5 Q Thank you very much. Now, you've had an opportunity to
6 get involved in this case; correct?

7 A Yes.

8 Q Okay. And can you tell me how you got involved in this
9 case?

10 A I believe you called me or one of your assistants called
11 me about the middle of March.

12 Q Okay.

13 A And sort of described the case a little bit for me and
14 asked me to send you my CV, which I did do, and you said you
15 would be back in touch with me after you got approval for the
16 use of myself as an, as an expert.

17 Q Okay. Okay. All right. And let me ask you this. At
18 some point in time did you let us know that you had a fee for
19 your services?

20 A Yes.

21 Q Okay. And can you tell this jury what your fee is for
22 these services?

23 A \$400 an hour for research and review and a report, \$450
24 an hour for court appearances and depositions.

25 Q All right. And is that typical for an expert witness,

1 obviously, with your impressive resume to be paid for their
2 services?

3 A Oh, yes. And I know some people that charge a heck of a
4 lot more than I do.

5 Q Okay. Thank you very much. Now, you had an opportunity
6 to render an opinion in this case; is that correct?

7 A Yes. Yes.

8 Q All right. And what did you use to render an opinion in
9 this case regarding the toxicology report that you received
10 from my office?

11 A Well, I used, shall we say, elements initially of my own
12 experience and then I used classical textbooks of pharmacology
13 and a Physician's Desk Reference and also searched some things
14 in the medical literature.

15 Q Okay. Did you ever talk with Dustin Smith at the
16 toxicology lab at SLED?

17 A Yes.

18 Q All right. And then you also received a copy of the
19 toxicology report in this matter?

20 A Yes. I did.

21 Q Okay. All right.

22 MR. WILSON: Your Honor, may I approach the witness?

23 THE COURT: All right.

24 BY MR. WILSON:

25 Q Could you identify and then don't read it to me. Just

Bob West - Direct by Mr. Wilson

1275

1 tell me if you can identify that particular document and what
2 it is?

3 A That's my indication that I've reviewed the toxicity --
4 toxicology information that you sent me from the laboratory,
5 along with the textbooks I cited and the Physician's Desk
6 Reference, etcetera, that I cited and my opinion in the
7 matter.

8 MR. WILSON: Your Honor, at this time I would move to
9 have this document entered in as Defense Exhibit or
10 identified.

11 THE COURT: Okay. Mark it for identification.

12 MR. WILSON: Thank you, Your Honor.

13 (Defense Exhibit Number 13 [Report of Dr. Best] marked
14 for identification.)

15 A Thank you.

16 Q Thank you. Now, do you have a copy of the tox report
17 with you?

18 A It's in my brief bag.

19 MR. WILSON: Your Honor, may I make a copy of the tox
20 report available to the witness?

21 THE COURT: All right.

22 MR. WILSON: Any objection?

23 MR. RICHARDSON: He indicated he utilized it in forming
24 his opinion.

25 MR. WILSON: Thank you.

1 MR. RICHARDSON: No objection.

2 MR. WILSON: Thank you.

3 BY MR. WILSON:

4 Q Now, will you tell the jury based on your expert opinion
5 what drugs were found in the toxicology report that you found
6 to be remarkable?

7 A There were two drugs right off the bat, one of them which
8 is a metabolite of marijuana. The other one is the metabolite
9 of Ambien, the well-known sleeping pill.

10 Q All right. And for the jury could you tell the jury what
11 type of drug is marijuana? Can you tell me or tell the jury
12 what, what type of drug is marijuana?

13 A Well, it's a hallucinogen, and, and it takes away a lot
14 of your constraints, if you will, and reasoning.

15 Q Okay.

16 A And unfortunately with excessive use people become
17 delusional, too.

18 Q Okay.

19 A And it, as a, as a lot of people know, it has a long
20 history of abuse.

21 Q Okay. All right. And what sort of drug is Ambien?

22 A Ambien is a sleep aid, prescription sleep aid which is
23 sometimes abused as well and can in some people be habit-
24 forming as well.

25 Q Okay. All right. And the combination of these two drugs

Bob West - Direct by Mr. Wilson

1277

1 together in a system, what, what are the effects of that on an
2 individual?

3 A Well, you can, you can get possibly get some amnesia,
4 possible to get sleepwalking with Ambien. It's possible that
5 your reaction times are much slower than they would be
6 otherwise, and you don't respond to ordinary situations the
7 way you would, let alone stressful situations.

8 Q So does Ambien affect your cognitive abilities?

9 A Yes, it can. As a matter of a fact I have, I have taken
10 Ambien myself once in a while, and I usually do the half dose
11 because I know if I take the full dose the next day I'm almost
12 a little bit hung over.

13 Q Okay. All right. So, Ambien has side effects to it?

14 A Absolutely.

15 Q All right. And tell the jury what are the side effects
16 and how long those side effects can last.

17 A Well, they -- an individual dose they can last for a
18 couple of days and you will have lassitude. You won't be, you
19 won't be sharp. You're not -- you may have trouble with your
20 motor coordination and driving and thinking sharply as well.

21 Q So, and actually on prescription bottles on Ambien there
22 is actually a warning; correct?

23 A That is correct.

24 Q Okay. And can you tell the jury what the warning is on
25 those prescription bottles for Ambien?

1 A Well, I'll read you -- I think I've got part of it in
2 here. Part of the warnings and precautions state that it can
3 produce abnormal thinking, behavioral changes in complex
4 behavior which may include the sleep driving that I just
5 mentioned and hallucinations, and then with alcohol and other
6 CNS depressants, Ambien increases the risk of abnormal
7 behavior. Patients with sleep driving do not remember these
8 events and their psychomotor performance may be impaired even
9 the day following ingestion of the drug.

10 Q Okay.

11 A And obviously if an individual is taking these regularly,
12 this is going to manifest itself even more prominently than it
13 would on a singular one or two dose basis.

14 Q Explain to the jury what a -- what is a CNS depressant?
15 What is that? What does that stand for?

16 A CNS depressant is a central nervous system depressant,
17 which is your brain, which you take, and you're normally you
18 think and your processes are relatively sharp if you're an
19 ordinary person. If you take a CNS depressant, it's going to
20 slow down your thought processes and your reaction times and
21 your reflexes as well. That's one of the reasons why almost
22 every CNS depressant carries a warning not to drive or be very
23 aware that you've been taking the drug and do not drive or use
24 motor machinery or anything like that excessively.

25 Q Now, a lot of drugs have what is called half-life; is

Bob West - Direct by Mr. Wilson

1279

1 that correct?

2 A Yes.

3 Q Okay. And explain to the jury what a half-life is?

4 A When you take a drug the -- it goes up in the blood level
5 like this, so to speak, and some of them it keeps on going and
6 some it keeps on going further and some of them it plateaus
7 and it levels off relatively quickly and within a matter,
8 let's say the half-life is two hours, which is what Ambien's
9 is, you've already had the absorption of the first half of
10 that dose. The longer the half-life, the longer the potential
11 for longer side effects and magnification of the ordinary
12 warnings that it has. So that becomes very important. In the
13 case of Ambien I said it was two hours. In the case of Xanax,
14 which also is one of the drugs that was detected here, it
15 happens to be 12 hours. So that would mean that if you took
16 Xanax, which I have taken on occasion also for relief of
17 tension, but, you know, no more than a couple of days, you've
18 got to watch it for longer even than you do taking Ambien and,
19 and then the issue of the half-life also enters into this
20 picture somewhat because of when the urine samples and blood
21 samples are taken.

22 Q Okay. And so, if the urine samples and blood samples in
23 this case were taken after 6:30 or after 7:00 o'clock, what
24 happens to the actual half-life and the actual drugs based on
25 the study of pharmacology?

1 A Well, in the case of let's -- let us, let us say the
2 short half-life, it's, it's going to be somewhat distorted,
3 and -- but the fact that it's still detected after a period in
4 this case of more than four hours from when the incident
5 occurred leads you to believe that the individual was taking
6 the drug probably for a considerable period of time.

7 Q Okay. All right. And so that would mean to this -- and
8 just to clarify -- so that would mean that someone actually
9 would've had a long period of usage of those drugs; correct?

10 A That could very well be, could very well be.

11 Q Okay. And you also just talked about Xanax. Let's talk
12 about Xanax for a little bit. What type of drug is Xanax?

13 A Xanax is a benzodiazepine, which it belongs to the class
14 of drugs I think you're familiar with Valium and Librium for
15 example. They're all in that same class. They've been around
16 a long time, and they're used to take -- they're tranquilizers
17 and depending on the dosage that they're used at, and Xanax
18 has been a very successful drug. It, in fact, relieves
19 anxiety so much that people do things or are allowed to do
20 things that they would not ordinarily do. For example, some
21 people have height phobias and won't go up on cable cars. You
22 take a Xanax, you're ready to go. It relieves that stress or
23 anxiety, and you will do it. So you have to, obviously, have
24 to be careful what, what else is it going to do in your
25 ordinary life.

Bob West - Direct by Mr. Wilson

1281

1 Q So what side effects can occur from the consumption of
2 Xanax over a period of time?

3 A Well, you can get, you can get amnesia. You can get, you
4 know, distortion of your thought processes, your psychomotor
5 behavior, your -- you can have confusion and amnesia.

6 Q Okay. Now, I understand that there are two sides to
7 this, that you're talking about also toxicology and
8 pharmacology?

9 A Yep.

10 Q From a pharmacological perspective, can you tell me what
11 the combined effects now of Xanax, THC and Ambien would be on
12 a person who consumed those products simultaneously?

13 A I would not rely, quite frankly, on their judgmental
14 capabilities.

15 Q Okay.

16 A And I would not want to drive with them, that's for sure.
17 I, I, I think their mental and motor and psychomotor acuity
18 would be very, very damaged.

19 Q Okay. And that's not a conclusion you come to as a
20 toxicologist; correct?

21 A Oh, you sure can.

22 Q Okay.

23 A Or a pharmacologist would come to the same conclusion.

24 Q Okay. All right. What other drugs were in the tox
25 report that you found remarkable?

1 A Flexeril or cyclobenzaprine, which I have also,
2 unfortunately, had to take for back problems, and I really
3 felt like I was way out in left field only, only after taking
4 one or two doses of it. It was just unbelievable.

5 Q What sort of drug is Flexeril?

6 A Well, it's, it's, it's not, it is not a benzodiazepine,
7 but it is a central nervous system depressant as well.

8 Q Okay. And what are the side effects of taking that
9 particular drug?

10 A Well, you will get impaired mental or physical, physical
11 ability, and again, there is a very specific warning about
12 driving while taking Flexeril or operating machinery. I can
13 tell you after having taken it I wouldn't go near a car wheel
14 for a few days.

15 Q Okay. Any other drugs that you found remarkable in your
16 report, Doctor?

17 A They found some meprobamate, which many of you may
18 remember Miltown. Well, that's what meprobamate is. It's
19 been around for many years as a mild tranquilizer, and of
20 course, it has the same problems affecting your motor, motor
21 coordination and also your mental acuity, and when you add
22 other drugs such as the benzodiazepines to it, you're only
23 going to magnify the effect that much more.

24 Q All right. And tell the jury what the half-life of
25 Miltown is.

Bob West - Direct by Mr. Wilson

1283

1 A It's relatively long. It's, again, I believe it's 10, 10
2 or 12 hours.

3 Q Okay. And what would be the half-life of Xanax?

4 A About 12 hours.

5 Q So, that would mean that it starts to break down and
6 you've consumed half your dose by the time that that 12-hour
7 span had taken?

8 A You used a different word.

9 Q I apologize?

10 A You have absorbed half of your dose. You've consumed it
11 a hundred percent, a hundred, but half of it has now been
12 absorbed and the other half is being absorbed while half of
13 it's on its way down.

14 Q Okay. And let me ask you this. What are the side
15 effects of having these drugs in your system even if on the
16 toxicology report it says that some of the drugs are in the
17 urine --

18 A Yeah.

19 Q -- at the time? What are the -- still the side effects
20 of having these drugs in your system at that same time?

21 A Instead of getting -- let's say you've had two drugs, one
22 plus one equals two. With the addition of these other drugs,
23 one plus one plus one plus one, you end up equaling like five
24 or more the effects of the first one because they work
25 together and they magnify, sometimes the positive effects,

1 many times the negative effects.

2 Q And why is that, Doctor?

3 A Well, it's what we call synergism. You're sort of
4 overloading a system. In this case you're overloading the
5 central nervous system.

6 Q All right.

7 A One -- you have to always remember the body will attempt
8 to bring you back to equilibrium. If you overload it you're
9 in a different state altogether.

10 Q Okay. All right. And in your expert opinion will you
11 tell this jury what your conclusion was in this case?

12 A Well, I felt that the combination, particularly of the
13 benzodiazepine and sleep medicines, gave her a memory loss or
14 amnesia, and they may not even remember what happened during
15 -- after taking that. In addition, if we add the other
16 effects of marijuana and the Flexeril and the meprobamate, we
17 have the synergistic mixture that I was talking about where
18 one plus one plus one isn't equal three, but may equal five,
19 and this has all -- and I said this altered her psychological
20 and mental state, including causing confusion and possible
21 memory loss.

22 Q Thank you, Doctor.

23 MR. WILSON: Your Honor, at this time I'd move to
24 introduce into evidence the doctor's expert opinion.

25 THE COURT: All right. That would be Exhibit 13?

Bob West - Direct by Mr. Wilson

1285

1 A I'm sorry?

2 THE COURT: Is that the correct?

3 MR. WILSON: I -- yes, sir.

4 A It's got an exhibit on it.

5 THE COURT: Any objection?

6 MR. RICHARDSON: He's already testified to it, Your
7 Honor.

8 THE COURT: All right. Defendant's Exhibit 13 admitted
9 into evidence without objection.

10 (Defense Exhibit Number 13 [Report of Dr. Best] admitted
11 into evidence and appropriately marked.)

12 A I presume that's an exhibit, too. Thank you.

13 Q Doctor, in your expert opinion, is there any doubt in
14 your mind that Sandy Locklear would have been in at least a
15 distorted state or confused state?

16 A None whatsoever.

17 Q And how long would that confused or distorted state have
18 lasted based on your expert opinion regarding what you saw in
19 the toxicology report?

20 A It could have lasted for several days.

21 Q Thank you.

22 MR. WILSON: I have no further questions at this time,
23 Your Honor. Please answer any questions that counsel may
24 have.

25 A Sure.

1 THE COURT: Cross examination.

2 CROSS EXAMINATION

3 BY MR. RICHARDSON:

4 Q I guess I can still say good morning, Dr. West?

5 A Sure.

6 Q Isn't Sarasota but it's not New York either; right?

7 A Pardon me?

8 Q I said this isn't Sarasota, Florida, but it's not New
9 York either; is it?

10 A Well, I'll tell you, I haven't been here in about 20
11 years.

12 Q Okay.

13 A And that humidity still gets me.

14 Q Dr. West, you drafted a report in this. One just got
15 entered into the --

16 A Yes.

17 Q -- the, the record?

18 A Uh-huh.

19 Q I just want to be able to refer to it. Dr. West, I'm
20 going to hand you your report.

21 A Sure.

22 Q Now, Dr. West, in your report you -- I believe Mr. Wilson
23 went over some of the stuff that you reviewed. You indicated
24 you went over a -- (as read) "In order to formulate my opinion
25 I reviewed the following documents, included a history of

Bob West - Cross by Mr. Richardson

1287

1 incident attached to a letter April 17, 2014, Ralph J. Wilson
2 to Bob West"?

3 A Yes.

4 Q What was contained in that history of incident?

5 A It described what transpired resulting in the shooting
6 and death.

7 Q So, it was the incident reports and case reports?

8 A Incident report. I don't think it was a case report.

9 Q Okay. But that was provided to you by the Defense?

10 A Yes.

11 Q Was it in a letter form?

12 A I'd say more like a letter and attachment to a letter,
13 one page as I recall is what it was.

14 Q So, one page prepared for you and given to you by the
15 Defense?

16 A Yes.

17 Q Okay. And so you didn't, you didn't review the
18 detectives' case reports?

19 A Wasn't provided to me.

20 Q How about the Defendant's interviews where she, she spoke
21 to the police, were you provided those?

22 A No.

23 Q Were you provide with anything from the crime scene?

24 A Pardon me?

25 Q From the crime scene reports?

1 A I don't think so.

2 Q Okay. So all, all you had to base your knowledge of the
3 incident was what was provided to you by the Defense?

4 A That's correct.

5 Q And that was as you recall one page?

6 A Yes.

7 Q Now, in your previous work as a consultant or an expert,
8 you listed a lot, but did you primarily work as a Plaintiffs'
9 expert, a Defense expert, in what capacity?

10 A I'd say it was more two-thirds Plaintiff, one-third
11 Defense.

12 Q A lot of those were in like mass tort situations?

13 A Yeah. Yes.

14 Q Okay. You were working on the Plaintiff side for the
15 most part?

16 A Yes.

17 Q Okay. And how often have you testified in a criminal
18 Defense case?

19 A This may be the first one.

20 Q Okay. Would you agree that it would help you to
21 determine what effects, if any, any drugs had on the Defendant
22 to actually have watched her video of her interview?

23 A Perhaps.

24 Q To be able to listen to her, how she talks?

25 A Perhaps.

Bob West - Cross by Mr. Richardson

1289

1 Q Did you talk with any of the police officers involved in
2 the investigation?

3 A No. I did not.

4 Q Did you talk with Nurse Janet Moore who actually took the
5 blood?

6 A No.

7 Q Okay. Now, Mr. Wilson asked you about, about what you're
8 charging per hour and everything.

9 A Yes.

10 Q And as I understand it's \$400 per hour for, I guess, what
11 we call office work?

12 A Yes.

13 Q And then 450 for court appearance?

14 A Yes.

15 Q Does the 450 for court appearance does that include
16 travel time?

17 A No, I -- that, that -- I don't charge 450 for travel.

18 Q Okay. At this time what's the bill up to?

19 A Probably about 6500.

20 Q So about 6500. So it's about 6500. You did not review
21 the police officer reports?

22 A Pardon me?

23 Q You did not review the reports to the police officers?

24 A No. They weren't provided.

25 Q You weren't provided with any of the interviews with the

1 Defendant?

2 A No. I was not.

3 Q So you have no idea how she actually acted that day?

4 A Not really, no.

5 Q And you didn't seek out to speak with any of those
6 individuals?

7 A Pardon me?

8 Q You didn't seek out to speak with, with Nurse Janet
9 Moore; correct?

10 A No.

11 MR. WILSON: Judge, objection. Asked and answered a
12 couple of times.

13 THE COURT: Sustained.

14 MR. RICHARDSON: Okay. I'll move on, Your Honor.

15 BY MR. RICHARDSON:

16 Q Now, you talked about the half-life of drugs a little
17 bit.

18 A Yeah, excuse me.

19 Q Now, correct me if I'm wrong. I'm not going to talk
20 about a specific drug. Let's talk about -- we'll call it drug

21 A.

22 A Yes.

23 Q If drug A has a half-life of ten hours.

24 A Yes.

25 Q After ten hours, say I take one, one gram of drug A.

Bob West - Cross by Mr. Richardson

1291

1 After 10 hours it would be down from one gram to .5 grams;
2 correct?

3 A That's not the way you interpret it.

4 Q Okay. How do you interpret it?

5 A What you're really talking about is the blood level.

6 Q Okay.

7 A Not the hard --

8 Q And I'm sorry.

9 A That's okay. That's all right.

10 Q I'm not the expert.

11 A No. I understand. I understand.

12 Q So well, let's, let's use --

13 A Let me put it to you -- expand it a little bit for you.

14 Let's say using your example --

15 Q Yes, sir.

16 A --- you took the one gram.

17 Q Uh-huh.

18 A Okay. It produces a blood level of X, let's say
19 milligrams per liter at -- let's say two hours for purposes of
20 discussion, of, of, of a hundred.

21 Q Okay.

22 A Okay. If the half -- if the half-life is two hours, you
23 come back, and it would be probably would be around 50 instead
24 of a hundred.

25 Q Okay. And then another two hours it would be down to 25;

1 correct?

2 A Could be, yeah.

3 Q And then another two hours after that, it'd be cut in
4 half again to 12 and a half or about?

5 A Actually, it could be all gone. It's possible.

6 Q It could be all gone.

7 A That, that -- the curves are different for different
8 drugs. Some of them come down quick. Some of them plateau,
9 as a matter of a fact.

10 Q Okay. And as long as those drugs are in the bloodstream
11 they're active is what you're saying?

12 A Yeah. Oh, yeah.

13 Q And if they're not in the bloodstream, they're not
14 active.

15 A Not necessarily. Some drugs are stored in tissue.

16 Q Yes, sir.

17 A Slowly released back into the body and into the
18 bloodstream over time. That's one of the problems you have
19 like many pesticides they sit in the tissue, and they continue
20 to come back into your system and hurt you over a long period
21 of time.

22 Q Okay. I think you said about Ambien that you keep it in
23 there for a while, and it just releases and releases and
24 releases?

25 A It can, it can, yeah, particularly I think what we -- one

Bob West - Cross by Mr. Richardson

1293

1 of the things you have to be careful about is individual doses
2 versus repeated doses because repeated doses can change the
3 picture substantially, and there's little doubt in my mind
4 that she'd been taking these drugs for a while.

5 Q You're basing that off of what?

6 A She had been taking these drugs for a while.

7 Q And you're basing that off of what? I'm sorry, Doctor.

8 A Just, just to see these, these -- let's say that -- these
9 kinds of levels and seeing them sitting around.

10 Q Okay. And I believe it was your testimony that if you're
11 seeing these drugs, and you said they can secrete back out of
12 the tissue?

13 A Some can.

14 Q Some can. You're not saying it's an absolute, some can.

15 A Some drugs don't end up in the tissues at all. They just
16 you take them, they're absorbed, they're excreted, they're
17 gone. Some drugs are absorbed and they are excreted, but a
18 small amount still sits around in the body.

19 Q A small amount still sits around?

20 A Yeah. Yeah. Yeah.

21 Q And you're saying the small amount that, the small amount
22 that may be found in the urine could go back and affect you
23 the next day?

24 A No. I didn't say that. In the tissue, I mean, like
25 there are things that are stored in fat, for example. They

1 come back out again slowly over time.

2 Q Mr. Wilson asked you about the warning label on Ambien.

3 A Yep.

4 Q What does it say?

5 A I don't know. Let's give it back to you. (As read)

6 "Abnormal thinking, behavioral changes in complex behavior,
7 which may include sleep driving, and hallucinations may occur
8 with this sleep aid. The use of alcohol and other CNS
9 depressants with Ambien increases the risk of abnormal
10 behavior. Patients with sleep driving do not remember these
11 events. Psychomotor performance may be impaired even the day
12 following ingestion of the drug."

13 Q Okay. So, with the, the sleep driving or whatever, they
14 have amnesia. They don't remember anything.

15 A I don't know if they remember anything or, or they lose
16 90 percent or whatever. I'm just reading, reading the label
17 as is written.

18 Q Okay. And if I, if I went to Walgreens today, that label
19 would appear on the bottle?

20 A It won't be on the bottle. It'll be -- you'll be given
21 a package insert that will describe all the warnings and
22 precautions. There's two of them now. One goes to the doc
23 and one goes to the patient.

24 Q So anybody that takes Ambien shouldn't drive for 24 hours
25 after they take it?

Bob West - Cross by Mr. Richardson

1295

1 A I don't think it's a good idea.

2 Q You think they should take Ambien off the market?

3 A No. I think it's as simple as you should be using drugs
4 judicially, not taking them like they're candy.

5 Q The THC metabolite found.

6 A Yeah.

7 Q You utilized the toxicology report. It was actually 11
8 carboxy THC; correct?

9 A Yeah. Right. Yes.

10 Q And that sticks around in the bloodstream long after the
11 effects of the marijuana has worn off?

12 A Oh, yeah. Has a long half life.

13 Q Okay. So, there's no way to gauge when the marijuana was
14 smoked?

15 A Other than the fact it's as simple as if it, if it, if it
16 -- let's say if it was just one dose, you could still find the
17 marijuana present in the bloodstream up to 10 or 12 hours
18 later, too.

19 Q Didn't you say that the high lasts for about two hours?

20 A Of THC?

21 Q Yes, sir.

22 A I don't know whether I said that at all.

23 Q I'm reading from, I believe, page two, A-9-THC11, the
24 high lasts about two hours.

25 A Oh, yes. I'm sorry. Yes. You're right. That's

1 correct. That's correct.

2 Q Okay. That's the high from the actual THC, not the
3 metabolites; correct?

4 A We're saying whatever the effect is manifested. It could
5 be from the metabolites, too, not just the -- the THC is
6 absorbed. It's broken down, and that's what's producing the
7 effect.

8 Q The THC is what produces the effect?

9 A Yeah. Yeah. Yeah.

10 Q And 7.2 micrograms per liter, that's a small amount;
11 correct?

12 A It's a small amount, but by comparison the Ambien is even
13 smaller.

14 Q Is there any way for you to tell exactly when that
15 marijuana was smoked?

16 A No. Not exactly.

17 Q Could it have been 12 hours before?

18 A If she was a chronic user, it could have been a couple of
19 days before.

20 Q So, it could have been a couple of days before she smoked
21 marijuana.

22 A Oh, yeah. Absolutely.

23 Q And the Ambien ---

24 A I, I personally assume that she is a chronic user.

25 Q The Ambien --

Bob West - Cross by Mr. Richardson

1297

1 A Yeah.

2 Q -- is there any way to tell exactly when she took that
3 based off of the .08 milligrams per liter in the bloodstream?

4 A That level is a therapeutic level. If it were taken a
5 couple of hours earlier than it was, you could have said that
6 that was the manifestation of a single dose.

7 Q Okay.

8 A The fact that it was still hanging around two, three
9 hours after that leads me to believe that she had been taking
10 either one of two things, either she took more than one
11 Ambien, which is quite possible, or she's been taking Ambien
12 for a while.

13 Q Okay. Could she have taken it at four in the morning and
14 had a level that high?

15 A Yes.

16 Q Could she have taken it at three in the morning and had a
17 level that high?

18 A I don't want to quibble. That's cutting it, cutting
19 your, your physiology a little too close.

20 Q But definitely she could have taken it at four and still
21 had a level that high?

22 A Oh, yeah. Oh, yeah. Yes. She could have.

23 Q You'd agree that pursuant to what you used, the SLED drug
24 analysis -- let's go back to Flexeril. On the drug analysis,
25 urinalysis --

1 A Yeah.

2 Q -- the Flexeril was not tested for in the bloodstream;
3 correct?

4 A It was present as one of those metabolites that was
5 found, along with two or three others.

6 Q In the bloodstream?

7 A No. In the urine.

8 Q Yes, sir. And I'm sorry. I, I don't mean to confuse
9 you, Doctor.

10 A Okay. It's okay.

11 Q That's the cyclobenzaprine; correct?

12 A Yes.

13 Q Okay. And that was found in the urine?

14 A Yes.

15 Q Okay. And that'll stick around in the urine for some
16 time?

17 A It could.

18 Q It could. It'll stick around in the urine longer than it
19 sticks around in the blood?

20 A Probably.

21 Q Probably. The same thing with Xanax, it's going to stick
22 around in the urine longer than the blood; correct?

23 A Could be.

24 Q The same thing with the meprobamate, and I know that's a
25 metabolite; correct?

Bob West - Cross by Mr. Richardson

1299

1 A Yeah. Yeah. Yeah.

2 Q Okay. And that's the, that's the metabolite from whether
3 it's Soma or Miltown?

4 A You got it.

5 Q Equanil?

6 A That's right.

7 Q That's going to stick around in the urine a lot longer
8 than the blood?

9 A It could. The reason I say that is another aspect of
10 this, some drugs are rapidly eliminated in the urine.

11 Q Okay.

12 A Some are not. Some are excreted in the feces. So you
13 have to -- don't, don't try to make apples to apples because
14 you may end up with apples to pears.

15 Q Meproamate, how is it excreted?

16 A I think it's excreted in the urine.

17 Q Okay. So the meproamate would stick around in the urine
18 long after it's out of the blood?

19 A Probably.

20 Q Probably?

21 A Yeah.

22 Q When you take Flexeril, on the prescription, how many can
23 you take at a time?

24 A Depends on the dose.

25 Q Normal days?

1 A About one is about all you can hack.

2 Q One a day?

3 A Yeah. If you, you know, having taken it, one was enough
4 for me.

5 Q Okay. What -- you been -- well, you've been a
6 pharmacologist. You haven't worked as a pharmacist in some
7 time I assume?

8 A That's true.

9 Q Okay. But you're familiar with the literature, and
10 talking about the literature, you used the Physicians' Desk
11 Reference 2009. Is that the latest Physicians' Desk
12 Reference?

13 A Oh, no. I get one every year.

14 Q Okay.

15 A I have 2014.

16 Q Okay.

17 A I have them, I have them for the last 15 years.

18 Q Okay, the same thing with the Merck Manual of Diagnosis.

19 A No. That does not come out every year.

20 Q Okay. Was '99 the last time they produced one?

21 A There may be one subsequent to that. I don't -- I don't
22 have it.

23 Q And Goodman and Gilman's.

24 A That's been going on since the father. Made the first
25 textbook of pharmacology about 60 years ago. It's -- the son

Bob West - Cross by Mr. Richardson

1301

1 continued it, won a Nobel Prize. Oh, yeah, and --

2 Q I'm not disputing the book.

3 A No. No.

4 Q 2006, is that the most current one?

5 A No. It comes out --

6 Q Okay.

7 A -- the Goodman and Gilman's?

8 Q Yes, sir.

9 A I'm not sure. I have a feeling there may be one newer
10 than that.

11 Q Okay. If the Flexeril had been taken, let's say, 72
12 hours before, before the blood was drawn, could it still show
13 up in the urine?

14 A I don't know.

15 Q How about 48 hours?

16 A I don't know because I didn't -- I, I -- you know, I
17 don't try to remember the half-lives or the elimination half-
18 life of all these drugs. I'd go nuts if I did.

19 Q But these were specific drugs you were asked to look at;
20 correct?

21 A Yeah.

22 Q Okay. And you didn't try and write down what the half-
23 lifes were?

24 A No. I didn't. I have a reason for that, too. I have
25 found too much of that stuff confuses the jury.

1 Q Confuses the jury and takes away from what you're
2 testifying to?

3 A No.

4 Q Okay.

5 MR. RICHARDSON: The Court's indulgence.

6 THE COURT: All right.

7 BY MR. RICHARDSON:

8 Q You talk about the synergistic effect.

9 A Yes.

10 Q That's making assumptions that all those drugs were taken
11 at the same time; correct?

12 A No. Taken over a period of time as demonstrated as
13 they're showing up in the, in the urine samples. She didn't
14 get them from nowhere. She had to take them.

15 Q Yes, sir. But you can't, you can't tell the jury when
16 she took them.

17 A I didn't say I could.

18 Q You could tell when she took the Flexeril?

19 A No.

20 Q Can you tell when she took the Xanax?

21 A No. I'm saying they were all present in her system.

22 Q Okay, but --

23 A And since they're all present in her system, it's like if
24 you take a, let's say a nitroglycerin tablet. Okay. And you,
25 and you take Viagra. Your blood pressure is going to be down

Bob West - Cross by Mr. Richardson

1303

1 on the floor.

2 Q Uh-huh.

3 A You're lucky you can get up because the two of them knock
4 the devil out of your blood pressure.

5 Q Okay. So if she --

6 A That's what we're really talking about here.

7 Q Okay. And I apologize for cutting you off. So if there
8 was a synergistic effect, she should be knocked down on the
9 floor?

10 A I didn't say that. I said in the case of the, of the
11 Viagra and the Nitroglycerine. The blood pressure is so low
12 you're going to fall down. Okay. In this case, if you put
13 too many CNS depressants together, you may find them falling
14 asleep on you.

15 Q Might find her falling asleep on you?

16 A Yeah. Quite possible.

17 Q Having amnesia.

18 A Yeah. Yes.

19 Q That's assuming that they are all acting together;
20 correct?

21 A I'm sorry?

22 Q That's assuming that they're all acting together;
23 correct?

24 A Well, it's -- if, if, if, if one of them can do it, the
25 other two are going to make it worse.

- 1 Q And you would be able to observe this by listening to
2 someone; correct?
- 3 A Should be able to.
- 4 Q Should be able to observe this listening to somebody?
5 They would appear drugged?
- 6 A I'm sorry?
- 7 Q They would appear, they would appear to be drugged?
- 8 A Yeah. Their speech would perhaps be somewhat garbled.
- 9 Q Garbled. Would they have difficulty with details?
- 10 A Yes. They should.
- 11 Q Okay. What they said would be very confusing?
- 12 A Pardon me?
- 13 Q I apologize. They couldn't be very specific on things;
14 correct?
- 15 A That's true.
- 16 Q Okay. And you didn't, you didn't watch any videos of the
17 Defendant?
- 18 A No. I did not.
- 19 Q Didn't listen to any audio?
- 20 A No.
- 21 Q So you have no idea what her responses were?
- 22 A No.
- 23 Q Or what she sounded like?
- 24 A No.
- 25 Q Thank you.

Bob West - Redirect by Mr. Wilson

1305

1 THE COURT: Redirect?

2 MR. WILSON: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MR. WILSON:

6 Q Doctor, are you a psychiatrist?

7 A No.

8 Q Do you study the behavior of people?

9 A No.

10 Q What do you study? What's, what's your expertise in?

11 A The study of the effect of drugs on the overall
12 individual and the toxic effects.

13 Q And do you -- all right. And do you have to see the
14 individual in action to determine what the drug's effect is
15 going to be on normal people?

16 A Say that again, please?

17 Q Do you have to see the person in it, do you have to see
18 them in action to determine what the effects of drugs are
19 going to be on normal people?

20 A No. Fortunately these drugs have a history.

21 Q Okay.

22 A And the literature is full of the manifestations
23 pharmacologically and toxicologically of what they do.

24 Q All right. Let me ask you. I'm sorry. I apologize for
25 cutting you off, Doctor. Let me ask you this. The Prosecutor

1 asked you about literature.

2 A Yeah.

3 Q He asked you about whether you had the latest and
4 greatest literature in your office and that did you use that
5 latest and greatest literature to come up with your opinion;
6 correct?

7 A Yeah.

8 Q All right. And, and you've been doing this for how long?

9 A Over 50 years.

10 Q And tell me when you get the literature from let's say
11 2006, if one comes out in 2007, are there major changes in
12 that literature regarding these drugs which have been around
13 for years?

14 A No. As a matter of a fact, they're not, and, and that
15 becomes a twin-edged sword because unless there are serious,
16 very serious side effects, for example, that haven't been
17 reported before, the FDA doesn't require the manufacturer to
18 change the label.

19 Q Thank you. Let me ask you, also, what does synergy mean?
20 Can you tell the jury what synergy means?

21 A Synergy is an effect greater than if you added the two
22 effects together. As I said before, one plus one equals two.
23 That's additive. One plus one equals three, that's synergy,
24 meaning you're getting a greater effect from the two of them
25 in combination than just adding the two of them together

Bob West - Redirect by Mr. Wilson

1307

1 simply.

2 Q How long can a drug hide out in fat in a body?

3 A How long? There's some drugs that can sit around for
4 weeks, let alone months.

5 Q All right. And the process of actually releasing those
6 drugs back into the system, how does that work? How does the
7 fat get back into the blood because I thought fat was outside
8 of the body or outside of the blood vessels. How does it get
9 introduced back into the blood system?

10 A Well, there is, there is a lymphatic circulation that
11 goes to fat, and it, and it gets from there into the
12 lymphatics and then into the general system.

13 Q Okay. All right. And would that necessarily be detected
14 on a toxicology report?

15 A No.

16 MR. WILSON: I have no further questions, Your Honor.

17 THE COURT: All right. You may step down.

18 A Thank you.

19 THE COURT: Thank you.

20 MR. WILSON: Your Honor, I would ask that this witness be
21 excused.

22 THE COURT: Any objection?

23 MR. RICHARDSON: Oh, no, sir, Your Honor.

24 THE COURT: All right. He's free to go. Thank you very
25 much.

1 A Thank you.

2 THE COURT: All right. The Defense can call their next
3 witness.

4 MR. WILSON: Your Honor, at this time the Defense would
5 rest.

6 THE COURT: All right. All right, ladies and gentlemen,
7 the Defense has rested their case, and just like at the close
8 of the State's case now is the time of the trial where I need
9 to take up some matters of law with the attorneys. So I'm
10 going to excuse you back to the jury room while we address
11 these matters of law. Please leave your pads in the jury box
12 right there. Do not discuss the case even among yourselves at
13 this point in time. We'll take a short break and we'll bring
14 you back in just a minute.

15 (Whereupon, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right, any motions?

18 MR. WILSON: Your Honor, no motions from the Defense at
19 this time. I would just renew all other motions, and I'll do
20 that, again, obviously, at the end of the trial depending on
21 what happens, but I would renew all motions that the State --
22 excuse me -- that the Defense has already put up. Also,
23 specifically, Judge, renew the motion for Jackson v. Denno
24 based on the different testimony which was entered into
25 evidence at the time that we had the Jackson v. Denno hearing

Motions

1309

1 versus what was actually testified to during the trial, Your
2 Honor.

3 THE COURT: All right. Your motion is noted. I'm going
4 to deny.

5 MR. WILSON: Thank you, Your Honor.

6 THE COURT: Deny them. Anything from the State?

7 MR. RICHARDSON: Your Honor, I'm assuming that includes
8 the directed verdict motion?

9 THE COURT: Yeah.

10 MR. RICHARDSON: Okay.

11 THE COURT: Yeah. Anything further from the State?

12 MR. RICHARDSON: Your Honor, we may have possible
13 rebuttal.

14 THE COURT: Okay.

15 MR. RICHARDSON: I just want to talk with my witness
16 briefly.

17 THE COURT: All right. Let's take a short break, and I'm
18 not going to hold you to it, but try to give me a timeline as
19 to whether or not we want to break for lunch before the
20 witness or after the witness. It really doesn't --

21 MR. RICHARDSON: I don't think it'll take any longer than
22 Dr. West did.

23 THE COURT: Okay.

24 MR. RICHARDSON: Possibly shorter.

25 THE COURT: That'll be good. All right. Well, let's

1 just take a, take about a ten-minute break and then we'll come
2 back and you can let me know.

3 MR. RICHARDSON: Thank you, Judge.

4 THE COURT: All right. Thank you very much.

5 MR. WILSON: Thank you, Your Honor.

6 OFF THE RECORD

7 (On the record. Whereupon, the following takes place outside
8 the presence of the jury.)

9 THE COURT: All right. Mr. Richardson, does the State
10 intend to offer any rebuttal witnesses?

11 MR. RICHARDSON: Yes, sir. Your Honor, I'd offer Dr.
12 David Eagerton. He is formerly of the State Law Enforcement
13 Division. Now, he's a professor of pharmacy at Presbyterian
14 College. He's prepared no reports. He's reviewed Dr. West's
15 report and reviewed the toxicology report from SLED.

16 THE COURT: All right. All right. Anything from the
17 State before we bring the jury in?

18 MR. RICHARDSON: No, sir, Your Honor.

19 THE COURT: Anything from the Defense?

20 MR. WILSON: Nothing, Your Honor.

21 THE COURT: All right. Let's bring the jury in.

22 (Whereupon, the following takes place in the presence of
23 the jury.)

24 THE COURT: All right. Ladies and gentlemen, welcome
25 back. We're ready to resume the trial of this case. Please

David Eagerton - Direct by Mr. Richardson

1311

1 make sure that you have your own notepads and no one else's.
2 Now, the State has presented their case in chief. The
3 Defendant has presented her defense, and now is the time of
4 the trial where the State can offer a reply or a rebuttal case
5 to the Defense in this trial. All right, Mr. Richardson, you
6 can call your next witness.

7 MR. RICHARDSON: I'll keep it to one witness, Your Honor.

8 THE COURT: All right.

9 MR. RICHARDSON: The State would call Dr. David Eagerton
10 to the stand.

11 Whereupon, David H. Eagerton was called to the stand,
12 duly sworn by the clerk and testified as follows:

13 THE CLERK: Please state your full name and spell your
14 last name.

15 MR. EAGERTON: David H. Eagerton, E-A-G-E-R-T-O-N.

16 DIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q Almost good afternoon, Dr. Eagerton. Could you tell us a
19 little bit about yourself, where you're from, what you do, and
20 whatnot?

21 A Well, I'm from South Carolina, born and raised here all
22 my life. I currently live in Lexington, South Carolina. I am
23 a -- currently I'm employed by Presbyterian College School of
24 Pharmacy as a professor there in the pharmacy school where I
25 teach biochemistry, pharmacology, pathophysiology, toxicology

1 and a course on drugs of abuse.

2 Q Okay. And what's your PhD again?

3 A I have a PhD in pharmacology.

4 Q Pharmacology. Prior to going to work as a professor, the
5 good life, at the Presbyterian College up in Clinton, where
6 were you employed?

7 A After I got my PhD, I started to work at SLED, the South
8 Carolina Law Enforcement Division, where I was a forensic
9 toxicologist. I was trained in all the areas of forensic
10 toxicology, and after I was there for about four years I
11 actually got promoted to the -- become the chief toxicologist
12 for there, and I essentially ran the entire toxicology lab for
13 about 12 years until I retired to become a founding faculty
14 member at the new pharmacy school at Presbyterian.

15 Q Okay. So you were asked to become one of the first --
16 the founding -- one of the founding fathers of the
17 Presbyterian College Pharmacy School?

18 A That's correct.

19 Q And for 12 years you were the chief forensic toxicologist
20 at SLED?

21 A That's correct.

22 Q Do you, do you possess any certifications with regard to
23 the field of forensic toxicology?

24 A Yes, sir. I'm board certified by the Forensic
25 Toxicology Certification Board.

David Eagerton - Direct by Mr. Richardson

1313

1 Q Okay. And any certifications with regard to
2 pharmacology, pharmacy in general?

3 A Just forensic toxicology.

4 Q Okay. Now, have you done any publications or anything?

5 A I have, a few. While I was at SLED our primary purpose
6 is not really to publish. It's actually to analyze blood and
7 other tissue samples, looking for the presence of drugs or
8 poisons and then make a determination as to what our findings
9 mean and that those are cases -- we do cases from criminal
10 sexual assault cases, driving under the influence cases,
11 murder, any types of death investigation, things like that, to
12 see if drugs or -- played a role in one of these events.
13 Since then I've -- starting from scratch in a new college, so
14 I've just started to do a few publications. So my
15 publications in the field are really not that great right now,
16 but I've got a few.

17 Q Okay. And so one of your primary purposes when you were
18 at SLED in forensic toxicology was to determine what if any
19 effect any drugs would have on a person; correct?

20 A That's correct.

21 Q If they reached certain thresholds.

22 A That's correct.

23 Q If they would be under the influence.

24 A Right.

25 Q Okay. And have you testified previously as an expert in

1 courts in the field of forensic toxicology?

2 A Yes, sir. I have.

3 MR. RICHARDSON: Your Honor --

4 BY MR. RICHARDSON: .

5 Q Approximately how many times, Doctor?

6 A Somewhere between 80 and a hundred times.

7 MR. RICHARDSON: Your Honor, at this time the State would
8 seek to introduce Dr. Eagerton as an expert in the field of
9 forensic toxicology.

10 THE COURT: All right. Any challenges or questions?

11 MR. WILSON: No objection to this witness testifying as
12 an expert in forensic toxicology, Your Honor.

13 THE COURT: All right. Find this witness to be an expert
14 in the field of forensic toxicology.

15 BY MR. RICHARDSON:

16 Q Dr. Eagerton, first of all, let me ask you, how are you
17 being compensated for today?

18 A I think you're going to give me some gas money. That's
19 about it.

20 Q Okay. Okay. And I called you; correct?

21 A That's correct.

22 Q Just a couple of months ago?

23 A Yes, sir. I don't remember exactly when it was, but --

24 Q And I knew you from whenever you were at SLED before;
25 correct?

David Eagerton - Direct by Mr. Richardson

1315

1 A Yes, sir.

2 Q Okay. And in this particular case have you issued any
3 reports or anything?

4 A No, sir.

5 Q Okay. Now, in the field of forensic toxicology you're
6 familiar with various drugs and whatnot that SLED tests for?

7 A Yes, sir.

8 Q You were the chief of the division?

9 A I ran it for a number of years. Yes, sir. I'm familiar
10 with it.

11 Q And you're familiar with the effects?

12 A Of drugs? Yes, sir.

13 Q Are you familiar with the term synergistic effect?

14 A Yes, sir.

15 Q Okay. So you know what that means. Can you explain to
16 the jury what synergistic effect is?

17 A Well, synergistic just is whenever you're looking at the
18 effects of two drugs. You can, you can look at whenever you
19 have two separate compounds they can either have no effect on
20 each other, that is if you have one drug present and you add
21 another it may have no effect, or if you have one drug and
22 they have similar actions, the second drug on top of the first
23 drug may give you an effect that's equal to the sum of both of
24 those, that is one plus one is going to equal two. So if you
25 have drug A plus a similar amount of drug B, you add them

1 together, you're going to get effects that is equal to twice
2 the amount of either drugs and that's, that's just additive
3 effect. Synergistic is whenever you get some multiplication
4 factor greater than that. You have drug A plus drug B, but
5 the effect you get is not equal to one plus one equal two.
6 It's one plus one is equal to three, four, five, some other
7 number greater than what you would expect either of those two
8 drugs added together. That's typically a synergistic effect.

9 Q Thank you. And are you -- and, and I just want to clear
10 this up. You haven't reviewed any videos of the Defendant.

11 A No, sir.

12 Q No statements of the Defendant.

13 A No, sir.

14 Q Have you reviewed any reports about this case other than
15 the SLED toxicology report?

16 A No, sir.

17 Q Let's talk about half life. Are you familiar with that
18 term?

19 A Yes, sir. I am.

20 Q As it deals with blood in forensic toxicology. Can you
21 explain to us what half life means?

22 A Well, half life is just simply easily put it's the time
23 it takes for half of the drug that's present in your blood to
24 go away. Typically it's going to leave your body by some
25 method. And so let's say, for example, if you have -- you'd

David Eagerton - Direct by Mr. Richardson

1317

1 have -- you have one gram of drug in your bloodstream total.
2 So if it's got a half life of five hours, so in five hours you
3 now only have half a gram, and so in the next five hours,
4 which another half life, you'll have half of that half a gram,
5 which gives you .25 grams, and then the next half life you get
6 half of that, gives .125, and so forth and so on until the
7 drug is cleared from your body. That's --

8 Q Is that cleared from the body or cleared from the
9 bloodstream?

10 A Well, depends on -- that's the thing about half life that
11 depends on -- there are, there are half lifes that are
12 elimination half lifes. There are half lifes that are cleared
13 from your blood. It gets a little confusing sometimes. So
14 you have to state which one you're talking about, and a lot of
15 times people errantly talk about them interchangeably and
16 they're not.

17 Q They're not interchangeable.

18 A Not necessarily. No.

19 Q All right. Typically is the half life on blood shorter
20 than the half life on what would be detectable in urine?

21 A For most drugs, yes, that would be correct. They're
22 going to drop below -- everything has to do with your limited
23 detection. Depends on your technology, what you're using to
24 look for that drug in your blood and in your urine, but
25 typically, things are going to be cleared from your blood

1 faster, at least to a detectable level, much faster than in
2 the urine. We can typically see drugs in the urine for up to
3 about three days under normal conditions after a single dose
4 of drug. The drug in the blood will clear a lot faster than
5 that typically. It depends on the drug, but that's just a
6 general rule.

7 Q And the test range, the threshold you all are, I say you
8 all because you're with SLED.

9 A I do it a lot, too, still.

10 Q You're familiar with the thresholds they test for at
11 SLED?

12 A I am.

13 Q And who sets those thresholds?

14 A Well, they're set based on the drug itself. You want to
15 set your threshold low enough that you can detect well below
16 the therapeutic level of the drug, but yet not so low that you
17 start to get background noise and things like that. So it
18 depends on whether you're -- what the threshold is. There's a
19 screening threshold and then there's an identification
20 qualitation, qualitative identification threshold.

21 Q Okay. And whenever you're screening blood, what are you
22 looking at, what, what, what's your threshold there?

23 A Well, again, if you're screening it depends on your
24 technology. Most of our -- the screens, our screens, most of
25 the screens at SLED are ELISA immunoassay, and so it's an

David Eagerton - Direct by Mr. Richardson

1319

1 antigen antibody interaction. You have to go to the
2 limitations of your assay, and so your threshold is set also
3 at such a level that you can detect the drug there, that it's
4 consistent with actual use of the drug and not some sort of
5 passive exposure, and also you want to limit your number of
6 false positives, that is a response on your screens test that
7 says the drug is there and then when you go to confirm it it's
8 not really there, and you can see that with some immunoassays,
9 and that's why you always do a second test, which is a
10 confirmatory test, and that confirmatory test, by definition,
11 has to be more sensitive and more specific than your screening
12 test, and so the threshold of detection for your second test
13 is much, much lower or typically much lower than your
14 screening test.

15 Q Okay. So if you get a positive you screen again, and
16 say, "Let's, let's look at it a little bit harder."

17 A If we get a positive it's not screened again. It's
18 actually confirmed again, and the technology used in the
19 confirmation is typically either gas chromatography mass
20 spectrometry or liquid chromatography mass spectrometry and
21 with those technologies you can actually identify the compound
22 from any other compound in existence. The screening test you
23 can't identify it specifically from anything else. You get a
24 good idea of what it is, but there's a lot of things that look
25 structurally similar to it. When you do the confirmation

1 test, you have to be able to tell it from any other compound
2 in existence.

3 Q Okay. And I can't remember if you just said it. Did you
4 say that in the, the ELISA screen.

5 A ELISA.

6 Q ELISA, I'm sorry. You're looking for a therapeutic
7 level; is that correct?

8 A Well, it depends. When you're looking for an abused drug
9 like cocaine, for example, you're not really looking for a
10 therapeutic level. You're looking for a level that's
11 consistent with use, and the same thing for marijuana, you're
12 looking for a level that's consistent with use. It depends.
13 At SLED most of our levels that we have are not necessarily
14 therapeutic. We want to see if it there's because there may
15 be reason why you want to know the drug is there below even
16 therapeutic levels. In some cases that's going to be
17 important. Like if, if you've got, for example, a child
18 fatality or something and you've got a drug there, even if
19 it's below the therapeutic level and the child is not supposed
20 to be taking it, that's important information. So it depends
21 on the purpose of what you're looking for it is why you would
22 need that.

23 Q Okay. So it -- you're just going for detection, if it is
24 in the bloodstream.

25 A In some cases, and then you want to look at, to interpret

David Eagerton - Direct by Mr. Richardson

1321

1 it, you need to know therapeutic levels.

2 Q Okay. Okay. And we'll come back to that in a minute.

3 The -- you've looked at the SLED lab report; correct?

4 A I have.

5 Q Okay. It's been marked as Defense Exhibit Number 12.

6 I'm going to hand you that if I can.

7 A Okay.

8 Q It's been marked and it's been introduced as Defense

9 Number 12. Can you flip over to the second page, please, sir?

10 A Yes, sir.

11 Q Now, on that second page as we look down, amphetamines,

12 does SLED test for the presence or the therapeutic level of

13 amphetamines?

14 A The presence.

15 Q How about benzos?

16 A The presence.

17 Q How about carisoprodol?

18 A Carisoprodol, the presence.

19 Q The presence. And, and all of those are negative;

20 correct?

21 A Well, all the ones in the first section are negative.

22 All the amphetamine through tramadol are.

23 Q So amphetamine, benzo, carisoprodol.

24 A Cocaine metabolites, methadone, methamphetamine, opiates,

25 oxycodone and tramadol.

1 Q Okay. All those are negative?

2 A Yes, sir.

3 Q And you're testing for the presence there?

4 A Yes, sir.

5 Q And then on the GSMS you get the 11 carboxy THC
6 metabolite; correct?

7 A That's right.

8 Q And how long would that THC metabolite stay in the blood?

9 A Well, it depends on whether you're using it as an acute
10 use or versus a chronic use. You may see it much longer in a
11 chronic exposure. Typically that metabolite's going to stay
12 anywhere from, again depends on the exposure, anywhere from
13 four hours to, you know, two or three days you could detect
14 some level of that possibly.

15 Q Okay. And if the marijuana was active, actively
16 affecting the person, would you expect to see anything other
17 than the 11 carboxy THC metabolite?

18 A Yes, sir. We're just -- we're talking about marijuana.
19 We're talking about the active ingredient in marijuana, and
20 the active ingredient in marijuana is tetrahydrocannabinol.
21 This compound that was detected is the metabolite of that,
22 which is the carboxy tetrahydrocannabinol, and it has no
23 effect, really it has no action. Only the parent drug, the
24 tetrahydrocannabinol itself has, has been associated with any
25 impairing effects or any real other effects as well. Well --

David Eagerton - Direct by Mr. Richardson

1323

1 Q Okay. And at 7.2 micrograms per liter, the threshold is
2 2.0., are there any conclusions we can draw with regard to the
3 THC metabolite and when it was ingested?

4 A Somebody probably used marijuana within the last 12 hours
5 or so.

6 Q Within the last 12 hours?

7 A Probably.

8 Q And that 7.2, is that a high level?

9 A No, sir. It's not.

10 Q How about the zolpidem, the, the next one. That is on
11 the liquid chromatography tandem mass spectrometry; correct?

12 A Yes. Yes, sir. That's correct.

13 Q And we'll call it Ambien.

14 A Okay.

15 Q It's the common term; right?

16 A That's the trade name for it. Yes, sir.

17 Q Okay. And the .08 milligrams per liter, can we, can we
18 tell anything about, about when that drug was ingested?

19 A The .08, that's right at the therapeutic level of that
20 drug. It was probably, in my opinion, ingested sometime
21 anywhere between 30 minutes and maybe pushing as far as four
22 hours but probably a little less than that. Somewhere between
23 30 minutes and four hours.

24 Q Okay. And so the drug, by your opinion, was it was taken
25 between four hours and 30 minutes before the blood test?

1 A Before the blood test. That's correct.

2 Q Okay. And that's also dependent on the amount you took;
3 right?

4 A That would be depending on the amount. Yes.

5 Q Okay. Would that be consistent with the highest dosage?

6 A I think that's consistent with a single 10 milligram
7 dose, which I believe is the highest dosage.

8 Q Okay.

9 A You can take theoretically more than one pill, but that's
10 the highest I think the tablets come in, and they're actually
11 tablets.

12 Q Let's go to the items detected in the urine.

13 A Okay.

14 Q We have -- of course, we have the Ambien detected in the
15 urine. We don't need to rehash that, as well as the THC.
16 Let's talk about the cyclobenzaprine, the Flexeril.

17 A Okay.

18 Q That's present in the, in the, in the urine; correct?

19 A Yes, sir.

20 Q What does that mean?

21 A Well, cyclobenzaprine, Flexeril, it's a centrally acting
22 skeletal muscle relaxant.

23 Q And over what period of time are the effects of Flexeril
24 felt?

25 A It depends on the person. You typically are going to see

David Eagerton - Direct by Mr. Richardson

1325

1 the effects, you take it, it's a muscle relaxer. You're
2 typically going to take it, and you can re-dose anywhere up
3 from six hours to once a day, twice a day. It just depends on
4 how much muscle relaxation you want, but from a single dose
5 you're only going to see it in the blood for -- well, over a
6 day probably the half life's fairly long. It's probably one
7 to three days is the half life. So you could probably detect
8 it in the blood for a couple of days.

9 Q And cyclobenzaprine, was it tested for in the blood?

10 A It doesn't say specifically that it was testified -- I
11 mean tested for.

12 Q Okay. And so just the presence of Flexeril you can't
13 tell when that was taken; can you, in the urine?

14 A Within, likely within the last three days.

15 Q Within the last three days. So it could have been taken
16 up to three days prior to the blood draw.

17 A That's correct.

18 Q And how about the -- and the cyclobenzaprine metabolite,
19 the same thing; correct?

20 A Yeah. It's just the, it's just the metabolite of it, and
21 so it's there just to confirm that the -- well, that's one of
22 the interpretations is it helps confirm that the
23 cyclobenzaprine is really there and that they've taken it.
24 You would expect to see a metabolite in the urine so.

25 Q Let's move down to the liquid chromatography tandem mass

1 spec. The alprazolam or Xanax, that shows up in the urine;
2 correct?

3 A That's correct.

4 Q Did it show up in the blood?

5 A No, sir. It didn't.

6 Q Okay. And how long will Xanax or alprazolam stay in the
7 urine stream?

8 A Again, for up to about three days max.

9 Q Up to about three days. The, the presence of the
10 alprazolam or Xanax in the urine but not in the bloodstream,
11 does that tell you anything?

12 A That they took it within the last three days, but they're
13 not currently under the influence of it.

14 Q Okay. So, and how long do the effects of the Xanax last?

15 A Again, it depends on the dose and whoever, but typically,
16 it's going to be a shorter acting, even though, even though
17 the half life may be somewhat longer, it's going to drop below
18 therapeutic levels within, you know, four to six hours even,
19 but typically I think it's going to be dosed once or twice a
20 day, depending on what you're using it for.

21 Q And do you know the half life of Xanax in the blood?

22 A It's six to 24 hours, something like that, somewhere in
23 that range.

24 Q Okay. So it's going to show up in the bloodstream for --
25 I'm sorry, for six hours. It's going to show up in the

David Eagerton - Direct by Mr. Richardson

1327

1 bloodstream for up to 24 hours?

2 A You could probably detect it for that. It's, it's a
3 fairly low dose drug, and so it'll, it'll probably clear below
4 the level of detection fairly quickly, within about a day or
5 two at the max.

6 Q Okay. So if the Xanax had been taken within the past 24
7 hours it should have been detected in the blood?

8 A Yes, sir.

9 Q And by that, by combining those two together you could
10 tell that the Xanax was not taken at the same time as the
11 Ambien?

12 A Does not appear to be. No, sir.

13 Q Does not appear to be. Would that be your opinion?

14 A That would be my opinion.

15 Q And while I'm on it, now, once blood has been drawn, do
16 the drugs continue to be broken down and metabolized in a test
17 tube?

18 A Not if you draw it in the, in the grey top tube that we,
19 we typically ask for because the grey top tube has a, has an
20 additive in it that's going to inhibit any further metabolism.
21 It's going to have -- it's got sodium fluoride, which is going
22 to basically inhibit any enzyme that's going to do it. So
23 typically, no. You can, over a long period of time, you can
24 get some further breakdown, but typically no.

25 Q And SLED wouldn't take a tube in that wasn't in the grey

1 top; correct?

2 A We would. We would test it, but we will tell you that
3 and that'd be part of our interpretation is that it could be.

4 Q Okay.

5 A I don't know whether it was a grey top or not. It didn't
6 say on the report that it was a grey top. It just says blood,
7 but, but that's what we typically want, but even if it were a
8 red top, which has absolutely nothing in it, it's just plain
9 blood, you're not going to break down in a, in a relatively
10 short period of time anything significantly.

11 Q Okay.

12 A There have been studies, you know, that have looked at
13 that and stuff, and quite honestly, I've seen analysis and
14 I've analyzed samples that were really, really old, and you
15 could still detect drugs.

16 Q Because there's a backlog at SLED. You get some old
17 stuff to test?

18 A Well, that's, that's not the reason we did it. We did it
19 as a, as a kind of a little study, but there was a time before
20 I became chief toxicologist there was a backlog, but I worked
21 very hard to try to clear that up.

22 Q Yes, sir. The meprobamate, that's Equanil, Soma,
23 Miltown; correct?

24 A That's correct.

25 Q That was present in the urine as well; correct?

David Eagerton - Direct by Mr. Richardson

1329

1 A Yes, sir.

2 Q And how long does, does that stay in the urine?

3 A Its half life is about six to maybe 24 hours or six to
4 17, somewhere around in there. About, about very similar to
5 alprazolam.

6 Q In the blood or in the urine?

7 A In the blood. It's going to stay in the urine for about
8 three days.

9 Q Okay. And so ---

10 A Or you can detect it in the urine for up to about three
11 days.

12 Q Okay. So am I correct in understanding that, that the
13 meprobamate or the Miltown, whatever, would have, would have
14 been detectable in the blood for up to 24 hours or more after
15 it had been taken?

16 A Yes, sir. That's correct.

17 Q And how long do the effects of meprobamate last or
18 Miltown, Soma?

19 A Again, it's a, it's a muscle relaxant as well, and so
20 it's typically the clinical effects are going to be maybe 12
21 hours after you take it.

22 Q Okay. So it would wear off after 12 hours?

23 A It -- probably.

24 Q And so if the meprobamate and the alprazolam were taken
25 at -- round about way, we'll say at 8:00 o'clock the day

1 before or we'll just say 8:00 o'clock the day before, would
2 they still be affecting the person that took them at 8:00
3 o'clock that evening?

4 A If they were taken at 8:00 o'clock in the morning would
5 they still be effecting the person at 8 p.m. the evening?
6 It's possible.

7 Q Okay. How about at midnight?

8 A Probably not.

9 Q Probably not. How about two in the morning?

10 A Probably not.

11 Q And as you go on the effects would wear off more?

12 A That's correct.

13 Q Now, would there be any synergy if I took a Xanax and a
14 Miltown or Soma at the same time? Would that make the effects
15 last longer?

16 A No, sir. It doesn't -- it won't make the effects last
17 longer. It'll make, it'll intensify the effects.

18 Q It'll intensify the effects, but they still last the same
19 amount of time.

20 A They, they -- it shouldn't affect the half life of either
21 one of those.

22 Q Okay. And it doesn't increase the half life in the urine
23 or in the blood?

24 A Not that I'm aware of. No, sir.

25 Q Are you aware when drugs are broken down into the body

David Eagerton - Direct by Mr. Richardson

1331

1 how are they stored, or once they're broken down into the
2 bloodstream, how are they stored?

3 A Well, typically what happens to a drug in order to really
4 get a handle is you've got to think about what happens to a
5 drug in your body, and basically, in pharmacology, we use an
6 acronym called ADME. It's absorption. It has to get into
7 your body. If the drug doesn't get in your body it's going to
8 have no effect on you. So how does it get into your body. We
9 have a number of ways that drugs can get in. We can take them
10 by a pill. We can, you know, drink them. These are orally,
11 or you can have them injected either in a vein or just in your
12 muscle or under your skin. You can take them as a
13 suppository. There's lots of ways. Some drugs actually can
14 penetrate your skin, but in order to have an effect they've
15 got to get into your body, and then in addition to that they
16 have to get into your bloodstream because at least for all of
17 these drugs that are, that are site of action is going to be
18 your brain. So they have to get into your blood to get into
19 your brain, unless, of course, you were to take a big needle
20 and stick it in your head and directly inject in your brain,
21 which doesn't -- nobody does that. Thank goodness.

22 Absorption.

23 Then it's going to distribute throughout your body and
24 how it distributes throughout your body is depending on its
25 chemical and physical properties, that is whether it's

1 hydrophilic, lipophilic or the degree between both of those
2 two chemical properties. Basically, does it like water or
3 does it like fat more than the other, and so some drugs are
4 going to like water, and so they're going to stay more in the
5 water parts of your body. Some drugs are going to like fat
6 more, and they're going to distribute more into the fat parts
7 of your body. Most of the drugs that are, that are active,
8 especially active in your brain, have to have some degree of
9 both. You have to have enough liking the fat because the
10 brain is actually very fat rich. You can think about that.
11 It's not the same fat that you have in the rest of your body,
12 but it's the same type of -- the compounds are very lipid
13 rich; and so, any, any very lipophilic drug is going to go to
14 the brain first or readily, but most of the drugs you have to
15 have some water solubility, otherwise they won't make it
16 through the blood and they'll never get to your brain, and so
17 you've got to find that nice balance; and so, the drug is
18 going to distribute throughout your body. Okay? Once it's
19 distributed, one of the places it's going to go is your liver.
20 Liver is the major site of metabolism, which is the next step,
21 and metabolism is it takes that foreign compound.
22 Essentially, it's not supposed to be in the body and it --
23 your body breaks it down through usually a series of enzymes
24 into other compounds so that they be more, they become more
25 water soluble and become more readily excreted, and then the

David Eagerton - Direct by Mr. Richardson

1333

1 last phase is elimination where the drug exits your body, and
2 typically most -- the biggest routes of elimination are going
3 to be your urine, your feces. Some highly water soluble drugs
4 may, may, if they're volatile, you may lose them on your
5 breath, in your sweat, tears, things like that, but typically
6 urine and feces, and that's one of the reasons why we as
7 toxicologists we look at urine because that's telling us where
8 the drugs are being eliminated. So most drugs don't stay in
9 your body for any great length of time.

10 Q Now, once, once the drugs begin to break down, you said
11 the lipid.

12 A Lipophilicity, lipophilic.

13 Q Lipophilicity.

14 A Okay.

15 Q Those are the ones that are stored predominately in fat?

16 A They can be.

17 Q Okay.

18 A Right.

19 Q And you said most drugs are a balance; correct?

20 A Yes, sir.

21 Q Now, after those drugs have been broken down and stored,
22 whether it's fat or water, as they move towards excretion, are
23 they released back into the body?

24 A All right. Well, if you're talking about a drug that's
25 very highly lipophilic and that it's going to be stored in the

1 fat, so if it comes out of the blood and into the fat and it
2 stays there, theoretically, it's going to be as your fat cells
3 turn back over and they don't do it very often. That's why
4 it's hard to lose weight, but they'll turn back over, and they
5 will release whatever is in there, they could release it back
6 into the, into the bloodstream. Usually when that happens the
7 levels are so low that you never are really going to detect
8 those whenever you look at that turnover. So for all
9 practical purposes, once it clears from the blood the first
10 time, you're typically not going to see it again unless some
11 strange thing happens.

12 Q You're not going to get the effects again?

13 A You shouldn't. I've never, never seen, heard of anybody
14 getting any effects. In fact, just the opposite, a drug such
15 as thiopental, which is sodium pentothal. It's a drug that is
16 used or used to be used for -- to help put you to sleep. It's
17 an IV med. It's also -- it was also used for lethal
18 injection. Basically, it's what we call an ultra-short acting
19 barbiturate, is the class of drugs. It's ultra-short acting
20 because whenever you shoot it in the vein a person becomes
21 unconscious within a few seconds, but it typically only lasts
22 about 15 minutes, and that's because the blood has
23 redistributed from your head into your peripheral fat, and so
24 your blood levels drop, your brain levels drop. The drug's
25 still in your system, but you're going to start to wake back

David Eagerton - Direct by Mr. Richardson

1335

1 up because it's below the therapeutic level of it, and so you
2 can think of any other drug, if it -- if it did that, it
3 still, if it leached back out, a drug back into your
4 bloodstream as the fat turned over, it wouldn't necessarily or
5 likely not be enough to cause any therapeutic effect.

6 Q So basically, once it's out of the bloodstream, it's more
7 likely than not it's not going to have any effect on you
8 again?

9 A That's correct.

10 Q Synergistically or otherwise?

11 A You've got to have enough, I mean, the synergistic effect
12 you have to have enough of it there to have an effect to begin
13 with in order for it to be synergistic.

14 Q Okay. And after reviewing -- you reviewed Dr. West's
15 report; correct?

16 A I did.

17 Q And after reviewing his report and the lab report, what
18 is our opinion with regard to any synergism and the effect of
19 drugs?

20 A Well, in this case the only drug that was detected in, in
21 the blood was the zolpidem, and so it's the only drug having
22 an effect. The other drugs that were detected in the urine
23 were not detected in the blood. So my opinion is they would
24 have no effect.

25 Q Okay. So there would be no synergistic?

1 A There's nothing to cause a synergistic effect.

2 Q Doctor, thank you very much.

3 MR. RICHARDSON: I have no further questions, Your Honor.

4 THE COURT: All right. Cross examination.

5 MR. WILSON: May it please the Court, Your Honor?

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. WILSON:

9 Q Doctor, I apologize. What's your last name?

10 A Eagerton.

11 Q Eagerton, Dr. Eagerton. How you doing today, sir?

12 A I'm doing pretty good.

13 Q Very well. Now, the Prosecutor asked you earlier about
14 your testimonies that you've given before in trial; correct?

15 A Yes, sir.

16 Q Okay. And you worked formerly for State Law Enforcement
17 Division; is that right?

18 A Yes, sir.

19 Q All right. And how many times did you say you testified
20 in trials?

21 A Between 80 and a hundred times.

22 Q How many times have you testified for the Defense in
23 trials?

24 A Between, I don't know, 10, maybe 15.

25 Q 10, maybe 15?

David Eagerton - Cross by Mr. Wilson

1337

1 A That's correct.

2 Q Okay. And you actually had a former relationship with
3 the Prosecutor? You knew each other when you worked at SLED?

4 A Yes, sir.

5 Q You all worked together?

6 A We have on some cases. Yes, sir.

7 Q On cases; correct?

8 A That's correct.

9 Q Okay. All right. Now, I want to go back to what we were
10 just talking about. Well, let me ask you this first. Based
11 on your knowledge as -- you're a toxicologist; correct?

12 A I am.

13 Q Okay. You're not a pharmacologist?

14 A I am.

15 Q You are a pharmacologist?

16 A I am.

17 Q Okay. Well, let me ask you this then. Based on your
18 knowledge, narcotics which are tailored to go into the central
19 nervous system, why are they tailored to go into the -- how
20 are they tailored to go into the central nervous system?
21 Explain that to the jury.

22 A Well, to get into the central nervous system, again, you
23 have to have -- there's what -- there's this thing called the
24 blood brain barrier, and it's kind of a protective mechanism
25 to keep anything that's in the blood necessarily from getting

1 into the brain because you want to protect your brain, and so
2 there's another barrier there that you have to cross, and so
3 in order for a drug to cross into that barrier, either one of
4 two things happen. It has to be either highly lipophilic or
5 it has to be taken across that barrier by some sort of
6 transporter. So in order for a drug to work centrally it
7 either has to be highly lipophilic or ride some sort of
8 transporter.

9 Q Thank you very much. Now, so when drugs are actually
10 created and when you actually tailor these drugs to go and do
11 these things in the central nervous system, they're tailored
12 to go into fat cells; correct?

13 A Tailored to go into fat cells? They have to have a
14 balance of -- they have to have some lipophilic property. If
15 they're not lipophilic, they're probably not going to get into
16 the -- into the brain at a very high level unless, of course,
17 there's a specific transporter that'll take them in there
18 regardless.

19 Q You testified earlier under direct examination that the
20 brain is a very fatty tissue; correct?

21 A That's correct.

22 Q So if you're developing a drug to affect the brain like
23 Xanax; correct?

24 A Yes, sir.

25 Q Okay. Then they're going to tailor that to go into the

David Eagerton - Cross by Mr. Wilson

1339

1 fat cells; is that correct?

2 A Well, not into the fat cells, but into the brain.

3 Q Which is made of?

4 A It's lipophilic tissue, but it's not the same thing as
5 fat cells.

6 Q Okay. All right. Well, define lipo -- I'm sorry.
7 Pronounce it for me.

8 A Lipophilic.

9 Q Lipophilic tissues. Define that for me to the jury,
10 please.

11 A It's, it's -- lipophilic just means fat loving.

12 Q Fat loving?

13 A Yes.

14 Q Okay. All right. So fat loving drugs?

15 A They have to have a balance. If you're totally -- if
16 you're too lipophilic, then it's going to -- the mechanism,
17 it's either going to be taken up by your peripheral, like I
18 said, the redistribution like the example I gave you with
19 thiopental. It's a very lipophilic drug.

20 Q Right.

21 A It goes into the brain. You give it IV. It goes to the
22 heart, to the brain. You have a very fast action, but then as
23 the blood continues to go through the brain it still is picked
24 up by the blood and redistributed through your peripheral
25 tissue; and so its effect lasts very short. So even if you've

1 got a very high lipophilic drug, it's not just going to go
2 into your brain. It's going to be distributed.

3 Q Okay. Fair enough. All right. Now, let me ask you
4 this. Now, your work at SLED, which is extensive; correct?
5 I would -- I mean, I'm asking you, but I -- it's an extensive
6 job that you had. You became chief of the lab; correct?

7 A I did.

8 Q All right. And that was up until what year?

9 A 2000 -- October 2009.

10 Q Okay. October 2009, so about five years ago.

11 A That's right.

12 Q And until that time you had basically done extensive work
13 regarding determining if there were actually drugs and blood
14 in urine?

15 A That was a big part of my job. Yes.

16 Q That was a huge part of what you did; correct?

17 A When I was a, when I was a bench toxicologist that was a
18 huge part of what I did. When I was the chief toxicologist I
19 had a lot of other --

20 Q Managerial duties?

21 A -- duties as well. Yes.

22 Q I can imagine, sir. Let me ask you this then. So when
23 it comes to pharmacology, I mean, you're obviously an expert
24 in toxicology, and we understand that, but when it comes to
25 pharmacology, you're not really an expert in pharmacology; are

David Eagerton - Cross by Mr. Wilson

1341

1 you?

2 A I have a PhD in pharmacology. I teach, I teach
3 pharmacology at pharmacy school.

4 Q All right. But I'm asking you, are you testifying here
5 as an expert in pharmacology or are you testifying here as an
6 expert in forensic toxicology?

7 A Both.

8 Q Okay. Now, let me ask you about the central nervous
9 system. CNS, right, that's central nervous system; correct?

10 A Yes, sir.

11 Q All right. So, explain to me when Xanax goes into the
12 central nervous system explain to the jury how that happens
13 and the process that it would take from the time that you
14 actually -- let's say you're taking a pill --

15 A Okay.

16 Q -- and you put it in your mouth. Explain to the jury the
17 process that happens.

18 A Well, like I said, it's -- that's the ADME process. You
19 have to absorb it. So, typically you're going to absorb it
20 through your GI tract. A lot of people think you absorb it
21 from your stomach, but in fact, you really don't because it's
22 a, it's a basic drug. Most of the drugs are going to be
23 absorbed from actually the small intestine. The stomach is
24 actually designed for digestion, not a lot of absorption. So,
25 you're going to be absorbed from your small intestine,

1 absorbed into the bloodstream, okay. So, it's got to -- in
2 order to be absorbed, it's got to have some hydrophobic and
3 hydrophilic characters. It's got to like water and it's got
4 to like fat. It's got to like enough fat to cross a membrane,
5 but it can't like it too much or else it'll never get out of
6 the membrane. So it's got to have a balance if you're going
7 to take it orally. So, that's one of the things you know that
8 it's not a very highly lipophilic drug because it's active
9 orally. It's going to go, it's going to be picked up by your
10 bloodstream. The first place it's going to go from your small
11 intestine is going to be to your liver. Okay. And that's,
12 that's what's called the first pass. That gives a -- your
13 body a little bit of protection because the liver's there to
14 find toxic things, foreign things and try to detoxify them
15 before it goes to the rest of your body. So it's going to go
16 through your liver. It's going to be -- start to be
17 metabolized. In this case alprazolam is going to be
18 metabolized to -- you said alprazolam; right?

19 Q Xanax.

20 A Xanax.

21 Q Yes.

22 A Yes. That's alprazolam. It's going to be metabolized to
23 its major metabolite, which is 17 hydroxy alprazolam. Okay.
24 And then the rest of it and its metabolites are going to go
25 from the liver to the heart. From the heart it's going to be

David Eagerton - Cross by Mr. Wilson

1343

1 pumped to the lungs. From the lungs it's going to be back to
2 the heart, and then from the heart it's going to go half of it
3 or some of it's going to go up to your brain, some of it's
4 going to go to the rest of your body. The part that goes to
5 your brain, it will cross the blood brain barrier, and
6 alprazolam is active at a specific type of receptor called a
7 GABA receptor, a GABA A receptor actually, and it causes an
8 action at that receptor.

9 Q All right. And let me ask you this. If someone is
10 taking Xanax, let's say they have a prescription for Xanax.
11 Okay?

12 A Okay.

13 Q And they're taking Xanax, let's say, two or three a day
14 or abusing Xanax on any level, is that going to increase the
15 amount of actually Xanax that's going to be stored in the fat
16 cells?

17 A I don't think so.

18 Q You say you don't think so, and I -- and when you
19 testified under direct examination you said probably not, not
20 sure. I'm asking you if you definitively know whether or not
21 there is literature out there which says that those drugs can
22 build up in fat cells?

23 A I have never seen any literature that says that any
24 alprazolam built up in fat cells.

25 Q All right. So do you know for a hundred percent sure?

1 Are you a hundred percent?

2 A I have not read every piece of literature out there. No.

3 Q Okay. All right. All right. Let me ask you this also
4 about Soma. You testified about Soma. What type of drug is
5 Soma?

6 A Soma is also -- it's a skeletomuscle relaxer.

7 Q Okay. And you said that it can appear between six and 24
8 hours; correct?

9 A I said that was the half life.

10 Q That's the half life. So explain to me, again, when you
11 say half life you're talking about the half life it actually
12 breaks down in the blood; correct?

13 A It exits the blood. Some of it's by breakdown. Some of
14 it is just by whatever elimination. That's why you can see
15 the parent drug in your urine is because not all drugs are
16 completely metabolized. You can excrete the parent drug,
17 which again shows you that it has some hydrophilic because
18 your urine is water. So it's got to like water enough to be
19 excreted. So that's the thing about all these drugs. If you
20 can see them in the urine they've got to have at least some
21 balance of water loving and not be totally lipophilic

22 Q Okay. So let me ask you this. If someone took a drug
23 like Soma at two a.m. in the morning --

24 A Okay.

25 Q Okay. -- how long would that effect last throughout the

David Eagerton - Cross by Mr. Wilson

1345

1 day?

2 A Maybe up to about 12 hours.

3 Q Okay. So, basically, you're saying till about two p.m.
4 you could have still had the effects of Soma?

5 A That's correct.

6 Q Okay. All right. Now, the Prosecutor also asked you
7 about synergy. Okay. And I'm going to kind of go back a
8 little bit here. Now, you say that synergy is not like
9 additive. Additive is one plus one equals two; correct?

10 A That's correct.

11 Q And synergy is one plus one plus one equals three;
12 correct?

13 A No, sir.

14 Q I'm sorry. I apologize. One plus one equals three.

15 A Could be or greater.

16 Q Or greater. I apologize.

17 A Right.

18 Q My apologies. All right. Well, let me ask you this
19 then. Tell me this. Where did the term synergy come from in
20 pharmacology and toxicology?

21 A Where did it come from?

22 Q Yeah. How does it apply?

23 A I don't understand your question.

24 Q My question is this. There is a term in pharmacology and
25 toxicology known as synergism; is that correct?

1 A That's correct.

2 Q Okay. All right. Well, how is that applied to the
3 actual, you know, the study of pharmacology? How does that
4 apply? If your testimony today is that there is no way
5 that drugs can have a synergistic effect, how does that term
6 come about in pharmacology and toxicology?

7 A That was not my testimony that there's no way the drugs
8 have a synergistic effect. My testimony was that the drugs
9 have to be present in order to have a synergistic effect.

10 Q All right. So you agree though with literature that
11 suggests that there can be some fat storage of narcotics in
12 someone's system?

13 A I believe I've testified earlier that I'm not aware of
14 any literature that says that.

15 Q Okay. Well, my question is this. Are you saying that
16 drugs that you take are never stored in fat cells or fat?

17 A No, sir.

18 Q All right. You're not saying that or you are?

19 A No, sir. No, sir. Some drugs that you take certainly
20 are stored in fat cells.

21 Q Okay.

22 A Like for example marijuana.

23 Q All right. Fair enough. Marijuana, let's use marijuana
24 as an example. Then how is it -- well, let me ask you this.
25 When you have fat in your body how does fat get turned into

David Eagerton - Cross by Mr. Wilson

1347

1 energy?

2 A How does --

3 Q Yeah.

4 A -- how does fat? Through beta-oxidation. Your fat cells
5 are, are -- well, actually, first you have to have
6 mobilization, typically by some sort of stimulus like
7 epinephrine for example will cause fat cell mobilization.
8 Fats are actually triacylglycerols. They have a glycerin
9 backbone and three fatty acid chains. We're going to break
10 those down into the fatty acids. Then it's going to go to the
11 muscle, liver, primarily in the liver. You're going to get
12 beta-oxidation which is basically the way you break down these
13 long chain fatty acids to carbon units at a time to acetyl-
14 coA. You'll funnel acetyl-coA through the TCA cycle to make
15 NAD, NADH is an FDH2 and one GTP per, per run of the cycle.
16 You're going to take those, run them through a thing called
17 electron transport, which is going to develop a, a proton
18 gradient. It's call the chemioxmotic gradient, and ultimately
19 you're going to run those back downhill and make ATP, which is
20 our unit of energy in the body.

21 Q Okay.

22 A I can, I can teach a whole course on this if you'd like.

23 Q I believe you a hundred percent. Now, let me ask you
24 this, Doctor. Let me ask you this. Please tell me the mode.
25 Are there blood vessels which are connected somehow to the

1 actual fat cells which allow it to get back into the actual
2 bloodstream?

3 A Yes. The fat cells are actually very highly vascular.

4 Q All right. Explain that to the jury and how that works,
5 the blood, the blood vessels that are connected. How does
6 that work? I mean, you just said they're highly vascular;
7 correct?

8 A That's correct.

9 Q What do you mean when you say that?

10 A Well, vascular just means blood vessel, essentially. So
11 you have to have -- your fat tissue, just like any other
12 tissue, has to have a blood supply, and so the blood drops off
13 fat to be stored in the fat cells or drops off fatty acids to
14 be stored, turned into fat and stored in the fat cells. Blood
15 also drops off other nutrients, oxygen, glucose, for example,
16 that all cells need to survive. The blood, also, it's the
17 same thing as it goes to any other tissue. It provides
18 nutrients, takes away the waste, used to mobilize hormones,
19 fat takes fat to them, from them. It's a very complex
20 process. I don't exactly know what you want me to get into.

21 Q No. I just want to know if blood vessels are actually
22 connected to the actual fat in your body, and if it has a way
23 of then getting back to the blood system.

24 A Absolutely.

25 Q Okay. All right. And how often do we break down fat in

David Eagerton - Cross by Mr. Wilson

1349

1 our bodies?

2 A Every day.

3 Q Every day?

4 A Yes.

5 Q Every day. Okay. So if I have been an abuser of Xanax
6 and Xanax or THC or any other drug which is susceptible to the
7 nervous system and that has some sort of impairment or some
8 sort of aggression on the nervous system, I apologize, not
9 aggression. I'll withdraw that. Has some bearing on the
10 nervous system or is created for the purpose of the nervous
11 system, those drugs and would be in the fat and can they be
12 then put out into the blood system through those capillaries
13 or vascular system?

14 A If they're, if they're lipophilic enough to stay in the
15 fat then, yes, they can, and that's as your fat turns over you
16 can release it back into the blood system. Yes. That is
17 correct. It is possible.

18 Q Thank you very much. That was my question. Now, I want
19 to ask you about Ambien specifically because that was actually
20 found in the blood system; correct?

21 A That's correct.

22 Q Okay. Well, let me ask you this first, the other drugs
23 that are actually found in the urine, those are drugs that
24 someone at some point in time would have absorbed?

25 A Either, either they absorbed them or injected them into

1 their bladder.

2 Q Okay. Very good. Very good. So in the toxicology
3 report would it be your opinion that this Defendant absorbed
4 or consumed at some point in time all the narcotics that are
5 actually inside of that tox report?

6 A Well, they aren't all -- in fact, none of them are
7 narcotics but those drugs, yes.

8 Q I apologize. Controlled substances or pills,
9 prescription medication, whatever you want to call them.

10 A They're medication.

11 Q The Xanax?

12 A Some of them are controlled, some of them are not.

13 Q I apologize. The Xanax was in there; correct?

14 A In the urine, yes.

15 Q Yes. Okay. Flexeril?

16 A Yes.

17 Q Okay. The marijuana?

18 A Yes. Metabolite marijuana.

19 Q The metabolite marijuana. All right. And also, the
20 Equanil?

21 A Meproamate. Yes, sir.

22 Q Yes. Thank you very much. And then Soma?

23 A That is the Soma.

24 Q So all those drugs were absorbed at one point in time?

25 A Yes.

David Eagerton - Cross by Mr. Wilson

1351

1 Q Okay. Fair enough. Now, let me ask you about the
2 Ambien. Tell this jury, please, what sort of drug Ambien is?

3 A Ambien is a -- it's the technical term is a hypnotic.
4 Real term is it's a sleeping pill. It's, it's designed solely
5 and specifically to help you go to sleep.

6 Q It's a sleep aid?

7 A Yes.

8 Q Okay. All right. And what are the effects of Ambien?

9 A Sleep.

10 Q Sleep.

11 A Primarily, yeah.

12 Q What else can it do to you? What are the side effects?

13 A Well, it's a -- it acts on the GABA receptor, the same
14 thing that the -- the same receptor that the alprazolam acts
15 on. It's a little -- getting into the pharmacology of it,
16 it's a little different subtype of the receptor, but basically
17 the effects are unconsciousness. It's going to help you go to
18 sleep. So that's the hypnosis or induce the sleep. If you
19 were to wake up while you were under the influence of it, you
20 may be groggy. It's just like any other central nervous
21 system depressant. It's going to have -- you're going to have
22 similar activities. You may have some muscle incoordination.
23 You may be groggy, incoherent, things like that.

24 Q Have you read literature which reported that folks have
25 experienced hallucinations on Ambien?

1 A I believe so, but I can't specifically cite them.

2 Q That's okay. Have you read literature or do you know if
3 it causes sometimes confusion or sleep walking?

4 A Well, I know that there's been an association with sleep
5 walking with Ambien. I don't -- I don't know that the Ambien
6 necessarily causes it, per se, but -- because people could --
7 can sleep walk without Ambien and people -- I think I've seen
8 some reports that say that if you sleep walk before you take
9 Ambien then you're more likely to sleep walk while you're on
10 it. I don't know about the causation exactly, but it
11 certainly is something that has been connected and reported
12 together.

13 Q All right. Well, let me ask you this question then. If
14 someone takes Ambien, let's say at 2:00 o'clock, and they take
15 a -- what's the highest dose, is it ten milligrams?

16 A Ten milligrams. Yeah.

17 Q Okay. They take a ten milligram pill. How long would
18 the effects of that Ambien last on an individual?

19 A It should be less than eight hours.

20 Q Less than eight hours.

21 A Yes.

22 Q So the effects of Ambien would still be going on around
23 10:00 o'clock?

24 A It should be cleared by 10:00 o'clock. The idea is you
25 go to sleep, you get eight hours of sleep, you wake up and the

David Eagerton - Cross by Mr. Wilson

1353

1 idea is you don't have any hangover or any residual effect.
2 So you want to go to sleep and then you want the drug to be
3 cleared from your system so that you can wake up the next
4 morning.

5 Q Okay. Well, let's say someone woke up and they're on
6 Ambien during that time.

7 A Okay.

8 Q What sort of side effects would you think that there
9 would be or what sort of, I guess, what would they be
10 experiencing at the time? What would that be like?

11 A There's, there's two kinds of, of effects that you would
12 get. One would be just like any other central nervous system
13 depressant. It may be some sort of look like they were
14 intoxicated in some way. They may be slurred speech,
15 incoherent, stumbling around, things like that, but there's
16 also been, since you brought up the sleep walking, the people
17 that are sleep walking or doing the -- or it's been reported
18 that people do some bizarre things while they are taking
19 Ambien and then don't know that they're doing it, and whenever
20 a person is under the influence of Ambien and doing that,
21 their reaction is totally different. They're, they're,
22 they're more like a zombie. They can do repetitive tasks that
23 they're used to doing, but they wouldn't be able to -- they,
24 they would be like glazed over. They wouldn't be able to
25 respond to your questioning, for example. Whereas if you were

1 just looking at the just CNS effects of Ambien and they're not
2 sleep walking and you're not in that zombie state, it's like
3 any other CNS depressant where you're going to be just
4 incoherent, slurred speech, muscle incoordination, things like
5 that. It depends on how much you have.

6 Q Depends on how much you have?

7 A Right.

8 Q So if someone took two pills or two doses of ten
9 milligram pills, would that have a synergistic effect?

10 A I don't think you could call it synergistic because it's
11 the same drug. You're just increasing the dose.

12 Q Okay. So what sort of effect would it have, a magnified
13 effect?

14 A Intensified effect.

15 Q It would have an intensified effect?

16 A Yes.

17 Q Okay.

18 MR. WILSON: The Court's indulgence, Your Honor.

19 THE COURT: All right.

20 BY MR. WILSON:

21 Q Now, I want to talk to you about Flexeril.

22 A Okay.

23 Q Okay. Now, what sort of drug is Flexeril?

24 A It's a skeletal muscle relaxant.

25 Q Okay. And Flexeril was found in the urine in this case;

David Eagerton - Cross by Mr. Wilson

1355

1 correct?

2 A That's correct.

3 Q Okay. All right. And does Flexeril have a metabolite?

4 A Yes. It does.

5 Q All right. Do you know what the metabolite is?

6 A Not right offhand, no.

7 Q Okay. All right. Well, explain to me this then, if
8 someone takes Flexeril, what's the half life on Flexeril?

9 A Flexeril is -- the half life is fairly long. It's like
10 one to three days.

11 Q One to three days.

12 A Yeah.

13 Q All right. Can you explain that, how that would work to
14 the jury if someone took that at let's say 10:00 o'clock one
15 day. How long would that last in the system, in the blood?

16 A How long will it last in the blood?

17 Q Yes, sir. What would be the half life? How would it
18 break down?

19 A Well, the half life is one to three days. Let's say if
20 the half life was one day that it would still be present in
21 the blood for five days.

22 Q Okay. Very good. All right. Now, you never talked with
23 this Defendant; have you?

24 A No, sir. I have not.

25 Q All right. You've never observed her when she's not on

1 medication; have you?

2 A With or without, no, sir. I've never observed her.

3 Q And you never talked to me about anything in this case;
4 have you?

5 A No, sir. I have not.

6 Q Okay. But you've talked with the Prosecutor about this
7 case; correct?

8 A Yes, sir.

9 Q Okay. And you all have had prep conversations for trial,
10 I would imagine?

11 A We've had brief conversations. Yes.

12 Q All right.

13 MR. WILSON: Your Honor, I have no further questions.

14 THE COURT: All right. Redirect?

15 MR. RICHARDSON: I have maybe three questions, Your
16 Honor.

17 REDIRECT EXAMINATION

18 BY MR. RICHARDSON:

19 Q Mr. Wilson was asking about the half life, and you said
20 the -- you gave the one in five day answer, I think. During
21 the half life, if the Flexeril has a one day half life and you
22 could detect it for up to five days in the blood, would it
23 have any effect at that point?

24 A Well, I said theoretically. I don't know that you can
25 actually detect it five days later. It's probably going to

David Eagerton - Redirect by Mr. Richardson

1357

1 clear before -- below your level of detection long before
2 then. Would it have any effect? No.

3 Q So just because something is still in the bloodstream,
4 detectable in the bloodstream doesn't mean that it has any
5 effect.

6 A I guess you could argue what its effect is, but if you're
7 looking for a -- for these drugs to work or especially you're
8 talking about a drug hitting a specific receptor, you have to
9 have a certain concentration. You have to have a certain
10 number of receptors occupied at a certain number of times. So
11 basically, long story short, you have to have a certain
12 concentration of drug to see any effect. Okay. If you don't
13 have anything -- that's why you have a therapeutic level. If
14 you take -- let's say you have a headache. In order to get
15 rid of the headache, you're going to take one aspirin, if that
16 one aspirin is going to get rid of your headache, fine. Okay.
17 Well, let's say you have a headache and you take a baby
18 aspirin, which is less than -- one aspirin is 325 milligrams.
19 A baby aspirin is typically 80 milligrams. That may be enough
20 to do your blood thinning effect or your antiplatelet effects,
21 but it's probably not going to be enough to help your
22 headache. Is it detectable in your blood? Yeah. But it's
23 below the therapeutic level for -- to fix your headache. So
24 in order for it to, to have an effect on your headache, you've
25 got to get the blood concentration, and therefore, the brain

1 concentration up high enough for it to have an effect, and
2 that's true for any drugs. There's a -- that's why you have a
3 therapeutic level. There's a level at which below this level
4 it's present there. It may be occupying some receptors. It
5 may have some sort of effect, but it's not enough that you can
6 observe it.

7 Q And if the Defendant had Flexeril and Ambien flowing
8 through her bloodstream, what, what would her demeanor be
9 like?

10 A I would say if you, if you've got them in an appreciable
11 level or near the therapeutic levels, you've got Flexeril and
12 Ambien, you're probably -- I mean, I would be knocked out.
13 Most people are going to be -- I mean, the Ambien itself is
14 designed to put you to sleep. So most people should go to
15 sleep. Some people react very strongly to Flexeril. Others
16 don't, but put together I'd say you're going to be highly
17 impaired, knocked out, probably asleep.

18 Q Couldn't carry on a conversation?

19 A It depends on how much, but probably not.

20 Q Okay. And finally, Mr. Wilson asked you about drugs
21 being stored in the fat. I think he said Xanax and marijuana.
22 Now, I'm, I'm a little chunky right now, but if I've got, and
23 I don't have it, but THC and Xanax stored in my blood, and I
24 go start running, burn some of that fat off, if it breaks down
25 from the fat and releases, am I going to get high again?

David Eagerton - Redirect by Mr. Richardson

1359

1 A I've never -- no, no.

2 MR. RICHARDSON: Thank you, Your Honor. No further
3 questions. I'd ask that Dr. Eagerton be released.

4 MR. WILSON: Judge, I have a recross, Judge.

5 THE COURT: No. That's got it.

6 MR. WILSON: Thank you, Your Honor.

7 THE COURT: You may step down.

8 A Thank you, Your Honor.

9 MR. RICHARDSON: The State would have no further
10 rebuttal, Your Honor.

11 THE COURT: All right.

12 MR. RICHARDSON: And Your Honor, may Dr. Eagerton be
13 released?

14 THE COURT: Any objection?

15 MR. WILSON: Only object because I asked for recross,
16 Judge. That would be my objection.

17 THE COURT: All right. He's free to go. Thank you very
18 much.

19 MR. WILSON: Thank you.

20 THE COURT: All right. Ladies and gentlemen, it's about
21 ten till one. We're going to go ahead and take our break now.
22 I'm going to let you go to lunch on your own today. We do
23 have some matters of law that we do need to take up. It's
24 about ten till one. So, I'll give you, let's say till about
25 2:15. Be back in the jury room at 2:15. That'll give you

1 about an hour and 25 minutes to eat lunch and come back.
2 Leave your notepads in the jury box. Do not discuss the case
3 even among yourselves. Don't conduct any independent
4 investigation. Hope everybody has a good lunch and we'll see
5 you back at 2:15.

6 (Whereupon, the following takes place outside the
7 presence of the jury.)

8 THE COURT: All right. You say that is the end of the
9 State's rebuttal?

10 MR. RICHARDSON: It is, Your Honor.

11 THE COURT: Okay. Any motions at this time?

12 MR. WILSON: Your Honor, I don't know if you want
13 to take up matters of a charge at this point in time?

14 THE COURT: Well, I was going to -- I can go ahead and
15 hear you. I've got some preliminary charges. I know that you
16 had wanted involuntary manslaughter --

17 MR. WILSON: Yes, Your Honor.

18 THE COURT: -- charged. Let me hear from you on that.

19 MR. RICHARDSON: Your Honor --

20 THE COURT: Well, I mean, I know -- I got your argument.
21 Let me hear what the State's position is.

22 MR. WILSON: Okay, Judge.

23 MR. RICHARDSON: Your Honor, the State's position would
24 be that there's not anything to warrant an involuntary charge.
25 As I understand the Defense argument, it would be that they

State v. Locklear

1361

1 want to go with that final statement that Mr. Amos Hatfield
2 was in on it and that the Defendant went out and got a couple
3 of guys to come over and scare them, in full knowledge, that
4 to scare or assault Tommy Hatfield, come in the home, his home
5 for the purpose of assaulting him and scaring him. In doing
6 that, they want to argue that it should be involuntary because
7 she knew about their, their record, and that one of them said
8 that they killed somebody at Great Grace Baptist Church, if I
9 understand the statement correctly, but as I understand the
10 involuntary charge would be someone had to do a lawful act in
11 an extremely negligent manner or an illegal act not intending
12 to cause death. Either way, what they're planning is
13 basically a burglary and an assault, both of them illegal
14 acts, Your Honor, for the purpose of scaring and assaulting
15 Tommy Hatfield, in the best case scenario to the Defense, Your
16 Honor. So you'd have to be doing an illegal act, not
17 intending to cause death. In an assault it's natural that a
18 death can occur, Your Honor. There's been no other testimony
19 that would warrant or no other evidence presented that would
20 warrant an involuntary charge.

21 THE COURT: All right. Let me hear from you on that.

22 MR. WILSON: May it please the Court, Your Honor. Your
23 Honor, it's really actually fairly simple. What this
24 Defendant said actually on the video, which is basically that
25 she was employed or that her and her husband at the time came

1 up with some scheme to actually scare this young man. She had
2 a right to be at this home. She had a right to invite other
3 people into this home. She was married to him. This is
4 common property. So when she invited them in to actually come
5 and do this bad thing or to scare him, this is not a situation
6 where we're claiming that, you know, she was trying to hurt
7 him or to do anything like that, but simply that she was
8 trying to scare him, and that that is a legal thing that she's
9 doing, and obviously, not to -- it's not going to cause his or
10 not intending to cause his death, and on top of that, Judge, I
11 think there's ample evidence in the record to support that
12 this young man had a drug problem. She stated that as well as
13 a part of her, her issue, but my concern would be that if the
14 Judge -- if Your Honor, does not actually allow the actual
15 charge that this case is reversible based on case law that
16 I've seen actually regarding charges for any, any evidence
17 tending to prove lesser included offenses, and that's what the
18 standard is, and there's evidence here that there was a
19 reckless, there was reckless behavior, without a doubt, in
20 bringing someone that she thought or may have thought may have
21 caused, you know, some harm to these folks, and she admitted
22 actually in the actual statement that she thought that he or
23 he said that he bragged about, you know, going to shoot
24 somebody, and then she then engages in activity to bringing
25 them to the house still anyway, and that, first, alone is

State v. Locklear

1363

1 enough actually to get a charge I think to the jury, Judge,
2 for an involuntary manslaughter, which is a lesser included
3 offense, and under the case law, Judge, I think that it should
4 be allowed.

5 THE COURT: All right. Hold one second. Let me see one
6 thing here.

7 MR. WILSON: And may I say one other thing, Judge?

8 THE COURT: Yes.

9 MR. WILSON: And also the standard for this is in a light
10 most favorable to the Defendant, Your Honor.

11 THE COURT: All right. I'm going to charge involuntary
12 manslaughter. I think there's enough in there.

13 MR. RICHARDSON: I understand the Court's ruling.

14 THE COURT: All right. Anything further from the State
15 at this time?

16 MR. RICHARDSON: No, sir, Your Honor. What's your
17 election today? I know yesterday you discussed that you would
18 -- you wanted to go forward if we could give it all to the
19 jury before four.

20 THE COURT: Right.

21 MR. RICHARDSON: For the record, I'll go anywhere 45
22 minutes to an hour.

23 THE COURT: Okay.

24 MR. WILSON: Judge, I'm not going to take longer than
25 probably 38 to 40 minutes.

1 THE COURT: Okay. All right. Well, I'll go ahead --
2 I've pretty much got just a little tweaking on the charges.
3 I'll let you take a look at the charges before I -- before you
4 do your closing arguments.

5 MR. WILSON: Yes, Your Honor.

6 THE COURT: As a matter of a fact, I'll have them
7 in just a minute. I'll give you an opportunity to raise any
8 objection to the proposed charges before you argue, and then
9 after I charge the jury, I'll give you another chance because
10 sometimes it sounds different when it's read to a jury versus
11 when you read it on a sheet of paper. So I don't know if you
12 want to take a look at them right before we come back, I mean,
13 right when you come back, or if you want to wait a minute, I
14 can have them for you here in just a few minutes, whichever
15 you want to do.

16 MR. WILSON: Judge, I can wait.

17 THE COURT: Okay.

18 MR. RICHARDSON: I can wait, Your Honor. We just need to
19 run to lunch, too, at some point.

20 THE COURT: All right. I got you.

21 MR. RICHARDSON: I just didn't know if you wanted to hit
22 it today or tomorrow.

23 THE COURT: Let's go ahead and press on if we can. I'm
24 trying to think --

25 MR. RICHARDSON: I'm, I'm ready. I'm ready. Willing to

State v. Locklear

1365

1 go forward.

2 THE COURT: I was getting ready to say something, and I
3 completely forgot what it is.

4 MR. RICHARDSON: I apologize.

5 THE COURT: No, no, no, no. That's no problem. All
6 right. Just give me a few minutes. Let me tweak these a
7 little bit, and I'll print them out, and I'll bring you back.

8 MR. RICHARDSON: Yes, sir.

9 MR. WILSON: Yes, Your Honor.

10 THE COURT: Okay.

11 MR. RICHARDSON: Thank you, Judge.

12 THE COURT: Or like I say, if you want to go ahead and go
13 and I can just put them on your desk, then whenever you get
14 ready you can take a look at them then, whichever you prefer.

15 MR. RICHARDSON: Okay. Thank you, Your Honor.

16 THE COURT: All right

17 MR. WILSON: Thank you, Your Honor.

18 THE COURT: Thank you.

19 OFF THE RECORD

20 (On the record. The following takes place outside the
21 presence of the jury.)

22 THE COURT: All right, ladies and gentlemen, I've
23 provided you with a copy of the charge to the jury and a copy
24 of the proposed verdict forms. As I said, I'll give you an
25 opportunity after I charge the jury to raise any objections at

1 that time, but before we get to that, having read over it, is
2 there any objections to the State not -- that has not yet been
3 put before the Court?

4 MR. RICHARDSON: Other than what we put forward before on
5 the involuntary manslaughter, none, Your Honor.

6 THE COURT: I understand. Anything from the Defense?

7 MR. WILSON: Your Honor, just one thing, and this is a
8 Supreme Court case which talks about circumstantial evidence.

9 THE COURT: All right.

10 MR. WILSON: If I could publish this to the Court.

11 THE COURT: All right.

12 MR. WILSON: It is actually State versus Logan, Clarence
13 Logan, and it says, (as read), "Crimes may be proven by
14 circumstantial evidence. The law makes no distinction between
15 the weight or the value to be given to either direct or
16 circumstantial evidence. However, to the extent the State
17 relies on circumstantial evidence, all other circumstantial"
18 -- excuse me -- "circumstances must be consistent with each
19 other, and when taken together point conclusively to the guilt
20 of the accused beyond a reasonable doubt. If these
21 circumstances merely portray the Defendant's behavior as
22 suspicious, the proof has failed," and if I could, Your Honor,
23 I would request or ask a motion at this time that that
24 language be added into the defining purpose of circumstantial
25 evidence to be given as a charge to the jury, Judge.

State v. Locklear

1367

1 THE COURT: Let me see your case.

2 MR. WILSON: Yes, Your Honor.

3 THE COURT: Let's see. This one it says it was filed in
4 August of 2013, State versus Logan.

5 MR. RICHARDSON: Your Honor, I know there was a Logan
6 case from 2013. There's another case that talks about it from
7 about two weeks ago on the Supreme Court website. They
8 actually discuss Logan.

9 THE COURT: This same case or is it a different or ---

10 MR. RICHARDSON: Interpreting Logan, Your Honor.

11 THE COURT: Okay.

12 MR. RICHARDSON: I, I have it on my desk downstairs. I
13 just didn't think to bring it up.

14 THE COURT: I can bring it up right here.

15 MR. RICHARDSON: It would have been in May, Your Honor.
16 I remember seeing it. It would have been the end of May, Your
17 Honor.

18 THE COURT: All right.

19 MR. RICHARDSON: And quite honestly, I cannot remember
20 whether it was an appellate case, a Court of Appeals or
21 Supreme Court.

22 THE COURT: You say from May?

23 MR. RICHARDSON: Yes, sir. It was before we started on
24 the case. So it would have been ---

25 THE COURT: All right.

1 MR. RICHARDSON: -- might have been the week we started
2 on motions or the week before, Your Honor. If you can give me
3 five minutes I can run down and pull it right off my desk.

4 THE COURT: Well, I'm looking at them right now. It
5 wasn't -- it wasn't a Supreme Court case.

6 MR. RICHARDSON: It might not.

7 THE COURT: Unless it was an unpublished opinion.

8 MR. RICHARDSON: It was published on the website, Your
9 Honor. It wasn't unpublished.

10 THE COURT: And it's State v. Logan.

11 MR. RICHARDSON: I don't know that it's State v. Logan,
12 Your Honor.

13 THE COURT: Oh.

14 MR. RICHARDSON: It talks about State v. Logan. It
15 interprets State --

16 THE COURT: Okay.

17 MR. RICHARDSON: I'm not saying it is State v. Logan.
18 They talk about State v. Logan. I think there was a jury
19 request or a request for a jury charge on circumstantial
20 evidence.

21 THE COURT: Okay.

22 MR. RICHARDSON: It'd be buried on the left side of my
23 desk.

24 THE COURT: Let's see, Supreme Court, State v. Cheeks?

25 MR. RICHARDSON: It might be Cheeks, Your Honor. Meant

State v. Locklear

1369

1 to have it with me. I meant to have it in my documents, but
2 as I recall they did discuss Logan and the circumstantial
3 charge. It was the meat of what I do recall from it, and I
4 get lost in the titles sometimes, but I think, basically, the
5 -- my understanding of the ruling in Logan that if there -- if
6 it is a circumstantial case and the Defense requests that the
7 charge has to be given.

8 THE COURT: All right.

9 MR. RICHARDSON: I just want to make sure that we have
10 the language right because they talk about the difference in,
11 in a requested circumstantial evidence charge versus the Logan
12 charge, I believe, and I've got somebody running down, too,
13 Your Honor.

14 THE COURT: All right, this Cheeks case is it.

15 MR. RICHARDSON: That is it, okay. Thank you, Your
16 Honor. I apologize I didn't recall the cite.

17 THE COURT: That's it. It doesn't cite this Logan case.

18 MR. RICHARDSON: I apologize, Your Honor, if I -- I
19 thought it was citing Logan. I just know that we were -- we
20 got the Logan -- Logan was brought up in a trial we had back
21 in November, I believe. Your Honor, did you say Cheeks or
22 Jenkins?

23 THE COURT: Cheeks.

24 MR. RICHARDSON: There's a Jenkins case, I believe, about
25 the same time and it discusses circumstantial evidence charge,

1 if I'm reading correctly.

2 THE COURT: Okay. I'll take a look at that.

3 MR. RICHARDSON: I apologize, Your Honor.

4 THE COURT: All right.

5 MR. RICHARDSON: Ms. Wooten has informed me that I
6 believe Cheeks goes over a lot of mere presence.

7 THE COURT: It did.

8 MR. RICHARDSON: And Jenkins does specifically refer to
9 the -- the language is approved by the Supreme Court and that
10 the new charge was not given here. So that talks about the
11 Logan charge, and I apologize for not having it available.

12 THE COURT: State v. Jenkins was when?

13 MS. WOOTEN: May 21st -- I'm sorry.

14 MR. RICHARDSON: A Court of Appeals case, Your Honor.

15 MS. WOOTEN: Court of Appeals.

16 THE COURT: Court of Appeals. Okay.

17 MS. WOOTEN: And the opinion was filed May 21st, 2014.
18 It's Clarence Williams Jenkins.

19 MR. RICHARDSON: Your Honor, if it's easier to read the
20 hard copy of it.

21 THE COURT: I've got it right here.

22 MR. RICHARDSON: Okay.

23 THE COURT: Got it. Thank you.

24 THE COURT: All right. Well, to me, the case seems
25 pretty clear. If they request this charge --

State v. Locklear

1371

1 MR. RICHARDSON: Yes, sir. Yes, sir. I just -- I, I, I
2 was just letting the Court know that there was a --

3 THE COURT: Well, it's still confusing primarily because
4 they came out with this decision or when the appeal of the
5 Jenkins case when it was pending on appeal it was before this
6 decision.

7 MR. RICHARDSON: Well, I'm just saying, Your Honor, I
8 think --

9 THE COURT: Yeah.

10 MR. RICHARDSON: -- it's illustrative of the -- yes, if
11 the Defense does request, they do get the Logan charge.

12 THE COURT: Yeah.

13 MR. RICHARDSON: I just wanted to make sure that we were
14 all -- the record was clear on that, Your Honor.

15 THE COURT: All right. So, the direct and circumstantial
16 evidence, I'll give the charge that's in Logan in lieu of what
17 is in my charges.

18 MR. WILSON: Thank you, Your Honor.

19 THE COURT: Is that correct?

20 MR. RICHARDSON: Yes, sir, Your Honor.

21 THE COURT: Okay. All right. Anything else?

22 MR. WILSON: Nothing further, Your Honor.

23 THE COURT: Anything from the State?

24 MR. RICHARDSON: No, sir, Your Honor. We're about to
25 get started on closings?

1 THE COURT: Well, you all tell me. We've got the jury
2 back there waiting. As I said, it's a quarter till three.
3 You all tell me what you want to do.

4 MR. RICHARDSON: I don't want to get into the position,
5 Your Honor, where and I'm not saying Ralph or I either one are
6 going to be overly longwinded, but I find in my experience
7 that many times we attorneys overestimate how long we're going
8 to speak. I do think that I would probably be 35, 45 minutes,
9 no more than an hour. I believe Mr. Wilson indicated 30 or 40
10 minutes, 35, 40 minutes, somewhere in that range is what he
11 indicated.

12 MR. WILSON: Yeah. Judge, I'm going to keep it fairly
13 short and simple. I'm not going to go over 30 minutes
14 probably. If I do it will be 35, 38 to 40 minutes.

15 THE COURT: Well, we're kind of in that gray area.

16 MR. RICHARDSON: Yes, sir. And then with charges,
17 charges in my experience because I would assume that Ralph
18 talks for 40 minutes, let's say on the short end I talk 45,
19 that adds up to about, about an hour and a half, and the jury
20 is going to be squiring as you're trying to give jury
21 instructions unless you give them a break.

22 THE COURT: Well, and that's my question. I'm assuming
23 you want to give your closing arguments and then have me do
24 the charges immediately.

25 MR. RICHARDSON: Certainly.

State v. Locklear

1373

1 THE COURT: And or --

2 MR. RICHARDSON: I, I wouldn't mind if we took a break.
3 I wouldn't want to do closing arguments and then have charges
4 tomorrow morning.

5 THE COURT: Okay. That was my question.

6 MR. RICHARDSON: Yes, sir. I'm sorry.

7 THE COURT: That's all right.

8 MR. RICHARDSON: And I don't want to get into the
9 position, the State would not want to get into the position
10 where the jury begins deliberating. I think it creates an
11 issue of time whenever they begin deliberating and then after
12 two or three hours also need a break and send them home.

13 THE COURT: Well, and I can tell you my practice and that
14 is I leave it up to the jury.

15 MR. RICHARDSON: Yes, sir.

16 THE COURT: After a while I'll let them, and I say, "Do
17 you want to take a break, go home and come back tomorrow
18 morning or do you want to continue?" I'm kind of getting the
19 feeling -- I think we're going to be pushing it if we go
20 forward. Do you all think the better course would be to wait
21 and just do it all tomorrow morning?

22 MR. RICHARDSON: I think the course would -- the State
23 would say that that course would be better, Your Honor.

24 MR. WILSON: Your Honor, my only concern is if we're
25 going to -- if we start, I want to finish and I want to get to

1 the jury charge. That would be my concern. So I would agree
2 with counsel that if we're going to do opening or -- excuse me
3 -- closing statements that then I want to go straight into the
4 jury charge and let's do it all as one continuous so we don't
5 lose anything with the jury.

6 THE COURT: Okay. All right. Well, given the time of
7 day, I think it's probably best that we just break until
8 tomorrow and then come back first thing tomorrow morning, do
9 closing arguments, jury charges and deliberations.

10 MR. RICHARDSON: Yes, Your Honor. The State would be
11 prepared to go forward.

12 MR. WILSON: Judge, we're ready.

13 THE COURT: All right.

14 MR. RICHARDSON: I'm going to redistribute these back to
15 Ms. Grace.

16 THE COURT: All right. All right. Anything from the
17 State before we -- oh, have you all looked over the -- did the
18 verdict form, since there's a lesser included charge, I
19 usually do a verdict form rather than giving them the
20 indictment.

21 MR. RICHARDSON: Your Honor, honestly, I didn't even look
22 at the verdict form.

23 MR. WILSON: I have no objection to it, Judge, though.

24 THE COURT: I've got one for each indictment, two verdict
25 forms, one for each indictment.

State v. Locklear

1375

1 MR. RICHARDSON: The State has no objection, Your Honor.

2 THE COURT: Okay. All right. And I'll give you an
3 opportunity tomorrow morning to raise any objection if
4 anything comes up overnight.

5 MR. WILSON: Thank you.

6 THE COURT: Anything from the State before we bring the
7 jury in?

8 MR. RICHARDSON: No, sir, Your Honor.

9 THE COURT: Anything from the Defense?

10 MR. WILSON: Nothing, Your Honor.

11 THE COURT: All right. Let's go ahead and bring the jury
12 in.

13 (Whereupon, the following takes place in the presence of
14 the jury.)

15 THE COURT: All right. Ladies and gentlemen, welcome
16 back. I apologize for keeping you back in the jury room for
17 so long. We were discussing some matters of law, and we've
18 now arrived at the time of the trial where all that is left is
19 for the attorneys to make their closing arguments, me to
20 charge you on the law in the case, and for you to begin your
21 deliberations. Now, we're kind of at that in between time
22 during the day because this will take some time. It's a
23 quarter till three and that usually takes a couple of hours
24 and you want to do it all at one time. So rather than holding
25 you here late tonight or rather than breaking up the closing

1 arguments from the jury charges and the deliberations, I've
2 discussed it with the attorneys, and we've all agreed that
3 we're going to go ahead and break for today, come back
4 tomorrow morning, and we'll finish everything up then with the
5 closing arguments, the jury charges, and then I'll instruct
6 you when you can begin your deliberations, but do not begin
7 your deliberations now. Do not talk about the case even among
8 yourselves. Don't conduct any independent investigation into
9 the case. Leave your notepads in the jury box. Please be
10 back in the jury room tomorrow morning -- oh, that's another
11 thing. We have -- the jury panel room is being used tomorrow
12 morning. So where will they need to -- where do you want them
13 to come?

14 BAILIFF: The best thing to do, Judge, I guess, is have
15 them just come back up here.

16 THE COURT: Where do --

17 BAILIFF: To the table out front.

18 THE COURT: So if I say the table out front, does
19 everybody know where I'm talking about?

20 BAILIFF: Right at the elevator.

21 THE COURT: Okay.

22 BAILIFF: And tell them what courtroom they're in and
23 they'll escort them down to the hall here.

24 THE COURT: Okay.

25 BAILIFF: And bring them back.

State v. Locklear

1377

1 THE COURT: All right. So come directly up here to
2 the third floor.

3 MR. RICHARDSON: I just wanted to ask if the -- and I
4 don't know when they get the buttons. I just want to make
5 sure they've got the buttons at the door because if they're
6 out front I don't want any, any, any of the victims' family
7 running into them, and I know we've seen each other for a
8 while, just didn't want to run into them or have any
9 questions, Your Honor.

10 THE COURT: Yeah. Let's make sure -- let's make sure
11 that we have somebody down there waiting on them as they come
12 up.

13 BAILIFF: All right, sir.

14 THE COURT: So we can direct them down here and kind of
15 -- and do it that way. Okay?

16 OFFICER: I'll, I'll wait down there on them then.

17 THE COURT: All right.

18 MR. RICHARDSON: Thank you all.

19 THE COURT: So, yeah, you're going to be down there?

20 OFFICER: Yes, sir.

21 THE COURT: All right. So everybody look for this
22 officer. Go up, say, "Take me where I'm supposed to go
23 tomorrow morning," and I apologize, but the jury panel room is
24 being used tomorrow morning at 9:00 o'clock. So please come
25 straight up to the third floor, see the officer and we'll take

1 care of you then. I want to thank you for your patience.
2 You're free to go for the remainder of the day and please be
3 back at 9:00 o'clock tomorrow morning. Thank you very much.

4 (Whereupon, the following takes place outside the
5 presence of the jury.)

6 THE COURT: All right. Anything from the State before we
7 recess?

8 MR. RICHARDSON: What time, Your Honor?

9 THE COURT: 9:00 o'clock tomorrow.

10 MR. RICHARDSON: Nine.

11 THE COURT: Well, I've got them coming in at nine. I'll
12 try to take the bench right at 9:15. Okay?

13 MR. RICHARDSON: Yes, sir, Your Honor.

14 THE COURT: Okay. All right.

15 MR. RICHARDSON: Just wanted to make sure we were clear.
16 Everybody understand?

17 THE COURT: All right. Anything from the Defense?

18 MR. RICHARDSON: And Your Honor, I have instructed the
19 victims' family that, that once we start arguing and charging
20 doors are locked, we're staying in here.

21 THE COURT: Yeah. Now, that's for everybody. Number
22 one, if you can please abide by two directives. Number one,
23 make sure you do not talk to anybody on the jury panel. Don't
24 even ask them for the time of day or anything of that nature.
25 Number two, once we start closing arguments, jury charges,

State v. Locklear

1379

1 there'll be no coming in and out of the courtroom. So if
2 you're going to be in, you're going to be in until I finish my
3 charge and the jury is excused. If you're out, you're not
4 going to be able to come in until I finish my charge and the
5 jury's excused. So please keep that in mind. You can do it a
6 little bit differently during the course of a trial where
7 witnesses are coming up and sitting down, but during closing
8 arguments and jury charges, we do not want any interruptions.
9 So there won't be anyone allowed in the courtroom or allowed
10 to leave during that point in time. All right?

11 Anything further from the State?

12 MR. RICHARDSON: No, sir, Your Honor. Thank you for your
13 indulgences.

14 THE COURT: Anything from the Defense?

15 MR. WILSON: Nothing, Your Honor.

16 THE COURT: All right. We'll see you all tomorrow
17 morning.

18 MR. WILSON: Thank you, Judge.

19 THE COURT: Thank you.

20 (Adjourned for June 11th, 2014.)

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1 (State v. Sandy Lee Locklear, 2013-GS-26-302, 304. On the
2 record, June 12, 2014. The following takes place outside the
3 presence of the jury.)

4 THE COURT: All right. Anything from the State before we
5 bring the jury in?

6 MR. RICHARDSON: No, sir, Your Honor. Just I know for
7 the record that you modified the charge, and I believe we've
8 both seen a copy of it.

9 THE COURT: All right. Yeah, and as I said, I'll give
10 you an opportunity after I charge the jury to raise any
11 objections at that time, too, because sometimes it does sound
12 differently when you hear it read to a jury versus reading it
13 on a piece of paper. All right?

14 MR. RICHARDSON: No objection to the verdict form, Your
15 Honor.

16 THE COURT: All right. Any objections from the
17 Defendant?

18 MR. WILSON: No objection to the verdict form, Your
19 Honor.

20 THE COURT: All right. Anything from the Defendant
21 before we bring the jury in?

22 MR. WILSON: Nothing, Judge.

23 THE COURT: All right. Is the State waiving opening
24 first on the closing arguments, letting the --

25 MR. RICHARDSON: Yes, sir. I'm not going to do it in two

State v. Locklear

1381

1 parts.

2 THE COURT: Okay.

3 MR. RICHARDSON: I think they'd want to strangle me if I
4 did.

5 THE COURT: All right. Sounds good. All right. Let's
6 go ahead and bring the jury in.

7 All right. For those of you who are here in the
8 courtroom if you were not here yesterday I'll remind you there
9 won't be any coming and going in the courtroom once they start
10 closing arguments. So if -- it may take a while for closing
11 arguments and jury charges. So if you want to be excused go
12 ahead and be excused because you won't be allowed to come back
13 in and you won't be allowed to leave during closing arguments
14 and jury charges, and it may take a couple of hours. So I'll
15 leave it up to you all. All right.

16 (Whereupon, the following takes place in the presence of
17 the jury.)

18 THE COURT: All right. Ladies and gentlemen, welcome
19 back. I hope everyone had a good evening. We're now
20 ready to resume the trial of the case. I remind you to be
21 sure that you have your own notepad and no one else's pads.
22 Are we still handing those out? All right. We got it now?

23 BAILIFF: Yes, sir.

24 THE COURT: All right. Good. All right. Ladies and
25 gentlemen, we're ready to resume with the trial of this case.

1 We've reached the point of the trial where the attorneys will
2 make their closing arguments to you. Now, just like their
3 opening statements, these closing arguments are not evidence
4 in this case. It is simply the attorneys' contention or
5 position as to what they feel the evidence has shown and what
6 they think the facts and law in this case are. If at any time
7 an attorney makes reference to a factual matter that is
8 different from the facts as you find them to be or references
9 the law that is different from the law as I will charge you at
10 the end of their arguments, then you're to disregard that
11 portion of their closing arguments because, as I said, these
12 closing arguments are not evidence. They are not a charge on
13 the law. It is simply the attorneys' contention as to what
14 they think the facts in this case are, what they think the
15 evidence has shown and what they think the law to be applied
16 is. All right, Mr. Wilson.

17 MR. WILSON: If it please the Court, Your Honor.

18 THE COURT: Yes, sir.

19 MR. WILSON: Good morning, ladies and gentlemen. This
20 will be the last time that I get to talk to you, and before I
21 get started I want to say a couple of things to you about the
22 trial. One, I want to begin by saying thank you. I know this
23 has been a long, arduous process, and it's been a process that
24 you had to sit through for the last week or so, but I want to
25 say thank you for your service. I think that second to

Closing Argument by Mr. Wilson

1383

1 wartime military service the service as a juror is probably
2 one of the most important things that you can do in this
3 country as far as civil service goes, and you've done a great
4 job. I've watched you the entire time. You've been studious,
5 taking notes, and I just want to thank you.

6 I also want to say this to you, if I have done or said
7 anything that offends you or you thought was wrong, I would
8 ask that you hold it against me. Okay? Not hold it against
9 the Defendant in this matter. I'm an attorney. I'm human. I
10 make mistakes. So I would ask that you do what you came to
11 do, what you swore to do, which is look at the evidence in
12 this case.

13 I told you at the beginning of this case this was a case
14 where the facts are very bad. The facts are bad. No doubt
15 about that. Any time anyone loses two loved ones that's bad,
16 but I'm asking you to look at the evidence, and the Judge is
17 going to tell you the law. He's going to give you the law.
18 And we're going to go over a little bit of the law as I see
19 it, but the Judge is going to give you the law. The evidence
20 that was presented in this case as being admissible is the
21 evidence that you are to use in your decision about guilt or
22 innocence, the evidence in this case, not your gut feeling,
23 not an episode of CSI that you might have seen a year ago, not
24 an episode of Law and Order, the evidence in this case that
25 was deemed admissible in this court, and we're going to talk

1 about a little bit of that, but before I do that let me tell
2 you this. The State has the entire burden in our system of
3 justice. The Defense, even though we put up a defense, the
4 Defendant has no burden whatsoever. The State has to prove
5 its case to you, the jurors, beyond a reasonable doubt, and I
6 would suggest to you that it is a high standard, and we're
7 going to talk a little bit later about how high that standard
8 is. Beyond a reasonable doubt is the standard and that burden
9 is shouldered completely by the State, not by the Defendant.

10 Now, in a case there are two types of evidence, direct
11 evidence and circumstantial evidence. Direct evidence is
12 pretty much a fact that is uncontroverted. It's a fact that
13 you don't have to infer from. Let me give you an example. A
14 direct evidence fact would be something like this, this is an
15 example. Jack and Jill, I'm going to use that as an example.
16 Jack saw Jill take a candy bar from a store without paying for
17 it. That's direct evidence. Someone observed an activity and
18 they say that someone did something and they testify to that
19 in a court like we have here, in a trial. Jack saw Jill take
20 a candy bar without paying for it. That is something you
21 really don't have to infer from. All the jury or the trier of
22 fact has to do is to determine if it's believable and the
23 weight of that particular evidence.

24 Circumstantial evidence is a little bit different. Okay?
25 It is a piece of evidence which the jury has to draw an

Closing Argument by Mr. Wilson

1385

1 inference from. Now, the law makes no distinction between the
2 two. A case could be proven with circumstantial evidence or
3 it could be proven with direct evidence. An example of
4 circumstantial evidence, Jack sees Jill come inside the house
5 and Jill has an umbrella in her hand and has rain boots on her
6 feet, drops of water on her head. So the inference is that it
7 might be raining outside, but Jack didn't see the rain
8 outside. Jack only sees what Jill had in her hand and what
9 Jill had on her feet and what the law requires to prove a
10 circumstantial case is that those circumstances be consistent
11 and conclusive pointing in one direction, consistent and
12 conclusive pointing in one direction to the guilt of a person
13 beyond a reasonable doubt. Now, let's talk about that
14 consistent issue.

15 Change the fact a little bit in my example that I gave
16 you. Jack and Jill, Jack sees Jill come in the house. Jack
17 sees Jill come in the house with an umbrella. Jack also sees
18 Jill come in the house with a pair of boots, rain boots. Jack
19 also sees Jill come in the house with a pair of sunglasses.
20 Those two things are inconsistent, and now the jury has to
21 decide, "Well, how do we make the decision about inference?"
22 Well, the issue then at that time is that it's inconsistent.
23 It could be sun shining outside because you see the
24 sunglasses, or it could also be raining outside because you
25 see the umbrella and the boots, and that is circumstantial

1 evidence. You might think that a fact like a fingerprint is
2 found at the scene of a crime may be direct evidence. It
3 is not. That would be circumstantial evidence. The point is
4 is that the inference has to be drawn from the jury and from
5 the facts as you see them, and that's the difference. Okay?

6 And I'm not going to take up a lot of time today. I am
7 going to talk to you a little bit about the evidence, the way
8 that we see it, the way that we think it's been presented and
9 the believability of the witnesses as well as how heavy the
10 evidence is in this particular case.

11 Now, when we first started the trial of this case
12 evidence started coming in and the State started putting up
13 their evidence. They put up a mountain of evidence that was
14 not analyzed for genetic material. Pillows from the crime
15 scene, not analyzed. No one swabbed it for hair. No one
16 tested it for DNA. No one tested it for saliva. They put up
17 a door. They told you. They took a door, an entire door from
18 the residence where the crime took place, from the master
19 bedroom where this Defendant was found by the police. They
20 tested that door to see if it had blood on it. You heard
21 Detective Martin say, who is the crime scene investigator in
22 this case, they found no blood. It was grease. They found a
23 fingerprint, but they couldn't raise it.

24 In this case they found a knife at the crime scene. No
25 one collected it. No one tested it for fingerprints. No one

Closing Argument by Mr. Wilson

1387

1 tested it for trace elements of blood on that knife. They
2 found another pillow with blood on it, smeared is what they
3 said. They didn't test it for DNA, and they had this
4 Defendant's DNA. If she had cut herself or if she bled or if
5 she had transferred DNA, it would be on the pillow. They
6 could've proven that to you, and while it still would be
7 circumstantial evidence, it would be more evidence than they
8 have in this case now. Beyond a reasonable doubt, beyond a
9 reasonable doubt.

10 Now, we're going to go through some of these things here,
11 and again, the Judge has already told you this is not
12 evidence. This is simply my version of what I believe the
13 facts show or don't show in this case. Let's first talk about
14 the text messages because that's the big thing in this case.
15 That is the big circumstantial evidence that the State has
16 brought to you to prove murder, murder. The text messages,
17 which were sent at 2:39 in the morning, they began at 2:39 in
18 the morning, no one can tell you who specifically sent those
19 text messages. They can tell you what the text messages said.
20 No one can tell you, also, who was responding. They used
21 TracFones. They testified to that. No one can tell you what
22 was going on with those text messages, and I'll be honest with
23 you, you can't tell whether there was malice, which is
24 required to prove murder, in those text messages. Give you an
25 example. If the text messages said, "I want you to come on in

1 and kill my husband." That's malice. If the text messages
2 said, "I can't wait for you guys to get here and come do this
3 murder. Get rid of him." That's malice. "Come unlock the
4 door." "The door is open," that's not malice. That is not
5 proof of malice. That is not proof of murder. When someone
6 causes the death of another person through malice
7 aforethought, with malice aforethought, express or implied,
8 that's murder. That's what murder is.

9 The Co-Defendants didn't get on the stand. They didn't
10 say, "We had a deal with this Defendant." They didn't say,
11 "We had a deal with this Defendant to kill somebody." That is
12 not in evidence. They didn't get on the stand and say, "She
13 was going to give us \$150,000." That is not in evidence.
14 There is no testimony about any conspiracy whatsoever between
15 this Defendant and the Co-Defendants who are at J. Reuben Long
16 still now awaiting trial. No evidence of murder. That is not
17 evidence of murder, and the Defendant herself tells you in the
18 tape, 10:22, which everybody else wants to ignore, after she's
19 been in custody for a very long time -- we're going to talk
20 about that statement -- she says and breaks down crying, "I am
21 sorry. We were trying to just scare him. We were trying to
22 scare him. That's what we were trying to do. He had a drug
23 problem. Amos and I talked about it." And is it an ill-
24 conceived plan? Absolutely, ill-conceived. Ill-conceived,
25 stupid, whatever you want to call it. But she tells them the

Closing Argument by Mr. Wilson

1389

1 truth. They don't want to believe her, and while we're on
2 this subject let's talk about that statement, the statement
3 you heard, about four and half hours worth of testimony,
4 evidence, audio evidence, which literally is not four and a
5 half hours. Okay? It is about 12 hours of actual
6 interrogation leaving this Defendant in a room isolated from
7 her family, from her friends. They left her in there for a
8 long time. They came in to get what they wanted, and if you
9 remembered, I asked Detective Frebowitz on the stand if he
10 threatened this Defendant. He actually admitted, "I did
11 threaten her once." He threatened her once. That's what he
12 said. "I threatened her about her daughter. Absolutely, I
13 did that."

14 A statement under the law, and the Judge is going to tell
15 you this, has to be voluntary, and there are certain things
16 that will make a statement involuntary, if you threaten a
17 suspect or someone who's under interview, if you intimidate
18 them, if you coerce them. I would submit to you they never
19 intended, and you saw them up on the stand, you saw the
20 detectives get up and testify, you saw them with your own
21 eyes, over and over again asking about her daughter, asking
22 about where the daughter is, asking or telling her they're
23 going to put the daughter in DSS. They're going to put her
24 daughter in DSS. "We want to know where your daughter is.
25 How would your daughter feel about this?" And every time I

1 asked him why they continued to ask about the daughter, their
2 testimony to you was, "We just wanted her to appreciate the
3 gravity of the situation." The fact that she's at M.L. Brown,
4 the police building, in a room the size of this area with
5 detectives breathing down her neck, lying to her, telling her
6 she's going to die in prison, telling her they're going to run
7 warm fluid through her veins, she's going to come out in a
8 coffin, pressure, pressure, pressure, squeeze tighter is what
9 they were doing. Squeeze tighter, that's what they were
10 doing, and how do you squeeze someone? We're all human
11 beings. We all have weaknesses, and one of our biggest
12 weaknesses in life are our children, are our family. They
13 knew that. They are trained detectives, seasoned detectives,
14 and I would submit to you that Detective Frebowitz is a very
15 seasoned detective. He told you on the stand he's taken
16 classes for interrogation, and then to make matters worse, he
17 walks up to her, gets out of his seat when this Defendant is
18 handcuffed and (claps hands) slaps his hands in her face. I
19 asked him on the stand, "Is that an assault? Did she
20 apprehend fear?" "I don't know. I'm not her." He was
21 intimidating her. His point was to squeeze her and pressure
22 her into telling him what he thought the truth was. The only
23 opinions in this case which are expert opinions that matter in
24 court are the experts, not the police officers. Their opinion
25 is not evidence, and if you listen to the audio, most of the

Closing Argument by Mr. Wilson

1391

1 people who were doing the talking were the detectives. "We
2 know there's more here. We know there's more here. If you
3 don't tell us, we're going to take your family away from you.
4 We're going to take your freedom away from you. We're going
5 to take your life away from you," and I asked Detective
6 Frebowitz, "Should a Defendant or a suspect or a person you're
7 interrogating, a victim trust you if you're lying to them?"
8 You heard him on the stand. He said, "No," should not trust
9 him, should not trust him, and I submit to you this Defendant
10 probably didn't trust him. That's obvious. It's human
11 nature.

12 The State says that they went to James's house, Coteara
13 Todd's house, and they got consent from her to search, and we
14 submit to you they did. They got consent from her. She
15 testified that she gave them consent. They go in and they
16 find a number with this Defendant's name on it. She let him
17 cut her grass in exchange for the lawnmower. That is in
18 evidence. Of course, he's got her number. Doesn't prove
19 murder. Doesn't prove malice, express or implied.
20 Let's talk about this gun, another piece of circumstantial
21 evidence, another piece of evidence that the State brings to
22 you hoping that because of the bad facts you will infer there
23 was a murder that took place. Let's talk about that gun real
24 quick. A 25 caliber is what they said the bullets were, 25
25 caliber. The expert, the ballistics guy, he gets up and he

1 tells you he can't tell you if it was fired by one gun or
2 two guns. He can't tell you if it was fired by one gun or
3 two guns. Inconsistent circumstantial evidence,
4 inconsistent.

5 Not only that, Faye Hunt gets up on the stand. Now,
6 let's talk about her testimony about the \$1 million policy and
7 the gun. Faye Hunt says she goes to the police station. She
8 talks with detectives for an hour, for an hour, ladies and
9 gentlemen. That is a long time and during that time she
10 doesn't write down a statement. She testified to it. She
11 leaves, comes back because Frebowitz directs the detectives to
12 bring her back in and then her daughter proceeds to write a
13 statement for her in which she says this Defendant had a 25
14 caliber weapon, pearl handle, silver or gold she said. She
15 admitted to being there that day when Amos brought by the
16 policy, and I asked her, "Weren't you the one who said rich
17 bitch, that this Defendant was going to be a rich bitch?" She
18 said, "Oh, no, no, no, no, no, no, no, no, no, no, that's not
19 the case," and mind you this is months before the actual event
20 occurred, before the murder occurred. She says that the
21 million dollar policy came in that day and that Amos handed it
22 to the Defendant and said, "Here. Put this in a safe place.
23 Put it in a safe place." They asked under cross examination
24 or direct examination, "Was it open when you found it?" When
25 they went in to search for this document was it open

Closing Argument by Mr. Wilson

1393

1 because if it was sealed the inference is then nobody read it,
2 but the detective testified it was open. It was open. This
3 Defendant is a registered nurse or was. She can read and
4 write.

5 Let's get back to the gun for a second. I'm going to
6 come back to the policy. Faye Hunt then tells the detectives
7 while she's at the station, "Had to be a 25 caliber. Got to
8 be a 25 caliber weapon. 25 caliber weapon." Teresa Phillips
9 got on the stand, and I asked Detective Vescovi the first day,
10 and you heard me inquire, I asked him on the stand, "Do you
11 recall talking to Teresa Phillips?" "I don't recall talking
12 to her." You're a detective in a murder case testifying under
13 oath. Your job is to come prepared. There is a lot at stake
14 for the State and for the Defense. How many witnesses got on
15 this stand and weren't prepared to testify about the facts in
16 a double homicide case, not prepared to testify about it? I
17 asked him, "Did you talk to Teresa Phillips?" "I don't
18 recall. I don't recall talking to a witness who I got a
19 picture from her phone of a gun which matches the caliber of
20 weapon in this case." He didn't recall that, and I don't know
21 if he didn't want to recall it or he honestly didn't recall
22 it, but he testified he didn't recall it. The next day I
23 bring him back in, ask him the same questions after we allowed
24 him to listen to his statement or listen to him talking to
25 Teresa Phillips. Now he remembers. Now he remembers. He

1 remembers having a conversation with Ronnie, who was Teresa
2 Phillips baby's father. He said it on the stand, and that his
3 son and Ronnie told him the gun didn't belong to them because
4 Teresa Phillips testified, "Oh, that gun belonged to my baby's
5 father." Odom Bryant was her boyfriend. Odom Bryant is a
6 Co-Defendant in this case, but the baby's father said, "No,
7 no, no, no." As a matter of a fact, what Detective Vescovi
8 finally said to you and admitted on the stand is that that
9 gun, that gun that he found on her phone matched the gun. He
10 says to you, "Yes. I remember talking now to her and I
11 remember Ronnie telling me, 'Yes, that is the gun. That's the
12 gun.'" He comes back in the room and calls her a liar and
13 says, "No, no, no, no. You just lied. That gun belongs to
14 Odom Bryant, a small pearl handle pistol," he says, "could be
15 a 22 caliber." He threw the 25 caliber in there, "And also
16 could be a 38," is what he said. That detective's been doing
17 law enforcement for a long time. I promise you he knows what
18 caliber weapon that is in that picture. He knows, but they
19 don't want to tell you that. Inconsistent, inconclusive
20 evidence of murder. Inconsistent, inconclusive evidence of
21 murder.

22 Let's go back to the insurance policy. Insurance policy
23 had three classes and we talked about this at the beginning of
24 this trial. The first thing I told you was this insurance
25 policy had three classes. If you're going to kill somebody

Closing Argument by Mr. Wilson

1395

1 for \$1 million, which is what the State's suggesting in this
2 case, in this policy you had to put them on a plane and make
3 sure the plane crashes and then make sure that no one finds
4 out that you caused the plane to crash. That's their
5 suggestion to you. They didn't tell you that it was only
6 going to be \$100,000 from this policy going to this Defendant.
7 They didn't tell you that; did they? They came into this
8 court and said to you in the beginning, "\$1 million, \$1
9 million," because that sounds salacious, sounds bad. That's
10 enough motive to kill somebody. This Defendant had a house, a
11 car, two failed marriages before and a man who was taking care
12 of her, treating her well. The property alone that he bought
13 for her was worth more than that. His life was worth more
14 than that. I would suggest to you alive he is worth more to
15 her than that.

16 I told you that I would talk about Tommy's drug problem,
17 and it is a common story in life. Folks deal with drug issues
18 all the time in our families and in our friends. It happens
19 every day, and family struggles to help, to assist, to try to
20 get them off drugs, to try to do what they can to help out.
21 That is a fact of life. That is not indicative of murder.
22 That is not evidence of murder in this case. He had a drug
23 problem. His father struggled to help him for a long time.
24 He loved his son. There's no doubt about that. No one says
25 that he didn't love his son. He loved his child. He loved

1 his family, and I would suggest to you based on everything
2 I've heard about this man he loved people in general. He
3 wanted to do whatever he could to save his son from death,
4 from some crazy drug dealers, from getting hurt by some crazy
5 drug dealers down at the bottom or locally and he'd gone
6 through a lot with his son, gone through years of drug
7 abuse, trying to help him, worried about him sick, trying
8 to find him. He'd gone through a lot with his son.

9 Now, I also want to talk about the gunshot residue test.
10 In this case the inference was that at some point in time this
11 Defendant or one of the Co-Defendants may have fired a weapon.
12 The Co-Defendants aren't here. They were never swabbed. The
13 police never got a chance to swab them. They were never
14 swabbed. This Defendant was swabbed. This Defendant was
15 swabbed. That morning when they got there they started their
16 work.

17 And you heard them on the stand. The general rule is
18 nearest and dearest, and if you believe for a second that they
19 didn't think that she was a suspect when they first walked in
20 to that piece of property and that they didn't treat her like
21 that, you got another thing coming. That's the general rule.
22 I asked him on the stand, "How do you start your
23 investigations when family dies, when there's a murder
24 obviously at the residence?" "Well, you know, we try to treat
25 them as victims," what they say. "You know, they're a

Closing Argument by Mr. Wilson

1397

1 victim." They try to tell you that they were treating this
2 Defendant as a victim. You heard them. Over and over again I
3 asked. "So she's a victim?" "Yeah, Mr. Wilson. She's a
4 victim. She's a victim." They get to the crime scene. The
5 first thing they do put her in the back of a police car. They
6 didn't ask about her ankle. They didn't ask her how she was
7 doing. They take her to the hospital to get the evidence. I
8 asked Frebowitz on the stand, he said, "Look, I wanted to take
9 control of the crime scene. She was a part of the crime
10 scene." I asked him, "So you had her in custody?" "I took
11 control of her." "If you got control of her you got custody
12 of her." "Yes," is what he said. She was already in custody.
13 She just didn't know it.

14 Chatfield gets on the stand. Frebowitz tells Chatfield,
15 "Take her to the hospital." Says it's a 40-minute ride. He
16 says they didn't talk about one thing. Whether he couldn't
17 recall, whether he is right, I'll leave to you, but 40 minutes
18 is a long time to be in a police car after a double homicide
19 and not to have any conversation with a person who may be a
20 suspect who was found at the scene. He takes her to the
21 hospital. Goes in with her. Waits there. I asked him, I
22 said, "You were waiting for her?" "No, no, no, no. I wasn't
23 waiting for her. I was waiting for Detective Frebowitz to get
24 there." What does your good sense tell you why they were
25 waiting for her? They took her to the hospital in a police

1 car. I then asked him on the stand, this is a double homicide
2 case. I asked him, "Did you take her then back after she got
3 done with the rape kit test and the blood, urine was pulled?"
4 "I don't think I did. I don't recall doing that. I didn't
5 take her. No, no, no," because if he took her she might be
6 considered to be in custody. He wasn't waiting on her. He'd
7 already testified to that. He wasn't waiting on her. He
8 wasn't waiting on her, not at all. "No, no, no. No, sir."

9 Then I ask him about his report. "Well, the last line of
10 the report says, 'Yeah, I transported her back to the M.L.
11 Brown Building.'" Not prepared to testify in a double
12 homicide case is derelict. Even worse though, to put it out
13 there that you didn't do something that you obviously did is
14 worse. From 4:00 o'clock that morning until 10:30 that night
15 this Defendant was in their presence, in their interview room,
16 in their handcuffs giving them information, being pressured,
17 and you have to ask yourself a question, "This is a serious
18 matter. Why aren't these detectives prepared to testify about
19 the entirety of all the evidence? Why is that?" I certainly
20 am curious and I hope you are, too.

21 Now, during the actual interrogation they tell her a
22 series of lies, and you heard them on the stand. They say to
23 her or say to you, "We can lie. That's one of the techniques
24 we use," and on the tape you can hear them telling her, "We
25 got your fingerprints on the roll of tape. We've got you on

Closing Argument by Mr. Wilson

1399

1 video doing X, Y, Z. We've got your fingerprints on the
2 doorknob. Science doesn't lie." The entire time they're
3 telling her lies, lies. They're telling her lies and they
4 admitted it. All of them said it. "Look, that's okay.
5 That's what we do. We lie." I asked Frebowitz, "Didn't you
6 tell the Defendant while she was in custody, 'You might lie to
7 me but I won't lie to you?'" I asked him that question, and
8 he says -- I said, "Well, wasn't that a lie?" He said, "Yeah.
9 That was a lie." I asked him that morning what evidence they
10 had that this Defendant was guilty? "Did you have her
11 fingerprints on anything?" "No." "Did you have her DNA on
12 something?" "No, sir." "Did you have her on video?" "No."
13 "But you were telling her the entire time you did. You had
14 all this evidence."

15 Now, during a portion of this video, which has been in
16 dispute, and I know the audio is not great, but during this
17 time they get to a portion, it's around 4:56 I believe is the
18 time stamp on it, and which is 16:56. They say they hear her
19 confess to robbery. I encourage you to go back and listen to
20 that tape. I asked Detective Frebowitz on the stand, "Did she
21 say she committed a robbery?" He finally admitted, "No. She
22 said I guess." He admits that. Then Sergeant Strickland gets
23 up and tells you, "Oh, yes. I was in there with Detective
24 Frebowitz, with Detective Cox standing at the door, and I
25 heard her say she committed a robbery. She was a part of it."

1 He gets on the stand and says that to you, when Detective
2 Frebowitz already testified about that time stamp. He already
3 said, "No, that's not what she said." And I played it for
4 Detective Cox who says that he remembered her saying, "You
5 know, I committed the murder" - oh, excuse me - "must have
6 committed the robbery." That's what he heard, but when I
7 played it he admitted on the stand, you heard it, "I guess,"
8 and now mind you, that statement came after they were telling
9 her she was going to leave the jail in a coffin. She was
10 never going to see her daughter again. Every time they
11 elicited a statement from this Defendants it was through
12 pressure and coercion. The question remains, does a lie equal
13 murder? Does a lie make you murder somebody? Is that
14 equivalent under the law to murder? Does that prove murder?
15 Do inconsistent statements prove murder? Some great
16 conspiracy for the \$100,000 policy, does it prove murder?
17 Does it prove that she caused the death of her husband and
18 stepson? That's the question. Did she lie? Absolutely. Did
19 she trust the police? Absolutely not. Did she have a reason
20 to trust them? No. Because they told her, no jury, no Judge,
21 nobody was going to believe her story, nobody. That's
22 pressure. Over and over again for a 12-hour period of time
23 while they're questioning her, "Nobody is going to believe
24 you," and I would submit to you this, Odom Bryant, there's
25 testimony in the record, a dangerous man. She says herself,

Closing Argument by Mr. Wilson

1401

1 "Bragged about doing an attempted murder." Do you think she
2 was afraid of him? Do you think she was afraid of him? Who
3 wouldn't be afraid? Who wouldn't be afraid of telling the
4 truth? That's human nature. Fear is not equivalent to
5 murder. Because you're human does not make you a murderer.
6 It's not equivalent. It's not proof beyond a reasonable doubt
7 that this Defendant committed murder. She had every reason to
8 be afraid, every single reason to be afraid. For those of you
9 who don't know what the bottom is, you heard testimony on the
10 stand it's a dangerous place. I ask Benji Hardie who saw, I
11 might add, Odom Bryant the day after the murder with a gun
12 matching the murder weapon. He admitted on the stand, "Yeah,
13 I saw the weapon. He pulled up his shirt and showed it to me,
14 and it was a 25 caliber." I asked him why he wouldn't
15 identify Odom Bryant or James. I asked him was he scared.
16 "Oh, no, I'm not scared." They come by that gas station every
17 day. That's a small community. Everybody knows everybody.
18 Everybody congregates at the Vasco, everybody congregates
19 there. I asked him, "Were you afraid." "No, I wasn't
20 afraid." You saw him on the stand. You saw him hesitate to
21 answer questions. He didn't want to be here. He said it, and
22 the reason he didn't want to be here because he was afraid to
23 identify anybody because he knows better. He knows better.
24 Detectives asked Teresa Phillips was she afraid of Odom
25 Bryant. Why do you think they were asking that? Why do you

1 think the police were asking whether people were afraid of
2 this man? I wonder why.

3 This Defendant said during her time in the interview that
4 she'd gone to IGA. She told the police that. They said they
5 went there. They didn't find anything. Lo and behold, in her
6 pocketbook when they go and do a search on her house they find
7 a receipt for IGA for beer and cigarettes, and I apologize,
8 there was no sugar on the receipt. Beer and cigarettes that
9 day, beer and cigarettes she says she gave to the Defendants,
10 the Co-Defendants, specifically James who cut her grass who
11 she knew. Gave him beer and cigarettes. For what? To do a
12 murder? There is no evidence in the record she gave them
13 anything else or promised them anything else, beer and
14 cigarettes. Does that sound like somebody's going to do a
15 scare tactic or scare somebody or does that sound like murder?
16 "Here are these beer and cigarettes. Go and murder somebody
17 for me because I'm a nice lady." Does that make sense? Is
18 that conclusive evidence of murder or a conspiracy to commit
19 murder?

20 I asked Detective Martin, "Was that scene at the house
21 clean? Did someone try to wipe up blood, clean up the scene?
22 Was there evidence -- there was blood in the sink? Was there
23 evidence that anyone tried to clean that crime scene? Any
24 evidence?" He said, "No. I don't believe so," and I'm going
25 to tell you right now, if there was evidence that someone

Closing Argument by Mr. Wilson

1403

1 tried to clean that crime scene you would have heard about it
2 up on the stand. Detective Martin would have said it to you.
3 He would have said, "Yes. I saw smears of blood on the floor
4 like somebody tried to wipe it up. I smelled Clorox like
5 somebody was trying to clean something. I smelled dish
6 washing soap or Tide," and when I tell you that Detective
7 Martin went over that house with a fine-tooth comb, you better
8 believe he did. They removed a door. They wanted to make
9 certain. They were going to convict this person, Sandy Lee
10 Locklear, and they were going to try to find all the evidence
11 they could to do it. The problem is there was no evidence.
12 There was no evidence. There was no evidence. When they go
13 into the room into the interrogation room they had zero
14 evidence, nothing. They testified to it, if you believe them.
15 They didn't know, they say, that the rape kit was going to be
16 negative, and I might add, the rape kit was never even
17 assessed. They based their knowledge off of what the nurse
18 said. They never even did the rape kit. They based their
19 knowledge off of what the nurse said, and I ask you this, why
20 do you think that they do an initial analysis at the hospital
21 and then have it transferred to SLED for testing? There's a
22 reason why they do that. The reason is because you can't
23 always determine what happened at the hospital. That's why
24 they give the secondary analysis at SLED who has the expertise
25 and the equipment to determine what happened.

1 Now, when you look at the evidence and how it was
2 collected and you look at what went on in the interrogation
3 room with all the threats, when you look at it and you ask
4 yourself, "Well, at point A when they started their
5 investigation that morning, they had no evidence to convict
6 this Defendant of murder." They then held her in there for a
7 long time. At 4:56, you know, they began to talk about her
8 coffin and all this other stuff. They then held her for a
9 another six hours after that after they told her they were
10 done with her, after they told her, "We've got transport
11 coming to pick you up because we don't want to talk to you
12 anymore," and they actually said it three times. Three times
13 they said it to her. Why do you think they kept her in that
14 room? If they had all the evidence they needed to convict her
15 of murder why continue to question her? Because they didn't
16 have anything, nothing, not forensic evidence. They don't
17 bring you any forensic evidence whatsoever, nothing, no direct
18 evidence at all in this case. Every last bit of this evidence
19 is circumstantial, and I would tell you weak circumstantial
20 evidence, not substantial at all, not at all. Bad facts and
21 circumstances does not equal murder. They don't have
22 fingerprints. They don't have the murder weapon. They don't
23 have fingerprints on the murder weapon. They don't have
24 gunshot residue, which they tested for, from this Defendant.
25 They don't have the Co-Defendants saying this happened. They

Closing Argument by Mr. Wilson

1405

1 don't have any evidence other than the conjecture and the
2 inconsistent statements. The conjecture that this Defendant
3 had a 25-caliber pearl handled pistol when Odom Bryant was
4 seen before with access to it and after with access to it.
5 They couldn't even get a search warrant without Faye Hunt's
6 affidavit statement. They couldn't get a search warrant for
7 this Defendant's house without that statement. That's how
8 little evidence they had at the time when they arrested her,
9 and I want you to go back and look at the evidence. After
10 they got Faye Hunt's statement they go to the house, break in
11 and get the policy. They don't find any bullets matching 25
12 caliber. They find no gun box at all, nothing suggesting that
13 she had a weapon, not one thing, not one thing, but they
14 needed Faye Hunt's to get into that house and to get to the
15 policy. They had to have her. They couldn't do it without
16 her. The detective testified about it. I asked him, "Could
17 you have gotten that search warrant without Faye Hunt?" "No,
18 we could not have." They run down to Tabor City, tell the
19 magistrate, "We've got multiple statements." They had one.
20 They had one statement. Go down, swear to the magistrate they
21 had multiple statements and then get their search warrant.
22 After that, though, and you look through the evidence records,
23 after that, ask yourself, what evidence they got against this
24 Defendant that would rise to a level of beyond a reasonable
25 doubt. The gun, inconclusive evidence. The policy, not

1 equivalent to murder. Inconsistent statements, not equivalent
2 to murder. The text messages, not equivalent to murder.

3 When you're in a trial you have -- the State has to bring
4 -- I apologize, not you -- the State must bring you conclusive
5 evidence which points in one direction at one person, an
6 individual they're trying right now for murder, conclusively
7 point to evidence. If it's circumstantial evidence, it's got
8 to be conclusive. It's got to be consistent throughout.
9 Can't contradict itself. It's not a guessing game. It's not
10 a gut game. It's an evidence game.

11 Down here at the base of these steps that we prepared for
12 you, I want to discuss the levels of evidence with you and how
13 they apply in different situations. When the police got down
14 there to the house, this is what they had, no evidence, no
15 evidence. Even after Detective Martin goes into that crime
16 scene, and even though the police lie in the interview room,
17 they got no evidence, none. They needed her to confess.
18 That's why they kept her for 12 hours. There was no evidence
19 because if they've got no evidence she is not guilty. If
20 they've got no evidence she's not guilty. It wasn't a fluke
21 that they kept her there for that long. It wasn't a fluke at
22 all.

23 The next level of evidence is called a scintilla of
24 evidence, any evidence at all, even the smallest measurable
25 amount of evidence. That is a miniscule bit of evidence,

Closing Argument by Mr. Wilson

1407

1 tiny, small bit of evidence. That's what you've got to have
2 for a scintilla. That is a small bit of evidence, just a
3 little bit. We ain't even talking about fingerprints. We
4 ain't talking about merely being there because mere presence,
5 and the Judge will tell you this, the fact that she was merely
6 there is not evidence of her being a murderer. That's not
7 evidence of murder, not evidence of murder. If there's no
8 scintilla, if you don't find beyond a scintilla, then she's
9 not guilty. There's no physical evidence whatsoever this
10 Defendant committed a crime.

11 The next is reasonable suspicion. Should be based on or
12 specific or particular facts, reasons not based on a hunch or
13 a guess. The police can pull you over reasonable suspicion.
14 They can talk to you for reasonable suspicion. They can't
15 arrest you for reasonable suspicion. They can't get an arrest
16 warrant for you for reasonable suspicion. Are the
17 inconsistent statements suspicious? Yes. Absolutely.
18 The text messages, do they rise to the level of suspicion?
19 Of course, they do. I would be lying to you if I told you
20 they didn't. Are they suspicious? Yeah. Are they evidence
21 of murder? No. Because they're not conclusive and
22 consistent enough. It's not enough, not enough. Not
23 guilty.

24 Probable cause, that's what they needed to get the search
25 warrant to go into the house of Sandy Locklear. They had to

1 have probable cause. That's why they got Faye's statement.
2 That's why Frebowitz says, "No, no, no, no. You talked for an
3 hour. Bring her back. We've got to get this down because I
4 want to get in that house." They couldn't get a search
5 warrant without it. Even though they put her in cuffs,
6 handcuffed her hands behind her back for an hour and then had
7 her handcuffed for another six hours to a chair, they didn't
8 have enough. They needed more. They needed more, and
9 conjecture about a policy and a gun is not enough. Not
10 guilty.

11 Preponderance of the evidence is the next level that
12 we're going to talk about, the greater weight of the amount of
13 evidence, more likely than not. That is the standard they use
14 in civil trials in South Carolina, and I would suggest to you
15 everywhere else in the United States. Tipping the scales is
16 what they call it, 51 percent. You need 51 percent, and this
17 is a criminal trial. This is not a civil trial. The standard
18 in civil trials is lower than the standard in criminal trials.
19 Suspicion, yes. Do they get beyond preponderance of the
20 evidence, I would suggest to you not. Does the evidence tip
21 the scale? Does it tip the scale? Is it conclusive? Is it
22 consistent? Is the gun enough? Is it enough? Even though
23 Odom Bryant was seen with it, is that enough? Never put the
24 gun in her hand, never found any bullets, no GSR. Not
25 guilty.

Closing Argument by Mr. Wilson

1409

1 Clear and convincing is the next standard, a little bit
2 higher than preponderance of the evidence, but not as high as
3 reasonable doubt. A firm belief of the allegations that
4 they're true, firm belief, and we're way beyond now reasonable
5 suspicion. We're way beyond probable cause, which they needed
6 to get the actual warrant to get into the house. They don't
7 have any other evidence beyond that probable cause standard,
8 and I would suggest to you when they got that it was
9 incorrect. Reasonable suspicion is where they really were.
10 That's where they were. They were at reasonable suspicion.
11 We all agree it's suspicious. Is it evidence of murder? Is
12 it conclusive of murder? Is it conclusive of murder, all the
13 things that you've heard, the things that you've heard in this
14 case, police officers getting on the stand not knowing the
15 answers to questions, not having their case files, is that
16 indicative of a trial where someone should be found guilty for
17 murder? Police officers are charged with coming to court and
18 telling the truth just like everybody else that takes the
19 stand and gets up here. That's their responsibility. That's
20 their job. That's what they do. And to come into court not
21 prepared, not knowing the facts of this case, not knowing who
22 you talk to is not good. Furthermore, not bringing enough
23 evidence to convict or to even get past reasonable suspicion
24 is a problem. Inconsistent evidence throughout, not one piece
25 of direct evidence, not one thing, not one thing they've got

1 beyond Faye Hunt's statement when they got the probable cause
2 search warrant in North Carolina in Tabor City.

3 And the last standard, which is the chief standard, the
4 standard in this case is beyond a reasonable doubt, no doubt
5 in the mind of a reasonable person. That is a high standard,
6 and it's not about your gut feeling anymore. We're way beyond
7 gut feelings here. This is about evidence, about evidence,
8 about evidence. You swore an oath, and it's difficult. I
9 don't envy this position you're in, but you swore an oath to
10 follow the law and the evidence. I'm asking you, I'm asking
11 you, looking at the evidence, you sat here for a long time,
12 looked at the witnesses, you heard everything, you saw all the
13 evidence in this case. I am asking you to come back with a
14 fair verdict of not guilty for murder, and the reason I'm
15 asking you that is because the State has failed in its
16 obligation to prove beyond a reasonable doubt that this
17 Defendant committed murder. That's what this system is about.
18 That's what this is about. It's about a fair trial. Each
19 side gets to put up their evidence and then you have to, if
20 you don't believe that the evidence goes beyond a reasonable
21 doubt, they don't make that mark, and you go through all these
22 steps, they don't hit that mark, by law, not my opinion, the
23 Judge will tell you, by law, you have got to come back with a
24 verdict of not guilty. Conclusive and consistent evidence is
25 what the law requires for a circumstantial evidence case to be

Closing Argument by Mr. Richardson

1411

1 -- have -- to have a Defendant found guilty of murder,
2 consistent and conclusive. Thank you very much, and I
3 appreciate your time.

4 THE COURT: All right. Mr. Richardson.

5 MR. RICHARDSON: It was with a cold-blooded, calculated,
6 evil heart, this Defendant, with a soul devoid of all but lies
7 and deceit and an insatiable greed, it is with that that this
8 Defendant planned, plotted, schemed and conspired to carry out
9 her dastardly crimes, and then lied again and again in a vain
10 attempt to try and cover them up and try and help her co-
11 conspirators to escape the brutal execution style murder of
12 Tommy Hatfield, her patsy, her fall guy. She knew his
13 history. She could put it on him. It was on him, and Amos
14 Hatfield, the man who had to die to feed her greed. Make no
15 mistake about it, folks, this was about the insurance policy,
16 and while Mr. Wilson wants you to look into that policy and
17 tell you if you do a careful look and you're able to read a
18 policy, maybe if you're an insurance agent or lawyer and you
19 can read down and say classes and this applies here and that
20 applies here, it's only worth \$100,000, but the only evidence
21 we have of what was in the Defendant's mind was what she told
22 Faye Hunt. There's no testimony that she's read the policy,
23 none. Those envelopes, yeah, they were open. Amos must have
24 opened them. They have signatures on them. You'll see it.
25 Amos said these are important papers, but what did she tell

1 Faye? "This is my million-dollar policy, and when that old
2 SOB dies I'm going to be a rich," you know what she said.
3 It was always about the policy, folks. She wanted the
4 mother-load. She wanted that gold at the end of the
5 rainbow, and the only way for her to get it was for her to
6 have Amos killed, and so she plotted and planned and
7 schemed, and then she attempted to cover it up with lie after
8 lie, and as she wove this ever-changing web of lies, the
9 police did not believe her. They did not buy it, and neither
10 should you.

11 You've heard the evidence. It's been a long trial, and I
12 do thank you, but at the end when you render your verdict you
13 call her for what she is. Don't give her what she wanted.
14 You give her what she deserved, what she has earned. You find
15 her guilty for the murder of Tommy Hatfield. You find her
16 guilty for Amos Hatfield's murder. You call her guilty
17 because that's exactly what she is.

18 In a moment His Honor is going to start giving you the
19 jury charges, instructions. I think Mr. Wilson talked about
20 the law some, but the Judge is going to be the one, the chief
21 one who is going to instruct you on the law. He's going to
22 remind you you are the judges of the facts. You weigh all the
23 evidence, all the testimony you heard here in court,
24 everything that's been admitted, but he's going to tell you
25 he's the judge of the law. So he's going to give you the law

Closing Argument by Mr. Richardson

1413

1 to apply to those facts, the ground rules, what you need to do
2 to weigh it out.

3 He's going to talk to you about credibility of witnesses.
4 It's believability, folks. You do it each and every day of
5 your life when you're talking to somebody. "Can I believe
6 what they're saying? Does what they're saying make sense?
7 Does it add up with what I'm seeing?" The Judge will tell
8 you, you can take part of what somebody says, all of what they
9 say. You can throw their entire testimony out. You can
10 believe one witness over many, many over one, but folks, it's
11 up to you. You use your common sense. How did they appear
12 here in court? Were some ill-prepared? Yes. The crime
13 happened almost two years ago, and when they refresh their
14 recollection, they say, "Oh, yeah. I do see it here. I do
15 remember that now."

16 The Judge will talk to you about direct and
17 circumstantial evidence, and he'll tell you direct evidence is
18 just that. It is something somebody saw, something somebody
19 heard, someone claiming to have actual knowledge. "I saw
20 Johnny at the store. I heard her say she was going to kill
21 him. I heard her say she wanted that money." He'll talk to
22 you about circumstantial evidence, and he'll tell you that
23 circumstantial evidence is proof of a chain of facts or
24 circumstances which help to establish yet another fact,
25 there's evidence from which a collateral, collateral facts are

1 immediately established that help to infer the main fact.
2 That's right, you use inferences, and I heard Mr. Wilson's
3 story about the raincoat and everything, but one I've always
4 heard is I go home tonight and there's clouds outside. I hear
5 thunder, see a little bit of lightning, but I get home, the
6 grass is dry, the pavement's dry, the driveway's dry, and my
7 car is dry. I get out. It's dark. I'm tired, and I go on in
8 the house, go to sleep, and I wake up the next day. Puddles
9 in the grass, on the pavement. My driveway is wet. There's
10 water on the car and it's dry up under my car. Then I can
11 infer that it has rained. Now, there may be some other things
12 that I see and say, "Huh, did it rain?" I think he used the
13 sunglasses, but in his example I daresay if the girl comes in,
14 whether she's got sunglasses on or not, if she's got water on
15 her head, she's got an umbrella, duck boots, her coat, it's
16 probably raining outside, and that's not inconsistent but
17 that's circumstantial evidence, folks.

18 He'll talk to you about the hand of one is the hand of
19 all, and that when two or more people conspire together, act
20 together to commit a crime that any act taken by anybody in
21 that conspiracy, anybody involved in the crime is the hand of
22 one. They, each person is responsible. Me and Ms. Wooten
23 enter in to go rob a store. I shoot somebody during that
24 robbery. She's just as guilty as I am. That when two people
25 act together, are together, carry out a crime together, that

Closing Argument by Mr. Richardson

1415

1 then act of one is the act of all or the hand of one is the
2 hand of all, and even though only one finger pulls the
3 trigger, one gun is used, one bullet kills somebody, everybody
4 involved in that crime that's there, they're guilty.

5 And the Judge will talk to you about mere presence, but
6 that's not what we have here. He'll tell you that just
7 because somebody is there doesn't mean they're guilty. They
8 have to take an active part like texting. "Yeah. The back
9 door is open." Like planning, "Be here at this time. Be out
10 in the yard waiting." That's what Sandy Locklear did. She
11 took an active part. She let them in. Can't tell you whether
12 she pulled the trigger or not, but I can tell you who steadied
13 the gun, who aimed it, who found the targets.

14 The Judge will talk to you about the statement of the
15 Defendant, and the Defense does not like that statement. They
16 like one little part, that tale end after she's had all day to
17 think about, "Oh, my Lord, they have -- they've uncovered
18 every lie I've told. Let me tell them one more," but the
19 Judge will tell you that the statement's been admitted into
20 court. It's been deemed admissible, but it's up to you,
21 first, to determine whether or not she made the statement, the
22 second as to whether or not it was voluntary, and yes, it has
23 to be voluntary. It has to be -- what she's saying has to be
24 the product of her own free will, not because somebody has
25 threatened her, not because she's under a great amount of

1 duress, but she's got to want to say what she's saying, and
2 the Judge will tell you that you take in a lot of factors in
3 weighing out whether or not the statement was voluntary. One,
4 her age. She was 40, I think two days shy of 41 at the time.
5 Her background, she had worked as not a registered nurse but a
6 CNA, a noble, noble field. She could read and write. I
7 believe she said that she had an eighth grade education,
8 seventh or eighth grade. Her mental state, the Defense put up
9 a witness trying to say she was high, she was drunk, but we
10 heard from a trained medical professional, Nurse Moore, right
11 here, who told you her answers were clear. They were precise.
12 She wanted to talk. So we know how she was acting that day.
13 The time and length of the interview, I'll submit she was at
14 the police department a long time, 12 hours. The first hour
15 she was there as a victim witness. You can hear from the tone
16 of Detective Frebowitz's interview with her. She's just
17 talking and rambling, and then -- and that's for about an hour
18 and then over the course of the next 11 hours she's
19 interviewed for about three and a half hours more, and in
20 those intervening points you heard testimony about how she's
21 left alone in the room, she's given bathroom breaks, something
22 to drink, something to eat. They go and buy her a pack of
23 cigarettes, let her take a couple of smoke breaks. She can
24 lay her head down, rest, if she wants. So it's not one
25 continuous interview. The nature of the questioning, and yes,

Closing Argument by Mr. Richardson

1417

1 the officers get harsh with her. Get lied to for three hours
2 and you're going to, you're going to start to get harsh.
3 You're wondering, "We have told you we know you're lying.
4 What is going to get across to you? Do we have to talk about
5 your children? Do we have to talk about the possible
6 sentences? Do you think that we're still believing your
7 lies?" So, yes, they get a little bit harsh, but also, is she
8 advised of her rights, her constitutional rights, and we have
9 concrete evidence of that, folks. You heard Detective
10 Frebowitz actually read her her rights when she ceased to be a
11 victim witness and she signed off. She knows that she had the
12 right to remain silent. She knows that she had the right to
13 an attorney. She didn't have to talk, but she wanted to talk.
14 She waived those rights. She wanted to talk. She wanted to
15 explain away her prior inconsistencies on the 911 tape, her
16 prior inconsistencies at the hospital, her prior
17 inconsistencies when she talked to Neil Frebowitz as a victim
18 witness. She was eager to lie again and again because she
19 knows that her plan is coming unraveled. So not only was this
20 a voluntary statement, it was one eagerly given with all due
21 earnest.

22 The Judge will talk to you about the law of voluntary
23 manslaughter, but I submit to you that's not what we have
24 here. This is not a case where somebody did a lawful act in a
25 reckless manner and death occurred, and it's certainly not a

1 crime where death doesn't normally occur. She planned a
2 brutal murder for insurance money. So it's not voluntary
3 manslaughter. It's murder, and the Judge would tell you that
4 murder is the unlawful killing of another with malice
5 aforethought, malice aforethought. That's hatred. That's ill
6 will, and Mr. Wilson wanted to talk about there was no malice
7 here. No, there's no express malice. None of those text
8 messages said, "Hey, I'm going to kill you right now. I hate
9 you." That is express malice, but there's implied malice,
10 too. He mentioned it, but he didn't talk about it. When you
11 hire two people to come in and kill, when they're put down,
12 Tommy Hatfield on the ground and put a gun to that pillow and
13 fire into his head, when they do Amos the same way, there's no
14 doubt about it there was hatred and ill will there. There was
15 malice there. It was done for profit. So certainly, it's
16 murder, but how does the, how does the State prove any part of
17 the case? I'm not going to bore you with scintillas and
18 whatnot, manners of proof that don't pertain to this case.
19 We're talking about reasonable doubt, folks. We have all
20 heard it. I daresay each and every person here in this
21 courtroom today has heard the term reasonable doubt, be it
22 movies, books, TV, wherever, but what does it mean? You're in
23 luck because the Judge will tell you what beyond a reasonable
24 doubt means. He'll tell you that the State must give you
25 evidence that leaves you firmly convinced of the Defendant's

Closing Argument by Mr. Richardson

1419

1 guilt. That's all. All that mess about scintillas and listen
2 to reasonable doubt. Listen to the Judge. The State must
3 give you competent, admissible and relevant evidence that
4 leaves you firmly convinced of the Defendant's guilt. That's
5 the State's only job, to give you the evidence that will help,
6 assist you the triers of fact in rendering a true and just
7 verdict. Our job is not to try and get you lost, to pick out
8 little parts of the statement out of context and hope, hope
9 you just miss, miss the trail. They talk about Tommy's past
10 drug history. They talk about semantics, the difference
11 between resign or retirement or interview or interrogation,
12 and hope that you'll, you'll lose sight and you'll just miss
13 the ball. We don't try and take you down little dirt trails,
14 little dirt roads hoping you'll get lost, throw up your hands
15 and say, "I give up. I don't know." Our job is to give you
16 the relevant, most importantly, the competent and the
17 admissible evidence that will assist you. So let's take a
18 look at that evidence.

19 And I submit to you that statement, it's a big part of
20 it. Now, ordinarily, I don't stand before a jury with any
21 notes or anything. I've had the case, but the web of lies and
22 her stories change so much that, that I did make some notes on
23 those statements. So, so I just want to go through them real
24 quick.

25 Version number one, her 911 call. Certainly that's

1 voluntary. She's the one that makes the call. What did she
2 tell us? "There was a shooting. These boys, they raped me.
3 One was white. One was Hispanic." Later on she says, "White
4 and mixed race, but they sure weren't black. I know the
5 difference." Already she's trying to get the police to look
6 somewhere else. "Don't look for these two guys over in Tabor
7 City that are my co-conspirators. Look for a white guy. Look
8 for a light-skinned guy, maybe Hispanic, maybe mixed race. My
9 husband's on the floor. He's shot in the head, and there's
10 blood everywhere. They came in through the back door, and I
11 don't know where Tommy is." "Who's Tommy?" "Oh, he's my 40
12 years old stepson." She says his age. That's incredibly
13 detailed for somebody they're wanting to say is confused. "I
14 can't move. I got the tape off my legs. They tied me up in
15 the bedroom. They tied me to the bed." The police come in
16 and they treat her as a rape victim. It is protocol for them
17 to transport her to the hospital for a rape kit. She's a
18 victim. She's got to be treated. What does she tell Nurse
19 Moore at the hospital? Now given, mind you, this isn't law
20 enforcement. This is Nurse Moore, no reason to lie to Nurse
21 Moore, but she does. She's planned her story. As Nurse Moore
22 said, "She's very precise, very detailed," because she's
23 rehearsed this story. She states, "Some guys broke into the
24 house. They had guns on us. They were yelling, 'I'll get
25 you.'" Here they're already saying, "I'll get you." "They

Closing Argument by Mr. Richardson

1421

1 raped and bit me. I have this bite marks all over," but what
2 did Nurse Moore say? "I wrote down suspected bite marks
3 because I couldn't really see anything. I didn't see any
4 teeth. I wrote them down because she said they were bite
5 marks." "After they broke in, they stopped and flipped me
6 over, raped me. Then pulled me by my hair down to the
7 bedroom. I got raped in the bedroom and Amos watched it.
8 Then they drug me back to the living room. I heard them
9 beating on Tommy. I mean, not, not hit Tommy but beating on
10 Tommy," and there's only one injury to Tommy other than that
11 gunshot wound. "I heard a gunshot. He tied me up, put tape
12 over my mouth, raped me again, and I didn't do no drugs. I
13 had no alcohol. It was only vaginal sex, but, but I got these
14 bite marks in weird places, not on the neck, not on the
15 breast, but they're here on my belly." They could have been
16 pinch marks. There were no tears, no bruising, no hairs
17 ripped out. Now, she's saying she's been drug caveman style
18 down a hallway, but she has no hair ripped out. The only
19 thing that they could find is what she says is, "My hairline
20 is tender, tender." Some of that soft tissue stuff, you just
21 can't see it. You got to depend on her.

22 She goes in as a victim, a witness and Neil Frebowitz,
23 you heard him in the room sitting down with her, tried to get
24 her something to drink, tried to get her to eat a little bit,
25 and he's trying to find out. She is the lone survivor.

1 Miracle of all miracles these guys brutally came in and killed
2 two people but left her alive but he's got to talk to her.
3 She's witnessed everything. She says the back door was kicked
4 open. There's no evidence it was destroyed or anything. That
5 lock wasn't messed up. They said, "We've got you Tommy."
6 Already she is shoveling dirt on Tommy. It's got to be about
7 Tommy. "Amos was hit in the back of the head with a rifle and
8 Tommy," excuse me, "They beat the shit out of him, not hit him
9 once, but beat him badly. They flipped me over, raped me
10 right there, right in the kitchen. Then the other guy pulled
11 me by my hair down the hallway again. I was hit. They were
12 slapping me." At one point she says, "Felt like little pieces
13 of metal as they were slapping me," but she's got no bruises,
14 no marks. "One guy was white with blue eyes. The other guy
15 was black, light skinned. They were going after Tommy." It's
16 all about Tommy, and, "For whatever you do, whatever you do
17 don't look for two black guys. I don't want you looking for
18 that. I'm trying to drag you away from what really
19 happened."

20 "The white guy raped me first. He had a big old rifle.
21 Never heard either of these guys' names. I don't know them."
22 Then she goes on and she describes her rental car in a little
23 bit of detail. Heck of an item to remember for somebody that
24 keeps on blacking out during this and having trouble
25 remembering things.

Closing Argument by Mr. Richardson

1423

1 "I was there 30 minutes before the guys showed up. They
2 bust in through the back door. It came flying open. One had
3 a small black gun. The other one had a rifle. The black dude
4 had the small black gun. The white dude had the big old
5 rifle. Hit Tommy in the back of the -- or hit Amos in the
6 back of the neck," but there's no contusions to the back of
7 his neck. You heard Dr. Proctor. "The white guy stripped me
8 of everything right there in the kitchen." Detective
9 Frebowitz later says, "They ripped off your bra and panties in
10 the kitchen?" She says, "Oh, yeah, right there." The bra and
11 panties were found in the bedroom, and you look at them.
12 Folks, they're in evidence. The bra has been cut. Nurse
13 Moore told you she didn't see any marks around where a bra
14 would have been ripped off or where panties were ripped off.
15 Look at the panties. Use the gloves if you need to with any
16 of these items, but those panties look like somebody picked
17 them up by hand and just ripped them up because they're
18 staging a scene.

19 "By the way, Sylvia cannot stand her brother." Put it on
20 Tommy. "Talk to Sylvia. Bring Sylvia in because a crying
21 hysterical daughter, sister, she'll be a heck of a distraction
22 and maybe you won't question my story too much."

23 "I was tied up and they raped me. I remember telling 911
24 I had been raped, somebody broke in, I think they killed Amos.
25 I'm a very private, though. I don't party. I don't go out in

1 the streets." Well, Faye puts a lie to that; doesn't she?
2 "Tommy used to hang out with drug dealers. He owed them
3 money." Once again, bang that Tommy drum. It's all about
4 him. That's her patsy. That's her fall guy, and when
5 Detective Frebowitz talked to her about fingerprints or DNA or
6 even cell phone records, she wasn't a bit scared. You know
7 why? Because it was all part of the plan. She knew that her
8 co-conspirators had already taken that car. They burned it
9 up. Any DNA is gone. There's not going to be any
10 fingerprints of anybody else in that car because they burned
11 it up. She doesn't think they can get the cell records
12 because she's burned her phone up. You heard Detective
13 Vescovi, it's common knowledge in law enforcement we can --
14 that they can get cell, text messages. Don't think it's, it's
15 that common private citizens.

16 Officers leave the room for a little while and they come
17 back a short time later. They give her Miranda, and now she
18 says, "Before I was raped I was tied up." Before she said she
19 was raped first and then tied up. So her story's changing
20 already. They came in and they had some tape. You've got to
21 put that tape detail in because it's Amos's tape. It's an
22 afterthought. "Oh, yeah I asked them to tape me up so it'd
23 look a little bit better." "They popped Amos in the back of
24 the head now and he went down." Once again, no other marks on
25 Amos. "The white guy had the rifle and the black guy had the

Closing Argument by Mr. Richardson

1425

1 small gun. The black guy was by Tommy. I heard a bam after
2 the white guy raped me, and then the black dude, the guy with
3 the pistol comes and drags me down the hall and begins raping
4 me and he's raping me. I hear another bam." The same caliber
5 gun fired both shots. So we know that's inaccurate. It's not
6 a rifle shot. The white dude's the one left alone with Amos
7 at that point. So I guess they switched the guns up by her
8 story, and the police tell her, "We don't believe you. You've
9 been lying to us," and she dries up. There's no tears at this
10 moment, and she says, "I don't know what you're talking about.
11 I was raped"." Is that the behavior of somebody who's been
12 raped, somebody who, who's been confronted with the fact that
13 the police don't believe her? No, and she says, "I don't know
14 who did this. I came in my car alone." She volunteers this.
15 "I came in my car alone. I was by myself. I don't know who
16 did this. I don't know them. I swear to God. I saw some
17 guys at the store. Oh, yeah, yeah, somebody was looking for
18 Tommy, and I saw some guys at the store. They were there for
19 Tommy, looking, looking for Tommy, but they didn't ride with
20 me. They didn't follow me and this happened about 10:45."
21 Mr. Wilson wants to bang on the drum about the IGA receipt,
22 and they didn't look at the video at IGA and find it, but she
23 told them look at 10:45. They're looking between 10:30 and 11
24 at these other stores. No video. "I didn't bring them
25 nobody." The police tell her they don't believe her but they

1 say, "All right. Go ahead and write out a statement." You're
2 going to have the written statement, and in it she says,
3 "Between 10:30 and 11 I stopped by the store." Once again,
4 now they're going to be looking for videos. "Two guys asked
5 me at the store if I knew Hatfield, and I said, 'Yes, he lives
6 on Red Bluff Road.'" Why would you volunteer that
7 information? "I was back at Amos's house 15, 20 minutes
8 before the door flew open. The white man tied me up with tape
9 and snatched my bra and panties and he tried to rape me." She
10 knows there's no evidence of the rape now. She knows they
11 don't believe her. So now it's, "Okay. Well, you didn't find
12 any evidence because all he did was try to rape me but he
13 didn't, didn't get it done. The white man got up and I heard
14 a gunshot. The other man pulled me down the hallway by my
15 hair. He was about to rape me but then I black out." She
16 blacks out a whole lot. She's writing that statement for
17 about an hour or so, and then police come back in and they
18 read her statement. They can't find any evidence of anything
19 she's said thus far, and she said it again, "I was at the
20 store at 10:45 getting gas so I could go to Maxton to pick up
21 my daughter the next day. Amos called and said, 'Why don't
22 you just come on over here.' I was at the house 20 or 40
23 minutes before the guys broke in. It was 11:30 maybe 11:40."
24 The time is sliding a little bit now. "I kept blacking out,
25 and by the way, I've got a tumor behind my right eye. That's

Closing Argument by Mr. Richardson

1427

1 why I keep blacking out." Before she had also said that she
2 had been raped by her dad at the age of nine, going for pity.
3 Distract, distract, distract, let my co-conspirators get away.
4 They ask her why did they let you live, and she just says, "I
5 don't know." They let her live because she's the paymaster.
6 They can't collect on the insurance unless she does. She
7 volunteers again, "Don't nobody come to my house." Why did
8 she say that? Because she does not want the police looking in
9 Tabor City. "Don't look in Tabor City because you might find
10 my partners." "Everybody knows about me and Amos," but then
11 later on she says, "We don't go out in Loris that much." So
12 if they don't go out, how does anybody know about her and
13 Amos?

14 She describes her loaner car in the interview, that it
15 has 13,000 miles. That's an incredible detail to remember
16 because I drive my truck every day and I couldn't tell you how
17 many miles are on it right now. I can give you a range of
18 maybe 10,000, but she's able to remember the details on that
19 rental car because that rental car is important. She had to
20 get that rental car that day because she didn't want her car
21 burned up. It was all part of the plan.

22 "I think these guys came from Loris. Whatever you do
23 don't go looking in Tabor. It had to be somebody Tommy knew.
24 I've got to keep it focused on Tommy." The police leave.
25 They're going looking for video again. She's given some new

1 stores, and they're looking and they can't find anything
2 because she hasn't given them the right time to look because
3 she's trying to hide facts, and officers come back in and now
4 she says she and Amos went to the IGA but she doesn't give
5 them a time. We know the time. It's 9:00 o'clock I believe
6 by the or two minutes till nine by the IGA receipt. "I seen
7 them, the white guys or the guys right across the street from
8 the IGA." She's told, "We've watched all the videos. We
9 don't see anything like this," and she says, "Okay. Okay.
10 Okay." They talk to her about prison sentences, consequences
11 of what she's done, and she says, "Okay. Okay. Let me tell
12 you what happened. I swear to God," and I guess the first
13 swearing didn't take. Now she says, "I spoke to Amos about
14 8:30 or nine. He agreed to buy me cigarettes." We can
15 believe that. Faye tells you, "Amos brings her whatever she
16 wants." "I went back home to Tabor City and I stopped at the
17 Hot Spot to get gas and then Amos called, asked me to come
18 over. I went over and nobody was behind me, you all. I went
19 through the front door, and Tommy gave me some rice and beans
20 or ham." She remembers what she had to eat, "And then we had
21 ice cream and we smoked cigarettes." She's incredibly
22 detailed at that point, rice and beans or ham, but then she
23 blacks out on certain issues. "He ripped -- they broke in and
24 he ripped my bra off and worked my panties off and he tried to
25 rape me but he couldn't." Once again, she knows they don't

Closing Argument by Mr. Richardson

1429

1 believe the rape story. The police ask her, says, "Well, were
2 you raped?" And now she says, "Well, I didn't tell -- tell
3 you all he raped me." Most certainly did. "I have no reason
4 to want to hurt anybody." Well, in her mind she think she's
5 got a million reasons. The police know she's lying. They
6 talk to her about her child, DSS, and she states again,
7 "Nobody's at my house. Whatever you do don't go look in
8 Tabor." "Tommy answered the door when I came to it and nobody
9 was with me." She volunteers again, but if another car pulls
10 in we saw that Tommy was on the couch, he's laying where he
11 ends up with his -- if he was laying on the couch he would've
12 been looking out that front window. If another car comes up,
13 Tommy's going to see the headlights coming in. It's not going
14 to be a surprise attack. It's because they were in the back
15 of the Defendant's car.

16 "I heard Tommy say Bo Bo," the first time she mentions
17 the name. "It's all coming back to me now. The love of my
18 life was murdered. I don't remember a lot of things after I
19 got there," but she remembers the rice and the beans, the ice
20 cream, little details. "I don't know the other dude but he
21 was white. He had blonde hair and blue eyes." Now, remember,
22 she's sworn to God again, "And Bo Bo had some dreds. Amos
23 told me Tommy was going down to the bottom." Bang on that
24 Tommy drum. Officers go back out looking for video. Can't
25 find anything. Trying to find any evidence that might

1 corroborate. "Maybe she's telling us a little bit of truth
2 now," and she talks to Brandon Strickland. Now, she's been
3 handcuffed, and she talks to Brandon Strickland. She says,
4 "Oh, I'm in trouble because I don't remember one thing," and
5 Brandon very accurately says, "No. You're in trouble because
6 you lied about a whole lot of things, a whole lot of things."
7 "Why didn't they kill me? Well, maybe they didn't think I
8 could identify them." The police try and give her an out.
9 Maybe, maybe you got caught up in something. She says, "No.
10 Tommy called out Bo Bo's name. I don't even know if it's the
11 same guy at the IGA. I didn't know who they were. I don't
12 know who they are. All I know is Bo Bo." She can't even
13 bring herself to say Pooh Pooh because she's trying to push
14 all the attention away from her guys in Tabor City, her
15 partners. "I don't know them and Amos doesn't stay with me.
16 Oh, yeah, when I was on my way." "Did you see anybody else?"
17 "Yeah, when I was on my way I stopped in Tabor City and I saw,
18 saw this guy that cuts my grass, James." "Well, who's James?"
19 "Well, he cuts my grass but then I left him there and I went
20 on and we watched TV," or I'm sorry, "Got, got to the house
21 about midnight." Now, mind you, she's calling Amos at 12:36
22 and that house is small enough I don't think they're going to
23 call from one end to the other, but they watch TV for 35 to 40
24 minutes. "I was already at the house when they busted in. Bo
25 Bo has got to be from Loris but James is from Tabor City and

Closing Argument by Mr. Richardson

1431

1 James has nothing to do with it. So you all don't need to
2 look in Tabor City. James don't even know Amos." Now she
3 says, "Bo Bo had some dreds hanging out and if he raped me I
4 just don't remember. They were looking for Tommy down in the
5 pit in Loris. I forgot to tell you all that. He sold a lot
6 of drugs and stuff. If I knew who did this don't you think I
7 tell you?" The police ask her if she's scared of anything.
8 They try to give her one more out. She says, "Oh, yeah. They
9 told me they knew where I lived and they would kill me."
10 "Who?" "The white guy and the light-skinned black dude, Bo
11 Bo." Now, she wants to talk about how Tommy's doing all these
12 drugs and crack and marijuana and alcohol, but you saw the tox
13 screen. Dr. Proctor told you about it. The only thing in his
14 bloodstream at the time of death prescription medication, and
15 you saw the prescription bottle there, something a doctor
16 prescribes for pain, hydrocodone.

17 During the course of this interview Brandon Strickland is
18 talking to the Defendant. Neil Frebowitz walks in with the
19 cell phone records. They start talking about them. This is
20 statement number nine, post-Miranda number six, the latest and
21 greatest version. They ask her about the text messages on her
22 phone, and she says, "They're probably from my friend Lamont."
23 You read the text messages where she calls him, "Hey, Baby,
24 what's up," a little man on the side. "Lamont texted me and
25 asked if I was up and I said, 'Yeah.'" "Well, what about this

1 text about the back door?" "I'm blacking out now. I can
2 remember texting Lamont, but I'm blacking out on that. We
3 were just standing in there in the kitchen when the door came
4 flying open," and the police are starting to go over the texts
5 again. "Is the back door open?" "The back is on." "R.E.,
6 it's locked." "The back is open," and she glazes over, and
7 the wheels are spinning because she knows these text messages
8 they're proof. The walls are caving in because it proves that
9 she's involved, that she has let these guys in and they try
10 and (claps hands twice) snap her out of it. They talk to her
11 about the juice flowing into her veins. "We have got hard
12 evidence that you're involved." And she can't come up with a
13 quick answer. So she says, "I guess it was a robbery,"
14 because she certainly don't want to tell them that, "Hey, I
15 needed the insurance money." Right then if the truth is that
16 she and Amos had this grand plan, why not come out right then
17 and say, "Hey, guys, let me tell you, it was stupid but me and
18 Amos we wanted to scare Tommy." Amos wants to scare Tommy by
19 having him beat up? Amos has bought Tommy out of trouble
20 every time he could, moved from house to house and Tommy's
21 been clean, but she says, "Maybe, it was going to be a
22 robbery, or I guess it was supposed to be a robbery," and Mr.
23 Wilson wants to hang on that one statement, but he doesn't
24 want you to go back and listen to where Brandon Strickland is
25 talking to her again. "So, it was supposed to be a robbery?"

Closing Argument by Mr. Richardson

1433

1 "Yeah, it was supposed to be a robbery." "You sent him a text
2 message the back door is open from your phone," and she
3 responds, "He just said he wanted to rob." "Who?" "James.
4 James said he was going to rob them. I said I would leave the
5 door open." Brandon Strickland can't even believe his ears.
6 He said, "You said you were going to leave the door open?"
7 "Yes, sir." "Amos ain't got no money." That's from her
8 mouth, not mine. Amos ain't got no money so why rob? Because
9 she's trying to come up with some believable story, and the
10 detectives told you that they present the cell records to her
11 about six o'clock, and then I think they talked to her for
12 about 30 minutes, 45 minutes afterwards. So sometime between
13 6:30 and seven she's left. The only statements you hear after
14 that about 25 minutes with Detective Williams, and then when
15 she talks to Detective Vescovi, and at this point, at this
16 point, the Defense has already said, that's 10 o'clock, 10:15.
17 She's had three, three and a half, four hours to think about,
18 "What am I going to say? The robbery thing doesn't sound
19 good. Huh. Huh. Got it. Got it." So when Damon Vescovi
20 comes in she says -- he says, "You're in the best position to
21 help yourself. Help yourself," and now she says, "Okay. This
22 is exactly what happened. If you didn't, if you didn't
23 believe me here and you didn't believe me here and you didn't
24 believe me here, maybe you'll believe me now." Fool me once,
25 shame on me. Fool me twice, shame on you. We're not going to

1 be fooled, but she says, "Yeah, Amos wanted to scare Tommy.
2 It got out of hand. I said, 'I'll get some people to scare
3 the shit out of him.' I don't know -- I didn't know the boy
4 had any record." She had said earlier that James talked about
5 having killed somebody at Great Grace Baptist Church. Another
6 time she says it was Pooh Pooh that killed somebody at Great
7 Grace Baptist Church. Well, folks, that's not the type of
8 people you hire to scare someone. You don't hire killers to
9 put the fear into somebody. You hire killers to do one job.
10 You hire them to kill, and that's what she did, but she says
11 it was all about scaring Tommy and then ooh, hoo, hoo. "And
12 ask Sylvia. She knows." Really? Amos the man who loves his
13 son is going to hire two thugs to come in and they're going to
14 pay them in beer and cigarettes? Mr. Wilson wants to say that
15 the Defendant said that they paid James and Pooh Pooh in beer
16 and cigarettes? I personally don't recall hearing that on any
17 of the statements. I recall Mr. Wilson saying it in opening
18 but I don't recall it on any of the statements. Certainly she
19 doesn't say it at the jail the next day. She says that they
20 talked about it in front of James's house and then now it's
21 Pooh Pooh. "He's a bad guy. He said he shot that guy at
22 Great Grace and that's the truth and I swear."

23 The next day Detective Frebowitz comes over to the jail
24 to serve her warrants. She says, "I got to talk to you. I
25 got to talk to you. I've thought about some more. I've been

Closing Argument by Mr. Richardson

1435

1 sitting here all day thinking," and now not only does she try
2 and sell that story about wanting to scare Tommy, now she's
3 saying, "Tommy handed off a gun to one of these guys, traded
4 it for drugs." She's added a wrinkle because, "Oh, yeah, I
5 gave Odom the gun, the gun Amos gave me, and I've got to
6 answer for that. I know what kind of gun he's going to get
7 caught with. It's that silver pearl handle." So now it's
8 Tommy that gave it to them, and they don't want the gun. They
9 want money, but Amos nor Tommy have anything. They were after
10 Tommy. He had stole drugs. Bang on that Tommy drum again.
11 "I stayed with Amos now until 2:30 and then this happens."
12 She's looked at the cell records. She knows when those text
13 messages came out. They ask her about the text messages and
14 she said, "That had to be earlier in the day." When Detective
15 Frebowitz says, "No. They're time stamped. They're Bates
16 stamped. It's accurate." She says, "Okay. Well, somebody
17 texts me and didn't recognize the number. Must be James."
18 Says, "The text message is that you were going to open the
19 back door," and she says, "Just don't remember it." She
20 starts blacking out again, and all during the course of this
21 interview at J. Reuben Long when she's telling this story, how
22 this horrible thing happened, not one tear, not one tear. "We
23 told James where they lived." Lie after lie after lie, and
24 the only way they broke down the lie into even a little of the
25 truth is they presented her with the cell records. When they

1 slapped these cell records in front of her, she had to answer
2 for them. She had to answer for them. You'll have the cell
3 records back there. You look at them. You'll be able to see
4 the texts. You'll see that she is broke. She needs money.
5 "You're not coming" -- I'm sorry -- "Hi, good morning, Jim. I
6 need a loan again till, you know, when AD will help me to pay
7 my cell phone." I guess Amos isn't helping her anymore. Amos
8 is tapped out. There's only one thing left for Amos to give
9 her and that's his life so she can collect on her policy.
10 Looks like she might get the money.

11 She texted someone that we later learn is Lamont or
12 somebody having Lamont's phone number. She texts to Lamont,
13 "Baby, let me know your son got back safe. Then call me,
14 please." She's calling him baby. This, this woman who has
15 lost the love of her life, not yet, but this is the love of
16 her life, Amos, but she's calling somebody else baby. Amos
17 talks to her one time in the morning. She calls him 8:38 in
18 the morning. I submit to you that's so she can say, "I'm
19 coming back to pick you up. I'm going to get that rental car
20 because it has to be done." That service department is open
21 six days a week, but this is the day we're going to get it
22 done. Amos is retired military. Look at the form. Sandy
23 doesn't work. Listen to her. They can go any day of the
24 week, but it's convenient that they go on Saturday because
25 that's all part of the plan. A lot of other text messages,

Closing Argument by Mr. Richardson

1437

1 and then a bunch back and forth between her and this Lamont
2 dude. They discuss why he's not coming to see her. Seems a
3 little bit upset. He texts -- Sandy texts him, "I tried to
4 call." He calls her back. Then she calls him, says, "Okay,
5 Lamont," and then we start getting her rush phone calls. Amos
6 calls her 18:48. I think that's 6:48 hours. They talk for
7 about two minutes, and Sandy calls them back twice, 32
8 seconds, 47 seconds. Finally, Amos calls her back and they
9 talk for 409 seconds, 6 to 7 minutes. I wish we knew what was
10 said. I wish Amos was here to tell us, but he's not because
11 she had him killed.

12 The next thing we see is texts back and forth to Lamont.
13 "Are you up?" "Yes." And then she calls Amos at 12:36. Did
14 Amos actually invite her over or did she say, "Hey, I'm coming
15 over, baby. I want to see you. I want to watch golf. I want
16 to be there so I can let somebody in your door so I can kill
17 you so that we can collect on that insurance money," and then
18 the next text you see are 2:39, "Unlock door." 2:42, Sandy to
19 Odom Bryant, "The back is on." 2:44, Bryant to Sandy, "R.E.,
20 it's locked." 2:51, Sandy to Bryant, "The back is open," and
21 then she doesn't call 911 from her phone because she's sent it
22 to be burned. She calls it from Amos's phone at four o'clock,
23 2:51 to 4:00 o'clock. She's got an hour to kill. She tells
24 you at some point that she knelt down beside Amos rubbing on
25 him and touching him and loving him because that's the love of

1 her life. You saw the crime scene. It was bloody. Does that
2 look like somebody has been rubbing on Amos? Rubbing down in
3 the blood? Those hands are clean, folks. She's got an hour
4 to kill, going to wash her hands, whatever she needs to do, no
5 bleach or antiseptic, don't need it. Look at the towels in
6 the bedroom on the floor, the same bedroom where her panties
7 just conveniently happened to be found in there and her bra
8 and look at that bra. It's cut. It's not ripped. Looks like
9 some sturdy material. Folks, it's too convenient. It's just
10 so convenient that she stayed at Amos's, a place she didn't
11 like to go because of the smell of smoke and pee on that
12 Saturday, that they happen to get the rental car on that
13 Saturday, that that was the day they just happened to get
14 these two guys, that one of them happened to be a killer, and
15 out of all the thugs she knows that's the one guy she gets to
16 come in and scare Tommy. It's too convenient, folks, and it's
17 all a pack of lies.

18 Mr. Wilson wants to bang on Odom and Nehemiah James
19 Evans, and yes, they'll be before another jury, another Judge,
20 and they will face their punishment for what they did.
21 They've got a right to not to be here. They don't have to
22 testify, can't force them to testify. They'll face their
23 jury, but today we're concentrating on Sandy, but he wants to
24 talk about them. You see Odom Bryant the next day with a
25 pistol, the silver pearl handled pistol. I don't dispute

Closing Argument by Mr. Richardson

1439

1 that. Why is he at the convenience store? Why are he and
2 Nehemiah James still brazen enough to be able to go to a
3 convenience store at Tabor City 11 o'clock the next day, going
4 to a party that Sunday afternoon? Because they think the plan
5 is working. They did their part. They did the killing. They
6 burned the car. They burned the cell phone. Odom's got the
7 gun, that convenient gun that Amos had, the most distinctive
8 thing, that pearl handle. It was a 25. They saw the pearl
9 handled 25, was the most distinguished thing. I think she did
10 say gold. Maybe she's confused on that, but she knows it was
11 a pearl handled 25, and Odom Bryant has got a pearl handled
12 25. We see a picture of it taken, I think, on August 15th.
13 When did she give it to them? It's real convenient, folks.
14 They don't run. They're not scared until they know the plan
15 is falling apart when police show up in Tabor City on that
16 Monday and what do they do? Nehemiah James sees detective
17 Cox. He hollers, "Stop, police," and he takes off running.
18 It doesn't matter, folks. It does not matter whether it was
19 Nehemiah James Evans or Odom Bryant or Sandy Locklear herself
20 that pulled that trigger. It doesn't matter who forced Tommy
21 to the ground after he was struck, put the gun to the back of
22 his head as his father watched from across the room. She
23 needed two men because she needed somebody to control Amos as
24 Tommy was killed, her fall guy, her patsy. Doesn't matter
25 whose finger was on the trigger, bam, Amos watched as his son

1 gets killed. Doesn't matter whose finger is on the trigger ,
2 bam, Amos's last thoughts before he is executed are, "I have
3 been betrayed by this woman I have given everything and now I
4 will give everything because I had to give my life to satisfy
5 her greed." It makes no difference whose finger is on the
6 trigger. One hand and only one hand ever aimed the gun and
7 that is Sandy Lee Locklear. She is the only one that stood to
8 be enriched by this. Why'd they leave her alive? Because you
9 can't kill the paymaster. The only way for them to collect
10 for what they did on her behest is for her to tell the story,
11 for her to continue with the plan, and once it falls apart,
12 it's gone. This was no robbery, folks. It was a murder for
13 hire for insurance money. She wanted the gold, but you give
14 her what she deserves. You give her what she's earned. She
15 is guilty of the execution style murder of Tommy Hatfield.
16 She was there. She was assisting by letting them and it was
17 at her behest. He was the fall guy. He was the patsy, and
18 she is guilty of the murder of her husband, a man who loved
19 her, gave her everything and was tapped out. So she dug
20 down for the only thing he had left, his life that was worth
21 what she thought to be \$1 million. You find her guilty
22 because that's what she is, plain and simple, greedy and
23 guilty.

24 THE COURT: All right, ladies and gentlemen, the
25 attorneys have made their closing arguments and now is the

Closing Argument by Mr. Richardson

1441

1 time when I'll charge you with the law to be applied in this
2 case, but we've been at it a while. So I'm going to go ahead
3 and give you about a 10 or 15-minute break. Then we'll bring
4 you back in. I'll charge you on the law at that time. Leave
5 your pads in the jury box. Do not discuss the case even among
6 yourselves at this point in time. Thank you.

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right. Anything from the State before we
10 take a break?

11 MR. RICHARDSON: No, sir, Your Honor.

12 THE COURT: Anything from the Defense?

13 MR. WILSON: Nothing at this time, Your Honor.

14 THE COURT: All right. Let's take about a 15-minute
15 break and then I'll come back and charge them with the law.
16 Okay?

17 MR. WILSON: Yes, Your Honor. Thank you, Judge.

18 THE COURT: Thank you.

19 OFF THE RECORD

20 (On the record. The following takes place outside the
21 presence of the jury.)

22 MR. RICHARDSON: Your Honor.

23 THE COURT: Yes, sir.

24 MR. RICHARDSON: For order, and I'm, before the jury gets
25 in here, I know that they're ordering food for them.

1 THE COURT: Yeah.

2 MR. RICHARDSON: And the charge takes what, about 20, 25
3 minutes maybe?

4 THE COURT: Yeah, probably.

5 MR. RICHARDSON: Do you want us just to go through the
6 evidence and then wait for them to finish eating before we
7 send the evidence back or --

8 THE COURT: Well, what I usually do is I'll instruct them
9 that they can do whatever they want.

10 MR. RICHARDSON: I just didn't know with the blood
11 pillows going back there and everything if they --

12 THE COURT: Well, what I tell them is that they can
13 either stop deliberations and eat lunch --

14 MR. RICHARDSON: Okay.

15 THE COURT: -- or if they want to deliberate through
16 lunch they can do whatever they want to do, but everybody has
17 to do the same thing. So --

18 MR. RICHARDSON: And when one goes to the restroom
19 they're all going to have to stop?

20 THE COURT: Yeah. And so we -- so I'm going to leave it
21 up to them. So I say let's just go ahead and handle it the
22 way we usually do.

23 MR. RICHARDSON: No objection. I just want to make sure
24 we're all on the same page.

25 THE COURT: That's good.

Charge

1443

1 MR. RICHARDSON: Thank you, Judge.

2 THE COURT: All right, anything from the State before we
3 bring the jury in?

4 MR. RICHARDSON: No, sir, Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. WILSON: Nothing, Your Honor.

7 THE COURT: All right. Let's bring the jury in.

8 (Whereupon, the following takes place in the presence of
9 the jury.)

10 THE COURT: All right. Ladies and gentlemen, welcome
11 back. Hope you had a good break. Please make sure that you
12 have your own notepads and no one else's.

13 Now, ladies and gentlemen, all of the evidence in this
14 case has been presented to you, the attorneys have made their
15 closing arguments and now is the time of the trial when I
16 charge you with the law to be applied in this case.

17 Now, the indictments, here are the indictments in this
18 case. The indictments in this case charge the Defendant with
19 two counts of murder.

20 I remind you that the fact that the Defendant was
21 arrested, charged and indicted in this case is not evidence in
22 this case and cannot be considered by you as evidence of guilt
23 in this case, nor does the Defendant's arrest, charge and
24 indictment create any presumption or inference of guilt. These
25 documents are simply the formal written instruments which

Charge

1444

1 contain the charges made against the Defendant. They are the
2 formal documents by which this case is brought into this
3 court.

4 As I have stated, the indictments in this case allege two
5 separate crimes. Each indictment charges a separate and
6 distinct offense. You must decide each indictment separately
7 on the evidence and the law applicable to it uninfluenced by
8 your decision as to any other indictment. The Defendant may be
9 convicted or acquitted on any or all of the offenses charged.
10 You will be asked to write a separate verdict of guilty or not
11 guilty for each indictment.

12 Now, the Defendant has pled not guilty to these
13 indictments, and that plea puts the burden on the State to
14 prove the Defendant guilty. A person charged with committing
15 a criminal offense in South Carolina is never required to
16 prove her innocence.

17 I charge you that it is an important rule of the law that
18 the Defendant in a criminal trial, no matter what the
19 seriousness of the charge may be, will always be presumed to
20 be innocent of the charge for which the indictment was issued
21 unless guilt has been proven by evidence satisfying you of
22 that guilt beyond a reasonable doubt. This presumption of
23 innocence does not end when you begin your deliberations, but
24 it accompanies the Defendant throughout the trial until you
25 reach a verdict of guilt based on evidence satisfying you of

Charge

1445

1 that guilt beyond a reasonable doubt.

2 The presumption of innocence is like a robe of
3 righteousness placed about the shoulders of the Defendant
4 which remains with the Defendant until it has been stripped
5 from the Defendant by evidence satisfying you of the
6 Defendant's guilt beyond a reasonable doubt. The presumption
7 of innocence is not mere legal theory. It is not just a legal
8 phrase. It is a substantial right to which every Defendant is
9 entitled unless you, the jury, are satisfied from the evidence
10 of the Defendant's guilt beyond a reasonable doubt.

11 What is a reasonable doubt in the law? A reasonable
12 doubt is the kind of doubt that would cause a reasonable
13 person to hesitate to act. Proof beyond a reasonable doubt is
14 proof that leaves you firmly convinced of the Defendant's
15 guilt. We know very few things in this world with absolute
16 certainty, and in criminal cases the law does not require
17 proof that overcomes every possible doubt. If, based on your
18 consideration of the evidence, you are firmly convinced that
19 the Defendant is guilty of the crime charged, you must find
20 the Defendant guilty. If on the other hand, you think a real
21 possibility exists that the Defendant is not guilty, you must
22 give the Defendant the benefit of that doubt and find her not
23 guilty.

24 I remind you that, during this trial, you and I have
25 certain duties to perform. As the trial judge, my

Charge

1446

1 responsibility is to preside over the trial of this case. I
2 also have the duty to rule on the admissibility of the
3 evidence offered during this trial. You are to consider only
4 the competent evidence before you. If any testimony was
5 ordered stricken from the record in this case during this
6 trial, you must disregard that testimony. You are to consider
7 only the testimony which has been presented from the witness
8 stand, any exhibits which have been made a part of the record
9 in this case, and any stipulations of counsel.

10 I have the additional duty to charge you the law
11 applicable to this case. As the presiding judge, I am the
12 sole judge of the law of this case. Your duty as jurors is to
13 accept and apply the law as I now state it to you. If you
14 have any idea as to what the law is or what the law ought to
15 be and your idea is different from what I now tell you the law
16 is, you must disregard your idea of what the law is or ought
17 to be because you are sworn to accept the law and apply the
18 law exactly as I state it to you.

19 In every case tried in this court before a jury, the jury
20 is the sole and exclusive judge of the facts in a case. A
21 trial judge cannot intimate, state, comment on or make any
22 statement to a trial jury about the facts in a case. Since
23 you, the jury, are the sole judge of the facts in this case,
24 you are not to infer from what I have said during the progress
25 of this trial in ruling upon the admissibility of evidence, or

Charge

1447

1 otherwise, or anything that I say during the course of this
2 instruction to you, that I have any opinion about the facts in
3 this case. The law does not allow me to have an opinion about
4 the facts in this case. This is a matter solely for you, the
5 jury, to determine. As jurors, your duty is to determine the
6 effect, value, weight, and truth of the evidence presented
7 during this trial.

8 Now, there are two types of evidence which are generally
9 presented during a trial, direct evidence and circumstantial
10 evidence. Direct evidence directly proves the existence of a
11 fact and does not require deduction. It is evidence which
12 immediately establishes the main fact to be proved.

13 Circumstantial evidence is proof of a chain of facts and
14 circumstances indicating the existence of a fact. It is
15 evidence which immediately establishes collateral facts from
16 which the main fact may be inferred. Circumstantial evidence
17 is based on inference and not on personal knowledge or
18 observation.

19 Crimes may be proven by circumstantial evidence. The law
20 makes no distinction between the weight or value to be given
21 to either direct or circumstantial evidence. However, to the
22 extent the State relies on circumstantial evidence to prove
23 its case, all of the circumstances must be consistent with
24 each other, and when taken together, point conclusively to the
25 guilt of the accused beyond a reasonable doubt. If these

1 circumstances merely portray the Defendant's behavior as
2 suspicious the proof has failed. The State has the burden of
3 proving the Defendant guilty beyond a reasonable doubt. This
4 burden rests with the State, regardless of whether the State
5 relies on direct evidence, circumstantial evidence or some
6 combination of the two.

7 Necessarily, you must determine the credibility of
8 witnesses who have testified in this case. Credibility simply
9 means believability. Your duty as jurors is to analyze and to
10 evaluate the evidence and determine which evidence convinces
11 you of its truth.

12 In determining the believability of witnesses who have
13 testified in this case, you may believe one witness over
14 several witnesses or several witnesses over one witness. You
15 may believe a part of the testimony of a witness and reject the
16 remaining part of the testimony of that same witness. You may
17 believe the testimony of a witness in its entirety or reject
18 the testimony of a witness in its entirety. You may consider
19 whether any witness has exhibited to you any interest, bias,
20 prejudice, or other motive in this case. You may also consider
21 the appearance and manner of a witness while on the witness
22 stand.

23 The rules of evidence ordinarily do not permit witnesses
24 to testify to opinions or conclusions. An exception to this
25 rule exists for witnesses we call expert witnesses. A witness

Charge

1449

1 who, by education and experience, has become expert in some
2 art, science, profession or calling may state an opinion as to
3 relevant and material matter, in which the witness claims to
4 be an expert, and may also state the reasons for the opinion.

5 You should consider any expert opinion received in
6 evidence in this case and, like any other evidence, give it
7 the weight you think it deserves. If you decide that the
8 opinion of an expert witness is not based on sufficient
9 education and experience, or if you conclude that the reasons
10 given in support of the opinion are not sound, or that the
11 opinion is outweighed by other evidence, you may disregard the
12 opinion entirely. An expert witness' testimony is to be given
13 no greater weight than that of other witnesses simply because
14 the witness is an expert. Further, you are not required to
15 accept an expert's opinion, even though it is not
16 contradicted.

17 I instruct you and emphasize that the fact the Defendant
18 did not testify is not a factor to be considered by you in any
19 way in your deliberation and in your consideration on the
20 question of the guilt or the innocence of the Defendant. It
21 must not be considered by you in any manner whatsoever. A
22 Defendant has the constitutional right to remain silent, and
23 the assertion of this right must not be considered by you in
24 your deliberations. I repeat, under your oath, you are to
25 draw no conclusion whatsoever from the fact that the Defendant

Charge

1450

1 in this case did not testify. The fact that this Defendant
2 did not testify should not even be discussed in the jury room.

3 The burden of proof, as I have stated to you, is on the
4 State to prove the Defendant's guilt. The Defendant is not
5 required to prove her innocence. The burden of proof remains
6 on the State to prove the Defendant's guilt beyond a reasonable
7 doubt.

8 Now, if a crime is committed by two or more people who
9 are acting together in committing a crime, the act of one is
10 the act of all. A person who joins with another to commit an
11 unlawful act is criminally responsible for everything done by
12 the other person which happens as a probable or natural
13 consequence of the acts done in carrying out the common plan
14 and purpose.

15 For example, two people can be guilty of robbing a bank
16 when only one of the two enters the bank, held up the teller
17 and took the money from the bank while the other person acted
18 as a lookout outside the bank and without even entering the
19 bank. If two or more people are together, acting together,
20 assisting each other in committing the offense, the act of one
21 is the act of all or, as it is sometimes said, the hand of one
22 is the hand of all.

23 Prior knowledge that a crime is going to be committed,
24 without more, is not sufficient to make a person guilty of
25 that crime. Mere knowledge that another person is going to

Charge

1451

1 commit a crime, even if the Defendant is present when the
2 crime is committed, is not sufficient to convict the Defendant
3 as a principal. Guilt as a principal is shown by actual or
4 constructive presence at the scene as a result of a prior
5 arrangement. Therefore, a finding of a prior arranged plan or
6 common scheme is necessary for a finding of guilt as a
7 principal. The State must prove beyond a reasonable doubt by
8 competent evidence the theory of the hand of one is the hand
9 of all.

10 A principal in a crime is one who either actually commits
11 the crime or who is present aiding, abetting or assisting in
12 committing the crime. When a person does an act in the
13 presence of and with the assistance of another, the act is done
14 by both. Where two or more, acting with a common plan or
15 intent, are present at the commission of a crime, it does not
16 matter who actually commits the crime. All are guilty. The
17 hand of one is the hand of all. Present at the commission of a
18 crime means to be sufficiently near to aid and abet and assist
19 in the commission of the crime. However, mere presence at the
20 scene of a crime is not sufficient to convict one as a
21 principal on the theory of aiding and abetting.

22 Criminal intent is also a necessary element of any crime,
23 including one prosecuted as the hand of one is the hand of
24 all. There must have been a common design or intent to commit
25 the crime, and the crime must have been committed pursuant

1 thereto with the person aiding and abetting by some overt act.

2 Intent means intending the result which actually occurs;
3 not accidentally or involuntary. Intent may be shown by acts
4 and conduct of the Defendant and other circumstances from
5 which you may naturally and reasonably infer intent. Criminal
6 intent must be proven by the State beyond a reasonable doubt.
7 Criminal intent is always a matter that must be determined by
8 the jury from the circumstances surrounding the situation.
9 There is no way to prove intent to a mathematical certainty.
10 There is no way medical science can dissect a person's brain
11 and determine what the person had in mind, so the law says
12 that criminal intent may be inferred from the circumstances
13 shown to have existed. This is how you make a determination
14 of whether or not the element requiring intent was present.

15 Criminal intent does not have to be established by direct
16 and positive evidence, but intent may be established by
17 inference in the same way as any other act -- by taking into
18 consideration the acts of the parties and all the facts and
19 circumstances of the case. Criminal intent is a mental state,
20 a conscious wrongdoing. You must determine what the Defendant
21 intended to do based on the circumstances shown to have
22 existed.

23 Mere presence at the scene is not sufficient to prove
24 someone guilty of a crime. A Defendant's presence where a
25 crime is being committed or mere association with a person who

Charge

1453

1 commits a crime does not make a Defendant an accomplice or an
2 aider and abettor of the person committing the crime.

3 The burden is on the State to prove every element of the
4 crime charged. If you find, after reviewing all of the
5 evidence, that the State has proved that the Defendant was only
6 present at the scene of the crime, and that they have not
7 proved, beyond a reasonable doubt, any other participation in
8 the crime, then you must find the Defendant not guilty. The
9 law is that proof of at the scene of the crime is not
10 sufficient to find someone guilty.

11 A statement alleged to have been made by the Defendant
12 has been admitted into evidence in this case. Now, while the
13 Court has determined that the statement is admissible, I
14 instruct you that you make the ultimate decision of whether or
15 not the Defendant made the statement. If the Defendant did
16 make the statement, you must determine whether the statement
17 was made by the Defendant voluntarily and of her own free
18 will. To be voluntary and of the Defendant's own free will,
19 the State must prove beyond a reasonable doubt that the
20 statement was not caused by pressure, force, fear, threats,
21 coercion or intimidation, or by hope or a promise of leniency
22 or a reward of any kind. In determining whether the statement
23 was voluntary, you should consider both the characteristics of
24 the Defendant and the details of the questioning. Some of the
25 factors that you must consider are the age of the Defendant;

Charge

1454

1 the Defendant's education or lack of education; the
2 Defendant's mental ability or capacity; the Defendant's I.Q.
3 or intelligence; the Defendant's background and environment;
4 the place and length of detention; the nature of the
5 questioning; and the advice, or lack thereof, to the Defendant
6 of her constitutional rights including, but not limited to,
7 the right to remain silent, that any statement could be used
8 against her in a court of law, the right to have a lawyer
9 present, that if she could not afford a lawyer, a lawyer would
10 be appointed to represent her without any cost; and that she
11 could stop making a statement at any time. You must carefully
12 consider all of the surrounding circumstances before you give
13 any weight to an alleged statement. The State has the burden
14 of proving beyond a reasonable doubt that the alleged
15 statement was voluntary.

16 If you determine the alleged statement was not the free
17 and voluntary statement of the Defendant, you must not consider
18 the statement at all. If you determine that the alleged
19 statement was given voluntarily and of the Defendant's free
20 will, you may then give the statement any further consideration
21 that you deem proper. You must decide what weight, if any,
22 should be given to the alleged statement.

23 The Defendant is charged with two counts of murder. To
24 convict the Defendant of murder, the State must prove beyond a
25 reasonable doubt that the Defendant killed another person with

Charge

1455

1 malice aforethought. Malice is hatred, ill-will, or hostility
2 towards another person. It is the intentional doing of a
3 wrongful act without just cause or excuse and with an intent
4 to inflict an injury or under circumstances that the law will
5 infer an evil intent.

6 Malice aforethought does not require that malice exists
7 for any particular time before the act is committed, but
8 malice must exist in the mind of the Defendant just before and
9 at the time of the act is committed. Therefore, a combination
10 of the previous evil intent and the act must both exist.

11 Malice aforethought may be express or inferred. These
12 terms, express and inferred, do not mean different kinds of
13 malice, but merely the manner in which malice may be shown to
14 exist. Malice aforethought may be shown either by direct
15 evidence or by inference from the facts and circumstances
16 which are proved.

17 Express malice is shown when a person speaks words
18 which express hatred or ill-will for another or when the
19 person prepared beforehand to do the act which was later
20 accomplished. For example, lying in wait for a person or
21 any other acts of preparation going to show that the
22 deed was within the Defendant's mind would be express malice.
23 Malice may be inferred from conduct showing a total disregard
24 for human life. Inferred malice may also arise when the deed
25 is done with a deadly weapon. A deadly weapon is any article,

1 instrument or substance which is likely to cause death or
2 great bodily harm. Whether an instrument has been used as a
3 deadly weapon depends on the facts and circumstances of each
4 case. The following are examples of instruments which may be
5 deadly weapons: a pistol, a shotgun, a rifle, a dirk, a
6 dagger, a knife, a sling shot, metal knuckles, a razor,
7 gasoline, a fire bomb or Molotov cocktail, and lighter fluid.
8 A gun may be a deadly weapon even if it is not operating.

9 Now, if you find that the State has failed to prove
10 beyond a reasonable doubt that the Defendant committed murder,
11 you may consider whether the State has proved beyond a
12 reasonable doubt that the Defendant committed involuntary
13 manslaughter. Included within the offense of murder is the
14 lesser offense of involuntary manslaughter.

15 To convict the Defendant of involuntary manslaughter, the
16 State must prove beyond a reasonable doubt that the Defendant
17 unintentionally killed the victim without malice, but while
18 engaged in an unlawful activity not naturally tending to cause
19 death or great bodily harm or that the Defendant
20 unintentionally killed the victim without malice, while
21 engaged in a lawful activity with reckless disregard for the
22 safety of others.

23 Unintentional means that the Defendant did not intend for
24 anyone to be killed or seriously injured. Reckless disregard
25 for the safety of others is more than mere negligence or

Charge

1457

1 carelessness. Mere negligence or carelessness is the failure
2 to use the care that a person of ordinary reason would have
3 used under the same circumstances. Recklessness is a
4 conscious failure to use ordinary care. Reckless disregard for
5 the safety of others means that you are not interested in the
6 consequences of your acts or the rights and safety of others.
7 If a person who knows, or should know, that ordinary care
8 requires that certain precautions be taken for the safety of
9 others when engaging in certain acts but that person fails to
10 use those precautions without concern for the rights and
11 safety of others, the person's actions are considered
12 reckless.

13 To convict the Defendant of involuntary manslaughter, the
14 State must also prove beyond a reasonable doubt that the
15 Defendant's acts was the proximate cause of death. Proximate
16 cause is the direct cause; it is the immediate cause; it is
17 the efficient cause; it is that cause without which the death
18 of the victim would not have resulted. A chain of causation
19 must exist from the time of the injury inflicted by the
20 Defendant until the time of the Defendant's [sic] death.
21 Proximate cause does not necessarily mean that it occurred
22 immediately prior to death. More than one proximate cause of
23 death may exist. The acts of two or more persons may combine
24 together to be a proximate cause of the death of a person.
25 The Defendant's act may be regarded as the proximate cause if

1 it is a contributing cause of the death of the victim. The
2 fact that other causes also contributed to the death of the
3 victim does not relieve the Defendant from responsibility.
4 The Defendant's act need not be the sole cause of the death,
5 but must be a proximate cause contributing to the death of the
6 victim.

7 Now, there are three possible verdicts which you may find
8 for each indictment in this case. No significance whatsoever
9 is to be given to the order in which I state these possible
10 verdicts to you. I simply must state one first, one second
11 and one third. The possible verdicts for each indictment in
12 this case are: we, the jury, find the Defendant guilty of
13 murder; or we, the jury, find the Defendant guilty of
14 involuntary manslaughter; or we, the jury find the Defendant
15 not guilty.

16 As I previously instructed you, each indictment charges a
17 separate and distinct offense, and you must decide each
18 indictment separately on the evidence and the law applicable
19 to it uninfluenced by your decision as to the other
20 indictment. The Defendant may be convicted or acquitted on
21 one or both of the indictments.

22 Ladies and gentlemen, your verdict for each indictment
23 must be unanimous. Ms. Bumbaco, as foreperson, when the jury
24 agrees on a verdict you'll have two verdict forms, one for
25 each indictment. You'll check the appropriate verdict, then

Charge

1459

1 sign your name as foreperson and date it. When you have
2 reached a verdict on both indictments, knock on the door and
3 tell the bailiff that you have reached a verdict, and we'll
4 bring you back in at that time.

5 Now, you have been allowed to take notes during the trial
6 of this case. However, please remember that some people are
7 better note-takers than others. Some people may recall
8 testimony without taking notes. Juror notes should not be
9 given any greater weight than the recollection of other
10 jurors. The recollections of individual jurors who did not
11 take notes should be considered as reliable as notes taken by
12 any other juror. Now, you will be allowed to take your
13 notepads back into the jury room with you and when you begin
14 your deliberations. Now, we've also ordered lunch for you.
15 When lunch gets here you can do one of two things. You can
16 either continue your deliberations while you're eating lunch
17 or you can stop your deliberations, eat lunch and then resume
18 deliberations after you finish eating your lunch. You can do
19 whatever you want to do. The only requirement is that the
20 entire jury must do the same thing. You cannot have some
21 jurors continue deliberations while other jurors do not. So
22 if you decide that you want to continue through lunch with
23 your deliberations, all jurors must continue with
24 deliberations. If you want to stop and eat your lunch, then
25 all jurors must stop deliberations and eat your lunch.

Charge

1460

1 Now, I'm going to excuse you back to the jury room for
2 just a few minutes. You can take your pads with you, but
3 please do not begin deliberations at this time. I need to
4 check with the attorneys to see if they have any challenges
5 to the charges that I've made to you. If they do and I deem
6 them appropriate, I'll bring you back into the courtroom and
7 make those corrective changes or additions. If there are
8 none, we'll send the exhibits back to the jury room with the
9 verdict forms, and you'll be told by the bailiff you can
10 begin your deliberations, and you can begin your
11 deliberations at that time, but please do not start your
12 deliberations until the bailiff directs you to do so. Thank
13 you very much. If everyone else please remain seated while
14 the jury's excused.

15 (Whereupon, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right. Any challenges or exceptions to
18 the jury charge by the State?

19 MR. RICHARDSON: None to the jury charge, Your Honor.
20 All I'd ask is that the jury also be apprised if anyone takes
21 a bathroom break or a smoke break that also they're to cease
22 deliberations.

23 THE COURT: All right. Any by the Defense?

24 MR. WILSON: Your Honor, just one concern regarding the
25 hand of one is the hand of all, I understand the law regarding

Charge

1461

1 charging the jury on common scheme and plan. My only concern,
2 Judge, and I would raise an objection about is that the Court
3 in its, in its charge didn't tell the jury that they would
4 also have to be of the same mind, which I think is also
5 required under the law, that it would have to have the same
6 scienter, the same knowledge of the crime, as well as be of
7 the same mind at the time the crime occurred. I would only
8 ask that that be added. Other than that, I have no
9 objections. The only other concern I have, also, is, Judge,
10 is that there are alternates that are still with the jury.
11 It's my understanding they're not going to be allowed during
12 the deliberations; correct?

13 THE COURT: That's correct.

14 MR. WILSON: That would be the only thing that the
15 Defense has, Judge.

16 THE COURT: All right. I think I've sufficiently
17 charged on the hand of one is the hand of all. I'm going to
18 leave that as that is. Let's bring them back in so I can
19 instruct them on the bathroom breaks and things of that
20 nature.

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: Thank you.

23 MR. RICHARDSON: And I apologize, Your Honor. I just
24 wanted to be cautious on that.

25 (Whereupon, the following takes place in the presence of

Charge

1462

1 the jury.).

2 THE COURT: All right. Ladies and gentlemen, I
3 apologize. I omitted to tell you. Just like I instructed you
4 when lunch gets here that you can either continue your
5 deliberations or cease your deliberations, but everyone has to
6 do the same thing, that also applies if you need to take a
7 break. If somebody wants and needs to use the restroom, if
8 somebody wants to take a smoke break, whatever the case may
9 be, you as a jury can do whatever you want to do with regard
10 to taking breaks, using the restrooms, smoking a cigarette,
11 whatever the case may be, but everybody must stop
12 deliberations when that is done. In other words, if someone
13 needs to go to the restroom, you can't have certain jurors
14 continuing to deliberate the case while that person is in the
15 restroom. If somebody wants to take a cigarette break and
16 smoke a cigarette, you can't have the jurors continue to talk
17 about the case and deliberate while that person is out of the
18 jury room. So everybody must decide to do the same thing, and
19 it's however you want to handle it. All right. Thank you
20 very much. You may resume -- go back to the jury room now.

21 (Whereupon, the following takes place outside the
22 presence the jury.)

23 THE COURT: All right. Anything further from the State?

24 MR. RICHARDSON: No, Sir, Your Honor. I guess we just
25 need to review the evidence.

Charge

1463

1 THE COURT: All right. Anything from the Defense?

2 MR. WILSON: Nothing further, Your Honor.

3 THE COURT: All right. Let's make sure that we've got
4 all the exhibits.

5 MR. RICHARDSON: We at recess while we go through those,
6 Your Honor?

7 THE COURT: Do what?

8 MR. WILSON: We at recess while we go through the
9 exhibits?

10 THE COURT: Yeah. I'll let you go through it. Here is
11 the verdict form and the indictments. I'm going to let both
12 the indictments and the verdict forms go back there, and when
13 you take those back -- as a matter of a fact, if you want to
14 go ahead and get the alternates. Yeah, if you would bring
15 them in here. Let's see that would be Mr. Yearwood, Ms.
16 Walker, Mr. Lovallo, L-O-V-A-L-L-O.

17 (Whereupon, alternates discharged by Court and
18 exhibits reviewed and approved by counsel for the State and
19 Defense.)

20 THE COURT: Let's go ahead and take them back with the
21 verdict forms, the indictments and tell them they can go ahead
22 and start their deliberations if they want to.

23 (Deliberations begin at 12:20 p.m.)

24 OFF THE RECORD

25 (On the record. Whereupon, the following takes place

Question from Jury

1464

1 outside the presence of the jury. Question from jury at 1:00
2 p.m.)

3 THE COURT: All right. We've gotten two requests from
4 the jury. The first one was wants to listen to -- I thought
5 it said all taped audio, but the bailiff tells me that it says
6 the 911 tape audio. So I think they want to -- have we got
7 that set up where we can listen to it?

8 MR. RICHARDSON: Yes, sir. I have it set up. That,
9 for the record, Your Honor, that's State's Exhibit Number
10 Nine.

11 THE COURT: Okay. And then it says they also want the
12 definition of involuntary manslaughter officially by code
13 of law. So I was just going to bring them in and charge them.

14 MR. RICHARDSON: Reread the charge, Your Honor?

15 THE COURT: Well, I was just going to tell them that
16 involuntary manslaughter is the unintentional killing of a
17 person without malice but while engaged in an unlawful
18 activity not naturally tending to cause death or great
19 bodily harm or that the Defendant unintentionally killed
20 the victim without malice while engaged in a lawful activity
21 with reckless disregard for the safety of others.

22 THE COURT: Yes, sir, Your Honor.

23 THE COURT: How does that sound?

24 MR. WILSON: No objection, Your Honor.

25 THE COURT: All right. Anything from the State before we

Question from Jury

1465

1 bring the jury in?

2 MR. RICHARDSON: No, sir, Your Honor.

3 THE COURT: Anything from the Defense?

4 MR. WILSON: Nothing, Your Honor.

5 THE COURT: All right. Let's go ahead and bring the jury
6 in. I'm going to go ahead and let's -- I guess we'll do the
7 tape first since that's --

8 MR. RICHARDSON: I've got it prepared to play, Your
9 Honor.

10 THE COURT: -- that's the order that they came in. So
11 I'm going to mark that Court's Exhibit --

12 REPORTER: 21.

13 THE COURT: And then this one will be Court's Exhibit 22.
14 Thank you.

15 (Court's Exhibit Number 21 [Question from Jury] and
16 Court's Exhibit Number 22 [Question from Jury] appropriately
17 marked.)

18 (The following takes place in the presence of the jury.)

19 THE COURT: All right. Ladies and gentlemen, I have
20 received your request. As I understand the first request is
21 that you want to listen to the 911 audiotape -- okay --
22 because at first I thought it said all audiotape but you want
23 to listen to the 911 tape.

24 FOREPERSON: Yeah -- no -- yeah.

25 THE COURT: Is that -- okay. All right. We've got that

1 set up. Let's go ahead and play that for them.

2 MR. RICHARDSON: Yes, sir, Your Honor. You all please
3 let me know if it's too loud or too soft.

4 (State's Exhibit Number Nine played in open court.)

5 THE COURT: All right. All right. Ladies and gentlemen,
6 I also received your second request in which you're asking for
7 the definition of involuntary manslaughter officially by code
8 of law; correct? All right. Under the law, involuntary
9 manslaughter is the unintentional killing of a victim without
10 malice, but while engaged in an unlawful activity not
11 naturally tending to cause death or great bodily harm or the
12 unintentional killing of a victim without malice while engaged
13 in a lawful activity with reckless disregard for the safety of
14 others. Okay. All right. I'm going to send you back to the
15 jury room and let you continue with your deliberations.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: All right.

19 MR. RICHARDSON: Without objection, Your Honor.

20 THE COURT: Any challenges from the State?

21 MR. WILSON: No, sir.

22 THE COURT: Any challenges from the Defense?

23 MR. WILSON: None, Your Honor.

24 THE COURT: All right. We'll stay in recess till we
25 hear something else.

Verdict

1467

1 MR. WILSON: Thank you, Judge.

2 THE COURT: Thank you.

3 OFF THE RECORD

4 (On the record. The following takes place outside the
5 presence of the jury. Verdict reached at 3:10 p.m.)

6 THE COURT: All right. I understand from the bailiff
7 that the jury has reached a verdict. Anything from the State
8 before we bring the jury in?

9 MR. RICHARDSON: Your Honor, we're ready to proceed.
10 Having spoken with the victims' family, friends, I told them
11 not to have any emotional outbursts.

12 THE COURT: Right. Okay. Yeah, and I want to tell
13 everybody that's in the courtroom not to display any show of
14 emotion or anything of that nature regardless of what the
15 verdict is in this case. This jury has had a very hard job.
16 It's not easy sitting through two weeks of trial and then
17 having to render a verdict in a case like this. So anybody
18 that does show any emotion is going to be subject to contempt
19 charges, and I tell you that simply to give you the
20 opportunity now if you feel that you are not able to control
21 your emotions to go ahead and excuse yourself from the
22 courtroom now so that there is no disruption and so that
23 nobody gets in trouble down the road. Okay? All right.
24 Anything further from the State before we bring the jury in?

25 MR. RICHARDSON: No, sir, Your Honor.

Verdict

1468

1 THE COURT: All right. Anything from the Defense?

2 MR. WILSON: Nothing, Your Honor.

3 THE COURT: All right. Let's bring the jury in.

4 (The following takes place in the presence of the jury.)

5 THE COURT: All right. Welcome back, ladies and
6 gentlemen. Ms. Bumbaco, I understand that the jury has
7 reached a verdict on both indictments; is that correct?

8 FOREPERSON: Yes, Your Honor.

9 THE COURT: All right. Have you completed the verdict
10 form for both indictments?

11 FOREPERSON: Yes, Your Honor.

12 THE COURT: All right. If you'd please hand it to the
13 deputy there. Thank you. Thank you, sir.

14 (Court reviews verdict forms.).

15 THE COURT: All right. I'll ask the clerk if she'd
16 please publish the verdicts.

17 THE CLERK: Indictment number 2013-GS-26-304, State of
18 South Carolina, County of Horry versus Sandy Lee Locklear, we,
19 the jury, find the Defendant guilty of murder. Indictment
20 number 2013-GS-26-302, State of South Carolina, County of
21 Horry versus Sandy Lee Locklear, we, the jury, find the
22 Defendant guilty of murder. Signed by foreperson, Teresa
23 Bumbaco, Juror Number 44. Ladies and gentlemen of the jury,
24 if this is your verdict so signify by raising your right hand.

25 (All jurors raise right hand.)

Verdict

1469

1 THE COURT: All right. Let the record reflect that all
2 jurors raised their right-hand. Any polling of the jury by
3 the Defense?

4 MR. WILSON: No poll, Your Honor.

5 THE COURT: All right. All right. Ladies and gentlemen
6 of the jury, I want to thank you for your service in this
7 case. That will conclude your service in this case, and I
8 truly want to thank you for your service for the past two
9 weeks. It's hard to sit on a jury on one case, a case that
10 lasts a day, a day and a half, much less one that goes on for
11 two weeks, and I want to thank you for your services for the
12 past two weeks in this case and for this term of court. You
13 will be disqualified from serving on juries for a year.
14 That's under state law. You have a three-year exemption. I
15 hope you do not exercise your exemption because we do need
16 good jurors, and I want to thank you for your service for
17 these past two weeks. I'm going to excuse you back to the
18 jury room for just a few minutes. I'm going to, I'm going to
19 step back and talk to you for just a few minutes. So I'm
20 going to excuse you back to the jury room for just a few
21 minutes and I'll be back out -- back there to speak with you
22 in just a second. Thank you.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: All right. Any post-trial motions at this

1 point in time?

2 MR. WILSON: Your Honor, yes, Judge. At this point in
3 time the Defense would move for, obviously, a judgment
4 notwithstanding the verdict, Your Honor, as well as for a new
5 trial. Obviously, I think that the evidence in this matter is
6 inconsistent with the jury's verdict in this matter. Also,
7 Judge, I would like to renew my motions regarding Jackson v.
8 Denno at this time, as well as renew my motions for all
9 objections that were made during the trial regarding the
10 admissibility of evidence, prejudicial value obviously
11 outweighing, in our opinion, some of the probative value of
12 the evidence that went in, including the actual statement that
13 went in as well, Judge.

14 THE COURT: All right. Motion is noted. I'm going to
15 deny your motion for judgment notwithstanding the verdict and
16 for a new trial, as well as I'm going to let all my prior
17 rulings stand.

18 MR. WILSON: Thank you, Your Honor.

19 THE COURT: Anything further from the Defense at this
20 time?

21 MR. WILSON: Nothing at this time, Judge. At the
22 appropriate time I would like to speak on behalf of my client
23 in mitigation.

24 THE COURT: All right. I'll give you an opportunity.
25 You got the sentencing sheets?

Motions

1471

1 MR. RICHARDSON: I do, Your Honor.

2 THE COURT: All right. Let's take about five minutes.

3 I'll come back and I'll set the sentence then. Okay? I want
4 to go back and excuse the jury.

5 MR. RICHARDSON: Certainly, Your Honor.

6 THE COURT: Usually when -- we -- and I'm going to tell
7 you what I'm going to do, and I won't go back there if you
8 don't want me to. When, when I have a case that goes a week,
9 two weeks, I like to step back and give the jury my personal
10 thanks regardless of what happens.

11 MR. RICHARDSON: Please express the same, and I'm sure
12 from the Defense.

13 THE COURT: And just ask -- if there's -- have any
14 questions or anything of that nature. All right.

15 MR. RICHARDSON: Your Honor.

16 THE COURT: Give me about 5 minutes, and I'll be right
17 back.

18 OFF THE RECORD

19 (On the record. The following takes place outside the
20 presence of the jury.)

21 THE COURT: All right. Mr. Richardson, you have the
22 sentencing sheets?

23 MR. RICHARDSON: Yes, sir, Your Honor.

24 THE COURT: All right.

25 MR. WILSON: Your Honor, we have no objection to the

1 sentencing sheets, Judge.

2 THE COURT: All right. All right. Mr. Wilson, I'll hear
3 from you, Ms. Locklear and/or anyone that wants to speak on
4 her behalf regarding mitigating matters.

5 MR. WILSON: Indulgence, Your Honor.

6 THE COURT: All right.

7 MR. WILSON: Your Honor, if I may start?

8 THE COURT: All right.

9 MR. WILSON: My client is obviously distraught at this
10 point in time, and I explained to her that the jury has spoken
11 and we respect the law. We respect this Court, and my client
12 understands that the jury -- their verdict -- that is their
13 verdict, and she understands that. Now, she has to accept
14 responsibility for the consequences of what the jury has said
15 the verdict is and she is here to do that. Obviously, it's a
16 tenseful situation for her and she has been -- obviously,
17 she's upset, but we've talked about this before, and, and we
18 understood that this day would come, and if this was the
19 actual verdict from the jury, she knew that was a possibility.
20 She understood that, and she wanted to go to trial. She has
21 claimed her innocence throughout, and now, though that the
22 jury has spoken, I am here on her behalf asking for mercy for
23 her. That's my job to advocate for her, and, and she has gone
24 through a lot in her life.

25 A lot of people don't realize the things she's gone

Sentencing

1473

1 through in her life. She has been diagnosed with a tumor
2 behind her eye. She has been raped. She was raped by her
3 father. She was on narcotics for a long time, and she's been
4 in some bad marriages, been beaten, and I know that a lot of
5 times in this court when we have bad cases like this where the
6 facts are so bad and this family has lost two loved ones, I
7 know that the Court has to do what the Court has to do, and
8 I'm well aware of the law and the punishment, and I've gone
9 into detail, ad nauseam, with my client about the punishment
10 for this particular crime, and I know at the proper time I
11 think she wants to speak, and I think she has some things she
12 may want to say to the Court. That will be up to her. I
13 believe that her sister, Tammy, who is here, wants to talk,
14 but on her behalf, at this time, just in case she can't do it,
15 I want to say to the family of the victims in this case that
16 my client is indeed sorry. She is indeed sorry for your loss,
17 and I also want to say to this Court that there comes a time
18 for mercy, and I am asking the Court to be merciful under the
19 situation, especially knowing her past and the things she's
20 gone through, and she's been diagnosed with bipolar, Judge.
21 She's been diagnosed as bipolar. It's in her records. When
22 she was reviewed by Dr. Frierson he noted it that there was a
23 history of bipolar disorder, but he said he didn't concur with
24 the actual diagnosis, but she was taking medication for years
25 for personality disorder, as well as bipolar disorder, and

1 again, I am asking the Court for mercy. She is asking the
2 Court for mercy. She understands she's got to face now the
3 consequences, and, and based on the sentences that I know that
4 the Court has at its disposal, she may never get out of
5 prison, ever, and you know, but I'm asking the Court to, to
6 see mercy if you can, Judge.

7 THE COURT: All right. Thank you. Anybody want to speak
8 on her behalf?

9 MS. SPEIGHT: Hello, Judge. My name is Tammy Speight.
10 I'm Sandy's sister.

11 THE COURT: All right. I'm sorry. You're going to need
12 to speak up.

13 MS. SPEIGHT: I'm sorry. My name is Tammy Speight.

14 THE COURT: Could you spell your last name?

15 MS. SPEIGHT: S-P-E-I-G-H-T.

16 THE COURT: All right.

17 MS. SPEIGHT: And that's Speight. I'm Sandy's sister,
18 and I want to thank the Court and all the officers of the
19 Court for all they've done.

20 My sister is my heart, and this has devastated our
21 family beyond words, and I wanted to say to Amos's family that
22 we loved Amos, and I'm sorry that we couldn't be there for
23 them at their time of need because we didn't feel that they
24 would accept us, but we love him, and my sister has two
25 children, a seven-year-old daughter, that I'm going to be

Sentencing

1475

1 taking until she can possibly maybe one day come home, and I
2 love my sister.

3 THE COURT: All right. Thank you ma'am.

4 MS. SPEIGHT: Thank you.

5 THE COURT: Is there anyone else?

6 MR. WILSON: Nothing further from the Defense, Your
7 Honor.

8 THE COURT: All right. Does the victims', does the
9 victims' family wish to say anything?

10 MR. RICHARDSON: Your Honor, I've spoken with Sylvia and
11 with the entire family, friends that are present today. Of
12 course, this has been almost a two-year ordeal for them,
13 tragic event. I can't imagine of anything worse. They've
14 prepared some statements, but at this point they're overcome
15 with emotion. They've asked that I read some of the statements
16 if it's okay with the Court. I'll read some excerpts.

17 THE COURT: All right. That'll be fine.

18 MR. RICHARDSON: Your Honor, this first letter is from
19 Sylvia Adkins. As she wrote this she stood in the, in the
20 trailer as I understand it. She states, (as read), "I stand
21 here in the same room that my father and brother's killer is
22 in." She's talking about here in the courtroom she, she wrote
23 it, Your Honor. She doesn't understand how someone can be so
24 evil to commit these acts. She, she talks about how her daddy
25 did everything he could, and gave everything he could to the

1 Defendant in this case, and all, all she could see at the end
2 of the rainbow was that insurance policy. She can't
3 understand it, Your Honor, and I don't blame her for not being
4 able to understand it. (As read), "I will never understand
5 either on August 19th, 2012, you took my father and brother
6 away from me and so many people that loved them. Since that
7 horrible night my life has not be -- has not nor will ever be
8 the same again. I've been diagnosed with severe depression
9 and PTSD because of this horrific crime. I'll be on medicines
10 forever. There are times at night when I wake up in a cold
11 sweat, Your Honor. There's not a day that doesn't go by that
12 I don't think about my daddy and my brother, not just my
13 father, but my daddy, Your Honor." That's her daddy. "Always
14 crying and it will be very hard to live my life being happy.
15 Since that terrible day, August 19th, days are filled with so
16 many pain, so much pain, tears, sadness. I work hard at
17 getting some of my life back, but the Defendant stole two
18 lives," and she's working on getting her life back so the
19 Defendant doesn't steal one more. "I don't care about a lot
20 of the things that used to mean so much to me. My children
21 don't have fun, happy mother that I always was. Sad to look
22 at my grandbaby and know that because of, because of this
23 event she'll never get to know her great-grandpa, her great
24 uncle. Money meant more than family to the Defendant."
25 She talks about how during the course of this short

Sentencing

1477

1 marriage that, that Amos gave all. Began smoking cheaper
2 cigarettes than he had always smoked because he couldn't
3 afford the cigarettes he'd been using because he was just
4 giving and giving and give out, Your Honor. And that's the
5 case the State put forward. He was tapped out. The only
6 thing left was this insurance policy.

7 "My father was a very good man and so was my brother. I
8 miss my good morning and good night phone calls from my daddy.
9 I really miss my talks with Tommy. I miss the long hugs and
10 I'll miss my father's hand." She goes on and on, Your Honor.

11 This next one is from Amber, granddaughter. (As read),
12 "My name is Amber Adkins. I am the granddaughter of Amos
13 Hatfield, the niece of Tommy." She talks about that day that
14 it started out as a normal Sunday until she got the call.
15 I've read the letter. She talks about when she's trying to go
16 see family she barely drives. She can't see because of the
17 tears coming out of her eyes, Your Honor. She says that that
18 day has changed her life forever.

19 Later on that night they found out who was actually
20 arrested on this, that it was this woman that her granddaddy
21 had married, that she never thought that the Defendant's
22 feelings for Amos were anything genuine. All she was was out
23 for money. Amos was a trusting person, trusting, and she
24 states she even lost her mom on that day to posttraumatic
25 stress disorder, and they're, they're trying to bring it

1 together, Your Honor. "I feel deprived of everything I've
2 lost. I've lost my grandpa, my uncle being able to, being
3 able to come to my wedding. They'll never be able to meet my
4 children. I feel so lucky and blessed to have had them in my
5 life for 19 years. I know that they're in a much better place
6 now but that doesn't make it any easier. Unfortunately, I'll
7 never get answers to most of my questions. What kind of
8 person would want to do this to two innocent, kindhearted men?
9 Why them? Questions like how much did they suffer? What are
10 they saying? What were they saying, and how long were their
11 killers in the house before they decided my grandpa and
12 uncle's time was up? How long were they screaming at them
13 and making them beg for their life? Who got shot first? Who
14 had to sit and watch the other die? What was the last thing
15 they saw before they closed their eyes for the very last
16 time?"

17 "I can only think about the last time I seen both of them
18 was in July 2012 when I got a package delivered to their
19 house. I couldn't stay long. I remember my uncle showing me
20 how he fixed up the fish tank my mom gave him. He was proud
21 of that fish tank. I remember him begging me to stay, and I
22 kept saying I can't. I have to go, and that's going to haunt
23 me forever."

24 "The nature of my grandpa and uncle's murder was -- has
25 had a major impact on me. My grandpa always trusted everyone.

Sentencing

1479

1 I adored him for that. I always wished I was more like him in
2 that, but now I have a hard time trusting anyone. Every time
3 someone does something nice I think they have a hidden agenda.
4 I have nightmares and I hate being home alone. I've distanced
5 myself from everyone. There are countless restless nights
6 that I just stayed up crying. The little things hurt
7 tremendously knowing that I don't have their names on my
8 Christmas list anymore, not making my grandpa's favorite foods
9 on Thanksgiving. My grandpa and uncle were, honestly, two of
10 the greatest men I've ever known. My grandpa would have done
11 anything in the world for anybody, and it breaks my heart that
12 his kindness is what got him killed. I never thought that our
13 family would go through something like this. I can't wait
14 for this to end, Your Honor, and we try and get our lives
15 back."

16 She talks about a trip her grandfather was going to take
17 her on to Las Vegas, Your Honor, and how this tragedy has
18 forever changed their lives. Amos and Tommy have been ripped
19 from their lives. They always lifted her spirit and her uncle
20 always joked with her just trying to get a smile on her face.
21 He was a goodhearted fellow, Your Honor. He had his problems,
22 but he was a goodhearted fellow, and he loved his family, and
23 they loved him.

24 "He always wanted to make everybody happy. He had a huge
25 heart that will be forever missed. It's hard to believe this

1 has happened. I finally learned that people you love can be
2 taken in an instant. Tomorrow is never promised for anyone.
3 I'd give anything to have them back."

4 Your Honor, I have other letters here from family friend,
5 Dennis Cardell. Had been a friend of Amos's for some time,
6 and says, "Sylvia, just before I retired I was going to --
7 going through some tough times, and your dad gave me a lot of
8 support and was always there if I needed someone to talk to.
9 As I left the town I wondered about my friend Amos. He was
10 truly a great friend and will be deeply missed. Amos was a
11 great man of stature, a loving husband, a great father to his
12 children. Sylvia, you surely have a right to be proud of your
13 father. Hold him high. He's looking down on you and he'll be
14 so proud. I will always remember Amos, beloved friend
15 forever. He's in my thoughts and prayers," and this friend
16 talks about when they were in the service together here in
17 Myrtle Beach at the Air Force Base, Your Honor. Always had a
18 special heart in Mr. Cardell's hands.

19 Tara Adkins, she married into the Adkins family. "Amos
20 and Thomas Hatfield were my husband's grandfather and uncle
21 and what happened was a tragedy." She first met Amos back in
22 2009. "He was a sweet and caring man. We shared a common
23 passion for collecting coins. My husband idolized his
24 grandfather." Amos was in the U.S. Air Force for 26 years and
25 retired as a senior master sergeant, Your Honor.

Sentencing

1481

1 "My husband wanted to follow in his grandfather's
2 footsteps and this is what made it -- this is what up his mind
3 to join the Air Force. Amos was so proud of Michael when he
4 joined." They go on to talk about how Amos changed after the
5 marriage to this Defendant, how he began pawning items,
6 selling items just to give money to Sandy Locklear.

7 "Michael had a beautiful -- Michael and I had a beautiful
8 daughter in April of 2012. The grandchild never got to know
9 her great-grandfather." She will only learn about him in
10 pictures, Your Honor.

11 Also, from Angela Lovell, niece and cousin of Amos and
12 Tommy. It just talks about when he smiled his eyes lit up
13 with all the love in his heart, "that the picture of my Uncle
14 Amos I will carry with me for the rest of my life. His love
15 was unwavering, devotion, kindness and patience were shown in
16 everything he did for his family and friends. He was
17 genuinely a good man. Tommy was a bundle of fun-loving,
18 mischief-making and wisecracking wrapped up in a Jake
19 Gyllenhaal look alike body is how I will remember my cousin
20 Tommy. Tommy enjoyed teasing people, loved all that he could
21 do, trying to make them laugh. Even at the worst they could
22 never stay angry at him." Her world was shattered in August
23 19th, 2012, when she learned about the terrible murder. Angela
24 states she's lucky enough that she, she was given that
25 precious little dog that Amos loved dearly, Shoo Shoo. She's

1 taken her in custody. I've seen pictures, Your Honor. She's
2 in great shape now, but she's still traumatized by that night.
3 Loud noises, such as fireworks, startle her. Gunshots, even
4 sirens on television send her into a panic, Your Honor. She
5 was there.

6 You know, time and again, everyone I've talked to that
7 has met Amos, that knows Amos loves Amos. He was a good man
8 and Tommy was getting himself on the right track. He'd been
9 in recovery as evidenced by his tox screen. There were no
10 other drugs other than the prescribed medication, Your Honor.

11 This is a cold and brutal murder of two men purely for
12 profit, and yes, the other two culprits will face a different
13 judge and a different jury, but for the actions of this
14 Defendant, cold, callous, calculated and evil, murder carries
15 30 years to life, and as that is the worst punishment this can
16 carry, Your Honor, the State would respectfully request --
17 you've heard all the evidence, you've seen everything,
18 terrible crime that very well could have been a capital case.
19 This Defendant deserves no less than two consecutive life
20 sentences, Your Honor, and that's what the State implores this
21 Court to impose.

22 THE COURT: All right. Any prior record?

23 MR. RICHARDSON: Your Honor, while her prior record is
24 minimal at best, including a fleeing or attempting to elude a
25 police officer, the theft by deception, some driving offenses,

Sentencing

1483

1 she had a battery, a family violence battery, it looks like a
2 conviction in 2000. There was an order of protection at one
3 time, if I recall correctly, Your Honor. It's marijuana
4 possession. I'm sorry, Your Honor. That was nolle prossed.
5 There was another one for DUI that was a conviction out of
6 2006. Nothing substantial, Your Honor, but she jumped off way
7 into the deep end on this one. This was a murder purely for
8 profit and deserves no less than consecutive life sentences.

9 THE COURT: All right. Ms. Locklear, the jury has found
10 you guilty on two counts of murder. The sentence of the Court
11 is that you be -- for each charge, the sentence of the Court
12 is that you be confined to the State Department of Corrections
13 for life. I will have the sentences run concurrent. Any
14 credit will be given to you.

15 MR. WILSON: Thank you, Your Honor.

16 THE COURT: All right.

17 MR. RICHARDSON: Thank you, Your Honor.

18 THE COURT: Thank you.

19 All right. Anything else before the Court at this time?

20 MR. WILSON: Nothing, Your Honor.

21 MR. RICHARDSON: No, sir, Your Honor. We have no further
22 matters before the Court.

23 THE COURT: Okay.

24 (Adjourned for June 12th, 2014.)

25

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the trial held in the case of The State versus Sandy Lee Locklear, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on May 28, 29, 30; June 2, 3, 4; and June 9, 10, 11 and 12, 2014.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Grace L. Hurley

Grace L. Hurley, CVR-CM-M

Official Reporter

October 3, 2014.

WITNESSES

Neal Frebowitz Horry County Police Department

ARREST WARRANT NUMBER

M974166

CDR: 0116 16-03-0010, 0020

DOA: 8/20/2012

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: *[Signature]* JAN 31 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-26- 00302

The State of South Carolina

County of Horry

Bradley C. Richardson
12H03921

COURT OF GENERAL SESSIONS

January, 2013 TERM

THE STATE

VS.

Sandy Lee Locklear

I/F

Tabor City, NC 28463

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Wilson, Jr., Ralph J

Indictment for

MURDER

Jimmy A. Richardson, II, Solicitor

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT
MURDER

At a Court of General Sessions, convened on January 31, 2013, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010.0020

That Sandy Lee Locklear and/or her Co-Defendant(s) did in Horry County, on or about August 19, 2012, willfully, feloniously, and intentionally kill the victim, Thomas Hatfield, with malice aforethought, either express or implied, by means of a gunshot wound, and the victim did die as a proximate result thereof on or about August 19, 2012 in Horry County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Neal Frebowitz Horry County Police Department

ARREST WARRANT NUMBER

M974163

CDR: 0116 16-03-0010, 0020

DOA: 8/20/2012

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: *[Signature]* JAN 31 2013

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-26-00304

The State of South Carolina

County of Horry

Bradley C. Richardson
12H03921

COURT OF GENERAL SESSIONS

January, 2013 TERM

THE STATE

VS.

Sandy Lee Locklear

I/ F

Tabor City, NC 28463

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Wilson, Jr., Ralph J

Indictment for

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT
MURDER

At a Court of General Sessions, convened on January 31, 2013, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Sandy Lee Locklear and/or her Co-Defendant(s) did in Horry County, on or about August 19, 2012, willfully, feloniously, and intentionally kill the victim, Amos Hatfield, with malice aforethought, either express or implied, by means of a gunshot wound, and the victim did die as a proximate result thereof on or about August 19, 2012 in Horry County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry
STATE VS.

INDICTMENT/CASE#: 2013GS2600304

Sandy Lee Locklear

A/W#: M974163

AKA: _____

Date of Offense: 8/19/2012

Race: INDIAN Sex: F Age: 42

S.C. Code §: 16-03-0010, 0020

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0116

Address: [REDACTED]

City, State, Zip: Tabor City, NC 28463

DL#: [REDACTED] SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

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

The charge is ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTENT: Richardson, Bradley C. SCB68305 SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6/12/2014

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

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

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

SPECIAL CONDITIONS:

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

Payment Terms: _____
☐ Set by SCDPPTS Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____

Recipient: _____ Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 17.9 (Public Def Prob)	\$500
§ 14-1-212 (Law Enforce Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(B)(1) (Breath Test Fee)	\$30
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter

SCCA-217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

Melanie Huggins Ward
Bradley C. Richardson

M. J. Huggins
2148
June 12, 2014

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Sandy Lee Locklear Se # 360304
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

20 17 CP26 014T

APPLICATION FOR
POST-CONVICTION RELIEFHORRY COUNTY
JAN 12 PM 3:02
CLERK OF COURT
HORRY COUNTY, SCINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Camille Griffin Graham Correctional Institute
2. Name and location of Court which imposed sentence Horry County, Conway, SC
3. Name(s) of co-defendant(s) (if any) Odorn Bryant, Nehemiah James Evans
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013-GS-26-302
 - (b) 2013-GS 26-304
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) June 12, 2014 - 2 Concurrent Life Sentences
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty NO
- (b) after a plea of not guilty YES
- (c) after a plea of nolo contendere NO
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Filed June 22, 2014
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. St. v. Dupree (2003), St. v. Dunbar (2004) St. v. Driggers (1994) Rutledge (2001)
- ii. St. v. Evans (2003), St. v. Nary (2010) St. v. Williams (2013) St. v. Selby (2001) St. v. Byers (2011)
- iii. Missouri v. Seibert 542 US 667 Kennedy, 325 SE 2d 303, 47 SE 2d 842
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) }
- (c) }
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) State failed to prove mens rea or malice aforethought necessary to charge jury on murder charges.
 (b) Lack of direct or substantial circumstantial evidence proving murder.
 (c) State failed to meet burden of proof for "hands of one, hands of all."

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) there is nothing in the record to prove beyond reasonable doubt that I had any knowledge of
 (b) Not one scintilla of evidence direct or circumstantial. If part in murders by you/
 Evidence is inconsistent with jury's findings. State's case is based on conjecture
 (c) At no time did either co-defendants make any statement to implicate
 me in the murders in any way

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
 ii.
 iii.
 iv.

(b) the name and location of the Court in which each was filed:

- i. N/A
 ii.
 iii.
 iv.

(c) the disposition thereof:

- i. N/A
 ii.
 iii.

Addendum to Items #10 + #11

Item #10 (D)

I would also like to raise the issue
of ineffective appellate counsel

#11 (c) Appellate counsel, Edwin Thompson Kinney, appointed
to me through Indigent Appellate Defense ~~was~~ ~~not~~ ~~for~~ ~~trial~~
provided ineffective assistance of counsel for fail
to raise the issues listed in this brief during appeal.
These issues were preserved in the record of trial
by my defense attorney, Ralph Wilson, Jr. during the
criminal proceedings.

PCR application 2013-03-26 302 + 304
Sandy Lee Locklear
SCDC 360304

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented;

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? N/A
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. Rolph Wilson Jr, Esq. 300 Second Ave. Ste 212 P.O. Box 1807, Columbia, SC 29101
- ii. Edwin Thompson Kinney, Esq. Mellikin Law Firm 1308 Broad St Camden, SC 29206
- iii. _____

- (b) the proceedings at which each such attorney represented you:

- i. Ralph Wilson - Trial & Sentencing
- ii. Edwin Thompson Kinney - Appeal
- iii. _____

19. State clearly the relief you seek in filing this application:

Reversal of convictions and vacating of Life Sentences,

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

20 17 CP26 0147

I, Sandy Lee Locklear, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Sandy Lee Locklear

SWORN to and subscribed before me this 9th
day of January, 2017.

Crystal Lee
Notary Public

(L.S.)

My Commission Expires: July 22nd 2026

HORRY COUNTY
2017 JAN 12 PM 3:02
RECEIVED
CLERK OF COURT
HORRY COUNTY, SC

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

20 17 CP28 0147

I, Sandy Lee Locklear, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Sandy Lee Locklear
Applicant

SWORN or affirmed to and subscribed before me this

9th day of January, 2017.

Crystal B. Ellis
Notary Public

My Commission Expires: July 22nd, 2026

2017 JAN 12 PM 3:02
Horry County
Clerk of Court
Horry County, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
Sandy Lee Locklear,	)	Case No.: 2017-CP-26-00147
S.C.D.C. No. 360304,	)	
	)	
Applicant,	)	
	)	RETURN AND
v.	)	PARTIAL MOTION TO DISMISS
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

FILED
 HORRY COUNTY
 2017 DEC 18 PM 1:46
 CLERK OF COURT
 HORRY COUNTY, SC

In response to the application for post-conviction relief filed by Sandy Lee Locklear (Applicant) on January 12, 2017, Respondent would show this Court:

I.

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. Applicant was indicted at the January 2013 term of the Horry County Grand Jury for two counts of murder (2013-GS-26-00302, -00304).

The Crime

On August 19, 2012, at 4:00 am, officers were called to the victims' home after Applicant, on a 911 call originating from the home, reported the murders and that she had been raped. Tr. 375-77; 400, ll. 12-14. Responding officers first noticed the back door was open and could see a body face down in the living room, and upon entry saw another body face down on the kitchen floor. Tr. 381-82. Each victim had been shot in the head through a pillow. Tr. 667-68; p. 675-76; p. 679-80; p. 1051, ll. 2-14. Officers heard a female voice from elsewhere in the trailer and found Applicant in a bedroom. Officer Tindall testified he helped Applicant out of the residence. Tr. 382-83. She told him two males entered the home, one with a long gun, struck

her in the head with the gun, and raped her in the kitchen. Officer Tindall testified he escorted her to a police car and asked if she was okay or needed medical treatment. Tr. 385-87.

The lead detective, Detective Frebowitz, arrived around 4:30 am. He testified he also checked on the Applicant, still thinking her to be a victim. He testified she told him that she had been raped, and he said they had to get her to the hospital "because [her] safety and welfare is . . . most important" Tr. 476, ll. 21-25; p. 478-81. At the hospital, Applicant maintained she had been vaginally penetrated twice. Tr. 814, ll. 15-22. Further, she gave a similar statement to the rape crisis center representative at the hospital. Tr. 408-10. Detective Frebowitz testified that later that same morning, he went to the hospital and spoke with Applicant. She again "reiterated that she was a victim of sexual assault." Tr. 24, ll. 2-20.

Applicant was that same morning transported to the detention center. Detective Frebowitz testified she was still not handcuffed, or otherwise restrained, and was still considered a victim and a witness to the murders. Tr. 25-26. She was not given the Miranda warnings because "[s]he wasn't a suspect . . . she was a victim and witness at that time." Tr. 26, ll. 12-20; p. 91, ll. 1-12. During the interview, several of her statements were inconsistent with what she had previously stated, and no bruising had appeared to support her assertions of being hit. At the beginning of the interview, Applicant indicated once again that she had been raped by the two males who forced their way into the home. Tr. 91, ll. 13-24. However, the detective noted a lack of visible bruises and/or other injury from the horrific, multiple rapes and dragging that she described. Tr. 534-35.

After additional questions, at approximately 11:15 am, some twenty-four minutes after beginning the interview, her story began to change. Tr. 32-33; Court Ex. 1; p. 90-94; p. 99-100. When it became apparent "she was actively attempting to deflect the truth," the detective took a

break from the interview. He returned and gave her the Miranda warnings at approximately 12:00 pm. Tr. 92-99. After the Miranda warnings, Applicant prepared a written statement in which she maintained she was a victim. Court Ex. 2.

During the interview, Applicant gave permission for her cell phone records to be obtained. Tr. 139-40. The cell phone records revealed texts that she had received and sent shortly before 3:00 am the day of the murders, concerning the back door of the home, specifically, making sure the door was unlocked for someone. Tr. 449-57. Moreover, the records placed usage in and around the area of the home. Tr. 457-58; p. 1003-06. The two phones identified, one of which was connected to Nehemiah James Evans,¹ were also in the same general area of a burned rental loaned to Applicant around 5:30 that same morning. Tr. 1007, ll. 1-5. Further, a search of Mr. Evans' home yielded a "piece of paper" with Applicant's name and phone number along with Evans' social security card and driver's permit. Tr. 1010-11.

Applicant herself would later repudiate her initial story, after being confronted with the records. She offered instead that it was planned to be a robbery where no one was hurt. She indicated that she let them tie her up, and she unlocked the door for them to enter the home. Tr. 612, ll. 2-24; p. 958-63. She indicated "James" was at fault, and Odom Bryant was involved. Tr. 556-57; p. 964-68.

During the investigation, Applicant's first cousin, Faye Hunt, came to the police station having heard through family members that she was being implicated. Tr. 817, ll. 2-6; p. 825-26. She spoke to officers and later gave a written statement on August 20, 2012. Court Ex. 18. Ms. Hunt testified that she saw Applicant often during 2011, and would go out to clubs with her. Tr. 821-22. Applicant lived in North Carolina in a home her husband had purchased for her. Tr.

¹ Evans later pled guilty to two counts of murder for a negotiated sentence of 30 years. See State v. Evans, 2013-GS-26-00305, -00307. Evans' application for post-conviction relief from that plea remains pending at the time of this drafting. See Evans v. State, 2015-CP-26-07825.