

VOLUME I OF III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

Honorable R. Scott Sprouse, Circuit Court Judge

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Apr 15 2020

S.C. SUPREME COURT

CHRISTOPHER HELLER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001408

APPENDIX

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County of Richland	)	06-GS-40-7464
	)	06-GS-40-7466
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CHRISTOPHER ROBERT HELLER,	)	
	)	
DEFENDANT,	)	

January 26th - 30th, 2009
Columbia, South Carolina

BEFORE:

THE HONORABLE J.C. NICHOLSON, JUDGE; and a jury.

APPEARANCES:

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Attorneys for the State

GREGORY COLLINS, ESQ.
Attorney for the Defendant

KAREN TRACY
Official Court Reporter

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1 THE COURT: All right. I understand they're going to
2 send us jurors this afternoon to draw, and we'll use this
3 morning to hear some motions.

4 I believe, Solicitor, Solicitor Garfield, what
5 motion? Do you want to do the Jackson V. Denno first?

6 MS. GARFIELD: Yes.

7 THE COURT: Or how do you wish to proceed?

8 MS. GARFIELD: Jackson v. Denno.

9 THE COURT: Are you ready to proceed on that?

10 MS. GARFIELD: Yes, sir.

11 MR. COLLINS: Your Honor?

12 THE COURT: Yes, sir.

13 MR. COLLINS: I'd ask that you sequester witnesses
14 during pretrial.

15 THE COURT: Any objection?

16 MS. GARFIELD: Sir, we'd just ask our investigating
17 officer as well as -- this is our investigating officer,
18 Officer Siniard.

19 THE COURT: You can keep your lead investigating
20 officer in the courtroom.

21 MS. GARFIELD: Yes, sir. He also had someone else,
22 though, assisting him throughout this case. It was the
23 first time he was working a murder. We would ask that he
24 be allowed to stay.

25 THE COURT: That's fine. You can let him stay.

1 MS. GARFIELD: Thank you.

2 MR. COLLINS: Your Honor, I would have to object to
3 that. The reason I renew the Rule 5 and Brady motions,
4 the investigator they are speaking of is Investigator
5 William Gonzales. The answer I got last week said that he
6 did not take one written note the entire investigation, so
7 I have nothing in discovery from him.

8 THE COURT: From who now?

9 MR. COLLINS: The investigator who she just stated
10 was his first murder to follow along with the lead
11 investigator. If he's going to testify --

12 THE COURT: Well, first of all, what's his name?

13 MS. GARFIELD: Willie Gonzales.

14 THE COURT: Willie Gonzales. Is he on the witness
15 list?

16 MS. GARFIELD: Yes, sir. I believe it's -- he's
17 actually listed as "William".

18 THE COURT: Investigator William Gonzales?

19 MS. GARFIELD: Yes, sir.

20 THE COURT: And that's his first murder trial?

21 MS. GARFIELD: It was the first murder that he was
22 assisting on in law enforcement. That's why we would ask
23 that he remain in the courtroom, so he can see this case
24 from the beginning all the way to the end.

25 THE COURT: All right. As far as the purposes of

1 Jackson V. Denno hearing, for right now, I'm going to ask
2 him to step out of the courtroom.

3 Who is your lead investigator?

4 MS. GARFIELD: Investigator Siniard -- I'm sorry.
5 He's lieutenant now.

6 THE COURT: I'm trying to find him on the list.

7 MS. GARFIELD: Howell Siniard. I believe he was the
8 first one.

9 THE COURT: Okay. All right. All right. Everybody
10 else, if you would, please --

11 MS. GARFIELD: And also our victim, our surviving
12 victim in this case, Your Honor, is Mary Chavis. She is
13 actually on her way down here now. We would ask that she
14 be allowed to remain in the courtroom.

15 THE COURT: All right. Mary?

16 MS. GARFIELD: Chavis.

17 MR. COLLINS: We have -- and we have no objection to
18 that.

19 THE COURT: Any other victims? How about the family
20 of the deceased?

21 MS. GARFIELD: It -- they're not present for
22 pretrial.

23 THE COURT: Okay. All right.

24 All right. Mr. Collins, on your Jackson v. Denno
25 hearing, I understand there's an oral statement and a

1 written statement; is that correct?

2 MR. COLLINS: Yes, Your Honor. There is a written
3 statement from August 31st, 2006 and a verbal exchange
4 between Investigator Siniard and my clients on
5 September 4th here in Richland County.

6 THE COURT: All right. Let me ask you this: Are
7 you -- are you alleging that there were no Miranda rights
8 written?

9 MR. COLLINS: Your Honor --

10 THE COURT: Or are you alleging that it's not
11 voluntarily entered into or both?

12 MR. COLLINS: At this point until I hear from the
13 investigation, I know I'm alleging that it was coerced, it
14 was not voluntary.

15 THE COURT: Okay.

16 MR. COLLINS: As far as the Miranda warnings, I'm
17 going to have to wait to see what we hear as far as
18 testimony.

19 THE COURT: I mean, do you have any factual basis to
20 say that the Miranda rights were not given? That's my
21 question to you.

22 MR. COLLINS: Yes, Your Honor.

23 THE COURT: Okay. All right.

24 Solicitor, he's alleging the Miranda rights were not
25 properly given, nor was the confession voluntarily given.

1 MS. GARFIELD: Okay.

2 THE COURT: Okay. Ready to proceed?

3 MS. GARFIELD: Yes, sir.

4 THE COURT: All right. If you'll call your first
5 witness, please, ma'am.

6 MS. GARFIELD: The State calls Investigator William
7 Gonzales.

8 THE COURT: Mr. Collins, let me ask. I don't -- do
9 you want to proceed with -- I understand the written
10 confession was first and then later back here in Richland
11 County was the oral statements.

12 Do you want to do them separate, or do you want to
13 just combine them together? How do you want to do it? I
14 mean, I'll do it however you want to do it.

15 MR. COLLINS: I think --

16 THE COURT: For your convenience purposes.

17 MR. COLLINS: I think it may be easier to do it
18 separate because Investigator Siniard is going to probably
19 be the only witness for the State on the verbal. He can
20 testify as to both, I believe, but I think if we just do
21 them separately.

22 THE COURT: Okay. I mean, that's fine.

23 (WHEREUPON, State's Exhibits Nos. 1, 2, 3 were marked
24 for identification only.)

25 WILLIAM GONZALES - IN CAMERA, after

1 being duly sworn, testified as follows:

2 THE CLERK: Have a seat in the witness box and state
3 your name for the record, please.

4 THE WITNESS: William Gonzales.

5 DIRECT EXAMINATION:

6 BY MS. GARFIELD

7 Q Investigator Gonzales, where are you employed?

8 A The Richland County Sheriff's Department.

9 Q And how long have you been -- how long have you been
10 employed with the Richland County Sheriff's Department?

11 A A little bit over eight years.

12 Q What are your duties currently with the Richland
13 County Sheriff's Department?

14 A I'm a member of the Major Crimes Unit, investigate
15 major crimes cases.

16 Q And how long have you been investigating major crime
17 cases?

18 A A little bit over three years, four years.

19 Q Do you recall being assigned to work a case involving
20 a stabbing back in August of 2006?

21 A Yes, ma'am.

22 Q And particularly, who do you recall assigning you?

23 A I was working with Investigator Siniard, Howell.

24 Q And you were working with Investigator Siniard?

25 A Siniard.

1 Q Who was the lead investigator on that case?

2 A Investigator Siniard.

3 Q Particularly, what were you assigned to assist
4 Investigator Siniard with?

5 A An interpretations that needed to be interpreted.

6 Q When you say "interpretations", particularly what
7 kind of interpretations?

8 A From the Spanish language.

9 Q Are you fluent in the Spanish language?

10 A That's correct.

11 Q Were there particular witnesses that only spoke
12 Spanish?

13 A That's correct.

14 Q And in the course of this case can you just give a
15 description of what actually occurred?

16 A Ma'am?

17 Q Can you just give a description, a brief description
18 for the record, of what occurred?

19 A I was informed that there was an individual that was
20 murdered at the Brookhurst Mobile Home Park. The
21 Brookhurst Mobile Home Park is predominantly -- occupied
22 by a Hispanic male, a Hispanic individual. I was told
23 that we needed to go to be with Investigator Siniard to
24 assist him in the case in reference to that -- that
25 homicide.

1 Q And in reference to this homicide, were you able to
2 develop a suspect in the case?

3 A Yes, ma'am.

4 Q And who was that suspect?

5 A That suspect now is to be known as Christopher
6 Heller.

7 Q Investigator Gonzales, you said this incident
8 occurred at the Brookhurst Mobile Home Park. Is that in
9 Richland County?

10 A That's correct.

11 Q And once you developed the suspect of Christopher
12 Heller, where was -- where was it determined that he
13 resided?

14 A It was determined that he resided in Georgia.

15 Q Do you recall where in Georgia?

16 A I want to say it was Arrington -- Arlington, Georgia?

17 Q Would you disagree with me if I said it's Appling?

18 A Appling, Appling. Yes, ma'am.

19 Q Did you have an opportunity to travel to Georgia?

20 A That's correct, myself and Investigator Siniard
21 traveled to Georgia.

22 Q Do you recall what day you went to Georgia?

23 A I would like to say it was the 26th, I believe.

24 Q Could it have been later in the month?

25 A That could be possible.

1 Q You, Investigator Siniard did go to Georgia?

2 A Yes, ma'am.

3 Q And on the day that you went, what was your purpose
4 in going to Georgia?

5 A Our purpose was to try to locate an individual, the
6 individual by the name of Christopher Heller, that his
7 family -- at his family residence.

8 Q And did you -- how did you go about looking for him
9 when you got there?

10 A We got to Georgia. There had been prior -- there's
11 been a prior arrangement made by Captain Stan Smith with
12 the sheriff's department down there. We got to Georgia,
13 and we made contact with the sheriff in that county.

14 Q And when you made contact, what did you do after
15 that?

16 A We appointed him to the situation, and we obtained a
17 search warrant for the residence where supposedly
18 Christopher Heller is supposed to be staying at.

19 Q And who was the affiant on that search warrant?

20 A I want to say it was Investigator Siniard.

21 Q And did you assist in executing that search warrant?

22 A That's correct, ma'am.

23 Q Were you able to locate Christopher Heller when
24 executing that search warrant?

25 A Not -- when executing the search warrant, no.

1 Q Okay. What did you do after you executed the search
2 warrant?

3 A We executed the search warrant, obtained some -- some
4 evidence from the residence. We went back to the
5 sheriff's department. The sheriff and the county had some
6 of his deputies go to another family member's house
7 looking for Mr. Heller.

8 Q Did you accompany that sheriff's department when
9 going to that next location?

10 A No.

11 Q What did you and Investigator Siniard do?

12 A We went back to the sheriff's department.

13 Q Please just for the Court -- no one has ever been
14 there. Describe what the sheriff's department is like.

15 A This was -- it's a small building. It has a
16 sheriff's department on one side and the magistrate
17 with -- inside of that building on the other side.

18 Q And what was your purposes for going back to the
19 sheriff's department?

20 A We were going back to the sheriff's department to try
21 to gather any more leads in reference to the case. We
22 were notified that -- that Christopher Heller was going to
23 turn himself in. I think a family was going to bring him
24 to the sheriff's department.

25 Q And at any time did Christopher Heller turn himself

1 in?

2 A Yes, ma'am.

3 Q And were you there when he turned himself in?

4 A Yes, ma'am.

5 Q Please describe for the Court the mannerism in which
6 Christopher Heller turned himself in to the sheriff's
7 department?

8 A Christopher Heller came into the sheriff's
9 department, I believe accompanied by his mother and
10 another young lady. He was -- he was -- he was calm,
11 cool, and collected. At that time when he showed up, I
12 placed him in custody, and I also patted him down.

13 Q And what was your purpose for patting him down?

14 A I wanted to make sure he didn't have no weapons or
15 anything like that.

16 Q And who was there when you were patting him down?

17 A I was -- it was myself and I believe -- I want to say
18 the sheriff, Sheriff DeLoach was there and another --
19 another deputy.

20 Q Was Investigator Siniard present?

21 A Yes.

22 Q And after y'all did that, what did you do next?

23 A We asked the sheriff if he had a room that we could
24 go to. He said yes, and he showed us the room. Myself
25 and Investigator Siniard went into the room with

1 Christopher Heller.

2 Q Were there -- was there anyone else in that room?

3 A No, ma'am.

4 Q And at that time, what did you do?

5 A I advised Christopher Heller of his Miranda warning
6 in writing.

7 MS. GARFIELD: Your Honor, may I approach the
8 witness?

9 THE COURT: Yes, ma'am.

10 BY MS. GARFIELD

11 Q I'm going to hand you what's been premarked State's
12 Exhibit 1. Do you recognize this?

13 A Yes, ma'am. That's the advisement of rights,
14 Richland County Sheriff's Department advisement of rights,
15 that I read to Christopher Heller.

16 Q Is that the sheet of paper you used to go over the
17 rights with Christopher Heller?

18 A That's correct.

19 Q And explain to the judge exactly how you went through
20 those rights?

21 A It's a normal routine that I do. I make sure that I
22 read each one of those lines on the paragraph, and I make
23 sure that before I go to the next line, that the
24 individual understands what that -- what that particular
25 sentence means. Then he'll initial it, and I'll keep on

1 going all the way down until it's done.

2 Q Is this a standard form the Richland County Sheriff's
3 Department uses?

4 A That's correct, ma'am.

5 Q And can -- is -- after you went through those rights,
6 what did you have the defendant do?

7 A I had him initial each one of those sentences like I
8 read it to him, and if he -- if he understood his rights,
9 for him to sign the top portion. I also explained to him
10 the bottom portion, which is the waiver of rights, and he
11 was able to sign that also.

12 Q Did you observe him initial each right?

13 A That's correct, ma'am.

14 Q Did you observe him sign the statement?

15 A I was right there; that's correct.

16 Q And then after you observed him sign the advisement
17 of rights, did you sign it?

18 A Yes, ma'am.

19 Q Is your signature on that form before you?

20 A That is my signature.

21 Q And was there anyone else there to witness this?

22 A Investigator Siniard was there.

23 Q Did he also sign this form?

24 A Yes, ma'am.

25 Q Investigator Gonzales, if you will just begin with

1 the very top of this advice of rights and read this into
2 the record.

3 A Where it says the Richland County Sheriff's
4 Department?

5 Q Yes, sir.

6 A This is the Richland County Sheriff's Department
7 Interrogation, Advisement of Rights. It has a space for
8 the name, officer, date, place, and time. Then down at
9 the bottom it has "your rights".

10 Q If you will please explain what was filled out in
11 those phases.

12 A That's my handwriting, and I filled out the
13 defendant's name where it says "name". I filled out the
14 place where it says "place".

15 Q And where was that place?

16 A Appling County Sheriff's Department, Baxley, Georgia.
17 The officer that read the interrogation of rights to him,
18 or the advisement of rights to him, I put my name down
19 there, slash, "Investigator Siniard was present in the
20 room", and the date and time.

21 Q And what was the date?

22 A August 31st of 2006.

23 Q And what was the time?

24 A The time was at 13:31.

25 Q And then what is below that?

1 A Below that is the explaining of your rights.

2 Q And if you will please just go through each right as
3 read to the defendant.

4 A As I explained to the defendant that day that:
5 "Before we ask you any question, you must understand your
6 rights. You have the right to remain silent. Anything
7 you say can be used against you in a court of law."

8 The same tone and the same speed that I read -- read
9 him his rights that day is the same one that I'm doing
10 right now.

11 "You have the right to talk to a lawyer for advice. --
12 we ask you any questions, and to have a lawyer with you
13 during any questions. If you cannot afford a lawyer, one
14 will be appointed for you before any questioning, if you
15 wish.

16 If you decide to answer questions now without a
17 lawyer present, you still have the right to stop answering
18 at any time. You also have the right to stop answering at
19 any time until you talk to a lawyer."

20 I asked him at that time, "Do you understand your
21 rights?" He stated yes.

22 I went down to the bottom portion, which is waiver of
23 rights. I read to him, "I have read this statement of my
24 own free -- I have read this statement of my rights and
25 understand what my rights are. I am willing to talk and

1 answer questions.

2 I understand and I know what I am doing. No promise
3 has been made to me and no pressure or coercion of any
4 kind has been used against me."

5 I asked him did he understand what that meant and he
6 said yes. I took my pen. I signed it. Correction, I
7 took my pen, gave it to him. He signed it, and then I
8 signed it. Then after I signed it, it was given to
9 Investigator Siniard, and he signed it.

10 Q And you witnessed both Christopher Heller sign this
11 document?

12 A That's correct.

13 Q And you witnessed Investigator Siniard sign this
14 document?

15 A That's correct.

16 Q How did Christopher Heller appear to you while you're
17 going over these rights?

18 A He was -- he was calm. He was calm.

19 Q Did he -- did at any time y'all make any promises to
20 him before -- when you were giving him these rights?

21 A Negative, ma'am.

22 Q Did you coerce him in any way --

23 A Negative.

24 Q -- to waive these rights?

25 A Negative.

1 Q Did you deprive him of any food?

2 A Negative.

3 Q Did you deprive him of any water?

4 A Negative.

5 Q If he wanted to go to the bathroom, would you have
6 allowed him to?

7 A Yes, ma'am.

8 Q Did he appear to understand what you were saying to
9 him?

10 A Oh, he understood, yes, ma'am.

11 Q And at that time did Investigator Siniard begin
12 questioning the defendant?

13 A That's correct.

14 Q And he did speak with Investigator Siniard?

15 A That's correct.

16 Q And did he appear to freely speak to Investigator
17 Siniard?

18 A Yes, ma'am.

19 Q After he spoke with Investigator Siniard, what did
20 you do?

21 A When Investigator Siniard asked him the first
22 question, it seemed like he told Investigator -- he us
23 what happened. It seemed like he wanted to get that load
24 off of him, and we took a statement.

25 Q And did you witness him sign this statement?

1 A That's correct.

2 Q Who actually -- was this a statement that was written
3 or was it typed?

4 A Investigator Siniard had his laptop, and he had typed
5 it in the laptop.

6 Q Did he type it in the presence of the defendant?

7 A That's correct.

8 Q Were you present, as well, when he typed it?

9 A Yes, ma'am. He was sitting in a desk, and I was
10 sitting in a chair next -- next to him.

11 Q Was a copy of the statement made there in Baxley,
12 Georgia?

13 A Well, we had printed it out right there, yes, ma'am.

14 Q Did the defendant have an opportunity to review that
15 statement?

16 A Yes. It was given to him for him to read.

17 Q Did he wish to make any changes?

18 A As far as I know, no.

19 Q Had he wanted to make any changes, would you all have
20 allowed him to do so?

21 A Of course.

22 Q Did you witness him sign a copy of that statement?

23 A He signed it right there in front of me, yes, ma'am.

24 Q Investigator, I'm just going to show you for I.D.
25 purposes, do you recognize State's Exhibit Number two, a

1 copy of the statement?

2 A Yes, ma'am.

3 Q And what is that, please, sir?

4 A This is a statement of Christopher Heller.

5 Q Is that the same statement that you observed
6 Investigator Siniard make in Baxley, Georgia?

7 A Yes, ma'am.

8 Q Is -- do you see a signature on that statement?

9 A Yes, ma'am.

10 Q And who signed that statement?

11 A The defendant signed the statement, and then I
12 witnessed it.

13 Q Is that your signature there?

14 A That's correct.

15 Q Is there also another signature on that statement?

16 A Yes, ma'am.

17 Q And who is that a signature reflecting?

18 A Investigator Siniard.

19 Q And did you witness him make that statement -- I
20 mean, that signature, as well?

21 A That's correct.

22 MS. GARFIELD: Your Honor, at this time, I'd like to
23 move State's Exhibit Number 1 into evidence for purposes
24 of this hearing. State's Exhibit Number one would be the
25 advice of rights.

1 THE COURT: Any objection?

2 MR. COLLINS: Is that a copy of the statement or the
3 original?

4 MS. GARFIELD: The original.

5 THE COURT: Any legal objection? Do you admit it for
6 purposes of this hearing?

7 MR. COLLINS: I just want to see if it's the original
8 statement with the original ink.

9 (Pause).

10 No objection for this hearing.

11 THE COURT: All right. State's Exhibit 1 and 2,
12 we'll mark them as Court's Exhibit one and two.

13 What you can do is substitute copies for State's
14 Exhibits 1 and 2, and in the trial you can have the
15 originals.

16 BY MS. GARFIELD

17 Q Thank you.

18 Investigator Gonzales, after the signatures are made
19 on the statement, what did you do procedurally?

20 A What did we do? I'm sorry?

21 Q What did you do after the statement was obtained?

22 A I believe the defendant wanted to -- wanted to speak
23 to his mother at that time.

24 Q Did y'all allow him to do so?

25 A Yes, ma'am.

1 Q And then after that, what did y'all do?

2 A We started preparing to come back to Columbia.

3 Q And did y'all travel back to Columbia that same day?

4 A We did, ma'am, but after -- after coming back to
5 Columbia, we went -- we had asked the defendant if he --
6 where were the clothes he was wearing that night. He told
7 us that the clothes were in his room at his mother's
8 house.

9 We had collected some evidence earlier that day. We
10 wanted to make sure that we had the exact clothes, what we
11 needed, and we went back to the house. He was able to
12 point out some of the shirts and the sneakers that he was
13 wearing that night. We were able to collect them at that
14 point.

15 Q What was his demeanor during this?

16 A He was calm, cool, collected, talking.

17 Q Did he appear cooperative?

18 A Totally.

19 Q Did y'all make any promises to him at this time?

20 A Never, ma'am.

21 Q Eventually did y'all travel back to South Carolina
22 that day?

23 A Yes, ma'am.

24 Q And who actually were (sic) in the car with y'all
25 when you came back?

1 A It was myself and Investigator Siniard and the
2 defendant.

3 Q And when y'all arrived in Columbia, what did y'all
4 do?

5 A We went to headquarters, and some other -- somebody
6 else took the defendant to, I believe it was Investigator
7 Siniard, took him to the jail.

8 Q Do you -- beg the Court's indulgence.

9 (Pause).

10 THE COURT: Cross-examination?

11 I'm sorry?

12 MS. GARFIELD: I said beg the Court's indulgence.

13 THE COURT: Okay.

14 MS. GARFIELD: I apologize.

15 (Pause).

16 BY MS. GARFIELD

17 Q Investigator Gonzales, do you recall going back to
18 the incident location with the defendant?

19 A That's correct, we drove by that.

20 Q Is that when you drove back to Columbia?

21 A That's correct.

22 Q What exactly did that entail after that?

23 A Investigator Siniard wanted -- wanted to -- to see if
24 the defendant would pretty much tell us where he threw the
25 knife that he used and where was he staying at or where

1 did he stay at that night during the -- after the
2 incident. He was able to point out some trailers, some
3 old random trailers, that were right there on Percival
4 Road close to the incident location.

5 Q And while he was doing this, was he cooperative?

6 A Totally, totally cooperative.

7 Q Did y'all coerce him in any way to cooperate?

8 A No, ma'am.

9 Q Did y'all make any promises?

10 A No.

11 Q Make any offers of leniency?

12 A No, ma'am.

13 Q Beg the Court's indulgence.

14 (Pause).

15 Investigator, when Christopher Heller turned himself
16 in in Baxley, Georgia, did he appear to be under the
17 influence of any drugs or alcohol?

18 A Not to my knowledge.

19 Q Did he appear to understand what was going on?

20 A Oh yes, totally.

21 Q And you were assisting Investigator Siniard in this
22 case; is that correct?

23 A That's correct.

24 Q This was actually -- was this the first murder you
25 had worked on?

1 A Yes, ma'am.

2 MS. GARFIELD: Thank you. Please answer any
3 questions Mr. Collins has for you.

4 THE COURT: Cross-examination, Mr. Collins?

5 MR. COLLINS: Thank you, Your Honor.

6 CROSS-EXAMINATION:

7 BY MR. COLLINS

8 Q So this was your first murder, but you didn't take
9 any notes during the entire investigation?

10 A That's correct.

11 Q Didn't want to learn from anything?

12 A Well, I was under the impression that we would
13 combine our notes with Investigator Siniard.

14 Q Combining would be two people combining separate
15 notes, correct?

16 A That's correct.

17 Q But you didn't write any notes?

18 A That's correct.

19 Q And you looked over his notes to prepare for this
20 trial, correct?

21 A I looked over the incident -- the incident report.

22 Q You weren't reading his -- his investigative notes
23 right here ten minutes ago?

24 A I was reading -- no, I'm sorry. I was reading
25 another case I had. I was looking over it.

1 Q And let's talk about the trip down to Georgia. You
2 were already aware that a search warrant was going to be
3 obtained when you got down there, right?

4 A That's correct.

5 Q And when you got there, you had the assistance of a
6 number of other officers from Georgia; is that correct?

7 A That's correct.

8 Q And you guys knew exactly where you were going?

9 A Well, we didn't know exactly the residence, but we
10 knew the sheriff and the deputy from that area knew
11 exactly where we were going.

12 Q And you looked at the search warrant?

13 A That's correct.

14 Q And you looked at the address on the search warrant,
15 correct?

16 A That's correct.

17 Q And you had about seven or eight officers that went
18 to serve this warrant on the house?

19 A There were several officers there. There were
20 several officers from the local county. There was
21 probation and parole, and I want to say there was some
22 other Georgia Bureau of Investigation also.

23 Q So that would be several counties, correct?

24 A That's correct.

25 Q Several probation and parole?

- 1 A That's correct.
- 2 Q Several G.B.I. officers?
- 3 A That's correct.
- 4 Q And then you and Investigator Siniard?
- 5 A That's correct, sir.
- 6 Q So roughly seven to eight, somewhere around in there?
- 7 A Could be.
- 8 Q And what you got to the house, you didn't just knock
- 9 on the door, did you?
- 10 A I stood out in the corner of the house for security,
- 11 perimeter security.
- 12 Q You never set foot in the house?
- 13 A Oh yes, after. After we gained entry to the house,
- 14 yes, we did.
- 15 Q How did you gain entry into the house?
- 16 A I believe the front door.
- 17 Q How did they open the front door?
- 18 A There was somebody inside.
- 19 Q They didn't knock the door down with a battering
- 20 ramp?
- 21 A I can't -- I can't answer that, sir. I wasn't -- I
- 22 wasn't present when they did that.
- 23 Q You can't answer, or you don't recall?
- 24 A I don't recall that.
- 25 Q You don't recall?

1 A Yes, sir.

2 Q And once you went in the house, guns were drawn,
3 correct?

4 A Yes.

5 Q Yes. And they went into one of the back bedrooms --

6 A That's correct.

7 Q -- in the house?

8 A Yes. People started going in different bedrooms.

9 Q Okay. They went into the bedroom of Lorena Heller,
10 correct?

11 A Somebody went in there, yes.

12 Q Were there guns drawn?

13 A I can't say that they had their guns drawn. I was --
14 I was in the living room area.

15 Q You're hearing them telling her to get down on the
16 ground?

17 A I heard something to that effect; that's correct.

18 Q And you said -- did you see the officers take Lorena
19 Heller and Christopher Heller's fiancée downtown from that
20 house?

21 A Take Lorena Heller from where?

22 Q Her house to headquarters.

23 A I didn't see that because I was -- I was -- I was in
24 Christopher Heller's room looking around for evidence.

25 Q And who did they serve the search warrant on?

1 A The lady that was inside the house.

2 Q They didn't leave it on the chair?

3 A That could be possible.

4 Q It could be possible, and you're not aware of them
5 arresting his mom and his fiancée?

6 A We was aware of that after speaking to Christopher
7 Heller.

8 Q And they arrested his mom and his fiancée from the
9 house when they served the search warrant, correct?

10 A I didn't -- I did not know that they were arrested.
11 That's not -- that's not nothing that we had anything to
12 do with that.

13 Q But you were at the house when the search warrant was
14 served?

15 A That's correct, sir. I was at the house, but I was
16 in -- I was not in control of everything that was there.

17 Q I'm just asking if you were aware of things? I'm not
18 asking if you were in control.

19 A I was aware that she was arrested after we spoke to
20 Christopher Heller in obtaining a statement.

21 Q And when you left the house, you left with the other
22 Georgia officers, correct?

23 A Yeah, there were several other officers with her.

24 Q And so if they would have arrested this woman or
25 these women, you would have seen that they took these

1 women with them, correct?

2 A Yes.

3 Q And you're saying you're not aware of them being
4 arrested?

5 A That's correct, sir, because I stayed inside the
6 house.

7 Q But you left the house at some point, correct?

8 A That's correct when --

9 Q You left when they left?

10 A We left the house, and from there we went back to --
11 back to the sheriff's department.

12 Q Okay. You didn't see either Ms. Lorena Heller or
13 Jena Cherry taken to any holding cell?

14 A No.

15 Q You didn't see them being questioned by Georgia
16 police officers?

17 A No, sir.

18 Q You didn't see them being -- being booked for
19 harboring a fugitive?

20 A I did not see that, no, sir.

21 Q You're now aware of that though, correct?

22 A I was aware of that after the fact.

23 Q And it was your testimony and under oath here today
24 that Christopher Heller showed up to the police station
25 with his mother, correct?

1 A With a lady, that's correct, which I believed to be
2 his mother.

3 Q And you said you know it was his mother on direct
4 examination, correct?

5 A Yes, sir.

6 Q And you said you collected evidence from the
7 residence, collected clothing from two separate bedrooms,
8 correct?

9 A I collected clothing from Christopher Heller's
10 bedroom.

11 Q How did you know it was Christopher Heller's bedroom?

12 A Because we were told that that was -- that's where
13 Christopher slept at.

14 Q By his mother?

15 A That's correct.

16 Q So you did see her when you were in the house?

17 A Well, it was obvious that she was in the house. The
18 question that you asked, whether I saw the deputy pull the
19 gun at her, I did not see that because I went into the --
20 Christopher Heller's room.

21 Q You went into Christopher Heller's room before you
22 ever saw her; however, she is the one that told you it was
23 Christopher Heller's room? That's what you just said,
24 Mr. Gonzales. Do you want me to clear that up?

25 A We went -- we went to the house. After we cleared

1 the house to make sure everything was safe, we were told
2 that that was Christopher Heller's room. I went into
3 Christopher Heller's room and started looking around.

4 Q Now, when you got back to the sheriff, headquarters
5 in Aplin County --

6 A That's correct.

7 Q -- Christopher Heller was initially taken in and
8 patted down, right?

9 A That's correct.

10 Q You patted him down, correct?

11 A That's correct.

12 Q And he was initially brought into a room kind of like
13 a classroom?

14 A Yes, he was.

15 Q And there were seven or eight officers, Georgia,
16 Investigator Siniard?

17 A I want to say that's the magistrate. I thought it
18 was the magistrate.

19 Q There were a number of other officers in the room
20 with you?

21 A Yes.

22 Q And right away you were asked -- or Investigator
23 Siniard asked to take Christopher Heller to a private
24 room, correct?

25 A If he had a room we could use; that's correct.

1 Q Away from the other officers?

2 A That's correct.

3 Q Didn't have any camera?

4 A I don't think so.

5 Q You didn't ask Georgia for any -- access to any
6 camera?

7 A There was no reason for that.

8 Q No reason for a camera, no reason for a tape-recorder
9 either?

10 A No, sir.

11 Q So the only information we have about what went on in
12 that room is what you said and what Investigator Siniard
13 says and what Mr. Heller says; is that correct?

14 A That's correct.

15 Q Nobody else was listening in on that?

16 A That's correct.

17 Q Nothing was recorded, audio or video?

18 A That's correct.

19 Q Not because you didn't have access to it, but because
20 you didn't feel there was a need for it, correct?

21 A It's not standard operations for us to have any type
22 of video recording or audio recording.

23 Q That's not standard procedures.

24 Beg the Court's indulgence for just with a second.

25 (Pause).

1 Okay. I want to take you a little bit -- if I may
2 approach the witness?

3 THE COURT: Yes, sir.

4 BY MR. COLLINS

5 Q For the advice of rights form, which you said you
6 filled out for Mr. Heller, can you read me the time?

7 A 13:31.

8 Q That would be 1:31 p.m.?

9 A That's correct.

10 Q Okay. Now, I want to show you what's marked as
11 State's Exhibit Number two. Is that the statement that
12 Mr. Heller signed?

13 A That's correct.

14 Q Can you read me the time when that statement was
15 given?

16 A 13:30.

17 Q And that would be 1:30 p.m.?

18 A That's correct.

19 Q On the same day?

20 A That's correct.

21 Q You would agree that that's before 1:31 p.m.?

22 A That's correct.

23 Q Continue looking at the statement. On the first page
24 you testified that Investigator Siniard notarized the
25 statement?

1 A That's correct.

2 Q And that's where he's putting his oath that that
3 statement, he witnessed it being signed and that's a true
4 statement?

5 A Yes.

6 Q Can you read me the date on page one of that notary?

7 A 31st of August, 2006.

8 Q Can you read me the date of the notary on page two?

9 A 25th day of August, 2006.

10 Q I'm sorry. I didn't quite hear you.

11 A 25th day of August, 2006.

12 Q And can you read me the date of the third page of
13 that statement?

14 A 25th day of August, 2006.

15 Q So we have first page august 31st it's notarized; is
16 that correct?

17 A That's correct.

18 Q And the first two pages it's notarized on
19 August 25th?

20 A It was done that same day. That could have been a
21 written mistake by Investigator Siniard in putting the
22 date down.

23 Q It could have been. And then I want you to look
24 closely at the signatures for that notary. Take your
25 time. Look at all three pages. Do those signatures look

1 identical to you?

2 A Page two and page three.

3 Q Look different than page one?

4 A That's correct.

5 Q But your testimony is that all three of these were
6 signed in succession within ten seconds of each other,
7 correct?

8 A That's correct, I was there.

9 Q And two different dates were put there?

10 A That could have been a simple mistake, but I know
11 what I saw. I was there.

12 Q But you didn't take any notes about what you saw?

13 A No, sir.

14 Q All you know is what you have seen here today?

15 A That's correct.

16 Q And this happened in 2006?

17 A That's correct.

18 Q And you have a large number of cases you done since
19 then?

20 A That's correct.

21 Q A large number of statements you have taken?

22 A That's correct.

23 Q A large number of defendants?

24 A That's correct.

25 Q And you said Investigator Siniard brought his laptop

1 into that room, right?

2 A That's correct, he had a bag.

3 Q Did he bring a printer, too?

4 A Sir?

5 Q He brought a printer, too?

6 A Yeah. It was kind of like a portable printer.

7 Q And you said you were sitting next to Investigator
8 Siniard. Are you not standing beside the desk?

9 A There was a chair in between the desk, myself, and
10 the defendant. The defendant was pretty much face-to-face
11 with Investigator Siniard.

12 Q Within a couple of feet?

13 A That's correct.

14 Q A pretty small office?

15 A It was small.

16 Q Any windows?

17 A Not that I can recall.

18 Q No windows, about three or four chairs in the room?

19 A I would say there were three chairs and a desk.

20 Q Was there another table in the room, too, a small
21 table?

22 A Not that I can recall.

23 Q You didn't take a picture of the room, did you?

24 A No, sir.

25 Q Now, I want to take you on your way back to Columbia.

1 You testified you went to headquarters first, right?

2 A That's correct.

3 Q Before you went to the scene?

4 A I said I went to headquarters first. I wasn't really
5 sure if I went to headquarters first -- before we went to
6 the scene or after we went to the scene, but we went to
7 the scene.

8 Q Okay. So now, you're not sure which one you went to
9 first?

10 A No, sir. I stick with my original statement we went
11 to headquarters.

12 Q First?

13 A That's correct.

14 Q Okay. And when you got to headquarters, you brought
15 him there so that he could sign the warrants, correct?

16 A So he could what?

17 Q So he could sign the warrants against him? You could
18 serve him with the warrants?

19 A I'm pretty sure I did.

20 Q Pretty sure?

21 A Yeah.

22 Q And you wanted to get fingerprints, too, correct?

23 A I don't know if the fingerprints were done on him. I
24 wasn't present for that.

25 Q You weren't present. And your testimony is that he

1 was cooperative at every single stage of this?

2 A That's correct.

3 Q Never told him that you would let him mom out of jail
4 if he worked?

5 A That never came out of my mouth, sir.

6 Q So the reason for driving by the scene back in
7 Columbia so he could show you where he threw the knife --

8 A We wanted to have an idea of where he threw the knife
9 so we could go look for it later on.

10 Q If he told you where he threw the knife, you wouldn't
11 go look for it right then?

12 A It's not feasible.

13 Q You couldn't have one officer stay in the car and
14 another walk in the woods?

15 A No, sir.

16 Q And you said you pointed out some abandoned trailers
17 in the statement?

18 A That's correct.

19 Q And did you ever go take pictures of that trailer?

20 A I believe Investigator Siniard took some pictures.

21 Q Okay. You don't know what happened to those?

22 A No, sir.

23 Q And did he -- did Christopher Heller tell you where
24 he threw the knife that night?

25 A He gave us a general area of where he threw the

1 knife. He wasn't exactly sure because it was dark and he
2 was running.

3 Q About how long did you drive by this scene? Was it
4 just a drive by, or did you stop and get out of the car?

5 A I think we drove by, stopped on the side of the road.
6 We talked. He pointed, drove down the road again, turned
7 around.

8 Q Never got out of the car?

9 A I don't recall, sir.

10 Q And just one or two more questions. Initially in
11 Georgia, as soon as Christopher Heller came into
12 headquarters, is he free to leave?

13 A Not at that moment he wasn't.

14 Q You already had him entered into N.C.I.C., correct?
15 Warrants were already signed out by the magistrate here in
16 Richland County, right?

17 A He was under arrest at that moment when he came in.

18 Q Before he signed anything?

19 A He was under arrest.

20 MR. COLLINS: Okay. No further questions, Your
21 Honor.

22 THE COURT: Any redirect?

23 MS. GARFIELD: Just briefly.

24 REDIRECT EXAMINATION:

25

1 BY MS. GARFIELD

2 Q Investigator Gonzales, when you wrote the time on
3 that advice of rights, where would you have gotten that
4 time from?

5 A I wrote the time on the advisement of rights by my
6 watch.

7 Q That's the watch you're wearing?

8 A That's the -- that's watch I'm wearing; that's
9 correct.

10 MS. GARFIELD: Thank you. Nothing further.

11 THE COURT: All right. Investigator Gonzales, you
12 may step down. Thank you very much.

13 THE WITNESS: Thank you.

14 THE COURT: All right. It's almost one o'clock.

15 We'll break at this time. Do you want to start back at
16 2:30?

17 MS. GARFIELD: Is that okay with you?

18 MR. COLLINS: In speaking with the solicitors, before
19 we can officially end pretrial, I still have to have the
20 opportunity to observe all of the physical evidence in
21 this case. That hadn't happened yet. I don't know if
22 that will be enough time for us or not.

23 THE COURT: Well, we'll worry about that a little bit
24 later, okay.

25 We'll start back at 2:30 to finish this Jackson v.

1 Denno hearing. If you have time to look at some of it at
2 lunch, go ahead and do it then. If not, we'll look at it
3 this afternoon.

4 MS. GARFIELD: Thank you.

5 THE COURT: Let me ask a question before we break for
6 lunch. On your number three motion, you're renewing all
7 previous Rule 5 and Brady requests. Are you asking for
8 something specific or are you -- is that just a catchall
9 motion to make sure you've gotten everything?

10 MR. COLLINS: It's catchall and --

11 THE COURT: I mean, is there something that I need to
12 order them to produce?

13 MR. COLLINS: The specifics I was talking about is
14 having to do with Investigator Gonzales. I believe we
15 cleared that up on direct; that he didn't take a single
16 note in this case. Other than that, it's a general
17 catchall.

18 THE COURT: Okay. Solicitor, have you given him
19 everything that you think qualifies under Brady --

20 MS. GARFIELD: I -- I.

21 THE COURT: -- and Rule 5?

22 MS. GARFIELD: I think I have except I think there is
23 something from this morning. I gave it to you. I also
24 met with Mr. Collins a couple weeks ago to make sure we
25 got everything. My notebook is here for him to review at

1 any time.

2 THE COURT: Then that leaves the other three motions,
3 and we can finish those this afternoon.

4 Let me ask you this, Mr. Collins, before we break
5 about your motion number two on the I.D. of Mary Chavis
6 and Bille Joe Risinger.

7 MS. GARFIELD: Risinger, yes, sir.

8 THE COURT: Risinger, what is your specific objection
9 to the identification? Number one, how was he identified?
10 Was it by photo, or how was it done?

11 MR. COLLINS: Both of them.

12 THE COURT: And number two, what's your objection?

13 MR. COLLINS: Both of them there -- there was a
14 composite sketch and a photo lineup. Ms. Chavis was in
15 intensive care at the hospital at the time that she did.
16 They had -- did an "x" for her because she was not able to
17 write at the time.

18 THE COURT: They had to do what?

19 MR. COLLINS: They had to put an "x" for her
20 signature because she was unable to write at the time.

21 THE COURT: Because of what reason?

22 MR. COLLINS: Her injuries from the attack.

23 THE COURT: To her hand or what --

24 MR. COLLINS: Both hands.

25 THE COURT: -- her arm? Okay.

1 MR. COLLINS: There is no written statement from
2 Ms. Chavis. I do not know, other than what the
3 investigators put a very limited amount in the notes about
4 how that was conducted and exactly what kind of condition
5 she was in. That's the reason I'm asking for a hearing on
6 that so we can find out the exact conditions, unless she
7 made that photo lineup identification.

8 I don't have an objection to the composite but for
9 the photo lineup.

10 THE COURT: Okay. Solicitor, have you shown him the
11 photos that were used?

12 MS. GARFIELD: Yes, sir.

13 THE COURT: Have you seen those photos?

14 MR. COLLINS: I have seen photos, yes, sir.

15 THE COURT: Okay.

16 MR. COLLINS: I would like to inquire about the
17 senses of the witness who identified whether or not --

18 THE COURT: What now?

19 MR. COLLINS: Her sight, how aware she was at the
20 time this identification allegedly happened. I don't have
21 any information on that.

22 THE COURT: Well, what I'm trying to glean from
23 your -- on what basis do you think the identification
24 should be identified?

25 So far everything you have mentioned to me is just

1 wait, sufficient argument to the jury. It doesn't go to
2 suppression. I'm trying to find out from you why you
3 think I should suppress the identification made by these
4 two people.

5 MR. COLLINS: With these two people?

6 THE COURT: Without you going on a fishing
7 expedition.

8 MR. COLLINS: Without a written statement from
9 Ms. Chavis, I do not know the conditions under which she
10 allegedly saw this attacker, whether or not she saw him
11 during the attack, while this stabbing was going on or if
12 this is a description of a man she hung out with earlier
13 in the night, which both sides consent happen.

14 I do not know what her statement is as far as who she
15 was identifying in that photo lineup, whether it was a
16 person she was hanging out with earlier in the night or
17 whether it was the attacker she says it was. How do I
18 know the conditions in which they --

19 THE COURT: Well, you're in the discovery mode. You
20 don't have any basis for your motion to suppress.

21 MR. COLLINS: I --

22 THE COURT: Now, Solicitor, have -- have they given
23 statements to the witnesses, anybody?

24 MS. GARFIELD: Bille Joe Risinger does, and he's been
25 provided that. Ms. Chavis did not make a written

1 statement, Your Honor. Her hands were bandaged for
2 several weeks after this. She wasn't able to.

3 THE COURT: But did the police officer do a synopsis
4 of what she had told him?

5 MS. GARFIELD: Everything that she told law
6 enforcement --

7 THE COURT: He has.

8 MS. GARFIELD: -- is written in Investigator
9 Siniard's follow up notes.

10 THE COURT: Okay. All right. Mr. Collins, what I'm
11 going to do is, you know, unless you have got some basis
12 to suppress it, and I understand that you -- you want to
13 know -- it's more of a discovery motion than it is, to me,
14 a suppression motion. So we're going to deal with this at
15 trial, okay?

16 MR. COLLINS: If I may --

17 THE COURT: If I've got to do it in camera at trial,
18 I'll be happy for you all to make the motion to deal with
19 it in camera if it's necessary, but you're just wanting to
20 know what they're going to say before they get on the
21 witness stand I don't think is sufficient reason to try to
22 even talk about suppressing a photo lineup.

23 MR. COLLINS: Your Honor?

24 THE COURT: Okay.

25 MR. COLLINS: If it's true what the Solicitor just

1 said, that everything she said is in Investigator
2 Siniard's notes, then I move to suppress the
3 identification because she never stated she -- any
4 description of her attacker.

5 She never stated what the attacker was actually
6 wearing, what the attacker looked like. Everything she
7 stated was who she hung out with earlier in the night.

8 THE COURT: That's what I'm trying to get you to tell
9 me. On what basis are you wanting to suppress it? What's
10 your basis for suppressing the photo lineup or the
11 identification?

12 MR. COLLINS: For them trying to seek in that she
13 identified --

14 THE COURT: Trying to do what?

15 MR. COLLINS: If they're willing -- if they're
16 seeking to seek in that her identification is that of her
17 attacker, then I move to suppress because there is time
18 and place, there was a short amount of time in a dark
19 trailer. She doesn't give any description of the person
20 that was stabbing her.

21 THE COURT: Well, I mean, what -- all that -- doesn't
22 that go to your cross-examination, the weight and
23 sufficiency of the evidence, not that the -- the photo
24 lineup itself was unfair or discriminatory?

25 MR. COLLINS: I believe that under Neil vs. Biggers

1 I'm entitled to a hearing to address the perception of
2 which the witness had and the identification. That's one
3 factor is whether or not it was a suggestive lineup.

4 THE COURT: Right. That's what I understand.

5 MR. COLLINS: There's also all the other factors.

6 THE COURT: You can look at the pictures and
7 determine the suggestion, or unless there were some
8 statements made to her which were suggestive.

9 MR. COLLINS: Which I don't know anything about.

10 THE COURT: Well, I understand.

11 MR. COLLINS: As far as Bille Joe Risinger's
12 identification, again everything that we have from her is
13 that she never saw any part of the attack.

14 There was a dark trailer late at night, and she sat
15 in a lineup. She picks out who they hung out with earlier
16 in the night. If they're seeking to introduce that's the
17 attacker.

18 THE COURT: Okay. All right. So that's your basis
19 for your -- for the suppressing the identification?

20 MR. COLLINS: Yes, sir.

21 THE COURT: All right.

22 MS. GARFIELD: Your Honor, if I could just respond.

23 Mary Chavis is interviewed by Investigator Siniard on
24 August 28th at the hospital. At that time, she tells law
25 enforcement that the black male was brought to her trailer

1 by Tracy. When Chavis asked him to leave, he left and
2 immediately came back into the trailer and started cutting
3 her.

4 After that she is agreeing to met with S.L.E.D. to do
5 a composite drawing, which she does give a composing
6 drawing to S.L.E.D. After that a suspect is developed.

7 She is then reinterviewed on August 30th. Then
8 according to Investigator Siniard's notes, he writes:
9 "Chavis appears to be healing and indicates better.
10 Chavis said the guy that stabbed her was wearing a white
11 t-shirt turned inside out with a white tank top on
12 underneath the t-shirt. He had on blue jean shorts and
13 tennis shoes that were blue and white. The trailer was
14 dark, but according to Chavis, that's what he had on.

15 She does give a description to law enforcement. I
16 met with Greg -- I'm sorry, Mr. Collins. He informed me
17 he had Investigator's Siniard's case summary, and if he
18 does not, we'll provide it at this time.

19 THE COURT: Okay. All right. All right. We'll
20 adjourn until 2:30. Thank you very much.

21 MS. GARFIELD: Thank you, Your Honor.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: I think what we'll do, if it's okay, is
24 we'll strike the jury. They're downstairs twiddling their
25 thumbs. We can excuse them and bring them back after we

1 get the jury drawn. Is that okay with everybody?

2 MS. GARFIELD: Fine with the State.

3 MR. COLLINS: Fine.

4 THE COURT: Okay. How long does it take to get them
5 up here, Christine?

6 THE CLERK: About five to ten minutes.

7 THE COURT: Okay. Solicitor, do you like to read the
8 indictment?

9 MS. GARFIELD: Whatever, it doesn't matter.

10 THE COURT: It's your choice.

11 MS. GARFIELD: Whatever the judge tells me to do.

12 THE COURT: Okay. Well, as far as I'm concerned, you
13 can read the indictments.

14 MS. GARFIELD: Excellent. Thank you.

15 THE COURT: You can call the case.

16 (Pause).

17 Mr. Collins, I need your witness list.

18 MR. COLLINS: I believe I --

19 THE CLERK: It's on there.

20 THE COURT: Is it on there?

21 MR. COLLINS: I put the witnesses --

22 THE COURT: Okay. I'm sorry. I overlooked it.

23 MR. COLLINS: There may be a couple more that I have
24 depending on who the State calls from their witness list.

25 THE COURT: Do what now?

1 MR. COLLINS: The State's witness list.

2 THE COURT: All right. Are any of these witnesses
3 included on the State's list?

4 MR. COLLINS: Your Honor, I believe Kevin Nails.

5 MS. GARFIELD: Kevin Nails.

6 MR. COLLINS: Kevin Nails.

7 THE COURT: Kevin Nails is?

8 MR. COLLINS: Yes, sir.

9 THE COURT: All right.

10 MR. COLLINS: And then I may have one I added from
11 their witness list, as well.

12 Your Honor, they have been instructed -- they're
13 sequestered and have been instructed not to speak about
14 the case.

15 THE COURT: I'm sorry. What now?

16 MR. COLLINS: All the witnesses on my list are --

17 THE COURT: Okay, sequestered.

18 MR. COLLINS: -- have been instructed to stay out of
19 the courtroom throughout the proceedings.

20 THE COURT: All right.

21 MR. COLLINS: Would you like me to have them come in
22 for jury selection?

23 THE COURT: If you want to.

24 MR. COLLINS: I think they should.

25 THE COURT: Solicitor, do you want to bring your

1 witnesses in for jury selection?

2 MS. GARFIELD: Yes, sir. Okay.

3 (Whereupon, the jury panel entered the courtroom).

4 THE COURT: Is that everybody or do we know?

5 THE CLERK: No, sir. It's not everybody.

6 (Pause).

7 THE COURT: Can I see the attorneys up here just a
8 second, please?

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing, of the jury).

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, we're getting ready to start the case.

13 Solicitor, if you could call your case, please.

14 MS. GARFIELD: Thank you, Your Honor. May it please
15 the Court. The State calls Christopher Robert Heller,
16 indictment number 06-GS-40-7466 for the charge of assault
17 and battery with intent to kill and indictment number
18 06-GS-40-7464, the charge of murder.

19 THE COURT: Okay. And then we've got 7466; is that
20 correct?

21 MS. GARFIELD: That's correct. I read them both,
22 Your Honor.

23 THE COURT: You read them both?

24 MS. GARFIELD: Yes, sir.

25 THE COURT: Okay. I'm sorry.

1 All right. Ladies and gentlemen of the jury panel,
2 I'm Judge Nicholson. I'm from the Tenth Circuit, which is
3 in Anderson County, Oconee County, in the upstate.

4 I'm going to be holding criminal court here this
5 week. I'm looking forward to working with you this week.
6 The Solicitor just called this case, the case of State vs.
7 Christopher Robert Heller with the indictment.

8 The indictment is not evidence in the case. An
9 indictment is merely the means by which the defendant is
10 brought before the Court for trial before a jury, and it's
11 not evidence, and information in the indictment is not
12 evidence, nor any proof of evidence. It's just merely the
13 allegations that the State had brought against the
14 defendant.

15 A defendant does not have to prove himself innocent
16 in a criminal court. It's the State's responsibility to
17 prove the defendant guilty beyond a reasonable doubt.

18 Now, I'm going to call out a list of names. If that
19 person is in the courtroom, please stand and face the
20 jury.

21 I'm going to ask you the same question about each
22 name. I'm going to ask you if you're related by blood or
23 marriage, do you know the individual, or have you had any
24 personal contact or any type of contact with the
25 individual.

1 When I say marriages, I'm talking about present
2 marriages or past marriages. I've had one or two jurors
3 that didn't want to reveal that they were divorced from a
4 particular witness, so I am talking about past marriages
5 or if you have got a marriage on the immediate horizon,
6 we'd like to know about that marriage also. When I speak
7 of the word marriage, I'm talking about present, past, and
8 future.

9 The first name is Lieutenant Howell Siniard. He's
10 standing to your left. Thank you very much. He works for
11 S.L.E.D., South Carolina Law Enforcement Division. Is
12 anybody related by blood or marriage, or does anybody know
13 Lieutenant Siniard? Has anybody had any contact with him?
14 If so, please stand?

15 (There was no response).

16 When I say left or right, the way this courtroom is
17 shaped odd, it's hard to figure out whose left and whose
18 right we're talking about.

19 The next name is Roy Paschal, also of S.L.E.D. Is
20 anybody related by blood or marriage, or does anybody know
21 Roy Paschal?

22 (There was no response).

23 He's not in the courtroom. Some of these people will
24 be in the courtroom and some of them won't.

25 The next name is Debbie Goff of S.L.E.D. standing to

1 your left.

2 Thank you, Ms. Goff.

3 Is anybody related by blood or marriage to Debbie
4 Goff? Does anybody know Debbie Goff or have any contact
5 with her? If so, please stand.

6 (There was no response).

7 The next name is Nikki Perry also of S.L.E.D., not in
8 the courtroom. Is anybody related by blood or marriage to
9 Nikki Perry? Has anybody had any contact or know Nikki
10 Perry? If so, please stand.

11 (There was no response).

12 The next name is Neil Schmitz of the Richland County
13 Emergency Medical Service. Does anybody know Neil
14 Schmitz? Is anybody related by blood or marriage or had
15 any contact with him? If so, please stand.

16 (There was no response).

17 The next name is Brittney Cooper also with Richland
18 County Emergency Medical Services. Is anybody related by
19 blood or marriage? Does anybody know of Brittney Cooper?
20 If so, please stand.

21 (There was no response).

22 The next name is Christy Stover, Richland County
23 Emergency Medical Service. Does anybody know Christy
24 Stover? Is anybody related by blood or marriage to
25 Christy Stover? If so, please stand.

1 (There was no response).

2 The next name is Edward Dabkowski. Anybody related
3 by blood or marriage to Edward Dabkowski?

4 Dabkowski? How does he pronounce it, Solicitor?

5 MS. GARFIELD: Dabkowski.

6 THE COURT: Dabkowski. It's D-A-B-K-O-W-S-K-I.

7 Anybody related by blood or marriage or does anybody know
8 him? If so, please stand.

9 (There was no response).

10 The next name is Deputy Christine Benson of the
11 Coroner's Office? Anybody related by blood or marriage to
12 Deputy Christine Benson, or does anybody know of Christine
13 Benson? If so, please stand.

14 (There was no response).

15 The next name is Shannon Merritt. Does anybody know
16 Shannon Merritt? Is anybody related by blood or marriage?
17 If so, please stand.

18 (There was no response).

19 The next name is Detective Mark Jones of the West
20 Columbia Police Department. Does anybody know Detective
21 Mark Jones? Anybody related by blood or marriage to Mark
22 Jones? If so, please stand.

23 (There was no response).

24 The next name is Chief John Ewing of the Bishopville
25 Police Department? Does anybody know John Ewing? Anybody

1 related by blood or marriage? If so, please stand.

2 (There was no response).

3 Next name is Deputy Beach, Appling County Sheriff's
4 Office in Baxley, Georgia. Does anybody know Chief Deputy
5 Beach? Is anybody related by blood or marriage? If so,
6 please stand.

7 (There was no response).

8 The next name is Sheriff Benny DeLoach of Appling
9 County Georgia, which is Baxley, Georgia. Is anybody
10 related by blood or marriage to Benny DeLoach? Anybody
11 know Benny DeLoach? If so, please stand.

12 (There was no response).

13 The next name is Linda Morphis? Anybody know Linda
14 Morphis? Anybody related by blood or marriage? If so,
15 please stand.

16 (There was no response).

17 The next name is Patricia Reed-Enzor, Richland County
18 Sheriff's Department. Does anybody know Patricia
19 Reed-Enzor? Anybody related by blood or marriage? If so,
20 please stand.

21 (There was no response).

22 Next name is David Lucas, Richland County Sheriff's
23 Department. Anybody know of David Lucas? Anybody related
24 by blood or marriage? If so, please stand.

25 (There was no response).

1 The next name is Raphael Gonzalez, Richland County
2 Sheriff's Department? Does anybody know Mr. Gonzalez?
3 Anybody related by blood or marriage? If so, please
4 stand.

5 I believe he -- is he in the courtroom?

6 MS. GARFIELD: No, sir.

7 THE COURT: Okay.

8 MS. GARFIELD: That's a different Gonzales.

9 (There was no response).

10 THE COURT: The next name is Lieutenant Zane Padgett,
11 Richland County Sheriff's Department. Is anybody related
12 by blood or marriage to Zane Padgett? If so, please
13 stand.

14 (There was no response).

15 The next name is Lieutenant Anna Elsey Clemmons,
16 Richland County Sheriff's Department. Does anybody know
17 Anna Elsey Clemmons? Is anybody related by blood or
18 marriage? If so, please stand.

19 (There was no response).

20 The next name is Investigator Brian Godfrey, Richland
21 County Sheriff's Department. Does anybody know Brian
22 Godfrey? Anybody related by blood or marriage? If so,
23 please stand.

24 (There was no response).

25 The next name is Major Jim Stewart with the Richland

1 County Sheriff's Department. Anybody related by blood or
2 marriage or know Jim Stewart? If so, please stand?

3 (There was no response).

4 The next name is Investigator William Gonzales of the
5 Richland County Sheriff's Department standing to your
6 left.

7 Thank you Investigator Gonzales.

8 Is anybody related by blood or marriage, or does
9 anybody know investigator William Gonzales? If so, please
10 stand.

11 (There was no response).

12 The next name is Investigator Travis Holdorf,
13 Richland County Sheriff's Department. Does anybody know
14 Travis Holdorf? Is anybody related by blood or marriage?
15 If so, please stand.

16 (There was no response).

17 Next name is Kevin Baker of S.L.E.D. Does anybody
18 know Kevin Baker? Is anybody related by blood or
19 marriage? If so, please stand.

20 (There was no response).

21 The next name is Investigator Terry Downey, Richland
22 County Sheriff's Department. Does anybody know Terry
23 Downey? Is anybody related by blood or marriage? If so,
24 please stand.

25 (There was no response).

1 The next name is Captain Stan Smith of the Richland
2 County Sheriff's Department. Does anybody know Captain
3 Stan Smith? Is anybody related by blood or marriage?

4 Yes, ma'am. Your name?

5 PROSPECTIVE JUROR: My name is Mary Peeples. Stan
6 Smith used to be my brother-in-law, but it's been like 18
7 years since I was married to his brother.

8 THE COURT: Used to be your brother-in-law?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Do you know your jury number?

11 PROSPECTIVE JUROR: 204.

12 THE COURT: 204. Yes, ma'am, Ms. Peeples, how often
13 have you seen him?

14 PROSPECTIVE JUROR: I haven't seen him in 18 years.

15 THE COURT: Eighteen years. You haven't spoken to
16 him or seen him?

17 PROSPECTIVE JUROR: No, I have not.

18 THE COURT: Would that cause you --

19 PROSPECTIVE JUROR: I haven't seen --

20 THE COURT: -- any difficulty, assuming he will
21 testify, in this case?

22 PROSPECTIVE JUROR: Pardon me?

23 THE COURT: Will that cause you any difficulty
24 sitting on this jury?

25 PROSPECTIVE JUROR: Oh, absolutely not.

1 THE COURT: Pardon?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Can you be fair to both the State and the
4 defendant?

5 PROSPECTIVE JUROR: Certainly.

6 THE COURT: Can you base your decision on testimony
7 you hear in the courtroom?

8 PROSPECTIVE JUROR: Certainly.

9 THE COURT: Was this your sister's husband or your
10 brother's -- or your sister's --

11 PROSPECTIVE JUROR: No. His wife and my husband were
12 brother and sister.

13 THE COURT: Brothers and sisters, okay, all right.
14 Do you have any bad feelings or hard feelings as a result
15 of the divorce that he went through?

16 PROSPECTIVE JUROR: Oh, none at all.

17 THE COURT: Okay. All right. Thank you very much,
18 Ms. Peeples, juror number 204.

19 Next name is Captain Stan Smith. Anybody related by
20 blood or marriage or know Captain Stan Smith?

21 (Pause).

22 PROSPECTIVE JUROR: That's who you just did.

23 THE COURT: I know.

24 (Jury panel laughing).

25 I just realized that when I said it, okay. Thank you

1 for reminding me.

2 All right. The next name is Investigator Stan
3 Richards. Anybody know Stan Richards, anybody related by
4 blood or marriage? I had two Stans.

5 (There was no response).

6 The next name is Tracey Green, Richland County
7 Sheriff's Department, anybody know Tracy green? Is
8 anybody related by blood or marriage? If so, please
9 stand.

10 (There was no response).

11 The next name is Jim Reese. Anybody know Jim Reese?

12 (There was no response).

13 The next name is Investigator Joseph Clark, Richland
14 County Sheriff's Department. Anybody related by blood or
15 marriage or know Joseph Clark? If so, please stand.

16 (There was no response).

17 The next name is Bill Allen. Is anybody related by
18 blood or marriage, or does anybody know Bill Allen? If
19 so, please stand.

20 (There was no response).

21 Next name is Deputy R. Weldon Gregory, Richland
22 County Sheriff's Department. Does anybody know Weldon
23 Gregory? Is anybody related by blood or marriage? If so,
24 please stand.

25 Yes, ma'am, your name?

1 PROSPECTIVE JUROR: Polly Paton.

2 THE COURT: Do you know your number?

3 PROSPECTIVE JUROR: 201.

4 THE COURT: 201. Yes, ma'am, Ms. Paton?

5 PROSPECTIVE JUROR: He's a patient.

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR: He's a patient.

8 THE COURT: A patient?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Are you a nurse or a doctor?

11 PROSPECTIVE JUROR: I'm a dentist.

12 THE COURT: A dentist. And how often -- how long has
13 he been a patient?

14 PROSPECTIVE JUROR: Many years.

15 THE COURT: Pardon?

16 PROSPECTIVE JUROR: Many years.

17 THE COURT: Many years. How often do you see him?

18 PROSPECTIVE JUROR: Every six months or so.

19 THE COURT: Every six months or so, okay. So he
20 comes in for a cleaning every six months?

21 PROSPECTIVE JUROR: Yes, there you go.

22 THE COURT: Or have a hole drilled in his teeth?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: One of the two?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: All right. Would that cause you any
2 difficulty, assuming he will testify in this case?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Can you be fair to both the State and the
5 defendant?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Can you base your decision on the
8 testimony you hear in the courtroom?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: All right. Thank you, Ms. Paton.

11 Yes, ma'am, your name?

12 PROSPECTIVE JUROR: I'm Ann Stroud, back up to Bill
13 Allen, please.

14 THE COURT: All right. Hold on just a second.
15 What's your number?

16 PROSPECTIVE JUROR: 251.

17 THE COURT: You said 51 or 61?

18 PROSPECTIVE JUROR: 251.

19 THE COURT: 251, yes, ma'am. Okay. Tell me about
20 it. It's investigator Bill Allen, Richland County
21 Sheriff's Department.

22 PROSPECTIVE JUROR: Wrong one, sorry.

23 THE COURT: Wrong one. Thank you very much.

24 The next name is Investigator Harold Bouknight,
25 Richland County Sheriff's Department, commonly referred

1 to --

2 MS. GARFIELD: Your Honor --

3 THE COURT: -- as Mike Bouknight. Is anybody related
4 by blood or marriage? Does anybody know Harold Bouknight
5 also known as Mike Bouknight? If so, please stand.

6 (There was no response).

7 The next name is Raul Ortiz, Richland County
8 Sheriff's Department. Is anybody related by blood or
9 marriage to Raul Ortiz? If so, please stand.

10 (There was no response).

11 MR. COLLINS: Your Honor, may we approach briefly
12 before this next name?

13 THE COURT: Pardon?

14 MR. COLLINS: May we approach briefly before this
15 next name?

16 THE COURT: I won't call out where he is. Just have
17 a seat.

18 Next name is Donald Moore. Is anybody related by
19 blood or marriage to Donald Moore, or does anybody know
20 Donald Moore? If so, please stand.

21 (There was no response).

22 The next name is Investigator Tricia Odom Collins.
23 Anybody related by blood or marriage, or does anybody know
24 Investigator Tricia Odom Collins? If so, please stand.

25 (There was no response).

1 The next name is Erica Sullivan. Does anybody know
2 Erica Sullivan? Is anybody related by blood or marriage
3 to Erica Sullivan? If so, please stand.

4 (There was no response).

5 The next name is Nikki Perry from S.L.E.D. Anybody
6 know Nikki Perry? Is anybody related by blood or marriage
7 to Nikki Perry? If so, please stand.

8 (There was no response).

9 The next name is Jennifer Brown. Anybody related by
10 blood or marriage to Jennifer Brown? Does anybody know
11 Jennifer Brown? She also works at S.L.E.D. If so, please
12 stand.

13 (There was no response).

14 The next name is John Barron, Richland County
15 Sheriff's Department. Does anybody know John Barron?
16 Anybody related by blood or marriage to John Barron? If
17 so, please stand.

18 (There was no response).

19 The next name is Dr. Grayson Amick, Richland County
20 Sheriff's Department. Anybody know Dr. Grayson Amick?
21 Anybody related by blood or marriage? If so, please
22 stand.

23 (There was no response).

24 Next name is Sergeant Kevin Isenhoward, Richland
25 County Sheriff's Department. Anybody know Sergeant Kevin

1 Isenhoward, Richland County Sheriff's Department, related
2 by blood or marriage? If so, please stand.

3 (There was no response).

4 The next name is Investigator Tommy Croxton, Richland
5 County Sheriff's Department. Is anybody related by blood
6 or marriage or know Tommy Croxton? If so, please stand.

7 (There was no response).

8 The next name is Ron Abrams, Richland County
9 Sheriff's Department. Is anybody related by blood or
10 marriage, or does anybody know Ron Abrams? If so, please
11 stand.

12 (There was no response).

13 The next name is Tena Goff, Richland County Sheriff's
14 Department. Anybody know Tena Goff? Is anybody related
15 by blood or marriage? If so, please stand.

16 (There was no response).

17 The next name is Joy Delatorre; is that correct,
18 Solicitor?

19 MS. GARFIELD: Yes, sir.

20 THE COURT: Does anybody know Joy Delatorre? Is
21 anybody related by blood or marriage to Dr. Joy Delatorre?
22 If so, please stand.

23 (There was no response).

24 The next name is Maria Yturria.

25 Solicitor, how do you pronounce it?

1 MS. GARFIELD: Yturria.

2 THE COURT: Yturria? Works at the Richland County
3 Sheriff's Department, Maria Yturria, anybody related by
4 blood or marriage, or does anybody know her? Please
5 stand.

6 (There was no response).

7 Dustin Smith of S.L.E.D. Anybody related by blood or
8 marriage to Dustin Smith, or does anybody know Dustin
9 Smith? If so, please stand.

10 (There was no response).

11 The next name is Seaby Phillips? Anybody related by
12 blood or marriage to Seaby Phillips? Does anybody know
13 Seaby Phillips? If so, please stand.

14 (There was no response).

15 The next name is Christine Barrickman, Richland
16 County Sheriff's Department. Is anybody related by blood
17 or marriage to Christian Barrickman, or does anybody know
18 Christine Barrickman? If so, please stand.

19 (There was no response).

20 The next name is Amy Stephen of S.L.E.D. Is anybody
21 related by blood or marriage, or does anybody know Amy
22 Stephens? If so, please stand.

23 (There was no response).

24 The next name is Brandon A. Williams of S.L.E.D.
25 Does anybody know Brandon Williams? Is anybody related by

1 blood or marriage? If so, please stand.

2 (There was no response).

3 The next name is Melody Young, Registered Nurse.

4 Does anybody know Melody Young? Is anybody related by
5 blood or marriage? If so, please stand.

6 (There was no response).

7 The next name is Jennifer Blair. Anybody know
8 Jennifer Blair? Anybody related by blood or marriage to
9 Jennifer Blair? If so, please stand.

10 (There was no response).

11 The next name is Michael Lynch of S.L.E.D. Is
12 anybody related by blood or marriage? He's standing to
13 your left. Finally found somebody that's standing.

14 Thank you very much, Mr. Lynch.

15 Is anybody related by blood or marriage to Mr. Lynch,
16 or does anybody know Mr. Lynch? If so, please stand.

17 (There was no response).

18 Joli Rish, anybody know Joli Rish? Is anybody
19 related by blood or marriage? Does anybody have any
20 contact with Joli Rish? If so, please stand.

21 (There was no response).

22 The next name is Dr. Richard Bell. Is that a
23 pathologist or what kind of doctor?

24 MS. GARFIELD: Trauma, emergency room.

25 THE COURT: A what?

1 MS. GARFIELD: Emergency room.

2 THE COURT: Emergency room. Okay. Dr. Richard Bell,
3 a physician who works in the emergency room. Anybody
4 related by blood or marriage to Dr. Bell? Does anybody
5 know Dr. Bell or have been treated by Dr. Bell? If so,
6 please stand.

7 (There was no response).

8 The next name is Dr. Raymond Bynoe.

9 MS. FENT: Bynoe.

10 THE COURT: Is he also emergency room?

11 MS. FENT: Yes.

12 THE COURT: Which, Richland Memorial or where?

13 MS. FENT: Yes, Your Honor, Richland Memorial.

14 THE COURT: Anybody know Dr. Raymond Bynoe? Anybody
15 related by blood or marriage to Dr. Raymond Bynoe? If so,
16 please stand.

17 Yes, ma'am.

18 PROSPECTIVE JUROR: 251, I taught his children.

19 THE COURT: How long ago?

20 PROSPECTIVE JUROR: Last -- two years ago.

21 THE COURT: Two years ago. Did you have any personal
22 contact with him, or you just --

23 PROSPECTIVE JUROR: I had personal contact with him.

24 THE COURT: How often did you see him?

25 PROSPECTIVE JUROR: In the course of a year, probably

1 about four times.

2 THE COURT: Four times, okay. Did he come in to
3 praise you or give you a hard time?

4 PROSPECTIVE JUROR: He was very nice.

5 THE COURT: Very nice, okay. Would it cause you any
6 difficulty with sitting on the jury?

7 (There was no response).

8 Can you set that relationship aside and be fair to
9 both the State and the defendant?

10 PROSPECTIVE JUROR: I could be.

11 THE COURT: Can you base your decision on testimony
12 as it is heard in the courtroom?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. Thank you very much, Ms. Stroud,
15 juror 251.

16 Yes, sir, your name?

17 PROSPECTIVE JUROR: John Bane, number 13.

18 THE COURT: Thirteen?

19 PROSPECTIVE JUROR: I also know his daughter.

20 THE COURT: Hold on just a second. Let me find you
21 on my list here.

22 (Pause).

23 Yes, sir, Mr. Bane.

24 PROSPECTIVE JUROR: His daughter worked as an intern
25 in my department at South Carolina Educational Television.

1 THE COURT: Okay. How long ago?

2 PROSPECTIVE JUROR: She left us in October.

3 THE COURT: Did she work directly with you or just in
4 the department?

5 PROSPECTIVE JUROR: No, in my department.

6 THE COURT: In your department. Would that cause you
7 any difficulty, Mr. Bane, with sitting on this jury?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Can you be fair to both the State and the
10 defendant?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Can you base your decision on the
13 testimony here in the courtroom?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you, Mr. Bane.

16 The next name is Dr. Brent Medford. Does anybody
17 know Dr. Brent Medford? Is anybody related by blood or
18 marriage or been treated by Dr. Medford? If so, please
19 stand.

20 (There was no response).

21 The next name is Dr. Anna Bouknight. Anybody related
22 by blood or marriage, or does anybody know Dr. Bouknight,
23 Bouknight, excuse me. If so, please stand.

24 Yes, sir, Mr. Bane, juror number...

25 PROSPECTIVE JUROR: Thirteen.

1 THE COURT: Thirteen.

2 PROSPECTIVE JUROR: Dr. Bouknight treated me about
3 six years ago for a brief period of time for probably
4 about three months.

5 THE COURT: Okay. Do you have any bias or prejudice
6 to Dr. Bouknight as a result of that treatment?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: Can you be fair to both the State and the
9 defendant?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: Can you base your decision on testimony
12 you heard here in the courtroom?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Do you have any difficulty sitting on the
15 jury, assuming Dr. Bouknight will testify?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Thank you very much.

18 Yes, sir, your name?

19 PROSPECTIVE JUROR: Juror 155, Debo
20 Laufersweiler-Dwyer. I'm not sure --

21 THE COURT: Hold on just a second.

22 (Pause).

23 Okay. Go ahead, juror number 155.

24 PROSPECTIVE JUROR: I'm not sure if it's the
25 Dr. Bouknight that my husband may have worked with a while

1 ago. I don't know what Dr. Bouknight does.

2 THE COURT: What type of doctor is Dr. Bouknight?

3 MS. GARFIELD: Emergency room.

4 PROSPECTIVE JUROR: Then it's not the one.

5 THE COURT: Richland Memorial?

6 MS. GARFIELD: Yes, sir.

7 PROSPECTIVE JUROR: That's not the same doctor.

8 THE COURT: Same one, okay.

9 PROSPECTIVE JUROR: Your Honor, in that case, it's
10 not the same Bouknight. Mine was an ear, nose and throat
11 specialist.

12 THE COURT: You really got to know Dr. Bouknight.

13 Okay. Thank you very much.

14 The next name is Dr. John Walsh. Is anybody related
15 by blood or marriage to Dr. John Walsh, or has anybody
16 been treated by Dr. Walsh? If so, please stand.

17 (There was no response).

18 The next name is Dr. Robert C. Jones. Has anybody
19 been treated by Dr. Jones? Anybody related by blood or
20 marriage or know Dr. Jones? If so, please stand.

21 (There was no response).

22 The next name is Dr. Kyle Ernest Watford. Is anybody
23 related by blood or marriage to Dr. Watford? Does anybody
24 know Dr. Watford? If so, please stand.

25 (There was no response).

1 The next name is Mary Dianna Chavis. She is standing
2 in the front. Thank you, Ms. Chavis.

3 THE WITNESS: Thank you.

4 THE COURT: Is anybody related by blood or marriage
5 to Mary Chavis? Does anybody know Mary Chavis? If so,
6 please stand.

7 (There was no response).

8 The next name is Ted Staples. If anybody knows Ted
9 Staples? Anybody related by blood or marriage to Ted
10 Staples? If so, please stand.

11 (There was no response).

12 The next name is Luis Tay. Is anybody related by
13 blood or marriage to Luis Tay? Does anybody know Luis
14 Tay? If so, please stand. That's L-U-I-S, T-A-Y.

15 (There was no response).

16 The next name is Edwin Santana. Is anybody related
17 by blood or marriage to Edwin Santana? Does anybody know
18 Edwin Santana? If so, please stand.

19 (There was no response).

20 The next name is Miguel Duran-Olvera, Olvera?

21 MS. GARFIELD: Olvera.

22 THE COURT: Olvera? Miguel Duran-Olvera. Is anybody
23 related by blood or marriage, or does anybody know Miguel
24 Duran-Olvera? If so, please stand.

25 (There was no response).

1 Luis Saveras?

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Does anybody know Luis Saveras? Does
4 anybody know Luis Saveras? If so, please stand.

5 (There was no response).

6 The next name is Brenda Lee Thomas. Is anybody
7 related by blood or marriage, or does anybody know of
8 Brenda Lee Thomas? If so, please stand.

9 (There was no response).

10 The next name is Miranda Lancour, Miranda Lancour.
11 Does anybody know Miranda Lancour? Is anybody related by
12 blood or marriage? If so, please stand.

13 (There was no response).

14 The next name is Kevin Lashawn Nails. Is anybody
15 related by blood or marriage to Kevin Nails? Does anybody
16 know of Kevin Nails? If so, please stand.

17 (There was no response).

18 The next name is Bille Joe Risinger. Does anybody
19 know Bille Joe Risinger? Is anybody related by blood or
20 marriage to Bille Joe Risinger? If so, please stand.

21 (There was no response).

22 The next name is Carolyn Robinson. Is anybody
23 related by blood or marriage, or does anybody know Carolyn
24 Robinson? She is standing in the very back behind you.

25 Thank you, Ms. Robinson.

1 Anybody related by blood or marriage to Carolyn
2 Robinson, or does anybody know Carolyn Robinson? If so,
3 please stand.

4 (There was no response).

5 The next name is Nohemi Guzman Flores. I don't know
6 if I can do that again. Is anybody related to Nohemi
7 Guzman Flores or related by blood or marriage? If so,
8 please stand.

9 (There was no response).

10 The next name is Cathy Robinson. Is anybody related
11 by blood or marriage? Does anybody know Cathy Robinson?
12 If so, please stand.

13 (There was no response).

14 The next name is Carol Haggens. Does anybody know
15 Carol Haggens? Is anybody related by blood or marriage to
16 Carol Haggens? If so, please stand.

17 (There was no response).

18 The next name is Mark Hornsby. Is anybody related by
19 blood or marriage to Mark Hornsby? Does anybody know Mark
20 Hornsby? If so, please stand.

21 (There was no response).

22 The next name is Mike Ables. Is anybody related by
23 blood or marriage to Mike Ables? Does anybody know Mike
24 Ables? If so, please stand.

25 (There was no response).

1 The next name is Phillip Pittman. Does anybody know
2 Phillip Pitman? Is anybody related by blood our marriage?
3 If so, please stand.

4 (There was no response).

5 The next name is Bernadette Antencio. Is anybody
6 related by blood or marriage Bernadette Antencio? If so,
7 please stand.

8 (There was no response).

9 The next name is Christopher Heller.

10 Mr. Heller, if you would stand and face the jury,
11 please. Thank you Mr. Heller.

12 Is anybody related by blood or marriage, or does
13 anybody know Christopher Heller? If so, please stand.

14 (There was no response).

15 The next name is Loranda Heller. She is standing in
16 the very back.

17 Thank you, Ms. Heller.

18 Does anybody know Loranda Heller? Is anybody related
19 by blood or marriage to Loranda Heller? If so, please
20 stand.

21 (There was no response).

22 The next name is Jena Cherry. Does anybody know Jena
23 Cherry? If so, please stand.

24 (There was no response).

25 Has any member of the jury panel or a member of your

1 immediate family been a victim, witness, or a defendant to
2 a crime of violence? If so, please stand.

3 Yes, sir, your name?

4 PROSPECTIVE JUROR: Leland Richardson.

5 THE COURT: Do you know your number, Mr. Richardson?

6 PROSPECTIVE JUROR: 216.

7 THE COURT: Yes, sir, Mr. Richardson. Was it you or
8 a member of your family?

9 PROSPECTIVE JUROR: A member of my family, has a case
10 pending right now.

11 THE COURT: Has a case pending right now?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Where they were the victim?

14 PROSPECTIVE JUROR: The defendant.

15 THE COURT: The defendant?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: All right. The question was has any
18 member been a victim.

19 PROSPECTIVE JUROR: I apologize.

20 THE COURT: Well, victim, witness or a defendant. So
21 it's a member of your family is a defendant in a case at
22 the present time; is that correct?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: All right. What's the relationship?

25 PROSPECTIVE JUROR: My brother.

1 THE COURT: Your brother. All right. Do you want to
2 come around up front here, please? The lawyers can join
3 me up here.

4 THE CLERK: Do you want all those people to line up,
5 just come forward?

6 THE COURT: Just tell them to stand up there. I'll
7 line them up and deal with them one at a time.

8 THE CLERK: Everybody can just form a line, please.

9 THE COURT: Come over here Mr. Robinson, right here.
10 All right. If you would, wait until Mr. Collins gets
11 here.

12 (The following was heard at the court reporter's
13 station out of the hearing of the jury pool).

14 All right. Tell me, number one, what's he charged
15 with?

16 PROSPECTIVE JUROR: He's charged a -- it's like a
17 murder. They charged him with murder.

18 THE COURT: With murder?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: All right. What's his name?

21 PROSPECTIVE JUROR: Mark Richardson.

22 THE COURT: Richardson.

23 PROSPECTIVE JUROR: Richardson.

24 THE COURT: And how long has he been charged?

25 PROSPECTIVE JUROR: How long has he been charged?

1 THE COURT: Yes. When did they make the charge?

2 PROSPECTIVE JUROR: Oh man.

3 THE COURT: Well, just last year, like recently or a
4 long time ago?

5 PROSPECTIVE JUROR: It's been a long time ago.

6 THE COURT: A long time ago?

7 PROSPECTIVE JUROR: A long time ago.

8 THE COURT: It's already been disposed of?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Still --

11 PROSPECTIVE JUROR: They haven't dropped it or
12 anything.

13 THE COURT: All right. Is he in jail?

14 PROSPECTIVE JUROR: No. He's out on bail.

15 THE COURT: He's out on bail. All right. Do you
16 know who in the Solicitor's Office is handling the
17 prosecution?

18 PROSPECTIVE JUROR: Geise.

19 THE COURT: Geise, okay. He handles them all.

20 PROSPECTIVE JUROR: Well, I don't remember. I try
21 not to --

22 THE COURT: All right. Let me ask you this, what's
23 been your involvement with it?

24 PROSPECTIVE JUROR: My involvement?

25 THE COURT: Have you been -- have you been to his

1 lawyer's office with him?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Been involved in it at all? What's been
4 your involvement with your brother?

5 PROSPECTIVE JUROR: Well, I was with him that night.

6 THE COURT: Oh, you were with him that night?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: Are you a witness in the case?

9 PROSPECTIVE JUROR: They didn't call me. I guess
10 they said be available to be a witness, I guess.

11 THE COURT: All right. Now, who told you that, the
12 Solicitor's Office and the police.

13 PROSPECTIVE JUROR: No.

14 THE COURT: -- or your --

15 PROSPECTIVE JUROR: No.

16 THE COURT: -- lawyer?

17 PROSPECTIVE JUROR: No, his lawyer.

18 THE COURT: His lawyer, and who is his lawyer?

19 PROSPECTIVE JUROR: Toal.

20 THE COURT: Who?

21 PROSPECTIVE JUROR: Toal.

22 THE COURT: Bill Toal?

23 PROSPECTIVE JUROR: Oh golly. I saw him this
24 morning.

25 THE COURT: Levy Johnson.

1 PROSPECTIVE JUROR: Levy Johnson.

2 THE COURT: Works in Levy Johnson's firm?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Okay. That's Bill Toal.

5 PROSPECTIVE JUROR: I just call him Mr. Toal.

6 THE COURT: Okay. Mr. Toal told you to be available
7 as a witness --

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: -- is that correct?

10 PROSPECTIVE JUROR: There's a possibility I'll have
11 to take the stand, yeah.

12 THE COURT: All right. Have you talked to anybody
13 else about the case other than Mr. Toal? I'm not trying
14 to tell you to tell me what you told him. I'm just asking
15 if you talked to anybody else, not what you said.

16 PROSPECTIVE JUROR: Here? No.

17 THE COURT: Anywhere.

18 PROSPECTIVE JUROR: I told the judge this morning.

19 THE COURT: Okay. All right. And you appeared
20 before the judge this morning?

21 PROSPECTIVE JUROR: Yes. Whenever we first showed
22 up, and they gave us instructions.

23 THE COURT: All right. This morning you told Judge
24 Lee?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. All right.

2 All right. Do you have any questions you want to
3 ask?

4 MS. FENT: In that your brother is currently, you
5 know, charged, do you feel that you could give both --
6 both the defendant and the State a fair trial? It's
7 weighing on your mind.

8 PROSPECTIVE JUROR: I brought it up because it's
9 bugging me. I'm upset.

10 MS. FENT: Okay. And I guess that's the question is,
11 you know, you're going to be sitting listening to a murder
12 case, and you know, are you going to be able to put that
13 aside and be fair to both to -- both to the State and to
14 the defense?

15 PROSPECTIVE JUROR: I have a problem with the State.

16 MS. FENT: Okay.

17 THE COURT: With what?

18 PROSPECTIVE JUROR: I have a problem with the State.

19 THE COURT: Okay. All right. All right.

20 Mr. Richardson, if you would go have a seat.

21 First, Mr. Collins, do you have any questions you
22 want to ask?

23 MR. COLLINS: I don't think I can repair that.

24 THE COURT: I mean, you can ask him. I'm not trying
25 to cut you off if you want to ask him questions.

1 MR. COLLINS: If he's saying he has a problem --

2 THE COURT: All right. Mr. Richardson, you go have a
3 seat out there.

4 All right. Any motions?

5 MS. FENT: We challenge for cause.

6 THE COURT: All right. Do you have any argument for
7 cause against striking for cause?

8 MR. COLLINS: No argument but...

9 THE COURT: All right. I'm going to strike juror
10 number 216 for cause.

11 (216, Leland Richardson, black male).

12 Christine, could you come here just a second?

13 THE CLERK: Yes, sir.

14 THE COURT: I'm going to strike number 19 for cause,
15 okay.

16 THE CLERK: Okay.

17 THE COURT: All right. If you want to send the next
18 lady up.

19 THE CLERK: Do you have a problem with me saying the
20 jury number and the number they are on the short list?

21 THE COURT: Not the short list, just the juror
22 number.

23 THE CLERK: Okay. Juror number 278.

24 (Tennille Watson).

25 THE COURT: Hey, Ms. Watson. How are you doing

1 today?

2 PROSPECTIVE JUROR: I'm doing okay.

3 THE COURT: You're doing okay?

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: All right. Have you been a victim or a
6 defendant or what's your...

7 PROSPECTIVE JUROR: My brother in 2000, he was an
8 undercover S.L.E.D. agent. He got shot in 2000.

9 THE COURT: Your brother got shot in 2000? He was an
10 undercover agent?

11 PROSPECTIVE JUROR: Well, he was a S.L.E.D. agent at
12 the time.

13 THE COURT: He worked for S.L.E.D.?

14 PROSPECTIVE JUROR: Uh-huh.

15 THE COURT: All right. How long ago was that?

16 PROSPECTIVE JUROR: That was in 2000.

17 THE COURT: He got killed?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Was anybody ever arrested?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Did they ever find out who did it?

22 PROSPECTIVE JUROR: No. After that, he's like...

23 THE COURT: Once you found out he was okay --

24 PROSPECTIVE JUROR: Yeah.

25 THE COURT: Okay. Is he doing okay now?

1 PROSPECTIVE JUROR: Oh, yeah. He's fine. He's a
2 Secret Service agent in Washington.

3 THE COURT: In Washington.

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: All right. Now, how would that affect
6 you sitting on this jury?

7 PROSPECTIVE JUROR: It wouldn't.

8 THE COURT: As far as defendants are concerned?

9 PROSPECTIVE JUROR: It wouldn't affect me.

10 THE COURT: You don't think you would be more
11 favorable towards the State vs. the defendants --

12 PROSPECTIVE JUROR: No.

13 THE COURT: -- because of that?

14 PROSPECTIVE JUROR: No.

15 THE COURT: And you don't know if anybody was ever
16 arrested for it?

17 PROSPECTIVE JUROR: No. I mean, if they were, I
18 don't know.

19 THE COURT: You don't know. You weren't aware of
20 that?

21 PROSPECTIVE JUROR: It was so much with him being an
22 undercover S.L.E.D. agent and everything. Everything was
23 quiet. So he couldn't talk, and I didn't ask.

24 THE COURT: Do you think you could be fair to both
25 the State and the defendant in this case?

1 PROSPECTIVE JUROR: Yeah, uh-huh.

2 THE COURT: And base your decision on the testimony
3 here in the courtroom?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Do you have any questions?

6 MS. FENT: I have no further questions.

7 THE COURT: Mr. Collins, do you have any questions?

8 MR. COLLINS: If something came --

9 THE COURT: I need to hear your question.

10 MR. COLLINS: If something came up in this trial
11 having to do with what S.L.E.D. says is drug activity or
12 something like that, would that affect you?

13 PROSPECTIVE JUROR: No. He's no longer a S.L.E.D.
14 agent.

15 THE COURT: He's at the Secret Service in Washington
16 now.

17 PROSPECTIVE JUROR: He is with the Secret Service in
18 Washington. He's no longer an agent at S.L.E.D.

19 THE COURT: All right. Any further questions?

20 MR. COLLINS: No further questions.

21 THE COURT: All right. Ms. Watson, you can have a
22 seat.

23 Any motions?

24 MS. FENT: No.

25 THE COURT: No motions?

1 MR. COLLINS: No.

2 THE COURT: Thank you. What number?

3 THE CLERK: 174.

4 (Daisy Massey).

5 THE COURT: Ms. Massey, how are you doing?

6 PROSPECTIVE JUROR: Yeah.

7 THE COURT: Daisy Massey?

8 PROSPECTIVE JUROR: Right.

9 THE COURT: How are you doing today?

10 PROSPECTIVE JUROR: I'm fine. How are you?

11 THE COURT: That's good. I'm okay, I guess.

12 Tell me, are you the victim?

13 PROSPECTIVE JUROR: My -- no. My son and his friend
14 were attacked by two other teenage boys.

15 THE COURT: How long ago?

16 PROSPECTIVE JUROR: It was in 1988.

17 THE COURT: 1988.

18 PROSPECTIVE JUROR: Uh-huh.

19 THE COURT: So that was 20 years ago?

20 PROSPECTIVE JUROR: Right.

21 THE COURT: Was anybody ever arrested?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Were they prosecuted?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Were you involved in the prosecution?

1 PROSPECTIVE JUROR: No. I didn't even know there was
2 a trial.

3 THE COURT: You didn't even go to the trial?

4 PROSPECTIVE JUROR: Huh-uh. My husband did.

5 THE COURT: Your husband did. Why didn't you go to
6 trial?

7 PROSPECTIVE JUROR: Because he didn't want me to.

8 THE COURT: He didn't want you to.

9 PROSPECTIVE JUROR: Ex-husband didn't.

10 THE COURT: Pardon?

11 PROSPECTIVE JUROR: Ex-husband.

12 THE COURT: Ex-husband. Okay. Was he "ex" at the
13 time?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay. How would that affect you in this
16 trial?

17 PROSPECTIVE JUROR: It would not.

18 THE COURT: Why not?

19 PROSPECTIVE JUROR: Because it's different
20 circumstances, different -- I mean, I can be impartial.

21 THE COURT: You can be impartial?

22 PROSPECTIVE JUROR: Right.

23 THE COURT: You can be fair to both sides?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: You can set that aside?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: And listen to the testimony in the
3 courtroom.

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: And base your decision on the testimony
6 in the courtroom.

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Any questions from the State?

9 MS. FENT: No, sir.

10 THE COURT: Any questions, Mr. Collins?

11 MR. COLLINS: What kind of attacks?

12 PROSPECTIVE JUROR: No, just, you know, a fight. My
13 son had a broken nose and a broken hand.

14 MR. COLLINS: Okay. No further questions.

15 THE COURT: Okay. Ms. Massey, you may go have a
16 seat. Thank you very much.

17 All right. Any motions?

18 MS. FENT: No, sir.

19 THE COURT: What I want on these cause motions, I
20 want you to make them up here.

21 MS. FENT: Yeah.

22 THE COURT: Not in front of the big panel.

23 MS. FENT: Yeah.

24 THE COURT: Okay.

25 Yes, ma'am, who is next?

1 THE CLERK: 302.

2 (Lee Tanya Stroman).

3 THE COURT: Tanya Lee Stroman, juror number 302.

4 Hey, Ms. Stroman.

5 PROSPECTIVE JUROR: Yeah.

6 THE WITNESS: How are you doing today?

7 PROSPECTIVE JUROR: I'm okay.

8 THE COURT: Tell me.

9 PROSPECTIVE JUROR: My nephew's father was killed in
10 Brooklyn, dragged out of his house and --

11 THE COURT: Your nephew's --

12 PROSPECTIVE JUROR: Father.

13 THE COURT: Father.

14 PROSPECTIVE JUROR: Uh-huh.

15 THE COURT: How long ago was this?

16 PROSPECTIVE JUROR: It's been a couple of years ago.
17 He was dragged out of his house, and he was found dead. I
18 had a cousin that was --

19 THE COURT: Who killed him, do you know?

20 PROSPECTIVE JUROR: They never --

21 THE COURT: Did they ever catch anybody?

22 PROSPECTIVE JUROR: No. I went to Brooklyn with my
23 sister.

24 THE COURT: Were you in Brooklyn at the time?

25 PROSPECTIVE JUROR: No. My sister was living with

1 him at the time.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: And I went with her to identify
4 the body.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR: And I also had a cousin who was
7 killed domestically. They said it was the husband who did
8 it. She was stabbed to death.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR: And I have an aunt that I still
11 communicate with who was also shot and left and is
12 paralyzed.

13 THE COURT: Where does he live?

14 PROSPECTIVE JUROR: She lives in Gilbert.

15 THE COURT: Nearby.

16 PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: How about the sister?

18 PROSPECTIVE JUROR: My sister, she has passed away.
19 The one that had the baby, she has passed away.

20 THE COURT: She has passed away.

21 PROSPECTIVE JUROR: Uh-huh.

22 THE COURT: All right. Were any of them -- was
23 anybody ever arrested for these crimes?

24 PROSPECTIVE JUROR: Nobody was ever arrested. I have
25 a sister who was recently married and divorced in a

1 domestic. Actually, that's her right there (indicating).

2 THE COURT: She was involved in what now?

3 PROSPECTIVE JUROR: Like a domestic. Her husband
4 used to --

5 THE COURT: That's her next in line?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. All right. Do you have any bias
8 or prejudice towards, in general, against the system or
9 the police officers or anybody for not making an arrest,
10 finding out who did all of these crimes?

11 (Pause).

12 PROSPECTIVE JUROR: Maybe.

13 THE COURT: Well, let me hear about it. Tell me what
14 it is.

15 PROSPECTIVE JUROR: I mean, I just think that as far
16 as my nephew is concerned, that his father's murderer was
17 never found. I don't think they investigated thoroughly
18 and --

19 THE COURT: All right. Where was that?

20 PROSPECTIVE JUROR: This was in -- he was in
21 Brooklyn.

22 THE COURT: Brooklyn, okay.

23 PROSPECTIVE JUROR: Him and my sister lived together.
24 She came back to Long Island for the weekend.

25 THE COURT: You don't think they did a good job

1 investigating?

2 PROSPECTIVE JUROR: From what my sister was telling
3 me and from what -- I don't think they -- they did enough.

4 THE COURT: Okay. Well, let me ask you this: How
5 would that affect you in this trial?

6 PROSPECTIVE JUROR: I don't know. I probably would
7 just relive the whole situation that I went through with
8 her during that part when they were investigating his
9 murder.

10 THE COURT: Okay. Well, it affects you to the point
11 that you don't think you could be a fair juror because of
12 emotions with your sister and nephew?

13 PROSPECTIVE JUROR: To be fair to him, probably. To
14 be fair to him, probably.

15 THE COURT: To be fair to who?

16 PROSPECTIVE JUROR: Him (indicating).

17 THE COURT: The defendant?

18 PROSPECTIVE JUROR: Yeah, the defendant, yeah.

19 THE COURT: So you think you would have a prejudice
20 against the defendant?

21 PROSPECTIVE JUROR: I mean, not nothing personally
22 towards him.

23 THE COURT: I know. I know --

24 PROSPECTIVE JUROR: It's just that --

25 THE COURT: -- because of your --

1 PROSPECTIVE JUROR: I probably couldn't make a good
2 judgment.

3 THE COURT: Okay. Well, we all have our prejudices.

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: I've got mine. You've got yours.

6 PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: We all have them. It's just a question
8 of what caused them and whether we can deal with them.

9 PROSPECTIVE JUROR: Right.

10 THE COURT: It's not anything personal.

11 PROSPECTIVE JUROR: It's not. It's not.

12 THE COURT: It's not anything personal.

13 PROSPECTIVE JUROR: It's not.

14 THE COURT: We just all have them.

15 PROSPECTIVE JUROR: Yeah.

16 THE COURT: That's just life.

17 PROSPECTIVE JUROR: I'm just wanting to be honest and
18 be fair for him.

19 THE COURT: Okay. Thank you. I appreciate that.

20 Thank you so very much. You may go have a seat.

21 PROSPECTIVE JUROR: Back where I was sitting?

22 THE COURT: Back where you were sitting.

23 PROSPECTIVE JUROR: Okay.

24 THE COURT: Any motions?

25 MR. COLLINS: We move to dismiss for cause.

1 THE COURT: Pardon me?

2 MR. COLLINS: We move to excuse for cause.

3 THE COURT: Any argument?

4 MS. GARFIELD: No.

5 MS. FENT: No, Your Honor.

6 THE COURT: Okay. I'm going to excuse juror number
7 302 for cause.

8 (Lee Tanya R. Stroman, black female).

9 THE CLERK: 123.

10 (Andrea Hughlett).

11 THE COURT: Andrea Hughlett.

12 PROSPECTIVE JUROR: Hughlett.

13 THE COURT: How are you doing, Ms. Hughlett?

14 PROSPECTIVE JUROR: Okay.

15 THE COURT: That was your sister before?

16 PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: She was telling me about all the problems
18 that you have had with your sisters and your nephews --

19 PROSPECTIVE JUROR: Okay.

20 THE COURT: -- and your relatives.

21 PROSPECTIVE JUROR: Yeah, and I also -- I was
22 involved in domestic violence three years ago.

23 THE COURT: You were what?

24 PROSPECTIVE JUROR: I was involved in domestic
25 violence three years ago.

1 THE COURT: Domestic violence three years ago.

2 PROSPECTIVE JUROR: Uh-huh.

3 THE COURT: What happened?

4 PROSPECTIVE JUROR: My husband, ex-husband, had a
5 lifetime restraining order on him.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: He abused me after I came out of
8 surgery.

9 THE COURT: Was there any --

10 PROSPECTIVE JUROR: He was arrested.

11 THE COURT: He was arrested. Was he ever prosecuted?

12 PROSPECTIVE JUROR: Uh-huh.

13 THE COURT: Was he -- what happened.

14 PROSPECTIVE JUROR: I went to court, and he was -- he
15 was -- he was found guilty.

16 THE COURT: Did they put him in jail?

17 PROSPECTIVE JUROR: They put him in jail.

18 THE COURT: How long did he serve?

19 PROSPECTIVE JUROR: I'm not quite sure.

20 THE COURT: You're not sure?

21 PROSPECTIVE JUROR: I know they gave me a lifetime
22 restraining order against him.

23 THE COURT: Okay. Is he still in jail?

24 PROSPECTIVE JUROR: Uh-huh.

25 THE COURT: All right. What about your sister and

1 the nephew in New York where your nephew was drug out of
2 apartment and shot?

3 PROSPECTIVE JUROR: Yeah.

4 THE COURT: Were you involved in that at all?

5 PROSPECTIVE JUROR: No.

6 THE COURT: You know about it --

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: -- because your sister was telling me
9 about it.

10 PROSPECTIVE JUROR: I do know about it, my nephew's
11 father.

12 THE COURT: Okay, the father?

13 PROSPECTIVE JUROR: Yeah.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: That's the one that got shot.

16 THE COURT: That's the one that got shot. All right.
17 How would all of this affect you sitting on a jury?

18 PROSPECTIVE JUROR: I don't think...

19 THE COURT: Pardon?

20 PROSPECTIVE JUROR: I have to be fair and honest.

21 THE COURT: You have to be fair and honest. That's
22 why I have you up here, so you don't have to stand up in
23 front of that group and talk to me.

24 PROSPECTIVE JUROR: I think I'd show favoritism
25 because I've been abused with the violence.

1 THE COURT: All right. And who would you show
2 favoritism towards?

3 PROSPECTIVE JUROR: I don't know.

4 THE COURT: Not the defendant?

5 PROSPECTIVE JUROR: No.

6 THE COURT: You don't think you could be fair to the
7 defendant?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Okay. Any questions from the State?

10 MS. FENT: No, Your Honor.

11 THE COURT: Any from the defendant?

12 (Mr. Collins indicates in the negative).

13 Okay, Ms. Hughlett, you may go have a seat. Thank
14 you very much.

15 PROSPECTIVE JUROR: Stay?

16 THE COURT: Go have a seat where you were.

17 Any motions?

18 MR. COLLINS: Move to strike for cause.

19 THE COURT: Any argument against that?

20 MS. FENT: No, no objection.

21 THE COURT: All right. I'm going to strike number
22 123 for cause.

23 (Andrea Hughlette, black female).

24 THE CLERK: 128.

25 (Sandra Jackson).

1 THE COURT: Ms. Jackson, how are you doing?

2 PROSPECTIVE JUROR: I'm fine. How are you?

3 THE COURT: I'm okay, I guess. Tell me what you were
4 involved in. Was it you or a friend or family member?

5 PROSPECTIVE JUROR: Family member.

6 THE COURT: Family member.

7 PROSPECTIVE JUROR: I have two that was murdered.

8 THE COURT: Two what?

9 PROSPECTIVE JUROR: That were murdered.

10 THE COURT: Two murders? What relationship were they
11 to you?

12 PROSPECTIVE JUROR: Both were in '97, my nephew,
13 July 4th, '97, and I had a cousin that --

14 THE COURT: Was this your sister's children, your
15 husband or your brother's children?

16 PROSPECTIVE JUROR: My brother's children.

17 THE COURT: Your brother's children, both brothers?

18 PROSPECTIVE JUROR: No, nephew, which is my brother's
19 son --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: -- in '97, July, and my second
22 and third cousin in November of '97.

23 THE COURT: Was murdered?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Was anybody ever arrested?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Were they prosecuted?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Were you involved in the prosecution of
5 it?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Did you come to the trial?

8 PROSPECTIVE JUROR: I did.

9 THE COURT: Did you sit through the trial?

10 PROSPECTIVE JUROR: I did.

11 THE COURT: All right. As a result of your
12 experience with the two murders in your family, the arrest
13 and the prosecution, do you have any bias or prejudice
14 towards the defendants?

15 THE BAILIFF: Quiet, please.

16 PROSPECTIVE JUROR: I don't.

17 THE COURT: None at all?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Then it wouldn't bother you at all
20 sitting on the jury?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Do you think you could be fair to the
23 defendant?

24 PROSPECTIVE JUROR: I can.

25 THE COURT: You don't have any bias or prejudice

1 towards the defendants in general because of your
2 experience?

3 PROSPECTIVE JUROR: I don't.

4 THE COURT: Okay. Questions from the State?

5 MS. FENT: No, Your Honor.

6 MS. GARFIELD: No.

7 THE COURT: Any from the defendant?

8 MR. COLLINS: Just a couple. If, during the trial,
9 facts came out that were similar to what happened to your
10 family members, do you think that may bring about some
11 emotions you had then?

12 PROSPECTIVE JUROR: No.

13 MR. COLLINS: No?

14 PROSPECTIVE JUROR: I feel I can disassociate myself
15 from that experience to now.

16 MR. COLLINS: Okay. Thank you.

17 THE COURT: Any further questions?

18 MS. FENT: No, Your Honor.

19 THE COURT: All right. Ms. Jackson, you may go have
20 a seat. Thank you very much.

21 Any motions?

22 MR. COLLINS: Your Honor, I would move to strike just
23 for the fact that that answer in and of itself is
24 questionable that she -- I'm a little more worried she
25 maybe wants to be on the jury in the way that she answers

1 so quickly and decisively, talking about two or three
2 family members murdered. I would move to strike for cause
3 because of way she answered.

4 MS. FENT: She took an oath this morning to tell the
5 truth.

6 THE COURT: What's your argument? I know she took
7 the oath, but what's your argument?

8 MS. FENT: There is -- she said she could be fair,
9 and there is --

10 THE COURT: I'm going to deny your motion. Your
11 motion is denied to strike for cause on her.

12 MR. COLLINS: Okay. Thank you.

13 THE COURT: Bring the sheet. I just want to make
14 sure we're on the same page.

15 (Pause).

16 (The following was heard in the presence of all
17 members of the jury pool).

18 Has any member of the jury panel or a member of your
19 immediate family ever been employed by any local, state,
20 federal prosecutor's office, including but not limited to
21 the Fifth Circuit Solicitor's Office, the Office of the
22 Attorney General, and the United States Attorney General's
23 office? Anybody on the panel or a member of their
24 immediate family been employed by a prosecutor? If so,
25 please stand.

1 (There was no response).

2 Is any member of the jury panel or a member of their
3 immediate family been employed by a State or federal
4 public defender's office or a criminal defense law firm?
5 If so, please stand.

6 (There was no response).

7 Is any member of the jury panel or a member of their
8 immediate family ever been employed by a local, state or
9 federal law enforcement office? If so, please stand. The
10 panel or a member of their family. Yes, sir, your name?

11 PROSPECTIVE JUROR: John Shore, number 235.

12 THE COURT: 235.

13 PROSPECTIVE JUROR: I retired from the --

14 THE COURT: Hold on a second. Let me find you on my
15 sheet here.

16 (Pause).

17 Okay, Mr. Shore.

18 PROSPECTIVE JUROR: I'm retired from the United
19 States federal prison system.

20 THE COURT: Okay. And how long ago did you retire?

21 PROSPECTIVE JUROR: Four years ago.

22 THE COURT: Four years ago, okay. How long did you
23 work for the federal --

24 PROSPECTIVE JUROR: Thirty years.

25 THE COURT: Thirty years?

1 PROSPECTIVE JUROR: Thirty, yes, sir.

2 THE COURT: What type of jobs did you have? I'm sure
3 you started out as a guard, and you worked yourself up
4 through the system.

5 PROSPECTIVE JUROR: Yes, sir. I started as a guard,
6 was an accountant for a while and retired as a warden.

7 THE COURT: Retired as a warden?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: All right. As a result of that
10 experience, Mr. Shore, do you have any bias or prejudice
11 towards the defendants in general?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: Do you have any bias or prejudice towards
14 law enforcement or the prosecutorial system in general?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: Do you have any bias or prejudice towards
17 the court system in general?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Can you be fair to both the State and the
20 defendant?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Can you base your decision on the
23 testimony you hear in the courtroom?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: You don't think your experienced with any

1 federal penitentiary system will skew your judgment at
2 all?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: You can look at the facts of case and
5 make a fair decision?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: All right. Thank you very much,
8 Mr. Shore.

9 Does anybody have any questions of Mr. Shore? I'll
10 bring him up front and let you ask questions if you want
11 me to.

12 MS. FENT: No, Your Honor.

13 MR. COLLINS: No, Your Honor.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: Juror 171, Mary Marshall.

16 THE COURT: Number 71?

17 PROSPECTIVE JUROR: 171.

18 THE COURT: Yes, ma'am, Ms. Marshall.

19 PROSPECTIVE JUROR: I don't know if this has anything
20 to do with the question, but my brother was a magistrate
21 in Greenwood for 20 something years in the State. He's
22 retired.

23 THE COURT: He's retired?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: And my daughter currently works
2 for the Department of Corrections on Broad River.

3 THE COURT: Okay. Have you ever had any discussions
4 with them about their views on law enforcement?

5 PROSPECTIVE JUROR: No, just general questions.

6 THE COURT: Just general questions?

7 PROSPECTIVE JUROR: Yeah, on things.

8 THE COURT: Does that cause you any difficulty with
9 sitting on this jury?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Can you be fair to both the State and the
12 defendant?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Can you base your testimony on what you
15 hear here in the courtroom?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: All right. Thank you, Ms. Marshall.

18 PROSPECTIVE JUROR: 174.

19 (Daisy Massey).

20 THE COURT: Yes, ma'am, Ms. Massey?

21 PROSPECTIVE JUROR: My brother is a retired highway
22 patrolman.

23 THE COURT: Your mother?

24 PROSPECTIVE JUROR: Brother.

25 THE COURT: I was going to say your mother? They've

1 been hiring women the last ten years.

2 PROSPECTIVE JUROR: She is 95.

3 THE COURT: Oh, okay. Your brother retired from the
4 Highway Patrol. How long ago?

5 PROSPECTIVE JUROR: Twenty years.

6 THE COURT: Twenty years, okay. Would that cause you
7 any difficulty sitting on this jury, Ms. Massey.

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Can you be fair to both the State and the
10 defendant?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Can you base your decision on the
13 testimony you hear in the courtroom?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you, Ms. Massey.

16 Starting with the lady in the red sweater, what's
17 your name?

18 PROSPECTIVE JUROR: Edwina Harrell, juror 107.

19 THE COURT: Okay. Yes, ma'am, Ms. Harrell?

20 PROSPECTIVE JUROR: My nephew is an investigator with
21 the Richland County, deputy, sheriff's office.

22 THE COURT: Sheriff's office? How long has he been a
23 deputy?

24 PROSPECTIVE JUROR: He's been there probably 15
25 years.

1 THE COURT: Fifteen years, okay. How often do you
2 see him?

3 PROSPECTIVE JUROR: Maybe three times a year.

4 THE COURT: Three times a year. Would that cause you
5 any difficulty sitting on this jury?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Can you be fair to both the State and the
8 defendant?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: Can you base your decision on the
11 testimony you hear in the courtroom?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: All right. Thank you, Ms. Harrell.
14 Yes, ma'am?

15 PROSPECTIVE JUROR: Juror 155, Your Honor.

16 THE COURT: Yes, ma'am, Ms. Debo?

17 PROSPECTIVE JUROR: Deborah.

18 THE COURT: Deborah.

19 PROSPECTIVE JUROR: It's Laufersweiler-Dwyer. I'm --

20 THE COURT: You're not any kin to the coach up in
21 Clemson, are you?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: No, okay.

24 PROSPECTIVE JUROR: I was a law enforcement officer
25 for six years in Norfolk, Virginia, and my husband worked

1 for N.C.I.S. for ten years.

2 THE COURT: Do you want to come around?

3 (There was no response).

4 Please, ma'am. Come on around up here. Wait until
5 the lawyers get up here.

6 PROSPECTIVE JUROR: No problem.

7 (The following was heard at the court reporter's
8 station away out of the hearing of the jury pool.)

9 THE COURT: Okay. You worked for law enforcement
10 when?

11 PROSPECTIVE JUROR: About 20 years ago, sir.

12 THE COURT: Twenty years ago?

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: For six years?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Whereabouts?

17 PROSPECTIVE JUROR: Norfolk, Virginia.

18 THE COURT: Norfolk. What did you do?

19 PROSPECTIVE JUROR: I was a patrol officer.

20 THE COURT: Patrol officer, okay. Have you done any
21 law enforcement?

22 PROSPECTIVE JUROR: Actually, I'm a criminal justice
23 professor right now.

24 THE COURT: Whereabouts?

25 PROSPECTIVE JUROR: At the University of Arkansas,

1 Little Rock.

2 THE COURT: What are you doing living here in
3 Columbia?

4 PROSPECTIVE JUROR: Actually, my husband was
5 transferred here for his residency, and I'll only be
6 employed with them for the next six months.

7 THE COURT: Oh, okay.

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: And where are you working here in
10 Columbia?

11 PROSPECTIVE JUROR: I work at my home, from my home.

12 THE COURT: At your home, okay.

13 PROSPECTIVE JUROR: And I teach courses over the
14 internet.

15 THE COURT: Okay. What kind of courses are you
16 teaching?

17 PROSPECTIVE JUROR: Everything. I teach about serial
18 crimes. I teach about sex crimes. I teach about
19 victimology.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: The criminal justice system.

22 THE COURT: Everything.

23 PROSPECTIVE JUROR: You name it, enjoy the criminal
24 justice.

25 THE COURT: Okay. How would that affect you sitting

1 on the jury?

2 PROSPECTIVE JUROR: It won't affect me at all, Your
3 Honor.

4 THE COURT: Why not?

5 PROSPECTIVE JUROR: Because I know about the system,
6 and I know both sides of the system. I think it makes me
7 an even more fair juror.

8 THE COURT: You think it makes you an even fairer
9 juror?

10 PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Okay. Why is that?

12 PROSPECTIVE JUROR: Because I know what the defense
13 has to do. I know what the prosecution has to do in order
14 to meet their burden of proof.

15 THE COURT: Okay. You don't think it would skew your
16 judgment one way or the other?

17 PROSPECTIVE JUROR: No, not at all.

18 THE COURT: You think you could be fair to both
19 parties?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Questions from the State?

22 MS. GARFIELD: I don't think so.

23 THE COURT: Any questions from the defendant?

24 MR. COLLINS: No questions.

25 THE COURT: Thank you so very much.

1 PROSPECTIVE JUROR: No problem.

2 THE COURT: Go have a seat.

3 Any motions?

4 MR. COLLINS: No motions.

5 THE COURT: Any motions?

6 MS. FENT: No, Your Honor.

7 THE COURT: Okay. Thank you very much.

8 (The following was heard by all members of the jury
9 pool).

10 Is there any member of the jury panel that belongs to
11 or contributes money to any organization which has as its
12 primary purpose the promotion of law enforcement such as
13 M.A.D.D., S.A.D.D., C.A.D.R.E. or is a member of M.A.D.D.,
14 S.A.D.D. or C.A.D.R.E. or if you contribute money to those
15 organizations, please stand.

16 (There was no response).

17 All right. Is any member of the jury panel a member
18 of the A.C.L.U., John Burris Society or Amnesty
19 International or contribute any money to those
20 organizations? If so, please stand.

21 (A juror indicated affirmatively).

22 Has any member of the jury panel ever testified for
23 the State in any criminal prosecution or testified for the
24 defense in any criminal prosecution? If so, please stand.

25 Yes, ma'am, Ms. Debo?

1 PROSPECTIVE JUROR: Deborah is my first name.

2 THE COURT: Deborah, okay. I'm sorry --

3 PROSPECTIVE JUROR: That's okay.

4 THE COURT: Juror number 155.

5 PROSPECTIVE JUROR: I testified for both the defense
6 and the prosecution, Your Honor.

7 THE COURT: As an expert witness?

8 PROSPECTIVE JUROR: As an expert witness for the
9 defense and as a -- the State.

10 THE COURT: What subject matter did you -- were you
11 qualified in?

12 PROSPECTIVE JUROR: On police policies and
13 administration, sir.

14 THE COURT: Did you do any chase? Have you ever
15 testified in any of the chase cases in civil court?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Never done that?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay. Would that cause you any
20 difficulty in sitting on the jury?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Can you be fair to both the State and the
23 defendant?

24 PROSPECTIVE JUROR: Yes, sir, I can.

25 THE COURT: All right. Can you base your decision on

1 testimony here in the courtroom?

2 PROSPECTIVE JUROR: Yes, sir, I can.

3 THE COURT: All right. Thank you so very much.

4 THE COURT REPORTER: Your Honor, we had a response on
5 the second to last question.

6 THE COURT: Where?

7 PROSPECTIVE JUROR: I had a question. It's not the
8 organization that you mentioned, but I do financially
9 support and provide money to police officers.

10 THE COURT: What -- what organization?

11 PROSPECTIVE JUROR: Invest. It's a nonprofit
12 organization that provides bullet proof vests to police
13 officers.

14 THE COURT: All right. Come around up front.

15 (The following was heard at the court reporter's
16 station out of the hearing of the jury pool).

17 Yes, ma'am, your name?

18 PROSPECTIVE JUROR: Laura Kiser.

19 THE COURT: Do you know your number?

20 PROSPECTIVE JUROR: 304.

21 THE COURT: 304?

22 PROSPECTIVE JUROR: Uh-huh.

23 THE COURT: You have got it written there.

24 PROSPECTIVE JUROR: I do. You didn't mention that
25 organization but the --

1 THE COURT: Hold on one second.

2 MS. FENT: It's the first one.

3 THE COURT: Okay. Ms. Kiser, what was -- your voice
4 was soft. I didn't put my hearings aids in this morning.
5 I couldn't hear you. What organization were you talking
6 about?

7 PROSPECTIVE JUROR: Invest.

8 THE COURT: Invest. Now, what is --

9 PROSPECTIVE JUROR: It's a nonprofit organization
10 that provides bullet proof vests to police officers.

11 THE COURT: Oh, okay.

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Why do you belong to that?

14 PROSPECTIVE JUROR: Your Honor, I financially help
15 support that.

16 THE COURT: Why?

17 PROSPECTIVE JUROR: Because I believe it's important.
18 They are not standardized issue, the bullet proof vests.
19 I think it's very important that they need to have that
20 each and every day when they go out and serve the people
21 in the community.

22 THE COURT: Why do you think that's important?

23 PROSPECTIVE JUROR: Well, it's a matter of life and
24 death.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: I mean, if they don't have it,
2 you know, they could not come home tonight and --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: -- my choice would be that they
5 come home to their families.

6 THE COURT: Come home to their families. How did you
7 get involved in it?

8 PROSPECTIVE JUROR: Mr. Michael Letts is the founder
9 of that, and I knew him personally.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: And we have business associates
12 together and --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR: -- I kind of got involved that
15 way.

16 THE COURT: Was it intertwined with business at all?

17 PROSPECTIVE JUROR: No. I'm actually Chair and
18 President of Chamber of Commerce over at the Blythewood
19 Chamber of Commerce.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: So I help support our law
22 enforcement.

23 THE COURT: Okay, all right. All right. How would
24 that affect you sitting on a jury?

25 PROSPECTIVE JUROR: It would not affect me at all.

1 THE COURT: Why not?

2 PROSPECTIVE JUROR: Because I believe I could provide
3 an educated decision based on the facts.

4 THE COURT: Okay. Questions from the State?

5 MS. FENT: No, thank you.

6 THE COURT: Mr. Collins?

7 MR. COLLINS: No.

8 THE COURT: All right. Do you think you could be
9 fair to both the parties?

10 PROSPECTIVE JUROR: Thank you.

11 THE COURT: Do you think you can?

12 PROSPECTIVE JUROR: Absolutely.

13 THE COURT: And can you base your decision on the
14 testimony here in the courtroom?

15 PROSPECTIVE JUROR: Absolutely.

16 THE COURT: Okay, Ms. Kiser. Thank you very much.

17 PROSPECTIVE JUROR: Thank you.

18 THE COURT: Any motions?

19 MS. FENT: No, Your Honor.

20 (The following was held in open court in the hearing
21 of all members of the jury pool).

22 THE COURT: All right. Does any member of the jury
23 panel remember, seen or read anything -- seen anything on
24 television, hear anything on the radio, or read anything
25 in the paper about this case?

1 It occurred on August 25, 2006. Has anybody heard
2 anything about it other than what I've told you here in
3 the courtroom? If so, please stand.

4 (There was no response).

5 Is any member of the jury panel conscious, that is
6 aware, of any bias or prejudice towards either the State
7 or the defendant in this case? If so, please stand.

8 (There was no response).

9 Has any member of the jury panel formed or expressed
10 an opinion about any issue or matter involved in this
11 case? If so, please stand.

12 (There was no response.)

13 Does any member of the jury panel know of any reason
14 whatsoever personal or otherwise as to why they could not
15 serve as a juror in this particular case? If so, please
16 stand.

17 (There was no response.)

18 Let me see the attorneys up here just a seconds,
19 please.

20 (WHEREUPON, a bench conference was held in the
21 presence, but not within the hearing, of the jury).

22 (Pause).

23 All right. Ladies and gentlemen of the jury panel,
24 is anybody related by blood or marriage to Dr. Clay
25 Nichols, or has anybody been treated by Dr. Clay Nichols

1 or know of Dr. Clay Nichols? If so, please stand.

2 Yes, ma'am, your number?

3 PROSPECTIVE JUROR: He's a patient.

4 THE COURT: He's a patient. What's your number?

5 PROSPECTIVE JUROR: 201.

6 THE COURT: 201. Assuming he will testify, I'll ask
7 you the same questions dealing with the other patients.

8 Assuming he will testify, would that cause you any
9 difficulty in sitting on this jury?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Can you be fair to both the State and the
12 defendant?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Can you base your decision on the
15 testimony you hear in the courtroom?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Thank you very much, Dr. Paton.

18 PROSPECTIVE JUROR: Thank you.

19 THE COURT: The next name is Lieutenant Scott
20 McDonald, Richland County Sheriff's Department standing to
21 your left. Is anybody related by blood or marriage to
22 Scott McDonald? Does anybody know Scott McDonald? If so,
23 please stand?

24 (There was no response).

25 All right. Solicitor, would you stand and introduce

1 yourself, please?

2 MS. GARFIELD: Good afternoon. I'm Dolly Justice
3 Garfield.

4 MS. FENT: I'm Margaret Fent.

5 THE COURT: Is there any member of the jury panel
6 that has a close personal friend that works in the
7 Solicitor's Office here in Richland County or personally
8 knows either one of the solicitors handling this
9 particular case? If so, please stand.

10 (There was no response).

11 Mr. Collins, if you'll stand and introduce yourself
12 please, sir.

13 MR. COLLINS: My name is Greg Collins, and I
14 represent Christopher Heller.

15 THE COURT: Has anybody been represented by
16 Mr. Collins or know Mr. Collins personally? If so, please
17 stand.

18 (There was no response).

19 All right. Any further questions from the State?

20 MS. GARFIELD: No, sir.

21 THE COURT: Any from the defendant?

22 MR. COLLINS: No, Your Honor.

23 THE COURT: Okay. I see we have two sisters on the
24 jury panel, and normally I ask this question. Is anybody
25 on the jury panel related to each other? Is anybody

1 related to each other on the jury panel? We have got the
2 two sisters. Anybody else?

3 The reason I ask that question is I was trying a case
4 over in Lancaster about five years ago. It was a long
5 case, and I guess about Wednesday afternoon the bailiff
6 said, "Judge, this juror needs to talk with you."

7 I said okay, bring her out. So I brought the juror
8 out. She said, "Judge, I've been in that jury room off
9 and on now for three-and-a-half days with my older sister,
10 and she's been telling me what to do all my life, and I
11 can't stay in that jury room with her."

12 So I wound up excusing that juror and putting another
13 alternate on, so I've been asking the question: Are you
14 related, and if you are related, can you get along?

15 I've been surprised traveling around the state the
16 number of people that have gone on jury panels that are
17 related, and so far nobody -- everybody seems to get
18 along.

19 Is the State ready to strike?

20 MS. GARFIELD: The state is ready.

21 THE COURT: Is the defense ready to strike?

22 MR. COLLINS: The defense is ready.

23 THE COURT: Madam clerk, give us the jury.

24 THE CLERK: Ladies and gentlemen of the jury panel,
25 when I call your name and number, bring all of your

1 personal belongings with you. Come to the center of the
2 room here at the microphone and give us your name and
3 occupation.

4 Laura Kiser, 304.

5 (White female).

6 PROSPECTIVE JUROR: 304, business owner.

7 THE CLERK: What says the State?

8 MS. FENT: Please present the juror.

9 THE CLERK: What says the defense?

10 MR. COLLINS: Please excuse this juror.

11 THE CLERK: Have a seat in the back of the courtroom,
12 please.

13 John Peacock, 203.

14 (White male).

15 PROSPECTIVE JUROR: John Peacock, 203, medical sales
16 representative.

17 THE CLERK: What says the State?

18 MS. GARFIELD: Please present Mr. Peacock.

19 THE CLERK: What says the defense?

20 MR. COLLINS: Please seat this juror.

21 THE CLERK: Have a seat in the jury box, please.

22 Tennille Watson, 278.

23 (Black female).

24 PROSPECTIVE JUROR: Tennille Watson, 278, nurse tech
25 Palmetto Health Baptist.

1 THE CLERK: What says the State?

2 MS. GARFIELD: Please present Ms. Watson.

3 THE CLERK: What says the defense?

4 MR. COLLINS: Please seat this juror.

5 THE CLERK: Have a seat in the jury box.

6 Polly Paton, 201.

7 (White female).

8 PROSPECTIVE JUROR: Polly Paton, dentist.

9 THE CLERK: What says the State?

10 MS. GARFIELD: Please present this juror.

11 THE CLERK: What says the defense?

12 MR. COLLINS: Please excuse this juror.

13 THE CLERK: Have a seat in the back of the jury room
14 -- or in the back of the courtroom.

15 Matthew Hansford.

16 (White male).

17 PROSPECTIVE JUROR: Matthew Hansford, Workers'
18 Compensation claims adjustor for the State of South
19 Carolina.

20 THE CLERK: What says the State?

21 MS. GARFIELD: Please present Mr. Hansford.

22 THE CLERK: What says the defense?

23 MR. COLLINS: Please excuse this juror.

24 THE CLERK: Have a seat in the back of the courtroom.

25 Gerald Hagenmaier, 104.

1 (White male).

2 PROSPECTIVE JUROR: Gerald Hagenmaier, 104,
3 programmer, analyst.

4 THE CLERK: What says the State?

5 MS. GARFIELD: Please present Mr. Hagenmaier.

6 THE CLERK: What says the defense?

7 MR. COLLINS: Please excuse this juror.

8 THE CLERK: Have a seat in the back of the courtroom.
9 Lauren Smith, 242.

10 (White female).

11 PROSPECTIVE JUROR: Lauren Smith, executive
12 assistant.

13 THE CLERK: What says the state?

14 MS. GARFIELD: Please present Ms. Smith.

15 THE CLERK: What says the defense?

16 MR. COLLINS: Please present this juror.

17 THE CLERK: Mary Marshall, 171.

18 (Black female).

19 PROSPECTIVE JUROR: Mary Marshall, 171. I'm an
20 enrollment analyst with Blue Cross.

21 THE CLERK: What says the State?

22 MS. GARFIELD: Please present Ms. Marshall.

23 THE CLERK: What says the defense?

24 MR. COLLINS: Please present Ms. Marshall.

25 THE CLERK: Have a seat in the jury box.

1 Robert Gajoch, 88.

2 (White male).

3 PROSPECTIVE JUROR: Number 88, Bob Gajoch. I'm a
4 materials manager.

5 THE CLERK: What says the State?

6 MS. GARFIELD: Please present Mr. Gajoch.

7 THE CLERK: What says the defense?

8 MR. COLLINS: Please present this juror.

9 THE CLERK: Roger Hughes, 124.

10 (White male).

11 PROSPECTIVE JUROR: I'm Roger Hughes. I --
12 (inaudible).

13 THE COURT REPORTER: I'm sorry. I didn't hear what
14 he said.

15 PROSPECTIVE JUROR: I'm a financial advisor, number
16 124.

17 THE CLERK: What says the State?

18 MS. GARFIELD: Please present Mr. Hughes.

19 THE CLERK: What says the defense?

20 MR. COLLINS: Please excuse this juror.

21 THE CLERK: Have a seat in the back of the courtroom,
22 please.

23 Joel Grubb, 103.

24 (White male).

25 PROSPECTIVE JUROR: Joel Grubb, 103. I'm a project

1 manager.

2 THE CLERK: What says the State?

3 MS. GARFIELD: Please present Mr. Grubb.

4 THE CLERK: What says the defense?

5 MR. COLLINS: Please excuse this juror.

6 THE CLERK: Have a seat in the back of the courtroom.

7 John Bane, 13.

8 (White male).

9 PROSPECTIVE JUROR: John Bane, number 13. Department
10 director at South Carolina Educational Television.

11 THE CLERK: What says the State?

12 MS. GARFIELD: Please present Mr. Bane.

13 THE CLERK: What says the defense?

14 MR. COLLINS: Please excuse this juror.

15 THE CLERK: Have a seat in the back of the courtroom.

16 Daren Harris, 108.

17 (Black male).

18 PROSPECTIVE JUROR: Darrell Harris, 108, Continental
19 Video, C.M.C. Machines.

20 THE CLERK: What says the State?

21 MS. GARFIELD: Please present Mr. Harris.

22 THE CLERK: What says the defense?

23 MR. COLLINS: Please present Mr. Harris.

24 THE CLERK: Have a seat in the jury box.

25 William Mustard, 187.

1 (White male).

2 PROSPECTIVE JUROR: William Mustard, business owner,
3 steel fabricator.

4 THE CLERK: What says the State?

5 MS. GARFIELD: Please present Mr. Mustard.

6 THE CLERK: What says the defense?

7 MR. COLLINS: Please present this juror.

8 THE CLERK: Have a seat in the jury box.

9 Abegail Thompson, 264.

10 (Black female).

11 PROSPECTIVE JUROR: Abegail Thompson, unemployed.

12 THE CLERK: What says the State?

13 MS. GARFIELD: Please excuse Ms. Thompson.

14 THE CLERK: Have a seat in the back of the courtroom.

15 Thank you.

16 Monica Adams, 215.

17 (Black female).

18 PROSPECTIVE JUROR: Monica Adams, 215, teacher.

19 THE CLERK: What says the State?

20 MS. GARFIELD: Please present Ms. Adams.

21 THE CLERK: What says the defense?

22 MR. COLLINS: Please present this juror.

23 THE CLERK: Have a seat in the jury box.

24 Jessica Williams, 287.

25 PROSPECTIVE JUROR: Jessica Williams, I'm a

1 secretary.

2 THE CLERK: What says the State?

3 MS. GARFIELD: Please present Ms. Williams.

4 THE CLERK: What says the defense?

5 MR. COLLINS: Please present this juror.

6 THE CLERK: Have a seat in the jury box.

7 Daisy Massey, 174.

8 (White Female).

9 PROSPECTIVE JUROR: Daisy Massey, 174, administrative
10 assistant.

11 THE CLERK: What says the State?

12 MS. GARFIELD: Please present Ms. Massey.

13 THE CLERK: What says the defense?

14 MR. COLLINS: Please excuse this juror.

15 THE CLERK: Have a seat in the back of the courtroom.

16 Michael Mooney, 182.

17 (White male).

18 PROSPECTIVE JUROR: Michael Mooney. I work in
19 marketing for Ag First Farm Credit bank.

20 THE CLERK: What says the State?

21 MS. GARFIELD: Please present Mr. Mooney.

22 THE CLERK: What says the defense?

23 MR. COLLINS: Please present this juror.

24 THE CLERK: Have a seat in the jury box.

25 Kevin Parrot, 198.

1 (Black male).

2 PROSPECTIVE JUROR: Kevin Parrot, 198, pharmacy
3 technician for National Direct Home Pharmacy.

4 THE CLERK: What says the State?

5 MS. GARFIELD: Please present Mr. Parrot.

6 THE CLERK: What says the defense?

7 MR. COLLINS: Please present this juror.

8 THE CLERK: Have a seat in the jury box.

9 Francis Krause, 149.

10 (White male).

11 PROSPECTIVE JUROR: Francis Krause, 149, business
12 owner.

13 THE CLERK: What says the State?

14 MS. GARFIELD: Please present Mr. Krause.

15 THE CLERK: What says the defense?

16 MR. COLLINS: Please excuse this juror.

17 THE CLERK: Have a seat in the back of the courtroom.

18 Bob Rush, 227.

19 (White male).

20 PROSPECTIVE JUROR: I'm Bob Rush, 227. I'm a
21 commercial property and casualty insurance agent for BB&T
22 Home Mortgage.

23 THE CLERK: What says the State?

24 MS. GARFIELD: Please present Mr. Rush.

25 THE CLERK: What says the defense?

1 MR. COLLINS: Please present this juror.

2 THE CLERK: Have a seat in the jury box.

3 Alternate, Ashley Love, 162.

4 (White female).

5 PROSPECTIVE JUROR: Ashley Love, juror 162. I'm a
6 stay-at-home mom.

7 THE CLERK: What says the State?

8 MS. GARFIELD: Please present Ms. Love.

9 THE CLERK: What says the defense?

10 MR. COLLINS: Please present this juror.

11 THE CLERK: Have a seat in the jury box.

12 Mary Peeples, 204.

13 (White female).

14 PROSPECTIVE JUROR: I'm Mary Peeples, juror number
15 204. I'm retired, Department of Defense, and I work part
16 time at Carolina Bingo.

17 THE CLERK: What says the State?

18 MS. GARFIELD: Please present Ms. Peeples.

19 THE CLERK: What says the defense?

20 MR. COLLINS: Please excuse this juror.

21 THE CLERK: Have a seat in the back of the courtroom.

22 John Tomlinson, juror 268.

23 (White male).

24 PROSPECTIVE JUROR: I'm John Tomlinson, 268, medical
25 sales rep.

1 THE CLERK: What says the State?

2 MS. GARFIELD: Please present Mr. Tomlinson.

3 THE CLERK: What says the defense?

4 MR. COLLINS: Please excuse this juror.

5 THE CLERK: Have a seat in the back of the courtroom.

6 Deborah Laufersweiler-Dwyer, 155.

7 (White female).

8 PROSPECTIVE JUROR: Deborah Laufersweiler-Dwyer, 155.

9 I'm a professor in criminal justice.

10 THE CLERK: What says the State?

11 MS. GARFIELD: Please excuse Ms. Laufer---

12 PROSPECTIVE JUROR: Dwyer.

13 MS. GARFIELD: Dwyer.

14 PROSPECTIVE JUROR: Dwyer.

15 THE CLERK: Erika Bates, 15.

16 (Black female).

17 PROSPECTIVE JUROR: Erika Bates. I'm in retail and

18 I'm student in physical therapy.

19 THE CLERK: Does the State challenge for cause?

20 MS. GARFIELD: No, ma'am.

21 THE CLERK: Does the defense challenge for cause?

22 MR. COLLINS: No, ma'am.

23 THE CLERK: Have a seat in the jury box, please.

24 THE COURT: All right. To the members of the jury,

25 what I'm going to ask you to do is go to the jury room.

1 The bailiff will show you the jury room.

2 You may select a foreman or forelady. You can select
3 anyone except the two alternates, Ms. Love or Ms. Bates.
4 After you've done that, please write the name down on a
5 piece of paper, let the bailiffs know that has happened,
6 and I'll get you back in the courtroom very shortly
7 thereafter.

8 Please don't discuss the case among yourselves. If
9 you'll follow the bailiff to the jury room.

10 (WHEREUPON, the jury left open court at approximately
11 4:05 p.m.)

12 THE COURT: All right. Any motions from the State on
13 drawing the jury?

14 MS. GARFIELD: No, sir.

15 THE COURT: Any motions from the defense on drawing
16 the jury?

17 MR. COLLINS: No, Your Honor.

18 THE COURT: All right. Thank you very much. Other
19 than motions that you already made up at the bench, it's
20 on the record; is that correct?

21 MR. COLLINS: That's correct, Your Honor.

22 THE COURT: Okay. Thank you very much.

23 Christine, what do you want to do with the panel,
24 just back downstairs or what?

25 THE CLERK: Back downstairs.

1 THE COURT: All right. Ladies and gentlemen, have a
2 good day. Go back down to the assembly room. I'm not
3 sure where it is, but I'm sure you do.

4 (Whereupon, the unselected members of the jury left
5 the courtroom.)

6 Do you want to call your next witness on the Jackson
7 v. Denno hearing?

8 MS. GARFIELD: Yes, sir. The State calls Lieutenant
9 Howell Siniard.

10 MR. COLLINS: If we can have the sequestration.

11 THE COURT: Pardon?

12 MR. COLLINS: If we could sequester the witnesses,
13 please.

14 THE COURT: Yes.

15 MS. GARFIELD: Your Honor, did you make a final
16 ruling regarding Neil vs. Biggers? Because if we're not
17 going to proceed with that today, there are a couple of
18 witnesses I can go ahead and release.

19 THE COURT: Do what now?

20 MS. GARFIELD: Neil vs. Biggers, did you decide
21 whether we needed to do a hearing or not?

22 THE COURT: I think we probably will.

23 MS. GARFIELD: Okay.

24 THE COURT: I would prefer doing it during the trial,
25 to be honest with you.

1 MR. COLLINS: If I can just readdress that. I was a
2 little crossed up before lunch. I had time to go back and
3 look through it.

4 It's the defense's position that it was unduly
5 suggestive because of the fact that both of the witnesses
6 met with a sketch artist and were shown the sketch after
7 they met with the artist, and then the next day were shown
8 a photo lineup.

9 Had it been a different sketch artist, it could have
10 been a different image, and that could have been unduly
11 suggestive as far as what they picked out in the photo
12 lineup the following day. That's our position, because of
13 that.

14 THE COURT: All right. Based upon what he said
15 before lunch, I wasn't going to have the hearing, but
16 based on what he said now, I think I'll have to have a
17 hearing, Solicitor, okay.

18 MS. GARFIELD: Okay.

19 MR. COLLINS: Thank you, Your Honor.

20 MS. GARFIELD: That's fine.

21 THE COURT: I just -- before he was arguing about the
22 merit -- the Court's opinion, to wait sufficiently. It
23 didn't have anything to do with suppression.

24 MS. GARFIELD: All right.

25 THE COURT: I think he does have a valid point of

1 suppression here, so I think we'll have the hearing, okay.

2 MS. GARFIELD: Thank you.

3 THE COURT: All right. Do you want to let your
4 witnesses outside?

5 MS. GARFIELD: Yes.

6 (The witnesses were sequestered).

7 THE COURT: Solicitor and Mr. Collins, on the
8 witnesses, please tell them not to get off the jury -- or
9 the witness stand and go out and tell the other jurors
10 what occurred. Do you understand?

11 MR. COLLINS: Yes, sir.

12 MS. GARFIELD: Yes, sir.

13 THE COURT: I'm going to depend on the two of you all
14 to inform the jury -- or the witnesses not to do that,
15 okay. I'll be happy to bring them all in and instruct
16 them as a group, if you want me to.

17 MS. GARFIELD: We'll be happy to take care of that.

18 THE COURT: Okay. All right. Go ahead.

19 HOWELL SINIARD, after being duly
20 sworn, testified as follows:

21 THE CLERK: Have a seat in the witness box and state
22 your name for the record, please.

23 THE WITNESS: Howell Siniard, S-I-N-I-A-R-D.

24 DIRECT EXAMINATION:

25

1 BY MS. GARFIELD

2 Q Lieutenant Siniard, where are you employed?

3 A I'm currently employed with the South Carolina Law
4 Enforcement Division.

5 Q And what do you do with S.L.E.D.?

6 A I'm a supervisor in the vulnerable adult or special
7 victim's unit.

8 Q How long have you been employed with S.L.E.D.?

9 A Just a little -- right at two years.

10 Q And previously before you were employed at S.L.E.D.,
11 where were you working?

12 A Richland County Sheriff's Office.

13 Q How long did you work at the Richland County
14 Sheriff's Department?

15 A Approximately 16 years.

16 Q Were you working there back in August of 2006?

17 A Yes, I was.

18 Q Specifically, what were your duties with the
19 sheriff's department at that time?

20 A I was a senior investigator. I was a homicide
21 investigator. I was -- at that time I was assigned to the
22 A.T.F. task force rolling state gun charges over to
23 federal. About one week out of every month I was on a
24 homicide call.

25 Q Were you on call for homicides back on August 25th,

1 2006?

2 A That particular morning I was not.

3 Q Did you come to have to work a homicide on that day?

4 A Yes, I did.

5 Q And why did you do so if you're not on call?

6 A We had two the previous night before, and when I
7 signed up to go to work, I was instructed to report to
8 Richland County headquarters for a meeting about two
9 homicides that occurred the night before.

10 Q And what did you learn had occurred to this homicide
11 that you were assigned to work?

12 A I had understood from the briefing I had that a
13 female had been cut severely, was in the hospital, and a
14 Hispanic male had died from a gun -- knife.

15 Q And when you were working on this homicide, were you
16 able to eventually develop a suspect?

17 A Yes, we were.

18 Q And how were you able to develop such a suspect?
19 Just briefly explain to the judge.

20 A We first developed -- we first -- we knew we had a
21 white female we were looking for. We finally found the
22 white female we were looking for through that --

23 Q And what was her name?

24 A Her name was -- her street name was Tracy. Her
25 actual name was Bille Joe Risinger.

1 Q Please continue.

2 A Once we had Bille Joe, we -- she knew this Kevin
3 Nails. We developed Kevin Nails, picked him up. Kevin
4 Nails said he was aware of it. It was his cousin from
5 Georgia.

6 Q And what was the cousin from Georgia's name?

7 A Christopher Heller.

8 Q And once you were able to ascertain his name, what
9 did you do?

10 A We pulled -- well, prior to that we had done
11 composites. We had S.L.E.D. complete two composites.
12 There were two female victims, survivors.

13 Q And what did you do then?

14 A Once we had a name, then we notified the Georgia
15 authorities, and the Georgia authorities furnished us with
16 the photograph.

17 Q And what did you do with this photograph?

18 A Those were eventually turned into the photo lineups.

19 Q Did you ever have any -- and we'll go into more
20 detail about these photo lineups, but did you have an
21 opportunity to present those to any witnesses?

22 A We did.

23 Q And who specifically did you present those to?

24 A Ms. Chavis, the victim that was cut, and Tracy or
25 Bille Joe Risinger, the other female victim.

1 Q Were identifications made of the defendant?

2 A Yes, they were.

3 Q And at that time, what did you do after those
4 identifications were made?

5 A After they were made, we contacted the Georgia
6 authorities, of course, about his whereabouts, and at the
7 same time we were obtaining warrants for assault and
8 battery with intent to kill and a murder warrant.

9 Q What day did this incident occur?

10 A August 25th, 2006.

11 Q And where did it occur, Lieutenant?

12 A It was in a mobile home park that I was aware of. It
13 was called K.K. Martin Mobile Home Park. It's on
14 Brookhurst. That's in the northeast section of Richland
15 County.

16 Q And is -- that is in Richland County?

17 A Yes, ma'am.

18 Q And what day were you able to develop this suspect as
19 far as contacting Georgia?

20 A It was in the next -- just couple of days.

21 Q And can you refer to your notes and specifically tell
22 me a date?

23 A I can. We talked to Bille Joe Risinger actually on
24 the 25th, that afternoon, and she gave us information
25 about tattoos and height and a physical description,

1 stating he had a round belly, tattoos on his arms, wearing
2 a white T-shirt, short pants with tennis shoes.

3 The 26th, we basically were just sending out people
4 to -- to scan the area, not really knowing who we were
5 looking for. On the 27th, I met with Ms. Chavis. She was
6 in intensive care.

7 She said she didn't know her assailant but that
8 Tracy, Bille Joe Risinger, had brought him there.

9 She said -- I also asked her was she up to looking at
10 or assisting a composite drawer draw a -- a forensic
11 artist draw a composite, and she said she would be.

12 The next day on the 28th of August, 2006 I made
13 contact with the State Law Enforcement Division. At that
14 time a Lieutenant Roy Paschal was the supervisor in that
15 forensic artist division.

16 He had Ms. Goff, Special Agent Goff, set up with an
17 appointment at ten o'clock that morning to be at the
18 hospital in the intensive care unit to meet with
19 Ms. Chavis. I also met them there, introduced them to
20 Ms. Chavis.

21 Q And you were present during the composite drawing?

22 A (There was no response).

23 Q You were present during the composite drawing?

24 A No, I was not, not in the room. After I introduced
25 them, I excused myself.

1 Q And then what did you do the next day?

2 A Based on my notes, I talked with a Dr. Lewis, who at
3 that time I understood from the nurse's station was
4 Ms. Chavis' attending physician, and he agreed that she
5 was up to meeting with a forensic artist and that she was
6 out of intensive care and she was now in room 746-B.
7 There, of course, I had Ms. Goff and the other forensic
8 artist meet with her.

9 That afternoon at 6:30 I met with Tracy at
10 headquarters, or Bille Joe Risinger. She gave me some
11 verbal of what was going on.

12 While talking with Tracy, we were looking at inmates,
13 was trying to find who Kevin was. She mentioned this guy
14 Kevin, said he brought her there, but we really didn't
15 know who he was.

16 So in the jail photo bank, we can pull up first name
17 Kevins, so we were going down in the computer just putting
18 up the first name and that photo that went with it.

19 She identified one picture of a Kevin Lashawn Nails
20 as being the guy that brought her to the trailer with the
21 individual later identified as Christopher Heller.

22 Q Lieutenant Siniard, for purposes of this hearing
23 we'll go more into the details. When were you able to
24 plan a trip to go to Georgia to go apprehend the
25 defendant?

1 A Once they had looked at the photo lineups.

2 Q And that was approximately what date?

3 A We had talked to Kevin Nails, interviewed him. That
4 would have been on August 30th. We put it all together
5 and planned to leave on August 31st at about 6:00 a.m. in
6 the morning.

7 Q And I see you're referring to some notes.

8 A Yes.

9 Q Are those notes you made?

10 A Those are my notes, yes.

11 Q And are you using those to refresh your memory?

12 A I am.

13 Q And when did you travel to Georgia?

14 A On August 31st about -- we left here about six,
15 that's Investigator Willie Gonzales and I.

16 Q And when you say six, is that A.M.?

17 A A.M., yes.

18 Q And just the two of you went to Georgia?

19 A Yes.

20 Q And specifically where in Georgia?

21 A Baxley, Georgia.

22 Q And about how far away is that?

23 A I couldn't tell you the exact mileage. You go
24 through Atlanta up -- you go through Savannah off of I-95,
25 and then we turn east. It's about an hour or so east of

1 Savannah, Georgia.

2 Q When you arrived in Baxley, Georgia, where did you
3 first go?

4 A We went straight to the sheriff's department.

5 Q And upon arriving at the sheriff's department, what
6 did you encounter?

7 A I met with a Chief DeLoach and the sheriff, and there
8 was a probation officer there that assisted earlier in
9 this case. There was a G.B.I. agent there and several
10 deputies, and we were taken to see the magistrate.

11 Q And why were you going to see the magistrate?

12 A To obtain -- I was going to sign my affidavit as part
13 of the search warrant on the mother's residence where we
14 understood he was staying.

15 Q Were you able to obtain a search warrant?

16 A We did.

17 Q And once you obtained that search warrant, what did
18 you do next?

19 A There was a briefing by the sheriff that's
20 traditional prior to going on the search warrant, who is
21 going where and what vehicles, the safety part, where the
22 hospitals are located.

23 The individual we were looking for didn't use a
24 firearm in this crime but did use a knife, so the safety
25 precautions were put out in the briefing. Then we loaded

1 up. I rode in a van with other deputies, and Investigator
2 Gonzales drove my car following the caravan of the
3 deputies and people.

4 Q And why was Investigator Gonzales with you?

5 A Investigator -- in the Richland County sheriff's
6 office, to work a homicide, you have two people assigned
7 to it. You have a primary and an assistant. As you turn
8 over people a lot in our department, you always have a
9 steady flow of assistants.

10 As they work two or three homicides, there's a board
11 that meets to decide, supervisors, if they are capable of
12 handling a homicide on their own. If they are, they are
13 moved up in the primary on-call position.

14 Q What was your position on this case?

15 A I was the lead investigator in this case.
16 Investigator Gonzales was assigned as an assistant. It
17 was his first case.

18 Q Thank you. And that's why he also would have gone
19 with you to Georgia?

20 A Yes.

21 Q Once you arrived at the incident location with a
22 search warrant, what did you do?

23 A I was in the van -- I would -- not being from there
24 we would always allow people that know the area and know
25 the people that we're looking for to go first.

1 I took a stance outside the residence or a perimeter
2 guard until someone inside says it's all clear. Then I go
3 inside and start the search.

4 The previous section with the sheriff was he was
5 going to allow myself and Gonzales, once Heller's room was
6 arrived, to actually search it ourselves.

7 Q Do you recall what door they went into first?

8 A Yes. If you're looking at the house from the main
9 roadway, it's not that front door. You have to go beside
10 the house and make a right turn. I would call it the back
11 door, but that may be the primary door that people go in
12 and out of at that particular residence.

13 Q Okay.

14 A It appeared to be that way. I would call it the back
15 door.

16 Q And how did they obtain entry into that house?

17 A That particular door, I believe it was already
18 opened.

19 Q Were you there to actually see a person walk in for
20 the first time?

21 A I -- well, the van pulls up, and everybody knows
22 where they're going at the time and everybody bails out.
23 So I go to a corner of the building and watch two sides.

24 Q Eventually were you told to enter the residence?

25 A Yes.

1 Q And where did you go upon entering the residence?

2 A I walked in the residence and observed two females
3 that were in the kitchen area. They were either -- they
4 had already secured them. When I say secure them, they
5 had no weapons on them.

6 Other deputies were in the bedrooms looking for
7 Mr. Heller. The ladies were either going to be seated at
8 the kitchen table, and I believe they were cooking. They
9 may have been allowed to continue cooking or turn the
10 stove off, but they were in the kitchen area.

11 Q Was Mr. Heller found at that residence?

12 A No, he wasn't.

13 Q What did you all do? Did you complete your search?

14 A We did the search. We were looking for items that
15 were mentioned here in Columbia, the short blue jean
16 pants, T-shirts, tank top T-shirts and tennis shoes.

17 Q And were such items --

18 A That was --

19 Q -- taken into evidence?

20 A Yes.

21 Q And those items were taken by you?

22 A Yes.

23 Q Upon completing the search of this residence, what
24 did you do, Lieutenant?

25 A We packed everything up, sacked it, put it in my car.

1 We drove back to the sheriff's office.

2 Q And what was your purpose for going back to the
3 sheriff's office?

4 A They had people out looking for Mr. Heller at the
5 time, and we were going to go back there to see if he
6 would turn up at any -- any places they were looking for
7 him.

8 Q And when you got back to the sheriff's office, what
9 did you learn?

10 A That someone had come and said Mr. Heller was going
11 to turn himself in.

12 Q Do you know who called?

13 A No, ma'am.

14 Q And did Mr. Heller turn himself in?

15 A He did.

16 Q Did you observe him come into the police station?

17 A I didn't observe him coming into the police station.
18 When the door was opened that comes into the small
19 courtroom, I observed him then when he walked in.

20 Q Can you kind of describe the layout of this sheriff's
21 department?

22 A Yes. It's a sheriff's office, jail. Everything is
23 in one building, and the magistrate's courtroom is kind of
24 like in the middle right past the -- in the entry it's a
25 standard receptionist behind glass that you have in the

1 police station, or small sheriff's office. Then past it
2 would have been a door that went into the sheriff's
3 office, and past that would have been a door going into
4 the small courtroom.

5 Q And who was with you going into the courtroom?

6 A The sheriff, the G.B.I. people, the probation and
7 parole people, a couple of deputies and Investigator
8 Gonzales.

9 Q And when Investigator -- I'm sorry. When Christopher
10 Heller did turn himself in, what did your -- what did you
11 all do?

12 A Gonzales and one of the deputies immediately had him
13 spread eagle standing up, and they did a pat down of him
14 for weapons, make sure he was clean or didn't have
15 anything on him that he shouldn't have, which would have
16 been a pocketknife or anything.

17 Q And what did you do after this search was done?

18 A He was leg shackled up, and a waist belly chain was
19 put on him. He was taken back to a small interview room,
20 or it was an office we made into an interview room.

21 Q How did Mr. Heller appear to you?

22 A Very calm and collected.

23 Q And once he went back into this room with
24 Investigator Gonzales, how did he appear?

25 A The same, calm and collected.

1 Q And when you all got back into that room, what did
2 you do?

3 A Introduced yourselves. I was Investigator Siniard,
4 Investigator Gonzales, and we were from Columbia, South
5 Carolina, the Richland County Sheriff's Office. We were
6 there to talk to him about an incident that had happened
7 in Columbia, and we advised -- Gonzales read him the
8 rights on the form.

9 Q Were you present when Investigator Gonzales read him
10 his rights?

11 A Yes.

12 MS. GARFIELD: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. GARFIELD

16 Q I'm going to hand you what's been marked into
17 evidence for purposes of this hearing State's Exhibit
18 Number one. Do you recognize that document?

19 A Yes, I do.

20 Q And what is that document?

21 A It's an advisement of rights from the Richland County
22 Sheriff's Office.

23 Q Is that document signed by Willie Gonzales?

24 A Yes, it is.

25 Q Is it also signed by the defendant, Christopher

1 Heller?

2 A Yes, it is.

3 Q Is it also signed by you?

4 A It is.

5 Q And did you witness all of those parties sign that
6 document?

7 A Yes.

8 Q Did you witness Investigator Gonzales use that
9 document when going over his rights with the defendant?

10 A Yes, I did.

11 Q Did you observe the defendant check each right?

12 A Yes.

13 Q And did -- was he willing to speak with you?

14 A Yes, he was.

15 Q Was he willing to waive his rights?

16 A Yes.

17 Q Did either you or Investigator Gonzales make any
18 offers of leniency to the defendant?

19 A No.

20 Q Did you all make any promises to the defendant to
21 speak to you?

22 A No.

23 Q Did you deprive him of anything that he may need?

24 A No.

25 Q Did he, to the best of your knowledge, freely waive

1 his rights to talk?

2 A Yes.

3 Q Thank you. After you went over those rights, did you
4 all begin a question, answer session with the defendant?

5 A We did. That form was preloaded in a laptop that I
6 had, and the questions were asked. He provided the
7 answers, and they were typed in.

8 Q And what exactly did you -- I'm sorry. If you will
9 look, I believe it's in front of you, State's Exhibit
10 Number two.

11 THE COURT: I think it's --

12 BY MS. GARFIELD

13 Q I'm, oh sorry. Do you recognize State's Exhibit
14 Number two?

15 A Yes, I do.

16 Q And what is that document reflecting?

17 A That's the statement of Christopher Robert Heller.

18 Q And who made that statement?

19 A I typed it asking questions, and Christopher Heller
20 provided the answers.

21 Q Did you type those questions while you were asking
22 them?

23 A The first few questions are pretyped. That would be
24 questions. I have my name there and Christopher Heller.
25 That's typed in. What's the highest grade of school you

1 completed, that's a pretyped question on the form.

2 They gave you the answer. Can you read and write,
3 that's a pretyped question. Then they give you the
4 answer.

5 Are you under the influence of any alcohol or drugs,
6 that's a pretyped question. They provide the answer. The
7 next question is one that you orchestrate from the -- at
8 the interview.

9 Q And with each question you asked him, did he freely
10 give you answers?

11 A Yes, he did.

12 Q Did you type them as he gave you the answers?

13 A Yes.

14 Q Upon completing that statement, were you able to
15 print the statement at that time?

16 A Yes, we were.

17 Q And was Mr. Heller provided a copy of the statement?

18 A Yes.

19 Q Was he able to review the statement?

20 A He was offered a copy of the statement at that time.

21 I don't know -- I don't remember if he took one or not.

22 Q Did he read the statement?

23 A Yes. We would go over the statement before he signs
24 it.

25 Q And did he wish to make any revisions?

1 A No, ma'am.

2 Q If he wanted to make a revision, would you have done
3 so?

4 A Yes.

5 Q And is there a time on that statement?

6 A There is.

7 Q And what is that time?

8 A It's 13:30 hours or it would have been 1:30 p.m.

9 Q And where did you specifically get that time on the
10 statement?

11 A I get the time from my -- the clock on the computer
12 on the right bottom.

13 Q And that's the laptop you were using to write this
14 statement?

15 A Yes.

16 Q Lieutenant Siniard, were you able to witness the
17 defendant sign the statement?

18 A Yes, I was.

19 Q And was there anyone else that signed the statement?

20 A Yes.

21 Q Who would that be?

22 A Willie Gonzales.

23 Q And did you observe him sign the statement?

24 A Yes.

25 Q Lieutenant Siniard, did you also have the opportunity

1 to sign the statement?

2 A Yes, I did.

3 Q And where did you sign it?

4 A Under the notary part of the statement.

5 Q And did you date that part on the statement?

6 A I did.

7 Q And what is the date on the first page?

8 A Thirty-one, August, 2006.

9 Q Is that the date the statement was taken?

10 A Yes, it was.

11 Q On subsequent pages, did you also sign the statement?

12 A I did.

13 Q How many pages is that statement?

14 A Three.

15 Q Did you sign each statement -- I mean each page?

16 A I did.

17 Q And did you date each page?

18 A I did.

19 Q And what -- is each page reflecting August 31st?

20 A No.

21 Q Why not?

22 A Probably because I'm human. I was very tired that
23 afternoon. I put the 25th of August, which is actually
24 the target date that this happened, this incident
25 happened.

1 Q Above that before you signed it, did you also type
2 out when the statement would be made?

3 A Where is that? Yes, on the very first -- on the top
4 page of the -- first page at the top, yes.

5 Q And what date would that be?

6 A Thirty-first day of August, 2006.

7 Q Also at the very bottom before your notary is done,
8 is there also a sentence talking about the certification
9 of reading this statement --

10 A Yes.

11 Q Something to that effect?

12 A Uh-huh.

13 Q And what date is written on each of those?

14 A Thirty-one August.

15 Q And that is the date the statement was taken?

16 A Yes.

17 Q Lieutenant Siniard, at this time I would just ask you
18 to please read the statement into the record.

19 A Sure.

20 "This is the statement of Robert Christopher --
21 Robert" -- correction. "This is the statement of
22 Christopher Robert Heller." His address was [REDACTED] Ten Mile
23 Road, Baxley, Georgia, zip of 31513, made at Columbia,
24 South Carolina, and it was actually made in Baxley,
25 Georgia this 31st day of August, 2006 at 13:30 hours in

1 the presence of Investigator Howell Siniard and
2 Investigator Willie Gonzales of the Richland County
3 Sheriff's Department.

4 It says, "I, Christopher Heller, understand I have
5 the right to remain silent. Anything I say can be used
6 against me in court. I have the right to talk to a lawyer
7 for advice before you ask me any questions and to have a
8 lawyer with me during any questioning.

9 If I cannot afford a lawyer, one will be appointed
10 for me before any questioning, if I wish. If I decide to
11 answer questions now without a lawyer present, I still
12 have the right to stop answering at any time. I also have
13 the right to stop answering at any time until I talk to a
14 lawyer.

15 I do make the following statement. Question" --
16 We're by questions, Investigator Siniard; answers, Chris
17 Heller, black male, date of birth [REDACTED]

18 "Question: What's the highest grade in school you
19 completed? Answer: Tenth grade.

20 Question: Can you read and write? Answer: Yes,
21 sir.

22 Question: Are you today under the influence of any
23 alcohol or drugs? Answer: No, sir.

24 Question: What happened in Columbia, South Carolina
25 on Friday August 25th, 2006 at approximately 04:00 hours?

1 Answer: My cousin Kevin Nails and another black male left
2 the Oasis Club.

3 My cousin stopped in the roadway to pick up a little
4 white girl that was walking. Kevin dropped the girl off
5 at the trailer -- dropped the girl and I off at the
6 trailer.

7 Inside the trailer was a white lady and a Mexican
8 man. The lady let us in. Once inside, the white girl and
9 Kevin that Kevin picked up and I went into a bedroom and
10 started smoking crack.

11 I went outside for a few minutes, and when I came
12 back inside, the lady that lived there told me I had to
13 go. I told her I was waiting on Kevin to come back and
14 pick me up. I just started stabbing the people.

15 Question: Where did you get the knife? Answer: It
16 was mine. It's a fold up knife. It had a brown handle.
17 The blade is about two to three inches long.

18 Question: Who did you start stabbing first? Answer:
19 The lady. The man jumped on my back inside the trailer.

20 Question: What did you do after stabbing the lady
21 and the man? Answer: I ran. I found an old empty
22 trailer, and I hid there. I stayed there until about
23 dark. I asked a lady if I could use her phone to call
24 someone to pick me up. I called Kevin and he came.

25 It stayed at the lady's house until Kevin arrived.

1 Kevin called mother," that's Carolyn Robinson, "who met me
2 along the interstate. Kevin's mother picked me up and
3 brought me to my mother's in Georgia.

4 Question: What happened to the knife? Answer: I
5 threw it somewhere after leaving the girl's trailer.

6 Question: The Nike shoes you have on, are they the
7 same ones you were wearing in Columbia on August 25th,
8 2006? Answer: No, sir. I was wearing white and blue
9 Reeboks. They're in my room under my bed.

10 Question: Where are the T-shirt and pants you were
11 wearing? Answer: They are in my room.

12 Question: How long were you in Columbia before
13 August 25th, 2006? Answer: About three days.

14 Question: What was your business in Columbia?
15 Answer: My aunt, Carolyn Robinson, was going to take
16 Kevin and I to Cherokee, North Carolina to the casino.

17 Question: Can you describe the white girl Kevin
18 picked up? Answer: Long brownish hair, and she was
19 short.

20 Question: Is there anything else you'd like to add
21 to your statement? Answer: No, sir. Everything I told
22 you is the truth."

23 The bottom part says, "I made the foregoing statement
24 freely and voluntarily without fear, threat, promise or
25 reward or hope of reward of any kind." That was signed by

1 Christopher R. Heller. That was witnessed by William,
2 Willie, Gonzales.

3 The bottom part, "This is to certify that I have read
4 or had read to me the foregoing statement consisting of
5 three pages, and a true copy has been given to me this
6 31st day of August, 2006." Again, it's signed by
7 Christopher Heller, and it was notarized by myself, Howell
8 Siniard.

9 Q Lieutenant Siniard, do you see the person that made
10 that statement in the courtroom today?

11 A Yes, I do.

12 Q Can you please identify him for the record?

13 A Yes. He's the black male sitting at the defense
14 table wearing a tan and plaid shirt.

15 MS. GARFIELD: Your Honor, may the record reflect
16 Lieutenant Siniard has identified the defendant?

17 THE COURT: Yes, ma'am.

18 MR. COLLINS: Thank you. Your Honor, at this time I
19 would like to introduce State's two into evidence.

20 THE COURT: Any objection?

21 MR. COLLINS: If I can cross the witness. I believe
22 we --

23 THE COURT: Do you have any objection to it being
24 introduced into evidence, the statement, at this point in
25 time?

1 MR. COLLINS: I believe it's been introduced.

2 THE COURT: For purposes of this hearing. I'm not
3 saying it's going in.

4 MR. COLLINS: I believe it's already been introduced
5 for the purposes of this hearing.

6 THE COURT: I think it's already been introduced --

7 MS. GARFIELD: I didn't make the motion.

8 THE COURT: -- at the first witness.

9 MS. GARFIELD: I was just covering myself.

10 THE COURT: Okay.

11 MS. GARFIELD: Thank you, Your Honor.

12 THE COURT: I think it's already been introduced.

13 MS. GARFIELD: Thank you.

14 THE COURT: All right. Is the jury -- have they
15 elected a forelady yet? Would you bring them in? Do you
16 have the name, please? Would you bring them in the
17 courtroom, please, sir?

18 THE BAILIFF: Yes, sir.

19 MS. GARFIELD: Would you like Lieutenant Siniard to
20 step down?

21 THE COURT: He can stay right where he is.

22 MS. GARFIELD: Okay.

23 THE COURT: All right. The foreman is Lavern Smith,
24 number 242. Forelady Lauren Smith, excuse me. I couldn't
25 read her writing. Lauren Smith, seven on the short sheet,

1 number 242.

2 Let me see the attorneys up here while they're coming
3 in, please.

4 (WHEREUPON, a bench conference was held in the
5 presence, but not within the hearing, of the jury).

6 (WHEREUPON, the jury came into open court at
7 approximately 4:38 p.m.)

8 THE BAILIFF: Jurors are seated, Your Honor.

9 THE COURT: All right. Thank you very much.

10 Madam Forelady, ladies and gentlemen of the jury,
11 there are certain motions that I need to hear before we
12 actually start the testimony, and we're not going to start
13 the testimony until tomorrow.

14 I've got another matter on another case I have to
15 deal with at 9:30. So what I'm going to do is ask you to
16 be back in the jury room at 10:30 in the morning.

17 We'll get started back at that time. Please don't
18 discuss the case among yourselves or read anything in the
19 paper or watch anything on T.V. about it.

20 I'll see you at 9:30 in the morning. The bailiff
21 will show you where to come to in the morning. When you
22 come to the courthouse, come straight to the jury room.
23 Don't go to the assembly room. Come to the jury room.
24 The bailiff will show you what door to come to. If you'll
25 follow the bailiff. See you in the morning at 10:30.

1 THE JUROR: At 9:30 or 10:30?

2 THE COURT: 10:30.

3 THE JUROR: 10:30?

4 THE COURT: Do you want to come at 5:30?

5 THE JUROR: That's fine.

6 THE COURT: If you want to come, we'll open it up for
7 you.

8 THE JUROR: We come here?

9 THE COURT: No, the jury room.

10 (WHEREUPON, the jury left open court at approximately
11 4:39 p.m.)

12 THE COURT: All right. Cross-examination?

13 MR. COLLINS: Thank you, Your Honor.

14 MS. GARFIELD: I'm not finished, I'm sorry.

15 THE COURT: You're not through?

16 MS. GARFIELD: There's more -- there's more
17 statements, yes, sir.

18 THE COURT: Pardon?

19 MS. GARFIELD: There's more statements.

20 THE COURT: Well, we did the written this morning. I
21 thought we were going to do the oral next. We were going
22 to break it up to where we started earlier.

23 MS. GARFIELD: Okay. That's fine. Thank you.

24 THE COURT: Okay. Cross-examination --

25 MS. GARFIELD: We did --

1 THE COURT: -- on the written statements.

2 MR. COLLINS: Thank you, Your Honor.

3 THE COURT: Okay. Mr. Collins, I remember everything
4 you asked the other officer. You don't have to duplicate
5 it, okay.

6 MR. COLLINS: Well, I may check to see if we have the
7 same answers but...

8 THE COURT: Okay. I know some of it is going to be
9 duplicated. Some of it double. Please proceed.

10 CROSS-EXAMINATION:

11 BY MR. COLLINS

12 Q Just to start off, from the moment that Mr. Heller
13 stepped into that private office down in Baxley, Georgia
14 to when you guys were totally done talking to him and
15 walked out of that office, about how long did that take?

16 A An hour.

17 Q An hour?

18 A Yes, sir.

19 Q Okay. About how long, according your testimony, from
20 the time he signed the -- from the time he signed the
21 waiver of rights until the written -- the typed up
22 statement you typed was complete?

23 A Usually you move right into it. Sometimes you would
24 ask them "tell me what happened. I want to hear your side
25 of the story." You have to prep.

1 Q What happened on this occasion?

2 A I believe we went right down the statements and asked
3 him what happened in Columbia.

4 Q So that statement that you just read, the five
5 minutes, that took the full hour to get out?

6 A No. After I interview someone, we usually sit and
7 just chat for a while, not questions pertaining to the
8 case, just to talk. I've got to bring this guy back to
9 Columbia. I need to bond with him a little bit.

10 Q So you asked him about --

11 A I asked him did you go to high school here, et
12 cetera. That usually happens in just about every case I
13 have.

14 Q Is that what happened in this case?

15 A Generally. If I didn't write it down, it didn't
16 pertain to the case, yes, sir.

17 Q Okay. But you don't have a specific memory?

18 A I don't have a --

19 Q -- of what you talked about --

20 A -- specific memory, no, sir, of what we talked about.

21 Q And you testified that you loaded up in the van with
22 the Georgia officers.

23 A Yes, sir.

24 Q And that Investigator Gonzales followed behind?

25 A Yes, sir.

1 Q Are those the only two vehicles that went to the
2 residence?

3 A No, sir. There were like probably six.

4 Q Six vehicles?

5 A Yes, sir. There were two residences that were going
6 to be hit at the same time.

7 Q Two residences were hit at the same time?

8 A Yes, sir.

9 Q And did you have a search warrant for both
10 residences?

11 A Yes, we did.

12 Q Did you disclose the second search warrant to the
13 Solicitor's Office?

14 A Yes, sir.

15 MR. COLLINS: Your Honor, at this time I need to
16 request that I be given the second search warrant. I've
17 only been provided one search warrant for one residence.

18 THE COURT: Well, let's see --

19 MS. GARFIELD: I can --

20 THE COURT: Let's develop a little bit. It may not
21 have anything to do with this case, okay, but go ahead. I
22 don't even know what residence they searched and what they
23 found and what they looked for. Go ahead.

24 BY MR. COLLINS

25 Q Okay. So you went to [REDACTED]

1 A I went to what I would consider the main house. It
2 was a single, single story dwelling. The other residence,
3 I believe, from what I'm hearing, is a mobile home. I did
4 not go to that one.

5 Q You did not go to that one?

6 A No, sir. It's down the same road that runs besides
7 the house, but you just go down further. I don't know how
8 far down that was. It was quite a little distance down
9 the dirt road. I understand it's all owned by the same,
10 the Heller family.

11 Q Okay. And was anything taken from the trailer, to
12 your knowledge?

13 A No, sir.

14 Q Not to your knowledge?

15 A Not to my knowledge, no, sir.

16 Q Okay. Did you take a camera with you down to
17 Georgia?

18 A There may have been one in my car, I'm not for sure.
19 I had -- at that time I was assigned an A.T.F. camera, and
20 that may have been an A.T.F. one in my car.

21 Q Are you forbidden to use that on anything other than
22 an A.T.F. case?

23 A I would be, yes, if it had it with me, yes.

24 Q Did anyone in Appling County have a camera?

25 A No, sir.

1 Q No one in their entire police department has a
2 camera?

3 A I didn't ask them for a camera, no, sir.

4 Q Did anybody in their entire police department have a
5 tape recorder?

6 A I didn't ask for a tape recorder.

7 Q Did anyone have a video recorder?

8 A I didn't ask for one.

9 Q Now, you testified about the search in the house.
10 You went in after they had cleared it?

11 A Yes, sir.

12 Q Then you testified that when you went in there, some
13 of the other officers were still in the other room
14 searching for Christopher Heller?

15 A That was just being wrapped up because he was our --
16 when you enter like that, that's your first objective, is
17 to make sure that person you're looking for is not laying
18 under a bed or in a closet.

19 Q And when you determine that they're not, then the
20 building would be cleared, correct?

21 A Yes.

22 Q So you went in before the building was clear?

23 A No. It would have been after it was basically
24 cleared or right before it was -- they concluded it, yes,
25 sir.

1 Q It was close?

2 A Yes, sir.

3 Q And your testimony is that the two women in the house
4 were cooking in the kitchen when you came in?

5 A Yes. They appeared to be in the kitchen area, and it
6 seems like I remember that they were asking to turn the
7 stove off or if either they could continue cooking or turn
8 it off and have a seat at the table.

9 Q And you didn't mention anything about women in the
10 residence in your notes, did you?

11 A I would have to refer to my notes on that.

12 (Referring to notes).

13 Yes, I did. Can I tell you where it's at?

14 Q Okay.

15 A It's on page three at the bottom on 8/31/2006. "Once
16 the residence was cleared, only Heller's mother and
17 girlfriend," and I don't have either one of their names,
18 "were present. I searched Heller's room," and then I go
19 into what I took out of that room.

20 Q And you don't have anything in your notes about how
21 those two women were arrested in Appling County that day?

22 A No, sir.

23 Q You were aware they were arrested?

24 A I was told by one of the deputy investigators when he
25 came into the room that the sheriff had taken them both

1 down.

2 Q And this is while you were still at the residence?

3 A Yes, sir.

4 Q Before you got back to headquarters?

5 A Yes, sir.

6 Q Before you and Investigator Gonzales got in that room
7 to interview him?

8 A Yes.

9 Q Okay. And you were in here listening to Investigator
10 Gonzales, correct?

11 A Yes, sir.

12 Q And that would contradict his testimony? It's okay.

13 A I don't recall exactly what he said this morning. If
14 you would enlighten me, I would --

15 Q That's okay. We can move along.

16 In your search warrant paperwork that I got last
17 week, it says that you recovered clothing from two
18 separate bedrooms, right?

19 A Yes, sir.

20 Q One was labeled Tory's room?

21 A Yes, sir.

22 Q And Tory would be Chris' brother, right?

23 A Yes, sir.

24 Q And, in fact, the shirt that allegedly had blood on
25 it was taken from Tory's room, correct?

1 A I'm not sure.

2 Q Not sure?

3 A No.

4 Q All right. And just to reiterate what you said on
5 direct, when you got back to the police station in Appling
6 Georgia --

7 A Uh-huh.

8 Q -- is it a pretty small building?

9 A Yes, sir.

10 Q About how many rooms total in that building?

11 A I didn't go through the whole building. I know the
12 courtroom is fairly small and the office.

13 Q Did you see the outside of the building there?

14 A Yes, sir.

15 Q It's nowhere near the size of this courthouse?

16 A Oh no, no, sir.

17 Q About how many officers would you say worked for
18 Appling County Sheriff's Department?

19 A I never really did ask.

20 Q If you had to guess.

21 A Probably 30, 50, something in that --

22 Q Thirty to 50?

23 A -- small department.

24 Q And did they tell you if they had an interrogation
25 room in that building?

1 A We didn't ask for a specific interrogation room. We
2 asked if they had a room that we could talk to Mr. Heller,
3 and that's the room they provided.

4 Q Were you --

5 A It's actually someone's office.

6 Q And do they have holding cells in that building?

7 A I never saw a holding cell. I'm sure they do. The
8 jail is in the same building.

9 Q When you left the residence after the search warrant,
10 did you leave with everybody else that was there?

11 A Yes, sir.

12 Q So everybody left at approximately the same time?

13 A Yes, sir.

14 Q So you were aware that the two women were in custody
15 when you left?

16 A I was aware when we left that they had been taken
17 down by the sheriff, yes, sir.

18 MR. COLLINS: Beg the Court's indulgence.

19 (Pause).

20 No further questions about the statement.

21 THE COURT: Okay. Any redirect?

22 REDIRECT EXAMINATION:

23 BY MS. GARFIELD

24 Q Lieutenant Siniard, did you have anything to do with
25 the arrest of those two women?

1 A No, I did not.

2 MS. GARFIELD: Nothing further as far as this is
3 concerned.

4 THE COURT: Okay. Do you have any other further
5 witnesses as far as from the State on the statement?

6 MS. GARFIELD: Yes, one witness.

7 THE COURT: Okay. You may step down, Lieutenant.
8 Thank you very much.

9 THE WITNESS: Thank you.

10 THE COURT: Be careful stepping down.
11 Call your next witness.

12 MS. GARFIELD: The State calls Sheriff Benny DeLoach.

13 THE COURT: Mr. Collins, you obviously, have never
14 been to Baxley, Georgia.

15 MR. COLLINS: No. I know it's very small.

16 THE COURT: Have you ever been to Little Wissey
17 (phonetic)?

18 MR. COLLINS: No, sir.

19 THE COURT: You don't remember the government --
20 Lester Bates going down there with a baseball bat and
21 breaking up the radar because of the radar traps on 301?

22 (Laughter).

23 That's probably before your time, wasn't it? I bet
24 his mother remembers that.

25 MOTHER: Yes.

1 THE COURT: Baxley is down there in Little Wissey.

2 THE DEFENDANT: Yes.

3 THE COURT: How far is it from Baxley to Little
4 Wissey (phonetic)?

5 THE DEFENDANT: Little Wissey, it's about maybe 30
6 minutes or so.

7 THE COURT: About 30 minutes?

8 THE DEFENDANT: Uh-huh.

9 THE COURT: Okay.

10 BENNY DELOACH, after being duly sworn,
11 testified as follows:

12 THE CLERK: Have a seat in the witness box and state
13 your name for the record, please.

14 THE WITNESS: My name is Benny DeLoach.

15 DIRECT EXAMINATION:

16 BY MS. GARFIELD

17 Q Sheriff DeLoach, where are you from?

18 A Appling County Georgia.

19 Q And you're the Sheriff of Appling County?

20 A Yes, ma'am.

21 Q And did you have an occasion to become involved in a
22 law enforcement investigation on August 31st, 2006 with
23 the Richland County Sheriff's Department?

24 A Yes, ma'am.

25 Q And what was the nature of your involvement?

1 A The detective came down and wanted to see if we could
2 locate a certain person, and we got involved in it like
3 that.

4 Q And how did you specifically get involved?

5 A We helped them secure search warrants and such.

6 Q Okay.

7 A And went to the location where the subject is
8 supposed to be at.

9 Q Did you in any way interfere with the Richland County
10 Sheriff's Department's investigation?

11 A No, ma'am.

12 Q Did you make an arrest involving this investigation?

13 A On the -- Mr. Heller?

14 Q Not specifically Mr. Heller but anyone.

15 A Yes, ma'am.

16 Q And can you please relay to the court what kind of
17 arrests you made?

18 A We made two arrests. Notes here, I'll tell you who
19 they were.

20 (Pause).

21 We made one arrest on Laronda J. Heller, and one on
22 Jena S. Cherry.

23 Q And what was the nature of those arrests?

24 A We arrested them for aiding and abetting a fugitive.

25 Q And why did you make those arrests, Sheriff?

1 A Well, when we went out to the location, they was --
2 we felt like they were withholding information and such on
3 suspect.

4 Q And where -- these were at the location that was
5 searched?

6 A Yes, ma'am.

7 Q And when you say "we", who are you referring to?

8 A There was myself, Investigator Jerry Baxley, Deputy
9 Anthony Tillman, Deputy Billy Brewer, Tom Crawford, Andrew
10 Malone, and the two South Carolina officers and my chief
11 jailer, Adam Bell, Lieutenant Kenny Wright, Seaby
12 Phillips, Mark Melder (phonetic), Tony Banks, Donald
13 Moore, and Stacy Wilkerson.

14 Q Are you referring to everyone that was there at the
15 incident location?

16 A Yes, ma'am.

17 Q Which -- specifically, which law enforcement agency
18 made the determination to make an arrest of those two
19 ladies?

20 A The Appling County Sheriff's Office.

21 Q Did the Richland County Sheriff's Department have
22 anything to do with those arrests?

23 A No, ma'am.

24 Q Were they consulted about those arrests?

25 A No, ma'am.

1 Q Were any promises or agreements of leniency made with
2 the defendant by the Appling County Sheriff's Department?

3 A None that I'm aware of.

4 Q You were present at the sheriff's department when the
5 defendant turned himself in?

6 A Yes, ma'am.

7 Q Did you have an opportunity to observe the defendant?

8 A He came walking in the front door and said he wanted
9 to turn himself in. We got ahold of two South Carolina
10 agents and they took him, and that was it.

11 Q Was that the extent of your involvement?

12 A That was the extent of our involvement with
13 Mr. Heller.

14 Q Were you able to provide a place for the law
15 enforcement agencies from South Carolina to interview the
16 defendant?

17 A Yes, ma'am. We let them use one of our offices.

18 MS. GARFIELD: Thank you. Nothing further.

19 THE COURT: Cross-examination?

20 MR. COLLINS: Thank you, Your Honor.

21 CROSS-EXAMINATION:

22 BY MR. COLLINS

23 Q Good afternoon. Are you still working for Appling
24 County or are you retired?

25 A Yes, sir, still working.

1 Q Still working. You testified that you arrested those
2 two women for aiding and abetting a fugitive?

3 A Yes, sir.

4 Q Because you felt like they were withholding
5 information?

6 A We felt like they were withholding information.

7 Q No arrest warrants were ever served on them, were
8 they?

9 A No. After the subject turned himself in, we released
10 them.

11 Q So after he came down there, they were released a
12 short time later?

13 A Yes, sir.

14 Q They didn't leave the headquarters until after
15 Mr. Heller left the headquarters though, right?

16 A I don't know just what time, you know, which one.
17 You know, they left after Mr. Heller got there.

18 Q Were you not in the courtroom when they were allowed
19 to see each other before they took Christopher Heller back
20 to Columbia?

21 A No, sir.

22 Q And you already left headquarters at that point?

23 A No, I was still there.

24 Q Did you question Ms. Heller, Ms. Loranda Heller,
25 about what she knew?

1 A I didn't.

2 Q Someone in your office?

3 A To the best of my knowledge, they were questioned out
4 there at the residence where we went to.

5 Q You're not -- you're not aware of her being put in an
6 interrogation room with a two-way mirror?

7 A No, sir.

8 Q Do you have one in that building?

9 A Yes, sir, we have one.

10 Q And can you describe that room for us?

11 A It's probably about four feet wide and about 20 feet
12 long.

13 Q Is there a table in the room?

14 A No, sir.

15 Q Chairs in the room?

16 A No, sir.

17 Q No chairs, no table --

18 A Not in --

19 Q -- in the interrogation room?

20 A Not in the room you're describing with the two-way
21 mirror.

22 Q Okay.

23 THE COURT: Mr. Collins, make sure you're -- I don't
24 think you're talking about the same room that he was in.
25 I mean, why don't you clarify that.

1 MR. COLLINS: Your Honor, I'm asking about which room
2 his mother was in.

3 THE COURT: Oh, okay. What does that have to do with
4 whether he gave a voluntary statement in another room to
5 two deputies from Richland County?

6 MR. COLLINS: I believe I'll be able to get it tied
7 together.

8 THE COURT: Let's get it tied together, okay.

9 BY MR. COLLINS

10 Q Did you threaten her with prosecution in Georgia and
11 South Carolina, or did one of your officers?

12 A No, sir.

13 Q And how long after these two women were taken back to
14 the headquarters was it before Mr. Heller got to
15 headquarters?

16 A If I had the -- I'd just have to make a guess on
17 that. I mean --

18 Q All right.

19 A -- I'd say an hour, two hours.

20 Q An hour to two hours after his mother and fiancée
21 were in --

22 A Communication.

23 Q -- police custody?

24 A Yes.

25 Q And during that hour, two hours, did you speak at all

1 with the investigators from Richland County?

2 A I, myself, didn't. They probably might have been
3 talking with my deputies and stuff like that.

4 Q Okay. And when Mr. Heller got to the police station,
5 did he ask about his mother?

6 A No. He just came in and said he was there to turn
7 himself in.

8 Q Did he ask about his fiancée?

9 A He may have asked the investigators about it. Like I
10 say, when he walked in and said he was going to turn
11 himself in, we got ahold of two South Carolina
12 investigators. That was the last I saw of him.

13 Q Did you have any kind of recording equipment anywhere
14 in your police station?

15 A No, sir.

16 Q No audio recording?

17 A No, sir.

18 Q Nobody has a tape recorder on your police force?

19 A Someone may have a tape recorder but...

20 Q Do you have any cameras --

21 A No.

22 Q -- tape recorders? Your police force has no cameras?

23 A No, sir. We have video cameras in our cars, but as
24 far as in the interrogation room or anything like that we
25 don't have any.

1 Q What about a photograph?

2 A What do you mean?

3 Q A camera that takes photographs.

4 A We have one down there at the jail. Everybody booked
5 in at the jail, we take their photograph.

6 MR. COLLINS: No further questions of this witness,
7 Your Honor.

8 THE COURT: Any --

9 MS. GARFIELD: None.

10 THE COURT: -- redirect?

11 MS. GARFIELD: Nothing further, Your Honor.

12 THE COURT: Okay, Sheriff. You may step down. Thank
13 you very much.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Off the record.

16 (There was an off-the-record discussion).

17 Thank you, Sheriff.

18 Got another witness?

19 MS. GARFIELD: We'll call Lieutenant Siniard.

20 THE COURT: You're going to call him again?

21 MS. GARFIELD: Yes, sir. There was another statement
22 taken by Lieutenant Siniard after this --

23 THE COURT: Well, why don't we heard his argument.

24 MS. GARFIELD: Okay.

25 THE COURT: Did your witness have anything to do with

1 the oral statement?

2 MR. COLLINS: The one witness other than Mr. Heller
3 only has to do with the statement in Georgia.

4 THE COURT: Well, why don't you call that witness,
5 and then we'll hear your arguments on the written
6 statement before we go into the oral statement.

7 MR. COLLINS: Okay. I would call Loranda Heller.

8 THE COURT: Assuming the State doesn't have any
9 further witnesses.

10 MS. GARFIELD: No, sir.

11 THE COURT: Okay.

12 MR. COLLINS: I'm going to call Loranda Heller, if I
13 can walk outside to get her.

14 THE COURT: Yes, sir, please do.

15 (Pause).

16 LORANDA HELLER, after being duly
17 sworn, testified as follows:

18 THE COURT: Have a seat in the witness box and state
19 your name.

20 THE WITNESS: My name is Loranda Heller.

21 THE CLERK: Spell your first name, please.

22 THE WITNESS: L-O-R-A-N-D-A.

23 THE BAILIFF: Have a seat.

24 MR. COLLINS: If it please the Court.

25 THE COURT: Yes, sir, please proceed.

DIRECT EXAMINATION:

1 BY MR. COLLINS

2 Q Good afternoon. This is the first time we've really
3 met in person, isn't it?

4 A Yes.

5 Q We have talked before that though, right?

6 A Yes.

7 Q Okay. Now, I want to talk to you just specifically
8 about one day in particular.

9 A Okay.

10 Q I want to talk to you about August 31st, 2006. Do
11 you remember that?

12 A Yes.

13 Q And -- well, first and foremost, let me cover a few
14 things before we get into it. How do you know the
15 defendant in this case?

16 A That's my son.

17 Q I'm sorry. Can you speak up?

18 A That's my son.

19 Q Can you lean -- if you can move up a little bit
20 closer to the microphone.

21 A He's my eldest son.

22 Q Do you have any relatives here in Columbia?

23 A Just my sister.

24 Q Does he sometimes visit them?

25 A Yes.

1 Q Okay. The end of August 2006, August 31st, was he
2 staying with you at that time?

3 A Yes.

4 Q And when I say he, I mean Christopher Heller.

5 A Yes.

6 Q Your son.

7 A Yes.

8 Q Now, if you can, if you can just let this Court know,
9 let the judge know about what happened on August 31st,
10 starting from when you woke up and what you woke up to.

11 A Okay. Well, on that particular morning I was asleep,
12 and my little -- my little goddaughter that was there with
13 me at the time, Jena --

14 Q I'm sorry. I don't mean to interrupt, but if -- when
15 you say your goddaughter --

16 A Yes.

17 Q -- Jena, can you explain who Jena is?

18 A Jena is Chris' friend.

19 Q Can you say her last name?

20 A It's cherry.

21 Q Okay. Thank you.

22 A And she said -- she said, "Mom, do you hear that
23 noise out there?" I said, "No." I said, "What does it
24 sound like?"

25 She said "Mom, do you hear that noise?" I said,

1 "No." I said, "I didn't hear nothing," because after I
2 got up, after said that, I got up and said, "Let me see if
3 somebody is out there at the door," because where I live,
4 my landlord is a mechanic.

5 I thought maybe it was somebody outside coming to the
6 wrong address to get some information on a car. So when I
7 come out of my room, the police was already at my -- in my
8 house.

9 Q Did you hear any -- what kind of noises did you hear?

10 A Well, I didn't hear any noise. The only thing I
11 heard like a bump. I guess it was then when they came in
12 the house.

13 When I come out of my bedroom -- I opened my door and
14 come out of my bedroom, there was a deputy, sheriff
15 deputy. He was probably -- I don't know, probably about
16 two feet from me with a gun in my face.

17 He was screaming, "Get on the floor. Get on the
18 floor." I was so scared. I was in shock. It was like I
19 couldn't fall down. I couldn't get down on the floor, so
20 how I got on the floor, I don't know. And while --

21 Q Now, when you say -- when you say he was screaming,
22 "Get on the floor," was he literally screaming?

23 A He was like, "Get on the floor. Get on the floor."

24 Q Did that scare you?

25 A Yes, yes. I mean, I've never experienced anything

1 like this. Like I said, I was so scared, and it was just
2 like I was shocked.

3 I mean, I couldn't move. The way he was coming at me
4 with that gun, I mean it was like he could have shot me,
5 and I honestly believe he would have if it hadn't have
6 fell down.

7 Q Do you have any kind of medical problems --

8 A Yes.

9 Q -- or stress?

10 A I've had a --

11 Q What kind of medical problems?

12 A I've had a heart -- I've had a heart attack, and I'm
13 hypertensive, the worst case of hypertensive, and my
14 high -- my blood pressure is elevated --

15 Q Right.

16 A -- when I'm stressed.

17 Q When did you have a heart attack?

18 A I had one in October -- no. Yeah, October '04.

19 Q Was Chris aware that you had a heart attack in
20 October of '04?

21 A Yes.

22 Q All right. So you told me they came in with their
23 guns drawn, told you to get on the ground. After the dust
24 kind of settled, how did they treat you after that?

25 A They were -- they were -- they were pleasant. They

1 were very pleasant.

2 Q Did they search the house?

3 A Yes.

4 Q Did they ransack the house?

5 A Well, they ransacked my -- both my sons' rooms. I
6 have another son that lives with me. They ransacked his
7 room, and they ransacked Chris' room.

8 Q Did they ask you which room was Chris'?

9 A I don't remember. I really don't remember.

10 Q Did they tell you why they were there?

11 A They might have did (sic) after they started
12 searching. I'm not sure.

13 Q Did they ever take you into the kitchen?

14 A Well, that's where my bedroom area is. It's a den,
15 kitchen combination.

16 Q Were you cooking anything in the kitchen?

17 A No.

18 Q And how long did they search the house?

19 A I'm not sure. I'm not sure because I -- oh God. I
20 don't know. It might have been 30, 45 minutes. I'm not
21 sure.

22 Q And once they were done searching the house, what did
23 they do with you?

24 A They told me that we -- well, I asked them. I said,
25 "Well, where are y'all taking me?" He told me, he said,

1 "Well, you have got to go downtown."

2 I said, "Well, why do I have to go downtown?" He
3 said, "We just want to ask you questions."

4 I wasn't dressed appropriately. I asked him, I said,
5 "Well, can I just put on me something?" So I just took an
6 -- threw something on me. They took us to town, took us
7 to the police station.

8 Q When they took you to the police station, what
9 happened?

10 A Well, when they took us to the police station, I
11 don't know where they put Jena, but they put me in a small
12 room. I don't who -- I don't know whether the Sheriff
13 questioned Jena or whom, but the Sheriff questioned me,
14 and he --

15 Q When you say the Sheriff, do you know the Sheriff's
16 last name?

17 A DeLoach.

18 Q DeLoach questioned --

19 A Yes.

20 Q -- you? And what did he question you about?

21 A Well, he started asking me where was Chris and -- but
22 before he said that, he read me my rights and everything,
23 and he asked me did I want an attorney. I told him yes
24 but -- and still tried to tell me about the attorney.

25 He ignored me and said that I wasn't going to get a

1 phone call or no visit or anything until I answered his
2 questions. I said, "Well, I just won't answer any
3 questions," I said, "because you asked me did I want an
4 attorney and I said yes."

5 Q Did you know where Chris was at that point --

6 A No.

7 Q -- in time? Do you keep track of Chris every moment
8 of the day?

9 A No, no, no.

10 Q Was he looking for jobs at that moment in time?

11 A Yes.

12 Q Can you describe for the Court what the room looked
13 like that Sheriff DeLoach put you in?

14 A Oh God. It was probably -- probably about six by
15 nine, a little bit bigger than six by nine, probably, not
16 -- maybe not.

17 It had a couple of pieces of machine -- machinery in
18 there, and I think it had where you do your fingerprints
19 on, it had that on the table right next to it and another
20 table with another piece of machinery on it. He was
21 sitting in the chair like in front of me.

22 Q Okay. Were there any windows in the room?

23 A Not that I remember.

24 Q Did any other officers come in the room during that
25 questioning?

1 A No.

2 Q On the way from your house to the headquarters before
3 this questioning, did you see all the other officers at
4 the house?

5 A I can only remember there was this one gray headed
6 guy, the Hispanic man. I saw three Georgia -- the
7 sheriff's officers from Baxley, and there was another man
8 there.

9 Q That's okay.

10 A I can't remember any more than that.

11 Q Are you familiar with the officers in Baxley,
12 Georgia?

13 A Well, just the ones that I know.

14 Q All right. And were there a couple of officers that
15 you didn't recognize?

16 A Yes, there were two there, two that I didn't
17 recognize.

18 Q Well, were there --

19 A I mean, those were Baxley, but the other ones I mean,
20 I didn't recognize any of them.

21 Q Okay.

22 A Because I didn't know them, I guess.

23 Q When you said the Hispanic man, did he have a
24 mustache?

25 A Yes. He had glasses and grayish, salt and pepper

1 hair.

2 Q Did he ever talk to you?

3 A To him?

4 Q Did he ever talk to you?

5 A Yes. He was asking me where was Chris and just some
6 other stuff, and I don't -- like I said, I don't remember.

7 Q Was he around when they put you in the car to take
8 you to headquarters?

9 A They were still inside. They were still inside my
10 son Tory's room putting things in the bag.

11 Q All right. Did you see -- which officer did you see
12 at headquarters besides Sheriff DeLoach?

13 A To be honest with you, I didn't see any of them until
14 they were taking Chris out the door.

15 Q They let you see Chris before you left?

16 A Well, they brought him in probably like a little
17 small little hearing area.

18 Q Uh-huh.

19 A And they brought him in there and probably for maybe
20 like five minutes, ten minutes. I'm not sure how long it
21 was, but he hugged me and kissed me, and then they told
22 him that they was leaving.

23 Q Did they let you go home after that?

24 A Yes.

25 Q Did anybody else in your family know that you and

1 Jena had been taken down to headquarters that day?

2 A I'm not sure. I don't know. I mean, one of the
3 officers could have, but I really don't know. I don't
4 know.

5 Q Well, was that a pretty scary day for you?

6 A Yes, yes. I mean, to me, it's still scary because
7 like -- like I said, the man out there where I live at, he
8 is a mechanic.

9 Sometimes a couple of the officers come out there in
10 the cruiser and -- and when I see the cars out there, I
11 mean, it's just like I'm -- it's just like I'm feeling
12 that feeling again. It's like it's scary. Like I said,
13 I've never experienced anything like that. I don't know.
14 It's just scary.

15 Q When you were talking with Sheriff DeLoach, did -- he
16 said South Carolina was going to prosecute you?

17 A Yes.

18 Q And what did he say about that?

19 A The only thing I remember him telling me is that they
20 were going to charge me, and South Carolina was charging
21 me also.

22 Q And did you ever hear anything else about these
23 charges --

24 A No.

25 Q -- after that day?

1 A No but I did --

2 Q There were no --

3 A I did ask the fellow, the officer that took us home,
4 I asked him, I said, "Are they going to let me know what's
5 going on?" He didn't -- he didn't ever answer me.

6 Q What's going on with the Georgia officers?

7 A Yes.

8 Q Did he take you and Jena home?

9 A Yes.

10 Q And they never charged her with anything either?

11 A No.

12 Q They let her leave at the same time also?

13 A Yes.

14 MR. COLLINS: No further questions.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION:

17 BY MS. FENT

18 Q You said you woke up, basically, woke up that morning
19 to the officers coming to do the search warrant.

20 A Right.

21 Q So when was the last time you had seen Chris?

22 A The night before, the day before. Yeah, the night
23 before.

24 Q The night before?

25 A Uh-huh.

1 Q Okay. And so the whole time you're at the house and
2 they're executing the warrant, Chris isn't there at the
3 house.

4 A Right.

5 Q Okay. And you don't see him on the way to the police
6 station when they take you into custody?

7 A No.

8 Q Okay. And while you're at the police station, you
9 said the sheriff came to question you?

10 A Uh-huh.

11 Q Okay. That whole time, you still don't see Chris?

12 A No.

13 Q Okay. So at any point, you know, they don't have you
14 call Chris and beg him to turn himself in?

15 A No.

16 Q You have no contact with Chris --

17 A No.

18 Q -- whatsoever? And it's not until they're actually
19 physically going to put him in the car to bring him back
20 to South Carolina is -- that's the next time you saw him?

21 A Right.

22 Q So from the night before until when he's getting put
23 into the car and they let you hug him and say goodbye?

24 A Yes.

25 MS. FENT: No further questions. Thank you.

1 THE COURT: Any redirect?

2 MR. COLLINS: Very briefly, Your Honor.

3 REDIRECT EXAMINATION:

4 BY MR. COLLINS

5 Q Do you have a lot of family in Baxley, Georgia?

6 A Yes.

7 Q Does your mother live in Baxley, Georgia?

8 A Yes, she does.

9 Q Are you in constant contact with her?

10 A Yes.

11 Q Is Christopher Heller in contact with her --

12 A Yes.

13 Q -- your son? Do you live kind of close to each
14 other?

15 A Well, I live probably about four or five miles in the
16 country, and she lives in town.

17 Q All right. And you all have phones?

18 A Yes.

19 Q And you have many -- do you have a lot of friends in
20 Baxley, Georgia, too?

21 A Yes, we've plenty of friends.

22 Q It's a pretty small community?

23 A Yes, it's a small area. I mean, pretty much
24 everybody knows everybody there.

25 Q Everybody knows everybody there?

1 A Yes.

2 Q Thanks. And Chris looked a little upset when you saw
3 him before he left?

4 A No. Chris -- Chris always looked like Chris laid
5 back and always happy, smiling.

6 Q Okay. When he saw you, he was happy and smiling?

7 A I mean, when he got ready to -- when they got ready
8 to take him out now, he wasn't happy and smiling.

9 Q How did he look?

10 A Probably depressed or scared, worried.

11 MR. COLLINS: Okay. Thank you.

12 THE COURT: Okay. You may step down. Thank you very
13 much.

14 Do you have any further witnesses as to the written
15 statement?

16 MR. COLLINS: As to the written statement, I would
17 like to have to call the defendant for that.

18 THE COURT: Okay.

19 MR. COLLINS: We can just -- we'll go through the
20 written and then we can go back to the verbal statement,
21 if that's what Your Honor would like.

22 THE COURT: I mean, that's fine. I mean...

23 MR. COLLINS: I can put all of his testimony on the
24 record now.

25 THE COURT: That's fine, if that's what you want to

1 do.

2 MR. COLLINS: We'll just go through the written part
3 now.

4 THE COURT: All right.

5 MR. COLLINS: The defense would call Chris Heller.

6 CHRISTOPHER HELLER, after being duly
7 sworn, testified as follows:

8 THE CLERK: Have a seat in the witness box and state
9 your full name for the record, please.

10 THE WITNESS: My name is Christopher Robert Heller.

11 DIRECT EXAMINATION:

12 BY MR. COLLINS

13 Q Good afternoon, Chris. We've known each other for a
14 while, haven't we?

15 A Yes, sir.

16 Q All right. I'm just going to ask you a few questions
17 strictly relating to the statements, okay.

18 A Yes.

19 Q I want to start with on August 31st of 2006, do you
20 remember that day?

21 A Yes.

22 Q What were you doing that morning?

23 A That morning I was out. I was at Burger King doing a
24 job interview. I got ready to leave Burger King and
25 something said call my mama to come pick me up. So I

1 called my mama, tell her to come pick me up.

2 I didn't get no answer, so I called my grandmother to
3 ask her has I seen -- has she seen my -- my mama. That's
4 when I found out that the officers had went down out to my
5 house and got my mama and girlfriend, took them to jail.

6 Q Do you know how your grandmother found out about
7 that?

8 A No, sir. I really -- I don't even know, but that was
9 the first thing that she told me.

10 Q Did she sound a little upset over the phone?

11 A Yes, concerned.

12 Q And about what time of day was that?

13 A It was probably -- I want to say about 11:30,
14 twelve o'clock, somewhere like that.

15 Q What was the first thing you did when you found out?

16 A The first thing I did, I -- I -- I panicked because
17 my mama's situation, her health, for one.

18 Q Can you explain to the -- just explain to the court
19 what your belief of her situation is.

20 A Well, my mother, she -- her health is -- is -- is
21 very serious, very sincere to me, because I have seen
22 times where just the littlest thing would -- would stress
23 her out, and her heart will start beating real fast and
24 her blood pressure, it rises.

25 I just fret when that happens to her, because I'll be

1 so concerned that -- I don't want to lose my mama, you
2 know, off of anything, really.

3 Q Did you call headquarters when you found out your mom
4 and girlfriend had been --

5 A No, sir.

6 Q -- arrested?

7 A I got someone to take me down there. I caught a ride
8 from right there at Burger King. I got someone to take me
9 down there to see what the deal was. When I got there, I
10 went in. I asked them, you know, "What's going on?"

11 Q Who was with you when you got there? Who gave you
12 the ride?

13 A It was this girl. I can't remember her name, but she
14 gave me a ride. I asked her for a ride, and she gave me a
15 ride.

16 Q Can you sometimes get a ride in a small town from
17 somebody?

18 A Yes, everybody is kind. You know, everybody knows
19 each other, and you kind of get along so...

20 Q So...

21 A So there wasn't no problem with getting a ride.

22 Q So you heard about your mother, got a ride to the
23 station, a ride there. Explain what happened when you got
24 there.

25 A When I got there, I went in. The officers, the

1 Baxley, they come out with South Carolina officers. The
2 first thing they did was pat me down and everything. I'm
3 asking them what -- "What is going on?"

4 They tell me that, "We got you for questioning, and
5 that you are a -- you is a suspect (sic)."

6 I was like, "A suspect for what?"

7 Q Did you know what they were talking about at that
8 time?

9 A No, sir, and had no knowledge of what -- nothing that
10 was going on.

11 Q Did you ask them about your mother?

12 A Yes, sir. I asked them about my mother and my
13 girlfriend. They tell me that they're -- that they're
14 being processed, and they already had been booked.

15 Q When you say "processed" or "booked", what does that
16 mean to you?

17 A That means that they had already processed them and
18 put them in the back and locked them up.

19 Q Okay. Did that concern you?

20 A Yes, very.

21 Q So what happened after they patted you down and took
22 you into custody?

23 A After they patted me down and took me into custody,
24 they asked Officer -- Mr. Benny DeLoach could they take me
25 in another room. They did that, they got me in another

1 room, and I started asking them about my mother.

2 Q Were you -- were you -- were you concerned about her
3 health?

4 A Yes.

5 Q And --

6 A I was asking them how was she, was she okay or just
7 let me know something about my mother.

8 Q Were you -- on a scale of one to ten, were you
9 concerned about her welfare?

10 A Very, high, number ten.

11 Q Okay. And if you can just continue on with how --
12 what did they ask you, to start off with?

13 A When I -- they asked me where was I, what was I
14 doing, and I -- I freely told them where I was, what I was
15 doing. It wasn't -- I wasn't trying to hide nothing
16 because I was trying to just comply and clear myself from
17 the situation that was at hand.

18 Q What was the -- what was the -- back up a little bit.
19 What was the first thing that happened when they got you
20 into that -- into that private room?

21 A They told me that we're -- "You're a suspect for a
22 murder and an intent to kill," okay. Then they tell me
23 that, "We don't have no suspects. We don't have no
24 witnesses. We don't have nothing," okay.

25 I'm like, "Well, what -- what am I doing here then?"

1 He was like, "Well, they done -- they come up with
2 you for a suspect." Then I'm asking them about my mother
3 still.

4 Q And what did they say when you asked them about your
5 mother?

6 A They tell me the only way that my mother was going to
7 be released or just discontinued (sic) was that I take
8 these charges because they didn't have nobody to take the
9 fall.

10 Q And what does that mean to you when you say "for me
11 to take these charges"?

12 A For me to take these charges was for me to just give
13 up my freedom.

14 Q Did they make you sign any pieces of paper?

15 A Yes, sir. I signed a statement.

16 Q What was the first sheet of paper you signed?

17 A It was a statement. It was already prewrote of -- of
18 my name and the situation that was at hand.

19 Q Did you read that statement before you signed it?

20 A No, sir, not off -- not -- no, I didn't.

21 Q Did they make you sign anything after signing that
22 statement?

23 A Yes, sir. Then I signed -- they gave me another
24 paper for my rights and read me my rights after that.

25 Q After --

1 A After I signed the -- the statement.

2 Q Did you feel like you had any choice if you wanted to
3 get your mother out of jail as to whether or not you had
4 signed that statement?

5 A Well, I feel like I was just being pushed in a corner
6 like...

7 Q Were you concerned for your mother's welfare?

8 A Very seriously I was concerned for my mother's
9 health, and that was my main thing was just for them to
10 release my mother. No matter what it was that they did to
11 me, my mother was the only thing that mattered at the
12 time.

13 Q Your mother was the only thing that mattered at that
14 time?

15 A Yes, sir.

16 Q And about how long did you stay in that office with
17 the investigators after they had you sign those sheets of
18 paper?

19 A After we signed those sheets of paper, he asked me
20 another question, and it was about a knife. I've been
21 straight up with him that I had a little pocketknife, a
22 small knife. I never -- I described a little small black
23 pocketknife like a chain knife or a -- a key chain.
24 That's what I had, and I told them that.

25 Q So did they ask you questions before or after they

1 had you sign those sheets of paper?

2 A After I signed the sheets of paper.

3 Q And if you could, just tell the court what you told
4 them in response to their question.

5 A Well, I told them that me, Kevin, had picked up a
6 girl. We went back to the lady's house. Me and the girl
7 was back there in the room for a little while. We came
8 out. We smoked crack and everything. I told them that.

9 After that, the lady just -- she tell me (sic) to
10 leave, and I did as she told me. I left. I didn't argue.
11 I didn't give no verbals. I left.

12 Q Where did you go?

13 A I walked across the street, and I knocked on this
14 dude's door, and I asked him, "Can I use the phone?" He
15 said no. I left there, and I walked to the store and I
16 used the phone.

17 Q Who did you call?

18 A I called my cousin.

19 Q Did he come pick you up that night?

20 A No.

21 Q Where did you stay that night?

22 A I stayed in a -- in a trailer.

23 Q Was that the trailer that the investigators took you
24 to?

25 A Yes.

1 Q After you got back to Richland County?

2 A Yes.

3 Q Did you show them which trailer you stayed in?

4 A Yes.

5 Q Did they go inside of that trailer?

6 A No, sir.

7 Q Not when you were with them?

8 A No, sir.

9 Q Did they have you in shackles?

10 A Yes, sir.

11 Q Did you tell them anything about where you drew a

12 knife?

13 A No, sir.

14 Q Did you sign anything after you got -- after you left

15 Georgia?

16 A Yes, sir. When I got -- when we got from -- when we

17 come from Georgia to Columbia, the first place we went was

18 to the -- to the -- back to the scene. That's where they

19 took me, back to the scene. Then they give me a -- a

20 paper to sign once again. I signed this paper.

21 Q Did you read what was on that piece of paper?

22 A I didn't read it. I didn't know what I was signing.

23 I just signed the paper.

24 Q All right. Did they fingerprint you?

25 A They fingerprinted me after we left from the scene.

1 They got me, took me back to the headquarters. They
2 fingerprinted me. Then after the fingerprint, they did
3 another statement.

4 Q They did another statement at headquarters?

5 A They did another statement.

6 Q Did you sign that statement?

7 A I signed that statement, too.

8 Q Now, you've had time to review your discovery. We've
9 gone over it together.

10 A Yes.

11 Q Did you read either one of those statements?

12 A I did afterwards when I got my discovery and...

13 Q Did you see it, the statement that you signed and --

14 A Yes.

15 Q Did you see the statement that you signed in
16 Columbia?

17 A Yes.

18 Q And what's in that statement? What's different in
19 those statements than from what you have told those
20 officers?

21 A A lot.

22 Q When you say "a lot", can you be specific?

23 A Okay. From the time when I told them that me and the
24 girl was together, what we did, we smoked crack and stuff
25 like that. Then it -- it flipped to -- well, they say I

1 just started stabbing people, and I didn't say that.

2 Q Did you feel like you had the ability to change
3 anything in that statement?

4 A No, sir.

5 Q Were you still concerned that they may do something
6 with your mom?

7 A Yes, sir.

8 Q If you didn't go with the program?

9 A Yes.

10 Q And is that the reason you signed those pieces of
11 paper?

12 A Yes, sir.

13 Q How far did you go in school, Chris?

14 A I went to the tenth grade.

15 Q You know how to read and write, correct?

16 A Yes, sir.

17 Q Were you upset that day?

18 A Very.

19 Q Stressed?

20 A Yes, sir.

21 Q Did you cry?

22 A Yes, sir.

23 Q Did you cry in front of these investigators?

24 A Yes, sir.

25 MR. COLLINS: No further questions, Your Honor.

1 THE COURT: Okay. Cross-examination?

2 MS. GARFIELD: Beg the Court's indulgence.

3 (Pause).

4 THE COURT: All right. Let's do this: We'll recess
5 until nine o'clock in the morning, and we can call this
6 witness back and recross starting at nine, if you want to
7 recross. If not, we'll go into the oral statement and the
8 photo lineup, okay?

9 MS. GARFIELD: Okay.

10 THE COURT: And we've a guilty plea at 9:30 in the
11 morning.

12 (There was an overnight recess).

13 THE COURT: Let me see. You had -- I believe the
14 State was trying to decide whether they were going to call
15 any more witnesses or ask any more questions.

16 MS. FENT: Yes, cross-examination of the defendant.

17 THE COURT: It was Loranda Heller or Mr. Heller?

18 MR. COLLINS: He's here.

19 THE COURT: The defendant.

20 Mr. Heller, if you will come and have a seat in the
21 witness stand, please. I believe you were sworn
22 yesterday.

23 Solicitor, do you have any further questions of the
24 defendant?

25 MS. GARFIELD: Your Honor, may I approach the court

1 reporter for the exhibits?

2 THE COURT: Yes, sir.

3 MS. GARFIELD: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION:

7 BY MS. GARFIELD

8 Q I'm going to hand you what's been marked State's
9 Exhibit Number one. Is that your signature?

10 A Yes, ma'am.

11 Q And are those your initials beside each right?

12 A Yes, ma'am.

13 Q Can you read each of those rights?

14 A Yes, ma'am.

15 Q Please read them into the record.

16 A "Before we ask you any questions, you must understand
17 your rights. You have the right to remain silent.
18 Anything you say can be used against you in court. You
19 have the right to talk to a -- for a lawyer. You have --
20 to talk to a lawyer for advice before we ask you any
21 questions and to have a lawyer with you during any
22 questions. If you cannot afford a lawyer, one will be
23 appointed to you before any questions."

24 THE COURT: All right. Solicitor, the Court
25 understands that he can read. He doesn't need to read

1 them all.

2 MS. GARFIELD: Thank you, Your Honor.

3 THE COURT: I understand he can read.

4 MS. GARFIELD: Thank you. And I -- If you'll just
5 acknowledge that he has read through each right that he
6 has --

7 THE COURT: Well, you can ask him --

8 MS. GARFIELD: -- initialed?

9 THE COURT: -- that question. I don't want to sit
10 here and listen to him read every right. He obviously can
11 read.

12 BY MS. GARFIELD

13 Q Okay. Thank you, Your Honor.

14 Beside each of those rights there are your initials?

15 A Yes, ma'am.

16 Q And what are your initials?

17 A C.H.

18 Q And is that your signature at the bottom?

19 A Yes, ma'am.

20 Q Is there something called -- entitled "waiver of
21 rights"?

22 A Yes, ma'am.

23 Q And is that your signature below that?

24 A Yes, ma'am.

25 Q Thank you. I'm going to hand you what's been marked

1 as State's Exhibit Number two. At the top of that page,
2 what does that say?

3 A It says Christopher Robert Heller --

4 Q And --

5 A -- [REDACTED] Ten Mile Road, Baxley, Georgia.

6 Q And at the bottom of that page, whose signature is
7 that to the right?

8 A That's my signature.

9 Q Christopher Heller?

10 A Yes, ma'am.

11 Q If you'll turn the page, please. What page number?
12 Sorry, it's been stapled incorrectly.

13 (Pause).

14 What page number is at the bottom of that document?

15 A Page two.

16 Q Is that your signature at the bottom?

17 A Yes, ma'am.

18 Q And if you'll go to the next page, what page number
19 is that?

20 A Page three.

21 Q And is that your signature at the bottom?

22 A Yes, ma'am.

23 Q Thank you.

24 A Yes.

25 Q Finally, Mr. Heller, I'll hand you what's been marked

1 for I.D. State's Exhibit Number three, and what is that
2 document reflecting at the top? Just read the title.

3 A It says Richland County Sheriff's Department,
4 interrogation, advice of rights.

5 Q And at the bottom of that document, is that your
6 signature?

7 A Yes, right here.

8 Q And below that, below the waiver of rights, is that
9 your signature?

10 A No, ma'am.

11 Q Right there, that's not your signature?

12 A No, ma'am.

13 MS. GARFIELD: Okay. Thank you.

14 Nothing further, Your Honor.

15 THE COURT: Okay. Any redirect?

16 MR. COLLINS: Very briefly, Your Honor.

17 REDIRECT EXAMINATION:

18 BY MR. COLLINS

19 Q The waiver rights form she just showed you, did you
20 sign that before or after they had you sign the statement
21 form?

22 A After.

23 Q After?

24 A Yes.

25 Q The statement form that she just showed you, she said

1 was your signature on that form?

2 A Yes.

3 Q Did you read that before you signed it?

4 A No, sir.

5 Q Did you feel like you had any choice?

6 A No, sir.

7 Q I'm sorry, can you repeat that?

8 A No, sir.

9 MR. COLLINS: Okay. Thank you.

10 THE COURT: All right. Mr. Heller, you may step
11 down. Thank you very much.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Do you have any further witnesses?

14 MR. COLLINS: I don't have any further witnesses.

15 THE COURT: Does the State have any witnesses in
16 reply?

17 MS. GARFIELD: For the written statement, no, sir.

18 THE COURT: Okay. All right. I'll be glad to hear
19 your arguments on why it's not voluntarily entered into
20 and...

21 MR. COLLINS: Thank you, Your Honor.

22 THE COURT: And what you want to tell me.

23 MR. COLLINS: As we know, the burden is on the State
24 to prove that he voluntarily gave the statement. We have
25 the written forms where the waiver of rights was timed at

1 a minute after the statement was timed.

2 The only explanation we got was that they looked
3 at -- one looked at the watch and one looked at a
4 computer; however, we're talking about a three-page
5 statement.

6 I don't -- I don't see that's feasible that you could
7 have that difference in time looking at two different
8 clocks.

9 We have testimony from the my client that the waiver
10 of rights was after they had him sign the statement form.
11 The coercing that we're alleging is that he knew his
12 mother and his fiancée were arrested and booked.

13 THE COURT: Well, I mean -- but where have you proven
14 on that issue that the State was involved in that
15 coercion? I mean, where have you proven that the State
16 told him, "We're going to prosecute your mother if you
17 don't sign this statement"?

18 MR. COLLINS: Your Honor, it's the totality of the
19 circumstances standard here, and the burden is on the
20 State to prove --

21 THE COURT: I understand. I understand that. I
22 mean -- I mean, you were making the argument that he was
23 under duress because of his mother's health, and that was
24 his testimony, I understand.

25 My question to you, where in any of the testimony has

1 it been that the State used that to coerce the statement?

2 MR. COLLINS: Mr. Heller's --

3 THE COURT: He said -- he said that was in his mind,
4 but he hadn't -- nobody has testified as to anybody saying
5 anything about it or putting any pressure on him.

6 Now, he said that's what he thought, but there's been
7 no -- no testimony about any overt act on the part of the
8 State is my point.

9 MR. COLLINS: My recollection of Mr. Heller's
10 testimony is that he did say the officers said, "You need
11 to take these charges or we're not going to let your
12 mother go."

13 THE COURT: Okay.

14 MR. COLLINS: I believe he did testify to that.

15 THE COURT: Now, who said that, do you know?

16 MR. COLLINS: Investigator Siniard or Investigator
17 Gonzales.

18 THE COURT: Okay. Go ahead.

19 MR. COLLINS: And I believe from the totality of the
20 circumstances, we gathered that the two Richland County
21 investigators were present during the search warrant.
22 They were there for 30 to 45 minutes.

23 Their testimony is different about who they say and
24 who they spoke to at the house and whether or not they
25 were aware that the two women were incarcerated or

1 detained. One investigator said he didn't know about it
2 until afterwards. The other one said he knew about it
3 beforehand.

4 We do know that the women were in the headquarters to
5 the -- Georgia. She had testimony they were in
6 headquarters for one to two hours before Mr. Heller turned
7 himself in.

8 I think the totality of the circumstances from the
9 testimony, we heard from Investigator Gonzales that
10 Mr. Heller turned himself in with his mom. We have to
11 question some of his testimony.

12 I believe from the totality of the circumstances, the
13 way that Mr. Heller's and his mother's testimony
14 completely contradicted the investigators from Richland
15 County say happened, I believe that by a preponderance of
16 the evidence that it does show that coercion was used to
17 get this statement.

18 I realize that it's their word against the word of
19 two other people. We basically have two against two here,
20 and it's going to be a toss up. However, I believe that
21 the discrepancies in the testimony of the two
22 investigators that they did put up shows that the
23 preponderance of the evidence leans towards the defendant
24 in this area.

25 THE COURT: Okay. Thank you very much.

1 Anything the State would like to put on the record?

2 MS. GARFIELD: Your Honor, I believe the only person
3 that said there's been any coercion in this case is the
4 defendant.

5 His mother testified that she was taken into custody
6 and later released. She never testifies that any sort of
7 threat was made or anything was told to her that her son
8 had to take these charges or else or she wouldn't be
9 released. I believe all of this should go to the weight
10 before the jury.

11 THE COURT: Okay. Thank you very much.

12 All right. The Court has considered the evidence
13 which is offered by the State and the defendant. The
14 Court is convinced by the preponderance of the evidence,
15 and I so find, that the alleged statement was obtained
16 from the defendant.

17 The defendant was fully advised of his rights under
18 the fifth and sixth amendment to the Constitution. The
19 defendant was advised of the constitutional safeguards
20 required by Miranda vs. Arizona.

21 The defendant was advised prior to any interrogation
22 he had the right to remain silent. He was advised prior
23 to the interrogation. He waived his right to remain
24 silent and made a statement; such statement can and will
25 be used against him.

1 He was advised of his rights to an attorney, and if
2 he couldn't afford one, the Court would appoint one for
3 him.

4 The defendant was advised prior to any interrogation
5 he had the right to consult with his attorney. He was
6 advised that during the interrogation he had the right to
7 interrupt and terminate the interrogation. He was also
8 advised that if he desired to terminate the interrogation,
9 it would be ceased.

10 The defendant knowingly and intelligently waived his
11 rights under the fifth and sixth amendment to the United
12 States Constitution safeguard required; that the alleged
13 statement obtained from the defendant was freely and
14 voluntarily given without duress, without coercion, without
15 undue influence, without reward, without promise or hope
16 of reward, without promise of leniency, without threat of
17 injury, without compulsion or inducement of any kind, such
18 alleged statement was the voluntary product of the free
19 and unconstrained will of the defendant.

20 The Court finds all the foregoing conclusions by a
21 preponderance of the evidence, and I find that the
22 statement is admissible pertaining to the evidence.

23 All right. Do you have a police officer for the
24 written --

25 MS. GARFIELD: Your Honor, he is on his way. I

1 believe he was confused and thought we started at 9:30. I
2 apologize. He is en route.

3 THE COURT: Oh, okay.

4 MS. GARFIELD: If you want, we can go ahead and
5 proceed with the Neil vs. Biggers. There's a very short
6 witness we could put up.

7 THE COURT: On what now?

8 MS. GARFIELD: On the Neil vs. Biggers hearing
9 there's a very short witness we could do now.

10 THE COURT: All right. That's fine.

11 MS. GARFIELD: The state calls Lieutenant Scott
12 McDonald.

13 SCOTT MCDONALD, after being duly
14 sworn, testified as follows:

15 THE CLERK: Have a seat in the witness box. State
16 your name for the record.

17 THE WITNESS: Scott McDonald.

18 DIRECT EXAMINATION:

19 BY MS. FENT

20 Q Can you tell us where you work?

21 A I work at the Richland County Sheriff's Department.

22 Q And for how long have you worked there?

23 A A little over 20 years how.

24 Q And in what capacity?

25 A I'm a lieutenant in the Major Crimes section.

1 Q Okay. Back in 2006, did you become involved in the
2 investigation of a murder case involving Christopher
3 Heller?

4 A Very briefly. I constructed a photo lineup for the
5 case.

6 Q Okay. And can you tell the court basically how you
7 became involved in constructing that lineup and how you
8 constructed it?

9 A I was asked to instruct a lineup placing Mr. Heller
10 in the line up along with several other candidates that
11 closely fit his description, braids, hairstyle, facial
12 hair, things like that, and try to make it a fair lineup
13 for these to be presented to witnesses.

14 Q Okay. Were you aware that there had been a composite
15 sketch done by a S.L.E.D. agent with the victim and a
16 witness?

17 A No, I wasn't.

18 Q Okay. So you didn't have that composite sketch with
19 you in any way to help formulate the lineup?

20 A No, I didn't.

21 Q Do you remember then you said with similar racial and
22 facial features. What parameters were you given to put
23 this lineup together?

24 A I think I was provided with a picture of Mr. Heller.
25 From there I developed -- through several databases we

1 have photos, pictures, that were similar to his.

2 One thing we had at the end is his had a little bit
3 different colored background than the others did. We had
4 to put it in black and white to make it be more fair and
5 more representative.

6 Q Okay. Do you recall who you got the picture of
7 Christopher Heller from?

8 A I do not. It may have been one of the case
9 investigators, more than likely.

10 Q Okay, provided you with that photo?

11 A Right.

12 (WHEREUPON, State's Exhibit No. 4 was marked for
13 identification only.)

14 BY MS. FENT

15 Q I'm going to show you first what's been marked as
16 State's Exhibit Number four and ask you if you recognize
17 that.

18 A Yes. This is the photo lineup that I constructed.

19 Q Okay. And this is a color copy of it?

20 A Yes, it is.

21 Q Okay. Now, you said something about the background,
22 and so you did a black and white. Explain what happened
23 there?

24 A Mr. Heller's picture is photo number three. He is
25 the only candidate that has a light blue background, so

1 this wouldn't be a fair lineup to present to a witness in
2 its form as it is right now. So we did it in black and
3 white off a copier to make it a more fair background.

4 Q Okay. Do you --

5 A That would be more consistent with the other
6 candidates.

7 Q Okay. So you didn't want his photo to stand out
8 among the other five photographs?

9 A That's correct.

10 Q Okay.

11 (WHEREUPON, State's Exhibit No. 5 was marked for
12 identification only.)

13 BY MS. FENT

14 Q I'm going to show you what is marked as State's
15 Exhibit 5. Do you recognize that?

16 A Yes, I do. This is the same lineup only printed out
17 in black and white.

18 Q Okay. So that they looked more similar to each other
19 than the color version, correct?

20 A That is -- that is correct.

21 Q Okay. Did you have anything to do with actually
22 presenting these lineups to any witnesses in this case?

23 A No, I didn't.

24 Q Okay. So your role was just strictly to put the
25 lineup together and then handed it back to the lead

1 investigator on the case?

2 A That's correct.

3 MS. FENT: Okay. For purposes of this hearing, I'd
4 offer State's exhibits four and five.

5 THE COURT: Any objection?

6 MR. COLLINS: No objection.

7 THE COURT: State's four and five admitted as Court's
8 exhibits for purposes of this hearing.

9 (WHEREUPON, State's Exhibits Nos. 4, 5 were admitted
10 into evidence for pretrial purposes only.)

11 MS. FENT: No further questions.

12 THE COURT: Cross-examination?

13 MR. COLLINS: Thank you, Your Honor.

14 CROSS-EXAMINATION:

15 BY MR. COLLINS

16 Q Good morning.

17 A Good morning.

18 Q So you admitted that in the color pictures, photo
19 number three stands out?

20 A The background is different than the other
21 candidates, yes.

22 Q And in the black and white, four of the backgrounds
23 are different than the other two, right?

24 A Four of the backgrounds are different than the other
25 two?

1 Q Would it help you to look at the pictures again?

2 A Yeah, if I may see it.

3 MR. COLLINS: If I may approach?

4 THE COURT: Yes, sir.

5 THE WITNESS: You have four that have a little bit
6 lighter background and two with a darker background.

7 BY MR. COLLINS

8 Q And the two with the darker background are on the
9 right side?

10 A Yes.

11 Q What was the description that you got, that you were
12 looking for when you got this?

13 A I was provided with Mr. Heller's picture. From there
14 I go out searching for candidates that have similar
15 features to him, black male, balding, no facial hair, what
16 it appeared here.

17 Q So you weren't given a description by the
18 investigators?

19 A No. When I construct the lineup, I would be provided
20 a photo of the actual defendant. Then from there I would
21 find other candidates similar to him and place them in a
22 photo lineup.

23 Q So you had no knowledge of the description given by
24 the witnesses in this case?

25 A No.

1 Q So you wouldn't know the description was a round face
2 and a round --

3 A No.

4 Q Have you seen any other pictures of Christopher
5 Heller?

6 A Just -- just this picture here.

7 Q Do you know when that picture was taken?

8 A No, I don't.

9 Q Would you agree that photo two is not a round face?

10 A No, I would not agree.

11 Q You would not agree with that?

12 A No.

13 Q Would -- so you're saying that photo number two is a
14 round face?

15 A A round face, yeah. I mean...

16 Q And that's the same kind of criteria you used when
17 you made this lineup?

18 A I was never provided with a description of a round
19 face. I go based on the picture --

20 Q Okay.

21 A -- as I view it and try to find candidates similar.

22 MR. COLLINS: Okay. No more questions, Your Honor.

23 THE COURT: Anything else?

24 MS. FENT: No further questions. I would just -- if
25 I can approach and give the Court the copies of four and

1 five so that --

2 THE COURT: Okay. Thank you, ma'am.

3 You may step down. Thank you very much.

4 Do you have any more witnesses?

5 MS. GARFIELD: We can resume back with Jackson V.

6 Denno now that Lieutenant Siniard is here, or if you want
7 to keep going on Neil vs. Biggers.

8 THE COURT: Any more witnesses on the photo?

9 MS. GARFIELD: We have several.

10 THE COURT: Go ahead and call them. Since you
11 started, we'll do the photo.

12 MS. GARFIELD: Okay. The State calls Special Agent
13 Debbie Goff.

14 DEBORAH GOFF, after being duly sworn,
15 testified as follows:

16 THE CLERK: Have a seat in the witness box and state
17 your name for the record.

18 THE WITNESS: My name is Deborah R. Goff, G-O-F-F.

19 DIRECT EXAMINATION:

20 BY MS. GARFIELD

21 Q Agent Goff, where are you employed?

22 A With the South Carolina Law Enforcement Division.

23 Q And what are you employed as there?

24 A Excuse me?

25 Q What are your duties with S.L.E.D.?

1 A I'm a Special Agent assigned to the Forensic Art
2 Unit.

3 Q And what is the Forensic Art Unit?

4 A The Forensic Art Unit uses their artistic skills and
5 knowledge to assist in criminal investigations and case
6 prosecution.

7 Q Do you produce composites of suspects?

8 A Yes, we do.

9 Q Were you asked to produce a composite involving a
10 case in Richland County back in August of 2006?

11 A Yes, ma'am.

12 Q And can you please tell the Court who did you
13 interview?

14 A I interviewed Mary Deanna Chavis.

15 Q And where was that interview conducted?

16 A It was conducted at the Richland Memorial Hospital.

17 Q And do you remember what date it was conducted?

18 A It was on -- the composite date was August 28th, '06.

19 Q And how was Ms. -- how did Ms. Chavis appear to you
20 on that day?

21 A She was obviously recovering, but she was lucid and
22 able and willing to do a composite sketch.

23 Q Do --

24 THE COURT: Solicitor, can I interrupt just a
25 second --

1 MS. GARFIELD: Yes.

2 THE COURT: -- and ask a question?

3 MS. GARFIELD: Certainly.

4 THE COURT: Primarily to you and the defendant's
5 attorney, Mr. Collins, I understand yesterday Mr. Collins'
6 position is that the photo lineup on State's Exhibit
7 Number five, which is marked as Court's Exhibit for
8 purposes of this hearing, was overly suggestive, and that
9 was the reason he made a motion to suppress the
10 identification.

11 Is this the photo lineup that the victim picked out
12 the defendant from?

13 MS. GARFIELD: Yes, sir.

14 THE COURT: And he -- I think he also said that he
15 felt like the composite testimony influenced someone, I
16 don't know, but the man -- what was the officer that just
17 testified?

18 MS. GARFIELD: Lieutenant McDonald.

19 THE COURT: Lieutenant McDonald just testified he
20 never saw a composite. He didn't have a description from
21 the victim. He prepared this lineup for the victim to
22 look at, and she picked up -- she picked the victim (sic)
23 out of it.

24 MS. GARFIELD: That's correct.

25 THE COURT: Why do we have to go into all this

1 information about the composite? If the man that prepared
2 lineup, the photo lineup, from which the victim picked him
3 out, never saw the composite, then how did the description
4 -- all I have is this picture, which is photo three and
5 State's Exhibit number four?

6 MS. GARFIELD: Your Honor, that's --

7 THE COURT: Why do we have to go into all of this?

8 MS. GARFIELD: That is my argument, and Mr. Collins
9 said he was concerned that the composite --

10 THE COURT: Well, let him call those witnesses. I'm
11 just asking --

12 MS. GARFIELD: Certainly.

13 THE COURT: -- the question.

14 MS. GARFIELD: We're --

15 THE COURT: And I'm not trying to tell you how to try
16 your case. I'm just asking the question, but the man that
17 put the photo lineup together, unless -- unless there's
18 something, connection, between the composite beside the
19 photo lineup when she picked him out or something, I don't
20 know.

21 MS. GARFIELD: I agree.

22 THE COURT: What?

23 MS. GARFIELD: I agree, Your Honor.

24 THE COURT: But go ahead with this witness. I just
25 wanted to ask that question.

1 Mr. Collins?

2 MR. COLLINS: Your Honor, Officer McDonald --

3 THE COURT: I mean, you said yesterday that you felt
4 like the -- the composite influenced the victim.

5 MR. COLLINS: Yes, sir.

6 THE COURT: Well, the victim didn't put together the
7 photo lineup. The officer just testified he used the
8 defendant's photo, ran a black and white in preparing this
9 lineup, so this particular picture has to be suggestive.

10 MR. COLLINS: Your Honor --

11 THE COURT: So where are you coming from? I mean,
12 we're wasting time.

13 MR. COLLINS: Officer McDonald testified that the
14 picture of Mr. Heller was given to him by the
15 investigators.

16 THE COURT: Right.

17 MR. COLLINS: There were more -- there was more than
18 one picture of Mr. Heller that was in the possession of
19 the investigator. They picked that picture out after
20 seeing the composite picture.

21 THE COURT: Well, so what?

22 MR. COLLINS: Different pictures from different time
23 periods, they --

24 THE COURT: So what?

25 MR. COLLINS: After looking at the composite

1 picture --

2 THE COURT: Well, they look at --

3 MR. COLLINS: -- the victim --

4 THE COURT: They look at --

5 MR. COLLINS: -- the --

6 THE COURT: Look at State's Exhibit Number five and
7 tell me what's suggestive about the photo lineup from
8 which the victim picked the defendant out, please, sir.

9 I mean, you all are just wasting the Court's time.
10 Please come and take it and show me what's suggestive.

11 MR. COLLINS: With the lineup itself, Your Honor, the
12 two pictures on the right have a different background than
13 the other four.

14 THE COURT: So that's your argument against the case?

15 MR. COLLINS: The lineup itself of the suggestive
16 methods used to create the lineup. I -- I'm alleging that
17 the investigator had numerous pictures of Mr. Heller, got
18 a composite drawing, looked at the composite, then picked
19 out a picture that most closely resembled the composite
20 and put that into the lineup for the witnesses to see.

21 MS. GARFIELD: Your Honor, if I can proffer, there
22 were two photographs obtained of Christopher Heller. The
23 first picture was a newer photograph.

24 Lieutenant Siniard will be able to testify that the
25 first photograph had a very grainy background. Had that

1 first photograph been used in a lineup, it would
2 definitely have been suggestive because of the poor
3 background.

4 THE COURT: Okay.

5 MS. GARFIELD: Therefore, they had to go resort to
6 the picture --

7 THE COURT: I don't see where the composite has
8 anything to do with the photo lineup.

9 MR. COLLINS: Well, my argument is when a witness
10 sees a composite, and it's drawn by a separate artist, not
11 by themselves, that that vision in their head after they
12 were shown that picture after describing what they saw in
13 their head, that picture then becomes a person that they
14 associate with the person.

15 I'm not saying that the composite isn't admissible.
16 I'm saying once they were shown a composite picture, that
17 picture then becomes the person that they're thinking of.

18 THE COURT: All right. Go ahead and finish it up
19 with this witness, and call your witnesses, okay. I just
20 think you're wasting a lot of time. Go ahead.

21 BY MS. GARFIELD

22 Q Yes, sir. I'll be very brief.

23 Was the composite made by Ms. Chavis?

24 A Yes, ma'am.

25 Q And do you have that composite with you?

1 A Yes, I do.

2 Q If we can get it marked. And you can just briefly
3 describe how she gave this description.

4 A I met with Ms. Chavis in the hospital room. My
5 coworker, Michael Lynch, was accompanying me because
6 Ms. Chavis had injuries, and her hands were bandaged up.
7 So she wouldn't be able to turn the pages in the facial
8 identification catalog book. Michael Lynch was with me in
9 the room to assist.

10 When I sit down with the witness, I explain to them
11 that we're going to work together and -- well, actually, I
12 first asked her to briefly describe to me what happened so
13 that I have an idea of the circumstances and the situation
14 and how she saw the person. Then we focus on the face and
15 what the person looked like.

16 I'll ask her to describe to me what he looked like,
17 and as I start to get an idea of what the suspect looked
18 like, then I'll start sketching. That's when I introduce
19 photo references with the Federal Bureau of Investigations
20 Facial Identification Catalog, which is a book that's
21 broken up into -- the facial features are all broken up
22 into different categories like eyes, nose, mouth.

23 That way she is able to look at that book and pick
24 out features that if anything looks familiar to her, she
25 can point that out to me and explain to me what it is

1 about that picture that reminds her of the suspect.

2 Throughout the entire process, the witness directs
3 the drawing, and the witness guides me through the
4 drawing. I'll sketch and then I'll show the witness the
5 drawing, and then she'll make changes or adjustments.

6 So we do several processes where there are changes
7 and adjustments made until the image in the drawing
8 represents the memory that the witness has of what the
9 suspect looks like.

10 At the end of this process, she said, "That looks
11 like him." I felt that we had enough information in the
12 composite to help investigators help generate a lead and
13 identify a suspect.

14 THE COURT: Okay.

15 BY MS. GARFIELD

16 Q Did you have any previous description of the
17 defendant at the time?

18 A No, I don't. Sometimes when we are called, we are
19 told the suspect's race and sex, as well as the victim's
20 race and sex.

21 In this case, I believe all I was told was there is a
22 female victim in the hospital in bad shape, and we need
23 you to respond immediately, so I just went.

24 Q Has that been marked?

25 THE COURT REPORTER: No. You have to --

1 MS. GARFIELD: I'm sorry.

2 THE COURT REPORTER: Just stop talking for one
3 second, and I'll get it.

4 (WHEREUPON, State's Exhibit No. 6 was marked for
5 identification only.)

6 BY MS. GARFIELD

7 Q I'm going to hand you State's Exhibit Number six. Is
8 this the composite that was rendered after speaking with
9 Ms. Chavis?

10 A Yes, it is.

11 MS. GARFIELD: Your Honor, at this time, I'd like to
12 introduce State's Exhibit Number six.

13 THE COURT: Any objection?

14 MR. COLLINS: No objection, Your Honor.

15 (WHEREUPON, State's Exhibit No. 6 was admitted into
16 evidence for pretrial purposes only.)

17 BY MS. GARFIELD

18 Q Were you also given an opportunity to interview a
19 subsequent witness?

20 A Yes, I was.

21 Q And what was the name of that witness?

22 A Bille or Tracy Risinger.

23 Q And when did you conduct that interview?

24 A The next day.

25 Q And did you follow the same procedures you did with

1 Ms. Chavis that you did with Ms. Risinger?

2 A With Ms. Risinger, she met me at my office, and
3 generally I try to meet with the witness one-on-one. So
4 we were in an office, just she and I, and the same process
5 with her, asked her the same questions, and the witness
6 directs the drawing.

7 Toward -- at the end of this composite, I asked her
8 to rate the drawing on a scale of one to ten, one being
9 doesn't look anything like the suspect and ten being looks
10 exactly like him. She rated the drawing an eight.

11 Q And do you have that composite with you?

12 A Yes, I do.

13 Q I'm going ask to ask this be marked as State's
14 Exhibit Number nine.

15 THE COURT REPORTER: Seven.

16 MS. GARFIELD: No, seven?

17 THE COURT REPORTER: Seven.

18 (WHEREUPON, State's Exhibits Nos. 7 and 8 were marked
19 for identification only.)

20 BY MS. GARFIELD

21 Q I'm going to hand you State's Exhibit Number seven.

22 Do you recognize that?

23 A Yes, I do.

24 Q And what is that?

25 A It's the composite sketch completed with Tracy

1 Risinger.

2 Q Has it been altered in any way since that day?

3 A No, it hadn't.

4 MS. GARFIELD: Your Honor, at this time, I'd like to
5 introduce State's Exhibit Number seven.

6 THE COURT: Any objection?

7 MR. COLLINS: No objections.

8 THE COURT: All right. These are all marked court's
9 exhibits for purposes of this motions hearing.

10 (WHEREUPON, State's Exhibit No. 7 was admitted into
11 evidence for pretrial purposes only.)

12 BY MS. GARFIELD

13 Q Thank you, Your Honor.

14 Were you able to ask -- I'm sorry, strike that.

15 Were you able to ask Ms. Risinger any other questions
16 about anything else on the defendant?

17 A (There was no response).

18 Q Specifically, I'm asking --

19 A No.

20 Q -- did she give you any information regarding any
21 tattoos or scars?

22 A Yes, she did. She was able to come up with some
23 tattoos on the suspect.

24 Q And did you also render a composite of what she told
25 you regarding tattoos?

1 A Yes, I did.

2 Q And do you have that --

3 A Yes, I do.

4 Q -- sketch before you? Has that been marked as
5 State's Exhibit Number eight?

6 A Yes.

7 THE COURT: Any objection?

8 MR. COLLINS: No objection.

9 MS. GARFIELD: Thank you, Your Honor.

10 (WHEREUPON, State's Exhibit No. 8 was admitted into
11 evidence for pretrial purposes only.)

12 THE COURT: All right. Cross-examination?

13 MR. COLLINS: Thank you, Your Honor.

14 CROSS-EXAMINATION:

15 BY MR. COLLINS

16 Q Did you take notes about what she told you about the
17 incident?

18 A No. I don't -- I don't take, generally take notes
19 about what occurred because I'm there to do a composite
20 sketch, and that's mostly about what the suspect looked
21 like.

22 Q And you go through each facial feature one at a time?

23 A Not one at a time. Not -- when I ask the witness, I
24 ask -- we start with open-ended questions. I'll ask,
25 "What can you tell me about what the suspect looked like,"

1 and whatever comes to her mind first, I'll take notes.

2 The witness leads the composite, so whatever comes to her
3 mind first.

4 Q And what information did you get about facial hair?

5 A About facial hair?

6 Q Uh-huh.

7 A It's -- that there was none.

8 Q No facial hair?

9 A Right.

10 Q On both -- both ladies told you no facial hair?

11 A That's correct.

12 Q And after you drew these pictures, you gave them an
13 opportunity to observe the final product, right, the final
14 picture?

15 A Yeah, with each, each witness, yes.

16 Q And they got to look at it as long as they needed to
17 look at it?

18 A Sure.

19 MR. COLLINS: No further questions, Your Honor.

20 THE COURT: Anything on redirect?

21 MS. GARFIELD: No, sir.

22 THE COURT: All right. You may step down Ms. Goff.

23 Thank you so very much.

24 THE WITNESS: Thank you.

25 THE COURT: Call your next witness.

1 HOWELL SINIARD, after being duly
2 sworn, testified as follows:

3 THE WITNESS: Have a seat in the witness box. State
4 your name for the record, please.

5 (WHEREUPON, State's Exhibits Nos. 9, 10 were marked
6 for identification only.)

7 THE WITNESS: Howell Siniard, S-I-N-I-A-R-D.

8 BY MS. GARFIELD

9 Q Lieutenant Siniard, I'm going to hand you what's been
10 marked as State's Exhibit number 9. Do you recognize this
11 document?

12 A Yes, I do.

13 Q And what does that reflect?

14 A It's a photo lineup I presented to Ms. Chavis on
15 August 30th, 2006 at Richland Memorial Hospital.

16 Q And who else was with you that day?

17 A Investigator Gonzales.

18 Q And when you went to present that photo lineup, what
19 did you ask Ms. Chavis to do?

20 A Usually I asked the victim -- that I'm going to
21 present them six photos, that when they look at the photo,
22 don't worry about hair length, beards, big mustaches, the
23 type of clothing this individual may have on in the
24 pictures, but look at the face itself into the eyes.

25 If you see the person that you believe is the person

1 that assaulted you, or whatever the crime was, put their
2 finger on it.

3 Q And are these the questions you asked Ms. Chavis that
4 day?

5 A Yes.

6 Q How did Ms. Chavis appear to you that day?

7 A Well, very --

8 Q Did she --

9 A Communicating a lot better than she was the previous
10 time I met with her.

11 Q Was she able to pick out anyone out of this photo
12 lineup?

13 A Yes, she did.

14 Q And which number picture did she pick out?

15 A In her instance, because her hands were bandaged, she
16 picked out, stated, photo number three.

17 Q And who was photo number three reflecting?

18 A The defendant, Mr. Heller.

19 Q At that time was she able to sign her photo lineup?

20 A No, she was not.

21 Q And why was she not able to?

22 A Both hands were bandaged.

23 Q Did anyone sign for her?

24 A No. We -- I made a statement on the form that victim
25 Chavis could not sign due to her hands being bandaged on

1 both arms, and that was also witnessed by Gonzales.

2 Q Were you able to also show a photo lineup to Tracy
3 also known as Bille Joe Risinger?

4 A Yes, I did.

5 Q I'll hand you what's been marked as State's Exhibit
6 Number ten. Do you recognize this document?

7 A Yes, I do.

8 Q And what is that document reflecting?

9 A That reflects a photo lineup that I presented to
10 Ms. Risinger.

11 Q And where did you show Ms. Risinger this photo
12 lineup?

13 A At the Richland County Sheriff's Department.

14 Q Could it have been anywhere else?

15 A It could have been. It could have been at her
16 residence at New Park Place in Irmo.

17 Q What date was that shown to her?

18 A August 30th, 2006.

19 Q Was that shown to her after it was shown to Mary
20 Chavis?

21 A I'm not really for sure. We don't have a time on the
22 photo. It's the same day.

23 Q Did you go over the same litany of questions with
24 Ms. Risinger that you did with Ms. Chavis?

25 A Yes.

1 Q Was Ms. Risinger able to pick anyone out?

2 A Yes, she did.

3 Q And who did she pick out?

4 A Also photo number three. I asked her to put her
5 initials beside photo number three.

6 Q And did she subsequently sign that statement, that
7 lineup?

8 A Yes. Yes, she did.

9 Q About how long did it take Ms. Risinger to pick that
10 photo out?

11 A A second or two.

12 Q And how long did it take Ms. Chavis to pick the photo
13 out?

14 A A second or two.

15 Q Lieutenant, did you have anything to do with putting
16 together this lineup?

17 A No, ma'am.

18 Q And who put together the lineup?

19 A Lieutenant McDonald.

20 Q Do you know how Lieutenant McDonald obtained the
21 photograph to make the lineup?

22 A We had obtained -- and when I say "we", when we're
23 working on a murder or a homicide, you have several people
24 in the office, up to ten people at one time, working on
25 different avenues.

1 We had a wire photo sent from Georgia over through
2 the e-mail.

3 Q And is that the photograph that's used in this
4 lineup?

5 A I'm not really for sure.

6 Q Was there --

7 A There were a couple of photographs provided to
8 Lieutenant McDonald, and I'm not for sure if this -- which
9 of the two he used.

10 Q Was the -- what was the quality of the other photo?

11 A Grainy.

12 Q Would it have been good to use any photo lineups?

13 A No, because we couldn't have found another photo in
14 our bank that had the grainy type of background it did.

15 Q Inherently, from the other photographs, it would have
16 been suggestive?

17 A Yes.

18 Q Do you know the date of when this photograph was
19 taken?

20 A It was a couple of three years prior to this
21 incident.

22 Q It was older?

23 A Yes.

24 Q At any time did you suggest to Mary Chavis which
25 picture she should pick out?

1 A No.

2 Q At any time did you suggest to Tracy, also known as
3 Bille Joe Risinger, which picture to pick out?

4 A No.

5 MS. GARFIELD: Thank you, Your Honor. No further
6 questions at this time. We would ask to admit State's
7 Exhibit Number nine and ten into evidence.

8 MR. COLLINS: No objection for this hearing.

9 THE COURT: Okay. Admitted without objection for
10 Court's Exhibit purposes of this hearing.

11 (WHEREUPON, State's Exhibits Nos. 9, 10 were admitted
12 into evidence for pretrial purposes only.)

13 MR. COLLINS: If it please the Court.

14 THE COURT: Yes, sir, cross-examination.

15 CROSS-EXAMINATION:

16 BY MR. COLLINS

17 Q So you don't know who gave the picture to Sergeant
18 McDonald?

19 A No, sir.

20 Q You have no idea?

21 A Could have been Captain Smith. It could have been
22 Sergeant Isenhoward. It's a number of investigators that
23 are -- that are constantly working to bring in things from
24 out of state or from the surrounding areas.

25 Q So you don't know if the person who gave the picture,

1 McDonald, had seen the sketch or not?

2 A No.

3 Q And you have looked at that photo lineup, right?

4 A Yes, I have.

5 Q And it's fair to say that every single person in that
6 lineup had a mustache except photo number three?

7 A I would have to re-look at it and confirm that. I
8 don't know.

9 Q If I may approach, Your Honor?

10 THE COURT: Use the ones that they have identified,
11 not that one. That's the one they identified.

12 BY MR. COLLINS

13 Q Have you seen the color lineup before?

14 A I didn't understand your question.

15 Q Have you seen the lineup in color before?

16 A Yes, I did.

17 Q You have seen that?

18 A Uh-huh.

19 Q If I showed you the picture, you would recognize it?

20 A Sure.

21 Q Do you recognize this?

22 A Yes, sir.

23 Q And is it true that every picture in that lineup has
24 a mustache except for photo number three?

25 A Number four, it's hard to tell if he has a mustache,

1 number two also, number three doesn't, number six does,
2 number five does, number one does, so 50 percent, it
3 appears, have one and 50 percent do not.

4 Q Your testimony is that photo number two doesn't have
5 a mustache?

6 A No, sir.

7 Q And photo number four, you're saying there's no hair
8 on his upper lip?

9 A No, sir.

10 Q Are you sure about that?

11 A That's what I'm looking at.

12 Q I guess we'll have to disagree on that.

13 No further questions, Your Honor.

14 THE COURT: Any redirect?

15 MS. GARFIELD: No, sir.

16 THE COURT: All right. You may step down. Thank you
17 very much.

18 Do you have any further witnesses from the State?

19 MS. GARFIELD: Your Honor, our next two witnesses may
20 be lengthy, if you want to recess now and do the
21 sentencing.

22 THE COURT: Who else are you going to call?

23 MS. GARFIELD: The victim and Ms. Risinger unless
24 Your Honor doesn't think we need to.

25 THE COURT: Mr. Collins, are you going to call any

1 witnesses on this photo?

2 MR. COLLINS: I'm not planning on calling any
3 witnesses.

4 THE COURT: All right. Well, I'm not going to
5 prolong this hearing any longer. I'm just going to take
6 your motion under advisement, and during the trial I'll
7 listen to the testimony. I'll rule on it before it's
8 admitted into evidence, okay.

9 MR. COLLINS: Your Honor, the only concern I have is
10 that the reason for the hearing outside the presence of
11 jury is that --

12 THE COURT: Well, we may do it in camera.

13 MR. COLLINS: -- the Biggers -- okay.

14 THE COURT: You can make that request during the
15 trial, but I'm not going to waste another 30 minutes or an
16 hour, because I -- the only thing you can come up with so
17 far that may possibly be suggestive is the hair on the
18 upper lip.

19 Even if it is suggestive, I haven't heard anything
20 about this -- it's still not a reliable enough
21 identification. We'll just have to deal with that at
22 trial, okay.

23 MR. COLLINS: As long as I can have an in camera
24 hearing before --

25 THE COURT: When we get to that particular subject on

1 the photo I.D., then we'll listen to the victim and
2 Ms. Risinger, who I believe was the eyewitness. We can do
3 that in camera, and I can rule at that time, okay.

4 MR. COLLINS: Thank you, Your Honor.

5 THE COURT: I don't see any sense in sitting here and
6 listening to that testimony and have to hear the same
7 testimony at trial.

8 MR. COLLINS: Yes.

9 THE COURT: Okay.

10 MR. COLLINS: Thank you.

11 THE COURT: I'll take it on what I've heard so far,
12 all right.

13 MR. COLLINS: That's fine.

14 THE COURT: Solicitor, do you understand?

15 MS. GARFIELD: Yes, sir.

16 THE COURT: All I'm saying is whenever the victim,
17 Ms. Risinger testifies --

18 MS. GARFIELD: Yes, sir. I'll --

19 THE COURT: When we get to the photo lineup, we'll do
20 an in camera of that particular portion rather than having
21 to hear it twice.

22 MS. GARFIELD: Absolutely. We won't make any mention
23 of any photo lineup in the opening.

24 THE COURT: Okay. Just don't mention photo
25 lineups --

1 MS. GARFIELD: Yes, sir.

2 THE COURT: -- in the opening. I think it's
3 something that can be very easily dealt with in trial.

4 MS. GARFIELD: Yes, sir.

5 THE COURT: I don't think it warrants wasting any
6 more time. I don't want to say "wasting any time". I
7 shouldn't say that, but I don't think it warrants taking
8 any more testimony at that time.

9 MS. GARFIELD: Thank you.

10 THE COURT: Because it's not wasting time.
11 Mr. Collins is just representing his client the best he
12 can.

13 MR. COLLINS: Your Honor, I hate to do this, but as
14 far as -- she just reminded me as far as opening
15 statements go, I would like to know whether or not these
16 identifications are coming in before my opening
17 statements, so that can definitely effect how I present my
18 case from the start.

19 THE COURT: Okay.

20 MR. COLLINS: If there's any way that we can do this,
21 finish this in pretrial, so that I know whether or not
22 these statements are coming in before I start presenting
23 my case.

24 THE COURT: Are you talking about the statements or
25 the photo?

1 MR. COLLINS: Identification.

2 THE COURT: I mean, if -- that's fine. I'll be glad
3 to listen to you. If you want to call a witness on your
4 behalf, go ahead.

5 MR. COLLINS: Then I would call starting with Mary
6 Chavis.

7 THE COURT: Okay. All right. And let's keep it to
8 the point, please.

9 MARY CHAVIS, after being duly sworn,
10 testified as follows:

11 THE CLERK: Have a seat in the witness box and state
12 your name for the record, please.

13 THE WITNESS: My name is Mary Chavis.

14 DIRECT EXAMINATION:

15 BY MR. COLLINS

16 Q Good morning. I'm just going to get right to the
17 point on this. Can you explain -- how dark was the
18 trailer night this --

19 THE COURT: Mr. Collins, you're welcome to lead the
20 witness, okay.

21 MR. COLLINS: Okay. Thank you.

22 THE COURT: All right.

23 BY MR. COLLINS

24 Q The night this happened, it was about three in the
25 morning.

1 A I don't remember what time it was.

2 Q Had you been using drugs that night?

3 A Yes.

4 Q Had you been drinking?

5 A A little, not much.

6 Q Okay. And I've read over the discovery, so I'm kind
7 of familiar with -- with the case.

8 You said that you asked the man to leave your
9 trailer?

10 A Yes.

11 Q Had you just met him that night?

12 A Yes.

13 Q And how long did y'all hang out in the trailer?

14 A I don't know.

15 Q Five minutes?

16 A I don't know.

17 Q Two hours?

18 MS. GARFIELD: Your Honor, asked and answered.

19 THE WITNESS: It wasn't that long.

20 BY MR. COLLINS

21 Q It wasn't that long?

22 A No, it wasn't.

23 Q But you're not -- you don't know how long?

24 A Not exactly, no, I don't. It wasn't very long,
25 though.

1 Q All right. And then you asked -- two men then left
2 the trailer first, correct?

3 A Excuse me?

4 Q I'm sorry. We'll just start over.

5 A Yes.

6 Q I'm sorry.

7 Originally, three men and Tracy arrived at the
8 trailer, right?

9 A I wasn't there when they arrived.

10 Q Okay. At some point were you in the trailer with
11 three men and Tracy?

12 A Not exactly, no.

13 Q What do you mean by "not exactly"?

14 A Because I had left.

15 Q But at some point were you in the trailer with them?

16 A Yes, I guess.

17 Q Yes, you guess. Then at some point did two, two men,
18 leave the trailer and leave one behind?

19 A I had left.

20 Q You had left?

21 A I had left.

22 Q And where did you go?

23 A I had left.

24 Q And where did you go?

25 A Down the road.

1 Q Down the road. And did you come back?

2 A Later, yes.

3 Q And who was there when you got back?

4 A As far as I knew, just me and Chino.

5 Q And Chino?

6 A Yes.

7 Q And did you discover that there were other people
8 there?

9 A Yes, I did.

10 Q And who else was there?

11 A Tracy and Christopher Heller.

12 Q Okay. And did you know Christopher Heller's name at
13 that time?

14 A No, I did not.

15 Q You have learned that since?

16 A Yes, I have.

17 Q And who told you his name?

18 A I don't remember.

19 Q And did you ask, then ask, Christopher Heller to
20 leave?

21 A At one point, yes, I did.

22 Q And he actually left the trailer at that point?

23 A Yes. I had told him to go across the street to a
24 dude's house that lived next door. I watched him go
25 there, and I watched him come back.

1 Q So you -- you stood at the door and watched him the
2 whole time?

3 A No. I locked my door, and I went to my living room
4 window.

5 Q And you watched out the window?

6 A I watched him go to the dude's door through my
7 window.

8 Q And did you tell the investigators this?

9 A I don't know.

10 Q And about how long before you got a knock on the
11 door?

12 A Excuse me?

13 Q About how long from the time the man left your
14 trailer to when you got a knock at the door?

15 A It wasn't long because the guy refused to open his
16 door.

17 Q There's no street lights in that trailer park, is
18 there?

19 A Yes.

20 Q They weren't on.

21 A I don't know.

22 Q You don't know if they were on or not?

23 A I know I could see.

24 Q And about how far is this house from your trailer?

25 A Just right across the road.

- 1 Q Across Percival Road?
- 2 A No, across Brookhurst.
- 3 Q Is there a pond in between the trailer?
- 4 A No, there's not.
- 5 Q Is there a pond around the trailer?
- 6 A No, there is not. It's a driveway.
- 7 Q And you had one light on in the trailer, or how many
- 8 lights did you have on in the trailer?
- 9 A At the time that he walked across the street I can't
- 10 remember if my living room light was on or not. I know my
- 11 bedroom light was on.
- 12 Q But you were in your den though, right?
- 13 A Yes.
- 14 Q So how did you know your bedroom light was on?
- 15 A Because it's my house.
- 16 Q Okay. And where was Tracy at this time?
- 17 A She is in my room.
- 18 Q She was in your bedroom?
- 19 A Yes, sir.
- 20 Q And so you say then he came back, and is there a
- 21 knock on the door?
- 22 A Yes.
- 23 Q Did you make any noodles while he was gone?
- 24 A I don't remember.
- 25 Q You don't remember if you did or not. Then you told

1 the investigator that the door was locked.

2 A Yes.

3 Q So he broke in the door.

4 A What do you mean he broke in the door?

5 Q The door was locked. You said you didn't open the
6 door for the person, right?

7 A You didn't ask me that.

8 Q Okay. Did you open the door for him?

9 A When there was a knock, I opened the door, yes.

10 Q So now you say you opened the door before.

11 A When there was a knock, I opened the door.

12 Q Okay. And then right away the knife came out?

13 A At this point is when he said that he didn't have
14 nowhere to go. I asked Chino to let him use his phone
15 because I did not have a phone.

16 Q And so --

17 A So him and Chino walked to Chino's house so he could
18 use the telephone. I was expecting Chino back at my door,
19 so when the knock came the second time, I opened the door.
20 Then that's when he started stabbing me.

21 Q I see. And was -- do you remember if any lights were
22 on inside of your trailer?

23 A The bedroom light was on.

24 Q Only the bedroom light?

25 A Right.

1 Q And that's -- there's a wall on one side of the den,
2 right?

3 A There's a bedroom wall, yes.

4 Q So just from -- if you can direct me, I'm about
5 10 feet away from you. Is that about the width of your
6 trailer?

7 A I'm not sure.

8 Q From me to you?

9 A I'm not sure.

10 Q You're not sure, and the length of your den is about
11 from the clerk's table to the jury box?

12 A I'm sure it's bigger than that.

13 Q About how much bigger than that?

14 A I'm not exactly sure.

15 Q Okay. At one end of the den there's the wall that
16 separates the den from your bedroom, correct?

17 A Exactly.

18 Q And then there's the door.

19 A Exactly.

20 Q All right. And you're saying the light in your
21 bedroom was on?

22 A Yes.

23 Q And the door to your bedroom is on the backside of
24 trailer, right?

25 A Just at the back wall, yes.

1 Q And the front door is in the den on the front of the
2 trailer?

3 A The front door is in the same room as my bedroom
4 door.

5 Q The front door opens up into your bedroom?

6 A I said it's in the same room as my bedroom door.

7 Q But there's a wall on the door that separates your
8 bedroom from the --

9 A Living room, yes.

10 Q Okay. And that door was closed, right?

11 A The bedroom door was shut, yes.

12 Q So the only light that was coming out was underneath
13 it on the sides of the door?

14 A I'm not sure.

15 Q Not sure. And the second knock you said there was
16 only one person, right?

17 A Yes. I was expecting it to be Chino, and instead it
18 was the defendant.

19 Q Okay. And this was from what you saw in your den
20 after the second time?

21 A Excuse me?

22 Q You said it was the defendant, but you're basing that
23 on what you saw in your den after the second knock. When
24 you were attacked --

25 A I'm basing it on who I seen at my door.

1 Q When you were attacked --

2 A And it was the defendant.

3 Q Did it happen in your den?

4 A It happened -- it started at my front door.

5 Q And your front light, you're missing a light bulb on
6 the outside, right?

7 A I guess, I don't know.

8 Q It wasn't on either, was it?

9 A I don't know, but there was a light.

10 Q From your bedroom, right?

11 A No.

12 Q Where was the light?

13 A From the street out -- from the streetlight on the
14 corner --

15 Q Okay.

16 A -- which is directly at my trailer.

17 Q And that stays on all night?

18 A Yes, it does.

19 Q And about -- I don't have any further questions.

20 THE COURT: Any questions from the State?

21 MS. GARFIELD: No questions.

22 THE COURT: Okay. You may step down.

23 Any further witnesses?

24 (There was no response.)

25 Mr. Collins, do you have any further witnesses?

1 MR. COLLINS: At this time, we would call Bille Joe
2 Risinger.

3 MS. FENT: She is not here, Your Honor. We called
4 her, and she is saying that she is five minutes away.

5 THE COURT: Okay. All right.

6 MR. COLLINS: That would be the last witness.

7 THE COURT: That would be your last witness.

8 MR. COLLINS: Yes, Your Honor.

9 THE COURT: Okay. Why don't we do the plea, while
10 she's getting here, by the time we finish the sentencing
11 on the plea.

12 (There was a brief recess).

13 THE COURT: All right. Let me see. We were waiting
14 on a witness. Who was the witness?

15 MR. COLLINS: Bille Joe Risinger.

16 THE COURT: Bille Joe Risinger. Is she here?

17 MR. COLLINS: Yes.

18 THE COURT: Would you ask her to come in, please,
19 Bille Joe Risinger.

20 (WHEREUPON, Court's Exhibit No. 1 was marked for
21 identification only.)

22 BILLE JOE RISINGER, after being duly
23 sworn, testified as follows:

24 THE CLERK: Have a seat in the witness box and state
25 your full name for the record, please.

1 THE WITNESS: My name is Bille Joe Risinger.

2 DIRECT EXAMINATION:

3 BY MR. COLLINS

4 Q Good morning, Ms. Risinger.

5 A Uh-huh.

6 Q This is just to ask you a few questions about what
7 you saw the night of this incident, okay. We're going to
8 get right to the point and try to make it as short as
9 possible, okay.

10 A Uh-huh.

11 Q Now, you've given a statement to the sheriff's
12 department before, right?

13 A Right.

14 Q You have given a written statement?

15 A Yes.

16 Q That you signed?

17 A Yes.

18 Q And then you also told them more information verbally
19 after you gave them that written statement?

20 A Right.

21 Q Because everything in the written statement wasn't
22 necessarily true in the first statement, correct?

23 A Everything was true, but there were things that I
24 left out that I was -- I said what was mainly important,
25 what I knew.

1 Q Okay. So everything that was in the statement was
2 true?

3 A There was one thing that I had left out, and that was
4 just the name of one of my friends and that was it.

5 Q Okay. And so in your written statement you told them
6 that there was a knock at the door and -- correct?

7 A Right. If that's what was said.

8 Q I mean, do you remember?

9 A Yes, I remember.

10 Q Okay. And so there's a knock on the door, and you
11 went back to the back bedroom?

12 A I was in the back bedroom.

13 Q When there was a knock at the door?

14 A I was in the back bedroom with my friend, and there
15 was a knock on the door.

16 Q Okay. Who were you with in the back bedroom?

17 A Well, the lady of the house, of course. My friend
18 and I was in my room.

19 Q Ms. Chavis was in the back bedroom with you?

20 A Mary, yes.

21 Q Okay. And you both heard a knock at the door?

22 A Both heard a knock at the door.

23 Q And did she go to answer the door, or did you go to
24 answer the door?

25 A She went to the door.

1 Q Was the light on in the bedroom?

2 A Uh-huh, I was in the bedroom. I stayed in the
3 bedroom.

4 Q And you never left the bedroom?

5 A I never left the bedroom.

6 Q And you had the door closed?

7 A Right.

8 Q So you didn't see this attack take place?

9 A No. But this gentleman over here was -- happened to
10 be in there, and she asked him to leave because he was
11 acting weird.

12 Q Okay.

13 A And I didn't leave the bedroom because I was scared.
14 He gave me the creeps from the get go.

15 Q He gave you the creeps?

16 A He gave me the creeps, yeah.

17 Q But he --

18 A And I stayed in the room because she went -- she's a
19 nice person. She answers her door.

20 Q And the door was closed when she answered the door?
21 I mean the --

22 A The bedroom door?

23 Q The bedroom door, yeah.

24 A Yeah because I was scared. I told her "don't answer
25 the door," but she is a nice person. She answered her

1 door.

2 Q So you didn't actually see the person who was at the
3 door?

4 A Well, I didn't see it.

5 Q Okay. No more questions.

6 A But I heard it.

7 THE COURT: Okay. Cross-examination?

8 MR. COLLINS: Thank you, Your Honor.

9 CROSS-EXAMINATION:

10 BY MR. COLLINS

11 Q Bille Joe, when is the first time you saw Christopher
12 Heller?

13 A When he came, he came with Kev.

14 Q About how long ago was that before the knock at the
15 door?

16 A About an hour.

17 Q And did you spend that hour with him and others?

18 A Yes.

19 Q What particularly did you do with the defendant?

20 A I sat beside him, and I did drugs beside him, with
21 him.

22 Q Did you get a good look at the defendant?

23 A Oh, yeah. How could I not?

24 Q Because he was right there in front of you.

25 A Yeah. He kept taking his clothes off and putting

1 them back on and taking them off. He was acting real
2 weird.

3 Q And did you eventually -- long after this, were you
4 shown a photo lineup?

5 A Yeah.

6 Q And were you able to pick the defendant out of the
7 photo lineup?

8 A Easily.

9 Q Without hesitation?

10 A Easily.

11 Q Did any law enforcement officer tell you who to pick
12 up -- pick out?

13 A They didn't have to.

14 Q Do you see that defendant in the courtroom today?

15 A Yeah. Right there looking at me right now.

16 MS. GARFIELD: Your Honor, may the record reflect
17 that Ms. Risinger has identified the defendant?

18 THE COURT: Okay. Thanks very much.

19 MS. GARFIELD: Thank you. Nothing further.

20 MR. COLLINS: If I may redirect briefly, Your Honor.

21 THE COURT: Yes, sir.

22 REDIRECT EXAMINATION:

23 BY MR. COLLINS

24 Q You met with an officer from S.L.E.D. to draw the
25 composite sketch.

1 A Right.

2 Q And she showed you that composite sketch --

3 A Uh-huh.

4 Q -- after you finished that drawing?

5 A Uh-huh.

6 Q You also -- when you were shown the photo lineup, you

7 signed it, right?

8 A Yes.

9 Q And did you read what you were signing?

10 A Of course.

11 Q And you read and you signed and that photo lineup

12 states that that man in that picture is a person who

13 committed murder and assault and battery with intent to

14 kill?

15 A I don't know who committed, but I know -- I know what

16 I know and that was the only -- I mean, who else would

17 have done it?

18 Q But you did sign a piece of paper.

19 A And also -- also, he admitted that he done it to his

20 cousins.

21 Q So you know that now, too. Somebody told you that?

22 A Nobody told me that.

23 Q Nobody told you that?

24 A What is your question?

25 Q Did you sign a piece of paper with the photo lineup

1 that said --

2 A Is my signature on it? Is my signature on a piece of
3 paper?

4 Q I'm asking the questions.

5 A Then I signed it.

6 Q And did you swear for that to be the truth?

7 A Yeah. I wouldn't have signed it if it weren't true.

8 Q And you just told this court that you didn't see the
9 attack.

10 A I didn't see the attack. I heard it.

11 Q You heard the attack?

12 A Uh-huh.

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

14 THE COURT: You may step down.

15 MS. GARFIELD: No --

16 THE COURT: Thank you very much.

17 THE WITNESS: Okay.

18 MR. COLLINS: I don't have any more witnesses, Your
19 Honor.

20 THE COURT: Okay. Do you want to make any arguments
21 on the suppression of the photo I.D.?

22 MR. COLLINS: Yes, Your Honor. The first argument
23 would be the actual construction of the lineup.
24 Investigator Siniard testified he couldn't see a mustache
25 on two of the photos; however, the lineups are in evidence

1 for the purpose of this hearing, and it's clear to me, and
2 I believe it's clear to other people who looked at it that
3 there are -- there's a mustache on five of the six photos.

4 The composite formulated by the sketch artist from
5 two different witnesses, which are also in evidence, show
6 there is no facial hair on that composite sketch.

7 The only picture in the lineup that doesn't have any
8 facial hair is Mr. Heller. I would argue that on the face
9 of that, that makes it unduly suggestive.

10 Going into the opportunity for the witnesses to view
11 the accused, starting with Bille Joe Risinger, she signed
12 a form that says this is the person who committed the
13 crime of murder and assault and battery with intent to
14 kill. Then she just, under oath, testified that she
15 didn't see the attack and she didn't see the attacker. So
16 she admitted that her signature on this is untrue.

17 On that, I would move that that photo lineup be
18 suppressed because it states under oath that she swears
19 that to be true when she admits that she didn't see the
20 attack and she didn't see the attacker.

21 In regards to Mary Chavis, she testified that it was
22 a -- the only light that was on in the bedroom is a
23 separate room with the door closed, and the only light
24 coming out was underneath the door.

25 This was at three o'clock in the morning; that she

1 testified that she didn't know whether or not the porch
2 light was on or not.

3 We're talking about a short attack, and she gave no
4 description other than the description of the person she
5 hung out with earlier in the night.

6 There is no description given of the actual attacker
7 or what that attacker looked like. There is no
8 description of a knife. There is no description of
9 anything other than what she told the investigator of the
10 clothes that he was wearing.

11 As far as the level of certainty, I believe that the
12 level of certainty of who they were describing is there.
13 However, when they sign a photo lineup that says, "This is
14 the person that committed the crime," I think that's a
15 different thing.

16 I believe if they're identifying the person that they
17 hung out with and they can testify to that, that's the
18 person they hung out with, then if they put Bille Joe
19 Risinger on the stand to try to introduce a photo lineup
20 and she signed it, this being the person that did the
21 attack and that's the person she saw, I don't think that
22 should be allowed because she admitted she didn't see this
23 person. There is no description because she didn't see
24 any person.

25 The time lapse between what they saw and this lineup,

1 we have a difference of five days. The intervening factor
2 is they did a composite sketch in which an artist, the
3 same artist for both witnesses one day apart, knowing it
4 was the same case, drew a composite sketch and let them
5 see that.

6 My argument would be that once you see that composite
7 sketch, that becomes the image in your head of who you
8 see, the attacker. That supersedes the original
9 reflection that you had from the actual event.

10 That coupled with the fact that the composite sketch
11 had no facial hair and the only picture in the lineup
12 being -- that didn't have any facial hair would be
13 Mr. Heller.

14 I believe that the totality of the circumstances,
15 both lineups and identifications should be suppressed, and
16 alternatively, I would also say there's more reason -- if
17 Your Honor doesn't believe that both should be suppressed,
18 I would say that at least Bille Joe Risinger's lineup be
19 suppressed based on her testimony here today that she did
20 not see the attack. She did not see the attacker.

21 It totally contradicts what she signed to be, and
22 swore to be, the truth in this photo lineup.

23 THE COURT: Okay. Thank you very much.

24 Solicitor?

25 MS. GARFIELD: Thank you, Your Honor, may it please

1 the Court.

2 First of all, if you're reviewing the photo lineups,
3 I do not agree with Mr. Collins, as he's indicating that
4 he -- his client -- the picture of his client is the only
5 photograph that is not donning a mustache. Furthermore,
6 those are certainly questions that go to the weight, not
7 to the admissibility.

8 Regardless, the photographic lineup was prepared
9 accurately. It was done so by the Lieutenant that did not
10 have a description of the defendant. He just took a
11 picture and he was able to prepare the lineup with like
12 pictures.

13 Lieutenant Siniard testifies that he shows the lineup
14 properly. He does not make any suggestion as to who the
15 person is.

16 As far as how our witnesses see this person that
17 night, Mary Chavis testifies that she sees him in her home
18 for about an hour or so, I believe is her testimony. She
19 has the light on in her bedroom, which is right beside the
20 living room. She opens the door --

21 THE COURT: All right.

22 MS. GARFIELD: -- where there's a street light.

23 THE COURT: I remember that. Let me hear you on
24 Bille Joe Risinger's ability to see the defendant.

25 MS. GARFIELD: Your Honor, she --

1 THE COURT: Because she very clearly said the door
2 was shut, he was spooky, she was scared of him. She
3 stayed in the bedroom during the time the crime was
4 actually committed.

5 MS. GARFIELD: That is correct. In her statement she
6 never said she saw him commit the crime. She is asked to
7 identify the person that she saw at that house.

8 While that language of that at the bottom says that
9 this is the person that committed A.B.I.K. and murder,
10 that is a mistake from law enforcement, and that is
11 something you attack law enforcement when they take the
12 stand.

13 That is not the proper language that they should have
14 filled out, but Bille Joe Risinger picked out the person
15 that she saw at the mobile home earlier in the evening,
16 the person that Kevin Nails, which is the defendant's
17 cousin, had brought to the mobile home earlier in the
18 night.

19 THE COURT: All right.

20 MS. GARFIELD: She never gives testimony that she
21 sees --

22 THE COURT: Let me ask you this about the
23 defendant --

24 MS. GARFIELD: -- the stabbing.

25 THE COURT: -- let's assume that your argument is

1 correct. Then -- let me hear you on a 403 argument and
2 the question being the prejudicial identification of who
3 she saw earlier in the mobile home far outweighs the
4 probative value.

5 MS. GARFIELD: Well, her testimony goes to --

6 THE COURT: I mean, what you're trying to say is
7 you're trying to connect that she saw this guy in the
8 mobile home, and then allude to the fact that she picked
9 him out, but he actually didn't commit the stabbing or the
10 killing, and she never saw that very clearly of actually
11 who did the stabbing and the killing. So she has drawn
12 that conclusion as to the conclusion that you want the
13 jury to draw, so why shouldn't that be suppressed, her
14 photo identification. I'm not talking about the victim.
15 I'm talking about the witness.

16 MS. GARFIELD: You're talking about Ms. Risinger?

17 THE COURT: Yes, ma'am.

18 MS. GARFIELD: Your Honor, there will also be
19 testimony from the defendant's cousin, Kevin Nails, who
20 will testify that he brought the defendant to this mobile
21 home and that he then left the mobile home leaving the
22 defendant there.

23 Bille Joe Risinger's description of the defendant
24 would corroborate Kevin Nail's statement.

25 THE COURT: Well, I understand. I don't have any

1 problem with corroboration of being at the scene prior to.
2 I do have a problem admitting a photo I.D. of Bille Joe
3 Risinger that says that's who committed the crime, is what
4 I'm saying. That particular -- I don't know what number
5 it is, but let me see if I can find it.

6 MS. GARFIELD: Number three.

7 THE COURT: Number three. I do have a problem
8 admitting number three where it's written on State's
9 Exhibit Number three that that's the person who committed
10 the crime when she very clearly says she didn't see it.
11 That's the photo I.D. I'm talking about, I'm asking you
12 about.

13 MS. GARFIELD: Your Honor, I'm reviewing the
14 photographic lineup that you are referring to, and I see
15 that the language could be misleading to the jury --

16 THE COURT: Right.

17 MS. GARFIELD: -- as well as prejudicial. We'll be
18 happy to redact that language and present it to the jury
19 would ever making any sort of insinuation that she
20 actually saw him make the stabbing.

21 THE COURT: Okay. I don't have a problem if you use
22 a photo I.D. simply to say that's the man that was in the
23 mobile home earlier.

24 I do have a problem with you presenting it to the
25 jury saying that's the man that actually committed the

1 crime. I'm going to grant his motion to that extent as to
2 the photo I.D. on Bille Joe Risinger.

3 Now, whether you redact it or not, that's fine. We
4 can take it up at trial if I'm going to admit it being
5 redacted. We'll deal with that later, but I'm going to
6 grant his motion to suppress that photo lineup of Bille
7 Joe Risinger as to where it says that that's -- the
8 defendant is the person that committed the crime based on
9 his oral argument.

10 MS. GARFIELD: Thank you, Your Honor.

11 THE COURT: Okay.

12 MS. GARFIELD: Yes, sir.

13 THE COURT: Now --

14 MS. GARFIELD: And we can -- we can revisit whether
15 or not --

16 THE COURT: You can revisit --

17 MS. GARFIELD: -- with it being redacted.

18 THE COURT: -- if you redact it properly, okay, from
19 that perspective, and I'll deal with that at trial, okay.

20 MS. GARFIELD: Okay. Thank you.

21 MR. COLLINS: Thank you, Your Honor.

22 THE COURT: All right. As far as your motion to
23 suppress Mary Chavis' photo identification, I'm going to
24 deny that.

25 The Court -- I don't think the hair on the upper lip

1 is suggestive to give rise to the various likelihood of an
2 irreparable misidentification.

3 However, let's assume for the purposes of argument it
4 is suggestive. If you look at the factors, I think she
5 had ample opportunity to view the defendant prior to the
6 crime and at the time of the crime.

7 I think the degree of witness's attention was very
8 strong. I think the accuracy of her -- of her -- which
9 one is the photo -- which one -- which -- Solicitor, which
10 ones, by number, was hers, Ms. Chavis'?

11 MS. GARFIELD: Their signatures --

12 THE COURT: I just don't remember.

13 MS. GARFIELD: -- should be on the back.

14 THE COURT: Pardon?

15 MS. GARFIELD: The signatures are on the back.

16 THE COURT: Okay. All right. Here it is, State's
17 Exhibit Number six, which was a composite done by Mary
18 Chavis. If you look at the pictures and that composite,
19 it is very similar. So I think the accuracy of her prior
20 description is very great. The level of certainty is
21 high, and the time that elapsed between the crime and the
22 time of the identification is within what, 48 hours?

23 MS. GARFIELD: It's done on August 29th, 4 days.

24 THE COURT: Four days, within four days, which I
25 think is adequate. So I don't think any substantial

1 likelihood of misidentification exists as a result of an
2 I.D., and your motion is denied.

3 MR. COLLINS: Thank you, Your Honor.

4 THE COURT: All right. Anything else other than the
5 oral statement we need to take up?

6 MR. COLLINS: I don't believe so, Your Honor.

7 THE COURT: Okay. Well, that's the State's burden.
8 Do you want to call your first witness on the oral
9 statement?

10 MS. GARFIELD: The state recalls Lieutenant Siniard.

11 HOWELL SINIARD, after been previously
12 duly sworn, testified as follows:

13 THE WITNESS: Howell Siniard, S-I-N-I-A-R-D.

14 DIRECT EXAMINATION:

15 BY MS. GARFIELD

16 Q Lieutenant Siniard, after you arrived back in
17 Columbia with the defendant, where did you go first?

18 A We first went to the Brookhurst area where the crime,
19 the scene, actually happened.

20 Q And what was the purpose of going there?

21 A Just to drive through and to have him explain to me
22 exactly where he went and how he did it, how he left the
23 scene after this incident.

24 Q And did he cooperate with you?

25 A Yes, ma'am.

1 Q Did you read his advice of rights again at that
2 point?

3 A No.

4 Q And exactly what did he tell you occurred?

5 A That we pulled up in front of the trailer on
6 Brookhurst Street, and we were facing Percival Road. He
7 said he went straight down to Percival Road, then he took
8 a right, that would have been on Percival Road.

9 Then he went down, and it was a couple of hundred
10 yards. He made another right-hand turn, and it's an old
11 road that was overgrown by bushes, et cetera, next to an
12 old pump house, and he went up two or three abandoned
13 trailers. He pointed out a trailer that he went into.

14 Q And that was -- what did he say he did in the
15 trailer?

16 A He just stayed there all during -- until the sun came
17 up, all during the day, the sunset. He got out, went back
18 out on Percival Road and walked, what we would say
19 outbound, away from the Columbia area past Brookhurst.

20 It's like -- I think it's two streets down, and I
21 don't have the Mayhan, Monahan, something was the name of
22 the street. He turned into. It's the name of a new
23 subdivision.

24 He asked a lady in that area if he could use her
25 telephone to call his cousin, and we never -- we never

1 could really identify. He couldn't remember exactly which
2 house he went to, and we couldn't identify it.

3 Q Which house he went to to make the telephone call?

4 A Yes.

5 Q Did he gave you any statement concerning the knife?

6 A Yes.

7 Q And what did he tell you about the knife?

8 A When we were down Percival Road, I asked him if he
9 could remember where he threw the knife. All he could
10 remember is he crossed Percival Road.

11 If you put it in perspective, it would be on the Fort
12 Jackson side, the property of Fort Jackson. It's a wooded
13 area that runs along the roadway. Then there's a power
14 line break at the small wooded area which is a ditch.

15 He wasn't for sure. He narrowed it down to about
16 75 yards between point to point, but we looked and
17 couldn't find one, although it was heavily -- a lot of
18 ground growth.

19 Q What did he say he did specifically with the knife?

20 A That he threw it, and we had him take a stick to show
21 us exactly how he was throwing it. We don't -- didn't
22 know the weight of the knife or -- we knew the description
23 he gave us, but we didn't really know how far it would be
24 thrown. If you're in fear, you throw it further. If
25 you're relaxed, you don't throw it as far, et cetera, et

1 cetera.

2 Q And after this line of questioning, what did you do
3 with Mr. Heller?

4 A I believe there we went up to the trailer and pulled
5 up, and he showed us the back door area. This mobile home
6 is very small. It was abandoned, both doors to the
7 trailer on the same side.

8 He showed us what I would call -- it's the door to
9 the left, which probably would have been the back door of
10 that particular trailer at the time it was in good shape,
11 but he stayed in that area of the back room of that little
12 mobile home.

13 Q And what did you all do next?

14 A Then we took him back to headquarters where he was --
15 we took the evidence out of the car and sent him back to
16 our lab for major case prints.

17 Q And was he eventually booked?

18 A Yes, he was.

19 Q Did you ever have an opportunity to talk to
20 Mr. Heller again?

21 A Yes.

22 Q And when was that?

23 A I believe it was -- I'll have to check my notes.
24 November 4th, 2006.

25 Q And where did you see Mr. Heller again?

1 A I picked him up at the Alvin Glenn Detention Center.

2 Q Was that just -- was anyone accompanying you?

3 A No.

4 Q And what did you do with Mr. Heller at that time?

5 A I shackled him up and brought him back to the mobile
6 home area. I advised him of his rights again in writing,
7 but we went back to the area of the mobile home.

8 Q Lieutenant Siniard, I'm going to show you what's been
9 marked as State's Exhibit Number three. Do you recognize
10 this document?

11 A Yes, I do.

12 Q And what does that document reflect?

13 A That's the advisement of rights form for the Richland
14 County Sheriff's Department.

15 Q Is that the form that you use when you advised the
16 rights to Mr. Heller?

17 A Yes.

18 Q And how do you know that's the document?

19 A Because my signature is on it as a witness.

20 Q And did you go over each of those rights?

21 A Yes.

22 Q How do you know that you went over each right?

23 A When I go over the rights, I make a slash mark across
24 the box just so I'll know I covered that area of the form.

25 Q Is there a slash mark in the box that corresponds to

1 each right?

2 A Yes, there is.

3 Q And did Mr. Heller sign this advice of rights?

4 A Yes, he did.

5 Q Did you witness Mr. Heller sign this?

6 A Yes, I did.

7 Q Where did he sign this?

8 A At both spots that require the signature of
9 defendant.

10 Q And the second signature, what is he signing at that
11 point?

12 A That part is a waiver of his rights, that he's
13 willing to talk to me at that time.

14 Q And you witnessed Mr. Heller sign that?

15 A Yes.

16 Q You went over this advice of rights before asking
17 Mr. Heller any questions?

18 A Yes.

19 Q And you then in turn also signed that statement?

20 A Yes, I did.

21 MS. GARFIELD: Your Honor, at this time, I'd like to
22 introduce State's Exhibit three into evidence.

23 THE COURT: Any objection?

24 MR. COLLINS: No objection.

25

1 (WHEREUPON, State's Exhibit No. 3 was admitted into
2 evidence for pretrial purposes only.)

3 BY MS. GARFIELD

4 Q Once he waived his rights, what was asked of him?

5 A About the trailer and then about the knife, if we
6 could narrow it down a little bit closer, maybe, to where
7 he threw it.

8 Q And was he cooperative?

9 A Yes.

10 Q And what did he inform you to those questions?

11 A That it was -- as far as the knife, at Percival Road
12 and Brookhurst inbound at the 45 mile per hour sign and
13 the water pump house, which is on the left, Heller
14 demonstrated with a stick as to how he remembered how he
15 threw it.

16 Q And did you also go back to the abandoned trailer
17 park?

18 A Yes.

19 Q And what did he tell you about the abandoned trailer
20 park?

21 A That's -- he pointed out the trailer he stayed in
22 during the day on August 25th, again. It was photographed
23 inside and out. That was -- it was about the trailer and
24 then back down to Percival Road.

25 Q Was any written statement made?

1 A No.

2 Q And why not?

3 A I had already gotten a statement from him. There was
4 nothing to add to except for the portion of the knife, and
5 I didn't find the knife.

6 MS. GARFIELD: Thank you. Please answer any
7 questions Mr. Collins has.

8 MR. COLLINS: May it please the Court.

9 CROSS-EXAMINATION:

10 BY MR. COLLINS

11 Q I'm sorry, I got a little confused there. You stated
12 that on August 31st on the way back to Georgia you all
13 went straight to the trailer park, right?

14 A Yes, sir.

15 Q And you stated that he didn't sign another waiver of
16 rights when you got back to Columbia?

17 A No.

18 Q He did not. It takes at least four hours to get from
19 Baxley, Georgia to Columbia, right?

20 A Uh-huh.

21 Q And he didn't bring up the idea of going out to the
22 trailer park, did he?

23 A No.

24 Q You asked him about that?

25 A Yes.

- 1 Q And he was in the back of your car?
- 2 A Yes, he was.
- 3 Q Was he handcuffed?
- 4 A Yes, sir.
- 5 Q So he was in your custody?
- 6 A Yes, sir.
- 7 Q And you said that first time he went out to the
- 8 trailer park, he showed you the trailer he stayed in --
- 9 A Yes, sir.
- 10 Q -- the next day?
- 11 A Yes.
- 12 Q And then you also told Ms. Garfield that that night
- 13 he showed you, or tried to show you, where he allegedly
- 14 threw a knife?
- 15 A Yes, sir.
- 16 Q And you say that he actually demonstrated how he
- 17 threw the knife that night?
- 18 A Corrected, we didn't do that on the first day. My
- 19 notes indicate it was the second time I took him out
- 20 there, on September 4th.
- 21 Q That's what your notes say?
- 22 A Yes, sir.
- 23 Q So your memory was wrong on direct?
- 24 A Pardon?
- 25 Q He didn't do that on the first time?

1 A No, sir, not demonstrating how he threw the knife.

2 Q But you're still sticking with the fact he showed
3 you, he told you, where he threw the knife that first
4 night?

5 A Yes, sir, along Percival Road on the Fort Jackson
6 side.

7 Q That's not in your notes, is it?

8 A No, sir.

9 Q Okay.

10 A Well, I take that back. May I refer to my notes?

11 Q Sure.

12 A Just a second.

13 (Pause).

14 Yes. "I took him to Brookhurst Street and asked him
15 to show me where he went following the incident. Heller
16 indicated he went to Percival Road, turned right after
17 crossing the road.

18 Heller said he threw the knife away somewhere along
19 Percival Road towards Fort Jackson. Heller continued
20 until about 2433 Percival at an abandoned trailer park.

21 Heller said he got in one of the trailers near the
22 middle and stayed all day."

23 Do you want me to continue?

24 Q No. That's fine, and then four days later is when he
25 went back to Alvin S. Glenn, to pick him up?

1 A Yes, sir.

2 Q And you got him to sign a waiver of rights form that
3 day?

4 A Yes, sir, I did.

5 Q Shackled him?

6 A Yes, sir.

7 Q Put him in the back of your car?

8 A No, he was in the front seat.

9 Q Front seat in shackles?

10 A Yes.

11 Q You say shackles. You mean legs and --

12 A Belly chains.

13 Q -- and belly chains. That's the day you say you
14 demonstrated how you threw the knife?

15 A Yes.

16 Q And you photographed the trailer inside the house?

17 A Yes, sir.

18 Q Beg the Court's indulgence.

19 (Pause).

20 Just one last question. In the four days from
21 August 31st until September 4th --

22 A Yes, sir.

23 Q -- did you ever go out to the trailer park in
24 between?

25 A Not that I recall, no, sir.

1 Q Did you ever go look for the knife in between?

2 A No, sir. I don't believe so.

3 Q Okay. And other than just -- did you ever get -- you
4 or anyone else go look for the knife after September 4th?

5 A Yes.

6 Q Would that be in your notes?

7 A It could be.

8 Q Okay.

9 A It could not be.

10 MR. COLLINS: Okay. That's -- okay. Thank you. No
11 further questions.

12 THE COURT: Any redirect?

13 MS. GARFIELD: Just briefly.

14 REDIRECT EXAMINATION:

15 BY MS. GARFIELD

16 Q Lieutenant Siniard, the defendant was read his rights
17 in Georgia?

18 A That's correct.

19 Q You witnessed that?

20 A Yes.

21 Q And you took him straight to the mobile home park
22 from Georgia?

23 A Yes.

24 Q And any time he didn't want to talk to you, what
25 would you have done?

1 A It would have been over. We would have stopped.

2 MS. GARFIELD: Okay. Thank you. Nothing further.

3 THE COURT: Okay. You may step down. Thank you very
4 much.

5 I'll be glad to hear you on the argument.

6 MR. COLLINS: Thank you, Your Honor. As far as the
7 verbal statement on August 31st after they got back to
8 Columbia, this is the extension from Baxley, Georgia, I
9 would argue that the four-hour drive in between is enough
10 time to separate from the initial detention and the
11 initial interrogation.

12 They should have then advised him of his rights again
13 when he got back to a different state and a different
14 city, at least four hours later. So I would argue that he
15 was not advised of his Miranda rights for that verbal
16 statement and that those verbal actions that he testified
17 to.

18 As far as the second verbal statement on the --

19 THE COURT: As far the -- as far as your argument on
20 the second -- on the first verbal statement where he took
21 them by the mobile home when they rode by it in the
22 backseat of an automobile, that's denied based upon the
23 findings as to the Miranda rights that the court found
24 yesterday. They were properly administered.

25 MR. COLLINS: Okay.

1 THE COURT: I'll be glad to hear you on the second
2 motion.

3 MR. COLLINS: On the second oral statement, Your
4 Honor, as far as November 4th, after hearing the
5 testimony, we would have to concede that he was advised of
6 his rights, and that it would at least be the
7 preponderance of the evidence on the standard that needs
8 to be introduced in trial.

9 THE COURT: So you withdraw that?

10 MR. COLLINS: We will withdraw the second after
11 hearing him testify to that.

12 THE COURT: All right. Thank you very much.

13 All right. Is there anything else that we need to
14 hear before we start the trial?

15 MS. GARFIELD: Nothing from the State.

16 THE COURT: All right. Solicitor, if you'll come get
17 these exhibits, have them marked as Court's Exhibits -- or
18 State's Exhibits.

19 What I want you to do is run copies and substitute
20 the copies for these motions, so you'll have the originals
21 for the jury.

22 MS. GARFIELD: Okay.

23 THE COURT: Can I look at this written statement for
24 just a second, please, ma'am? I believe I -- the rest of
25 them up here, if you can just take those and get copies

1 run, and I'll substitute the copies, okay?

2 All right. Anything else before we bring the jury
3 and have opening statements? Are you all ready for
4 opening statements?

5 MS. GARFIELD: Yes, sir.

6 MR. COLLINS: The defense is ready.

7 THE COURT: Is the State ready?

8 MS. GARFIELD: Yes, sir.

9 THE COURT: Let me know when you're ready to bring
10 the jury.

11 (Pause).

12 All right. Solicitor, here is the statement.

13 Madam clerk, swear them when they come in.

14 THE CLERK: Yes, sir.

15 (WHEREUPON, the jury came into open court at
16 approximately 11:44 a.m.)

17 THE BAILIFF: The jury is all present, Your Honor.

18 THE COURT: Okay. Madam clerk, swear the jury,
19 please.

20 THE CLERK: Ladies and Gentlemen of the jury, please
21 stand and raise your right hand to be sworn.

22 You shall well and truly try and true deliverance
23 make, between the State of South Carolina, and the
24 defendant at bar, whom you shall have in charge, and a
25 true verdict give, according to the law and the evidence,

1 so help you God.

2 Thank you.

3 THE COURT: Solicitor?

4 MS. GARFIELD: Thank you, Your Honor, may it please
5 the Court.

6 OPENING STATEMENT:

7 MS. GARFIELD: As you hear the facts of the case, you
8 will see that this very well could be facts of a crime
9 show which you could see on television such as Law and
10 Order.

11 On August 25, 2006 in the early morning hours around
12 4:00 a.m., Neil Schmitz was working the ambulance service
13 here in Richland County. He received a call to go to a
14 mobile home park on Brookhurst Road off of Percival Road.

15 When he got there, he pulls up, and he sees not what
16 he was expecting. The call that came out said he was
17 reporting to an unknown body complaint. When he pulls up,
18 he finds a man on the ground outside the mobile home park
19 who had been stabbed several times and was dead.

20 At that time -- at that time, Mr. Schmitz realized
21 that this was much more than an unknown body complaint.
22 He gets back into his ambulance, and he pulls into the
23 entrance of the mobile home park where he -- what you call
24 he just stages. He just sits there because he knows this
25 is a now a crime scene, and he doesn't want to disturb

1 anything.

2 He calls 911 to report what he has found, and minutes
3 later Investigator Joe Clark, Richland County Sheriff's
4 Department, responds to the scene.

5 Investigator Clark pulls up. He enters the mobile
6 home park, the mobile home, to secure it. When he goes
7 inside, he finds lying on the floor of the living room
8 Mary Chavis who is seated there on the bench in kind of
9 the pink sweater lying there. She had been stabbed
10 numerous times, and she needs help.

11 He immediately proceeds throughout the mobile home to
12 check to see if there are any other victims and to check
13 to see if the person that had done this horrible, horrible
14 thing was still there.

15 At that time investigator Clark goes back outside and
16 alerts Neil Schmitz and his partner with E.M.S. that they
17 had yet another victim inside the mobile home.

18 Mr. Schmitz goes inside, and they began immediately
19 to medically care for Mary. They load her in the
20 ambulance, and they take her to the hospital. Mary is
21 treated by many doctors. Fortunately, she survives.

22 The man laying on the ground was later determined to
23 be Gustavo Hernandez Guzman. He was Mary's friend, and
24 she knew him as "Chino". They lived in the same mobile
25 home park, and they were very good friends at the time.

1 Eventually, Mr. Guzman has an autopsy, and he is
2 found to have died from a stab wound to the chest that
3 caused his heart to fill up with blood where it could no
4 longer pump.

5 Around the clock law enforcement works on this case
6 not knowing who did this terrible act. People from the
7 lab of the Richland County Sheriff's Department come.
8 They collect any evidence they can find, including swabs
9 of blood and other items in the trailer.

10 Eventually, law enforcement is able to determine that
11 there was a person who was present at the mobile home, not
12 knowing if it was before this happened or during it that
13 it happened.

14 They determined her to be Bille Joe Risinger. She
15 goes also by the nickname "Tracy". Tracy is eventually
16 interviewed, and Tracy tells them that she had been at the
17 mobile home park in the early morning hours with her
18 friend Mary and her friend Chino, as well as her friend
19 Kevin Nails, had come to the mobile home, and with Kevin
20 Nails he had brought a black male that she did not know
21 and another male by the name of Devon. She did not know
22 his last name.

23 Tracy admits to law enforcement that she had been
24 smoking crack cocaine that night in the mobile home park
25 with Mary, with the person Kevin Nails brought over.

1 Eventually, she tells law enforcement that Mary asked
2 this black male to leave the mobile home park. At that
3 time it was only her, the black male, and Mary. Everyone
4 else had left.

5 She tells law enforcement that he did leave, but he
6 came back and he knocked on the door. She stays in a
7 bedroom and closes the door and locks it, but what she can
8 hear in that bedroom, she will never forget for the rest
9 of her life.

10 She hears a commotion. She hears struggling, and
11 what is buried in her brain is Mary screaming for help, to
12 come help her.

13 Eventually, the noise dies down, and she runs through
14 the mobile home. She is scared to death. She doesn't
15 know if she is going to be attacked next. She sees Mary
16 laying on the ground, but she is terrified for her own
17 safety.

18 She continues to run. When she is outside, she sees
19 Chino on the ground out of the corner of her eye, and she
20 can hear him moaning as she continues to run.

21 She gets down to Percival Road. She tells law
22 enforcement she is able to flag down a car that's driven
23 by Kevin Nails. Kevin Nails takes her to another location
24 where she calls her mother to come and pick her up.

25 Through Tracy's description of what happened, law

1 enforcement is able to go and talk to Kevin Nails. Kevin
2 Nails tells law enforcement that he had dropped off at
3 that trailer park, and the person that was left at that
4 trailer park, was Christopher Heller, his cousin.

5 Eventually, Mary regained some consciousness in the
6 hospital, and she is able to assist in a composite drawing
7 of the defendant. She is also able to look at a
8 photographic lineup where Christopher Heller's picture has
9 been placed, and she immediately identifies Christopher
10 Heller as the person that stabbed her.

11 Ladies and gentlemen, Christopher Heller is charged
12 with the assault and battery with intent to kill of Mary
13 Chavis and with the murder of Gustavo Hernandez Guzman.

14 I am Dolly Justice Garfield. I am a prosecutor here
15 in Richland County, and seated at the table with me to my
16 right sitting here is my co-counsel, Margaret Fent.

17 It is our job to prove to you today and the next few
18 days that Christopher Heller is guilty beyond a reasonable
19 doubt of committing these crimes.

20 The burden is on us, and today in this courtroom I
21 can tell each of you that Ms. Fent and I welcome that
22 burden. We welcome the burden of proving to you that this
23 man is guilty of these crimes.

24 How will we do this? You're going to hear many
25 witnesses who will take the stand, and the evidence in

1 this case will be presented to each of you through the
2 testimony.

3 You're going to hear Mary Chavis. You're going to
4 hear Tracy, Bille Joe Risinger. You're also going to hear
5 from the Richland County Sheriff's Department, from Neil
6 Schmitz who responded that night. You'll hear from the
7 lab people at the sheriff's department. You'll even hear
8 some testimony regarding D.N.A. You'll hear from Kevin
9 Nails.

10 Ladies and gentlemen, I conclude to you that after
11 you hear all the testimony, you will be able to determine
12 that Christopher Heller was guilty of these crimes.

13 I said that this is much like a television show, any
14 kind of Law and Order episode you may watch on television,
15 but the difference between television shows and what you
16 will see in this courtroom is that every person that comes
17 and takes the stand to tell you what they know about this
18 case, they're real. They're not paid actors, and they're
19 not reading from a script.

20 You're not going to see the fancy things you may see
21 on television. You're going to see a real criminal case
22 and how it unfolds.

23 Presently, Christopher Heller is presumed innocent.
24 That's one of the wonderful things about this country. I
25 submit to you, ladies and gentlemen, that he has a cloak

1 of innocence around him right now as we start, but as each
2 witness takes that stand and as they walk off the witness
3 stand, they will take a piece of that cloak with them.

4 At the conclusion of this case, you'll see
5 Christopher Heller exposed as a guilty man of assault and
6 battery with intent to kill and murder.

7 Thank you.

8 THE COURT: Mr. Collins?

9 MR. COLLINS: May it please the Court.

10 OPENING STATEMENT:

11 MR. COLLINS: I'm glad they welcome the burden. I'm
12 going to make it easy on them. We're all going to agree
13 that this was a brutal crime scene.

14 If you were in the room when this attack happened,
15 you're going to have some blood on you. It was on the
16 walls. It was on the ground. It was on the furniture.
17 Blood was everywhere. If you were in that room, you would
18 have some blood on you.

19 Now, I think Ms. Garfield forgot to mention something
20 to you, and I'll be glad to tell you. They got Mr. Heller
21 to sign a confession, okay.

22 Now, if you believe everything she says, yeah, this
23 is going to be an open and shut case. It's going to be
24 simple. We'd be out of here in a day, but it's not that
25 simple.

1 See, there's an old saying if somebody tells you
2 something, it seems like the truth until somebody else
3 comes along and starts asking a few questions. That's
4 what we're here for this week. We're here to ask a few
5 questions about what they say is true.

6 This so-called confession, they have a written paper
7 with statements. You're going to hear from the
8 investigators. You're going to hear from Mr. Heller,
9 okay.

10 What you're not going to see is a video. They'll
11 tell you it's their policy, "We don't videotape when we
12 interview."

13 You won't hear a tape recording of this confession,
14 and they made sure there weren't any other witnesses
15 around when it happened. Think about why they may want to
16 do that.

17 Now, you're also going to hear from this investigator
18 who is going to talk about how Mr. Heller told them where
19 he threw the knife and how he threw the knife.

20 Again, no video of it, no audiotape of it. This time
21 it was just that investigator and then the defendant. Why
22 would you want to separate yourself from everyone? Why
23 would you want anybody to check up on what's going on?
24 Because he wants it to be his word against the word of the
25 defendant. That's the way he claims it. You'll see that.

1 Now, we're going to talk about they say they have
2 these witnesses, eyewitnesses. Yes, people were there,
3 okay, and yes, they were there to smoke crack, and we're
4 not going to argue that Christopher Heller wasn't in that
5 trailer. At some point that night, yeah, he was there.
6 You're not going to hear any different from us.

7 If they come in with some kind of D.N.A. evidence off
8 a cigarette butt or something saying that he was there, it
9 probably was his cigarette butt. He probably smoked that
10 cigarette.

11 See if there's any of his blood at that scene or any
12 of the blood from the scene on him. You're not going to
13 hear about any of that. He admits he was there, but he
14 left.

15 You have these witnesses who were there, one witness,
16 Bille Joe Risinger. You're going to hear that she was in
17 the back bedroom of a dark trailer, head full of crack,
18 maybe even under the bed, and when she runs out and sees
19 her friend with guts lying on the ground and blood all
20 over the walls and then sees a dead guy outside the
21 trailer, what does she do? She goes and borrows a phone
22 and calls her drug dealer. She doesn't call 911.

23 She may come in here and look sweet and innocent
24 today. When you're listening to her testimony, think
25 about what she did that night.

1 And then you have Ms. Chavis, a traumatic experience.
2 I can't imagine. She is going to talk about she was in
3 the trailer. The only light on in the trailer was in the
4 back bedroom. The door is in the den.

5 She hears a knock at the door, and she thinks it's
6 her friend. She opens it, and she is attacked. She is
7 fighting for her life. She was cut all over her hands
8 trying to keep that knife from taking her life.

9 Maybe she associated the last African American face
10 that she had seen that night in that trailer. Maybe that
11 wasn't the person. Maybe the attacker was somebody else.
12 She is in a dark trailer. Maybe it was a skinny man that
13 ran away after the attack.

14 Now, there's lots of things about this night we're
15 never going to know about. That's because this team over
16 here and who they represent and the officers they put on
17 the stand did a bad investigation, bad.

18 There were leads that weren't followed up on. There
19 was evidence collected that sat for over two years before
20 anybody did anything with it. There were pictures taken
21 from important parts of this story that were taken and
22 then disappeared and they're gone. Nobody knows where
23 they are.

24 There's an investigator on this case who followed the
25 lead investigator the entire case, put countless hours of

1 hard work into this, and is going to get on the stand and
2 tell you he didn't take one single written note in the
3 entire investigation. Does that sound like a good
4 investigative technique?

5 See, at the end of this thing and at the end of this
6 trial, you're going to see what they're telling you isn't
7 the truth. He's going to come in here and ask some
8 questions, and we're going to find out the real truth.

9 The real truth is Christopher Heller is an innocent
10 man who was forced to sign a statement. When I say
11 forced, I want to take you back in time a little bit.

12 You have got to wonder, you know, how is somebody
13 going to sign a statement saying he did something as
14 horrible as this. How could you do it?

15 Take you back to August 31st, 2006 to the little town
16 of Baxley, Georgia. It's in the home of Christopher
17 Heller. His mother lives there. His fiancée lives there
18 with them. His brother lives there. The only people home
19 this morning are his mother and his fiancée.

20 His mother, Loranda, is in the kitchen. She hears
21 some noises. She goes to check it out. Up in her face
22 comes an officer with a gun pointed in her face, "Get on
23 the ground. Get down." She gets down. She doesn't know
24 how she gets there, but she gets down.

25 They searching all through the house. They're asking

1 her where Chris is. She doesn't know. She doesn't keep
2 up with her son every second of the day.

3 They take her downtown and put her in headquarters,
4 little old headquarters in Baxley, Georgia, put her in the
5 interrogation room, take Chris' fiancée, put her in a
6 separate room. They're not free to leave, questioning
7 them about "Where is Chris? Where is Chris? We're going
8 to charge you with this. We're going to charge you with
9 that."

10 This is the little town of Baxley. Everybody knows
11 everybody else's business, okay. At some point you're
12 going to hear Chris found out about this. It's straight
13 down to that headquarters, "They got my mama locked up."
14 That's what he's concerned about.

15 He walks into a room with six, seven, eight officers
16 all in this little courtroom. They pat Chris down. The
17 first thing the Richland County investigators do, there
18 are two down there. The rest are Georgia officers. They
19 take him away from the herd and put him in a private
20 little room, no cameras, no tape recorders, no Georgia
21 officers or witnesses, just the two Richland County guys.

22 The first thing Chris does, "Why y'all got my mama
23 locked up?" He's upset, and the reason he's upset is he
24 knows his mama has had a heart attack in the past few
25 years. She has high blood pressure.

1 He heard about other people coming to his house with
2 guns drawn. He's worried about his mama. He's worried
3 about her health. He's willing to do whatever it takes to
4 help his mama. That's when this piece of paper is pushed
5 across the desk.

6 You're worried, you sign it. That's how a confession
7 can get signed. You listen to this case. We ask a few
8 questions. We're going to get to the real truth. He
9 starts an innocent man today. He's going to end an
10 innocent man when we find the truth.

11 THE COURT: Solicitor, if you'll call your first
12 witness, please.

13 MS. FENT: The State calls Jennifer Blair.

14 JENNIFER BLAIR, after being duly
15 sworn, testified as follows:

16 THE WITNESS: My name is Jennifer Blair.

17 DIRECT EXAMINATION:

18 BY MS. FENT

19 Q Ms. Blair, where do you work?

20 A 911 communications.

21 Q And can you tell the jury a little bit about what
22 does 911 communications do? What is your role?

23 A All right. 911 communications is an emergency
24 dispatch center where we receive all emergency and
25 nonemergency calls for the City of Columbia and Richland

1 County. A part of my duties there at 911 communications
2 is freedom of information requests, budget, and
3 administrative duties.

4 Q Are you a custodian of the records that are kept by
5 911 communications?

6 A Yes, I am.

7 Q Okay. Were you asked to pull the records regarding
8 calls that were made on August 25th around 3:45, 3:30,
9 four o'clock in the morning to a location at [REDACTED]
10 Brookhurst Court?

11 A Yes.

12 Q Okay. And with regard to, I guess the calls that are
13 coming in to 911 communications, are these records made at
14 or near the time that the call is actually coming in?

15 A They're made actually at the time of the call.

16 Q Okay. So as the call is coming in, the person is
17 typing the information in?

18 A Yes.

19 Q Okay. And so the person making these reports has
20 personal knowledge of what's being told to them?

21 A Yes.

22 Q Okay. And is it -- are these records then kept in --
23 or made in the course of a regularly conducted business
24 activity of 911 communications?

25 A Yes, it is.

1 Q And is it your regular practice of 911 communications
2 to keep such records?

3 A Yes.

4 Q And how many calls were you able to locate regarding
5 [REDACTED] Brookhurst Court around the 3:30, 3:45, 4:00 a.m.
6 time?

7 A Two calls.

8 Q Okay. Do you have copies of those records with you?

9 A Yes.

10 Q Okay. And you have reviewed these records?

11 A Yes.

12 (WHEREUPON, State's Exhibit No. 11 was marked for
13 identification only.)

14 BY MS. FENT

15 Q I'm going to hand you back what you handed me. It's
16 marked State's Exhibit 11, and there's one staple. How
17 many pages does this exhibit consist of?

18 A It consists of five --

19 Q Okay.

20 A -- total sheets.

21 Q Five total sheets and those are both phone calls,
22 calls that are made?

23 A That's correct.

24 Q Okay. And what call does -- at the time that the
25 first call comes into 911 communications?

1 A The first call that comes into 911 communications is
2 at 03:48.

3 Q Okay. And do you all categorize like what type of
4 phone -- what type of call this is, what they're asking
5 for or what's needed?

6 A Yes, we do.

7 Q And how is this call categorized?

8 A This is categorized as an E.M.S. call, and it is an
9 unknown medical complaint.

10 Q Okay. And so who was dispatched to [REDACTED] Brookhurst
11 based on an unknown medical complaint?

12 A A Richland County E.M.S. unit was dispatched, and
13 that was Sierra 224.

14 Q And then what time does the second call come in?

15 A The second call comes in at four o'clock.

16 Q Okay.

17 A A.M.

18 Q And how is this call categorized? Who is making this
19 call?

20 A It's categorized as a shooting incident, and it is
21 called in by Richland County E.M.S.

22 Q Okay. And what is E.M.S. then requesting?

23 A Police.

24 MS. FENT: Your Honor, at this time I offer in
25 State's Exhibit 11, and I tender it to defense counsel.

1 THE COURT: Any objections?

2 MR. COLLINS: No objection, Your Honor.

3 THE COURT: Is that number one?

4 MS. FENT: Number 11.

5 THE COURT: State's Exhibit 11 admitted without
6 objection.

7 (WHEREUPON, State's Exhibit No. 11 was admitted into
8 evidence.)

9 MS. FENT: And I have no further questions.

10 MR. COLLINS: May it please the Court.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION:

13 BY MR. COLLINS

14 (There was no response).

15 THE COURT: Cross-examination?

16 MR. COLLINS: Yes, Your Honor. I'm trying to see if
17 there's a marker I could use.

18 (Pause).

19 Thank you.

20 BY MR. COLLINS

21 Q You stated that the first call was at 3:48 in the
22 morning?

23 A Yes.

24 Q 3:48 a.m., right?

25 A Yes.

1 Q Second call was at four a.m.?

2 A Yes.

3 Q And that was from E.M.S., right?

4 A That's correct.

5 Q And who was the first call from?

6 A The first call I need to -- I think it was from an
7 unknown citizen. I just need to see the incident report
8 to verify.

9 (Pause).

10 The first call came in by a concerned citizen.

11 MR. COLLINS: No further questions.

12 THE COURT: Okay. Any redirect?

13 MS. FENT: No further questions.

14 THE COURT: You may step down. Thank you very much.

15 MS. GARFIELD: May this witness be excused?

16 THE COURT: Ma'am, you may be excused.

17 Call your next witness.

18 THE WITNESS: Thank you.

19 MS. GARFIELD: The State calls Neil Schmitz.

20 NEIL SCHMITZ, after being duly sworn,
21 testified as follows:

22 THE CLERK: State your full name for the record, and
23 have a seat in the witness box.

24 THE WITNESS: My name is Neil Thomas Schmitz.

25 DIRECT EXAMINATION:

1 BY MS. GARFIELD

2 Q Mr. Schmitz, where are you from?

3 A I'm from Chicago, Illinois.

4 Q And what brought you to South Carolina?

5 A The University of South Carolina.

6 Q Did you go to undergrad there?

7 A Yes, I did.

8 Q What did you study at the university?

9 A I studied some history and had a minor in criminal
10 justice.

11 Q I'm going to ask you to speak up a little bit.

12 A Oh, I'm sorry. I studied history and minored in
13 criminal justice.

14 Q What did you do upon completing college?

15 A I worked -- after I completed college, I worked in
16 the E.M.S.

17 Q And did you do anything law enforcement related
18 before you completed college?

19 A My last few years in college I was in law
20 enforcement.

21 Q And where were you in law enforcement?

22 A In the State of Georgia.

23 Q Where in Georgia?

24 A In a town called Porterdale in Newton County.

25 Q And once you finished undergrad, you said you went on

1 into emergency services?

2 A Yes, I did.

3 Q And have you been doing that since then?

4 A Yes, since 2000.

5 Q So about eight to nine years?

6 A Yes, ma'am.

7 Q And specifically what are your duties with E.M.S.?

8 A Right now I'm a senior paramedic. I have some
9 management responsibilities, and then I'm a crew leader on
10 the ambulance.

11 Q And what does a crew leader mean?

12 A I'm in charge of the ambulance, in charge of patient
13 care decisions, things of that nature.

14 Q And were these your duties back in August of 2006?

15 A Yes, they were.

16 Q And do you recall being dispatched to [REDACTED]
17 Brookhurst, lot number [REDACTED], back in August of 2006?

18 A Yes, I did.

19 Q Can you just describe for the jury what kind of call
20 were you responding to?

21 A We were dispatched to an unknown medical complaint.

22 Q And what does that mean? Explain to the jury.

23 A Apparently, our 911 center didn't have information.

24 I found out later there was a language barrier on the
25 call, I believe, but we were dispatched just on a general

1 medical complaint. They didn't have any information on
2 what was going on at the scene.

3 Q Did you know what you were going to find when you got
4 there?

5 A No, I did not.

6 Q You didn't have any idea?

7 A No, I did not.

8 Q Once you arrived, what did you observe?

9 A We came into the roadway that entered into the
10 trailer park, and at that point there was a gentleman that
11 was lying prone, which would be face up, in the roadway.

12 Q And what did you do at that time?

13 A At that time I exited my ambulance and approached to
14 try to ascertain what was going on. There was another
15 gentleman there who had a language barrier. He and I
16 could not communicate in English.

17 The gentleman that was on the ground was -- pulse was
18 apneic. I felt for a pulse for about 30 seconds while I
19 was trying to communicate with the other gentleman there
20 who was just pointing me towards another trailer that had
21 the door open.

22 At that turn, we -- since we weren't able to
23 ascertain whether there was somebody hostile inside or
24 not, I decided to take my crew and leave the scene because
25 it was an unsecure scene.

1 Q And what was the demise of the gentleman on the
2 ground?

3 A He was pronounced dead.

4 Q At that time what did you do?

5 A We left the scene.

6 Q And when you say "we", how many people were with you?

7 A Myself and my partner, Brittney Cooper.

8 Q And when y'all left the scene, where did you do?

9 A We moved a short distance off over to Percival
10 Road -- excuse me, onto -- yes, Percival Road right about
11 the area of Alpine.

12 Q And what did you do next?

13 A We waited for law enforcement to arrive on the scene
14 and advised us that the scene was a secure scene for us to
15 be present in.

16 Q Did you alert the proper people that this was just
17 not an unknown medical complaint?

18 A When I left the scene, I advised dispatch that the
19 scene was unsecure; that we needed law enforcement to
20 respond to the scene, and that there was at least one
21 person deceased on the scene.

22 Q And did law enforcement arrive?

23 A Yes, a brief period later.

24 Q And after law enforcement arrives, what do you do?

25 A We re-entered the scene. At that time they found a

1 second victim inside the trailer.

2 Q And did you treat that second victim?

3 A Yes, I did.

4 Q What did you observe when you first went into the
5 trailer?

6 A When I first entered the trailer, the -- the lights
7 were all out. To the right as I went into the trailer, my
8 right, was a doorway with -- the victim was back in that
9 area, was placed onto a spine board, and she had multiple
10 lacerations.

11 I noted evisceration of the bowel, which the bowel
12 was coming out through the body. She also had some
13 lacerations on her chest possibly punctured into the lung.

14 Q And what was the next course of treatment?

15 A We placed a -- occlusive dressings on the possible
16 wounds in the chest to prevent air from going into the
17 chest, began treating the evisceration of the bowel with
18 sterile dressings, and we covered that with a bag
19 containing it.

20 The patient was placed full spinal precautions, and
21 then she was moved to the ambulance. Then she was
22 transported rapidly to Richland Medical.

23 Q Were you able to determine who the victim was?

24 A The information -- we had her identified as a Mary
25 Chavis.

1 Q And you transported Ms. Chavis to Richland Memorial
2 Hospital?

3 A Yes.

4 Q Is that where -- is that where she wanted to go to
5 the hospital?

6 A Because of her trauma, our protocol was to transport
7 her to the trauma center which is Richland Memorial.

8 Q Is that where all trauma patients in Richland County
9 go?

10 A Yes.

11 Q Based on your experiences with E.M.T., what did you
12 think was the prognosis of Ms. Chavis at that time?

13 A At that time I knew that we had stopped all her
14 bleeding that we had found, began to dress her wounds, and
15 then she was handed over to the care of the E.R. crew at
16 Richland.

17 Q At Richland Memorial?

18 A Yes.

19 MS. GARFIELD: Thank you. I have no further
20 questions.

21 THE COURT: Cross-examination?

22 MR. COLLINS: Thank you, Your Honor.

23 CROSS-EXAMINATION:

24 BY MR. COLLINS

25 Q You said that there was a language barrier on the 911

1 call?

2 A I believe that was the problem. I wasn't directly in
3 communication with the individual.

4 Q Okay. And I want to take you to when you first
5 pulled up to this trailer park. You had the lights on in
6 the ambulance?

7 A Yes.

8 Q And was the siren going?

9 A When we -- we cut it off when we came around the
10 corner.

11 Q When you came around the corner, the headlights were
12 on; is that right?

13 A Yes, sir.

14 Q Is that when you first saw the body in the middle of
15 the road?

16 A Yes, sir.

17 Q Do you think it would have been possible to pull up
18 in that driveway and miss that body in the middle of the
19 road?

20 A I --

21 Q If somebody else would have pulled up in there?

22 A Probably not.

23 Q Okay. And you said when you got there, there was a
24 Hispanic man beside the body when you got there?

25 A There was another gentleman there, yes.

1 Q And I want to take you -- talk to you a little bit
2 about -- it's not the greatest subject, but I want to talk
3 to you a little bit more about what you saw inside that
4 trailer.

5 A Okay.

6 Q You testified that the lights were out when you
7 walked in?

8 A Yes. There were no lights inside.

9 Q And you could make out that Ms. Chavis was lying next
10 to the door to the bedroom?

11 A Yes, sir.

12 Q Did anybody turn on the lights at any time?

13 A No, sir. We were operating with flashlights.

14 Q Flashlights. Did you happen to see blood throughout
15 the trailer?

16 A I was mostly concentrating on the patient at the
17 time. She had blood on her.

18 Q Was she pretty much covered in blood?

19 A Yes, sir.

20 Q She had blood coming from her head?

21 A She had wounds on some of her face, her chest on the
22 left side, and then also around her nipples midline, and
23 then she had the evisceration on her abdomen.

24 Q And evisceration is basically where her guts were
25 hanging out?

1 A Yes, sir.

2 MR. COLLINS: No further questions. Thank you.

3 THE COURT: Redirect?

4 MS. GARFIELD: Just one question.

5 REDIRECT EXAMINATION:

6 BY MS. GARFIELD

7 Q Mr. Schmitz, what kind of lights were on your
8 ambulance when you pulled into the trailer park?

9 A We had our emergency equipment activated, which would
10 be the red lights, headlights on, and we also had the
11 scene lights which come on the side and back of the
12 ambulance.

13 MS. GARFIELD: Thank you. Nothing further.

14 THE COURT: You may step down. Thank you very much.

15 MS. GARFIELD: May Mr. Schmitz be excused, Your
16 Honor?

17 THE COURT: Yes, ma'am. Call your next witness.

18 MS. GARFIELD: The State calls investigator Joe
19 Clark.

20 JOSEPH CLARK, after being duly sworn,
21 testified as follows:

22 THE CLERK: Have a seat in the witness box. State
23 your name for the record.

24 THE WITNESS: Okay. Joseph Clark.

25 DIRECT EXAMINATION:

1 BY MS. GARFIELD

2 Q Good afternoon, Investigator. Where are you
3 employed?

4 A Richland County Sheriff's Department.

5 Q What are your duties with the Richland County
6 Sheriff's Department?

7 A Right now I'm an investigator. I work major crimes,
8 burglaries, that kind of thing.

9 Q Were these your duties back in August of 2006?

10 A No, they weren't.

11 Q What did you do back in 2006?

12 A I was a patrol road deputy and a front line
13 supervisor.

14 Q Can you explain to the jury what a road supervisor
15 and deputy entailed?

16 A Richland County, as far as patrol units, are
17 separated into distinct regions. We're up to seven
18 regions now.

19 I was working Region Two, which is the Columbia Mall
20 area as a frame of reference, and I would be the
21 supervisor in charge of say four or five deputies that
22 were working responding to calls that night.

23 Q Did you receive a call that night to respond to a
24 mobile home park on Brookhurst Court?

25 A I did.

1 Q And what was the nature of that call?

2 A I don't remember exactly what was put out via the
3 radio. I know it was a hot call. We heard there was at
4 least one down, possibly a shooting is what we were
5 hearing.

6 Q And did you respond to that location?

7 A I did.

8 Q Who was the first person from law enforcement to
9 respond?

10 A I was.

11 Q Was anyone with you at that time?

12 A I don't remember exactly who. I know I had an E.M.S.
13 coming behind me.

14 Q Was there anyone actually in your car?

15 A I don't remember.

16 Q When you got there, what did you observe?

17 A I observed a male subject laying on his back with
18 blood over his torso, the upper part of his torso, with a
19 very distinct wound over the center of his chest, looked
20 like some blood on his neck.

21 He appeared to me to be deceased, and I noticed that
22 the door to the trailer was standing wide open. I could
23 hear someone moaning, sounded like a woman's voice
24 possibly calling for help.

25 At that point my first backup unit arrived. I do not

1 remember specifically who that was. I went inside the
2 trailer, cleared the trailer stepping over the victim,
3 make sure there were no more victims in the house.

4 There was a female victim laying on her back. She
5 was actually trying to hold her -- she was grievously
6 wounded in the abdomen, physically trying to hold her
7 intestines in, and cleared the house and then immediately
8 set up the crime scene.

9 Q Go back when you first responded and you saw the
10 person outside on the ground. Could that have been
11 confused to be someone who was shot?

12 A Oh absolutely, yeah.

13 Q And when you went inside, you said you secured the
14 scene. Explain to the jury exactly what securing the
15 scene entails?

16 A Well, a situation like that, that's going to be
17 weapon drawn, letting the radio, letting 911 know, tell
18 backup units I'm going inside because I could physically
19 hear someone inside making noises. I remember hearing
20 "Help me."

21 At that scene, it's happening so fast. There's not a
22 lot of time. It's a fluid situation. By training, we
23 would go inside the house and quickly look for either
24 other victims or assailant or that kind of kind. It would
25 be weapon drawn, clearing the house by closet, by room, by

1 area inside the house.

2 Q When you first responded to the mobile home, that was
3 the lighting like outside?

4 A It was pretty dark.

5 Q And when you went inside the trailer, was there any
6 light on?

7 A I remember there was a light. I believe it was
8 either knocked over or kind of askew in a bedroom to the
9 right, and that was all of the light in the trailer. It
10 was not very well lit.

11 Q Did you alert E.M.S. that the victim was inside?

12 A Yes.

13 Q And after E.M.S. comes in, what's your next -- what
14 do you do next as far as protocol is concerned in a
15 situation like this?

16 A Well, at that point we want to secure the scene as
17 quickly as possible. We have got a serious crime scene
18 here. We want to allow, obviously, for E.M.S. to do
19 whatever they need to do with the victims.

20 First and foremost, it would be to start putting
21 crime scene tape up as wide as you can get it. You never
22 know where the evidence could be or how far it was drug
23 away. The other thing is to start a crime scene log.
24 That's where you start, you know, notating whoever is
25 coming in regardless of who they are. That would be the

1 standard procedure at that point.

2 Q Do you alert anyone else with the sheriff's
3 department?

4 A I would call the desk sergeant. I would let them
5 know. The desk sergeant acts as kind of an adjunct
6 supervisor in a situation like this. He would be my next
7 superior officer not present at the scene.

8 He would make the next set of phone calls to things
9 like investigators, possibly the coroner's office, alert
10 command staff maybe all the way up to the Sheriff, if
11 necessary.

12 Q Did you make any contact with Richland County
13 Sheriff's Department lab investigators?

14 A I more than likely did. I don't remember
15 specifically making that call. I know I requested --
16 well, I did. Now that I think back, I did. I requested
17 that the lab unit respond and that the investigator on
18 call respond.

19 Q And did members of the lab unit respond?

20 A They did.

21 Q How long were you there, Investigator?

22 A I was there until daylight.

23 Q And when -- is that when your shift ended?

24 A That would be when my shift ended. I stayed somewhat
25 past that, but it would have been I'm sure 7:30, 8:00 in

1 the morning maybe.

2 Q And when you left, were law enforcement still there?

3 A Absolutely.

4 MS. GARFIELD: Thank you, Investigator. Please
5 answer any questions Ms. Collins has for you.

6 THE WITNESS: Sure.

7 THE COURT: Cross-examination?

8 MR. COLLINS: Thank you, Your Honor.

9 CROSS-EXAMINATION:

10 BY MR. COLLINS

11 Q We're talking about securing the crime scene, and the
12 reason you secure the crime scene is you don't want any
13 contamination of evidence, right?

14 A Correct.

15 Q You don't want somebody walking through a puddle of
16 blood.

17 A Correct.

18 Q You don't want somebody possibly depositing some of
19 their D.N.A. into the middle of the scene?

20 A Correct.

21 Q You want to preserve that?

22 A Correct.

23 Q You don't want dogs running around the crime scene,
24 do you?

25 A Sorry?

- 1 Q You don't want dogs running around the crime scene?
- 2 A No, you wouldn't, no.
- 3 Q Do you remember seeing a dog out there that morning?
- 4 A I don't recall.
- 5 Q All right. And you testified it was really dark
- 6 outside.
- 7 A It was dark.
- 8 Q Outside the trailer?
- 9 A Correct.
- 10 Q There wasn't a street light above the trailer?
- 11 A I don't remember that.
- 12 Q Not one that was on that you remember?
- 13 A Not that I remember.
- 14 Q There wasn't a light on the front of the trailer that
- 15 was on?
- 16 A I don't recall.
- 17 Q You don't recall there being a light on. The only
- 18 light you recall is a lamp in a back bedroom, correct?
- 19 A Correct.
- 20 Q And you said you did the biggest crime scene that you
- 21 could?
- 22 A Correct.
- 23 Q With the yellow tape.
- 24 A That's correct.
- 25 Q Because you never know where the evidence could be?

1 A Correct.

2 Q And it's important to collect all of the evidence you
3 can collect?

4 A That is correct.

5 MR. COLLINS: Thank you.

6 THE COURT: Any redirect?

7 MS. GARFIELD: Nothing further, Your Honor.

8 THE COURT: Any objection to having Investigator
9 Clark excused?

10 MR. COLLINS: No objection, Your Honor.

11 THE COURT: You may be excused. Thank you very much.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Call your next witness.

14 MS. GARFIELD: Your Honor, may we approach?

15 THE COURT: Yes, ma'am.

16 (WHEREUPON, a bench conference was held in the
17 presence, but not within the hearing, of the jury).

18 THE COURT: All right. Madam Forelady, ladies and
19 gentlemen of the jury, we're going to take a break at this
20 time.

21 I'm going to take -- normally, for your information,
22 I didn't tell you this when we started, but normally we'll
23 run from 9:30 until 5:30, take a lunch break somewhere
24 between 12:30 and one.

25 We'll generally take an hour-and-a-half lunch break

1 so you can get something to eat, run any personal errands
2 if you need to. That would be normally our working hours.

3 (There was a noise disturbance in the courtroom).

4 If we can hear around the sawing or whatever is going
5 on out in the hall.

6 That's the normal working hours that we'll try.

7 Today was a little different because I had to hear
8 motions. I apologize for keeping you in the jury room so
9 long. They took longer than I thought they were going to
10 take when I told you to come back yesterday at one
11 o'clock.

12 Please don't discuss the case among yourselves.
13 We're going to break for lunch at this time, and the
14 attorneys have some things that they need to deal with.
15 It's going to take some time, so be back in the jury room
16 at 2:30.

17 Please don't discuss the case. When you come to the
18 courthouse, come straight to the jury room. I'll see you
19 at 2:30. Have a good lunch.

20 (WHEREUPON, the jury left open court at approximately
21 12:33 p.m.)

22 THE COURT: All right. I understand you're going to
23 go get with the court reporter and do some marking of the
24 crime scene information; is that correct?

25 MS. GARFIELD: Yes, sir.

1 THE COURT: All right. So we took a two hour lunch,
2 so they're going to try to do some marking in the next 30
3 minutes, okay.

4 THE COURT REPORTER: Okay.

5 THE COURT: All right. We'll recess until 2:30.

6 MS. GARFIELD: Thank you.

7 (A lunch break was taken).

8 (WHEREUPON, State's Exhibits Nos. 12 - 64 were marked
9 for identification only.)

10 (WHEREUPON, Court's Exhibits Nos. 2 - 11 were marked
11 for identification only.)

12 (WHEREUPON, State's Exhibits Nos. 65, 66 were marked
13 for identification only.)

14 THE COURT: All right. Mr. Collins, do you have a
15 copy of the exhibit list?

16 MR. COLLINS: Yes, Your Honor.

17 THE COURT: All right. It's one through 66. I'm
18 going to read into the record as to what has been agreed
19 upon as far as the admissibility of the exhibits.

20 One through 40 -- excuse me, one through -- just a
21 second. One through 23 are admissible without objection;
22 is that correct? One through 23, and 24 through 40 is
23 admissible as long as the person that collected the items
24 at the scene testified; is that correct?

25 MR. COLLINS: That's correct. Going back to one

1 through 23 --

2 THE COURT: Right.

3 MR. COLLINS: I'm not consenting to the -- one
4 through ten as far as the lineups and the statements and
5 those items. I was still retain my objections to those.

6 THE COURT: One through ten based on your motion,
7 right?

8 MR. COLLINS: Yes, sir.

9 THE COURT: Okay. All right. So 11 through --
10 through 23 is admitted without objection; is that correct?

11 MR. COLLINS: That's correct.

12 (WHEREUPON, State's Exhibit No. 11, having previously
13 been admitted, is admitted again.)

14 (WHEREUPON, State's Exhibits No. 12 - 23 were
15 admitted into evidence.)

16 THE COURT: All right. Twenty-four through 40 is
17 admitted conditioned upon the State producing the witness
18 to testify as to where it was collected at the crime
19 scene; is that correct?

20 MR. COLLINS: That's correct, Your Honor.

21 THE COURT: All right. Solicitor, are you with us?

22 MS. GARFIELD: Yes, sir.

23 THE COURT: The Court will admit 11 through 23
24 without objection. Twenty-four through 40 is admitted as
25 long as it's -- the witness testifies as to where they

1 were collected.

2 Now, what about on the second page, Mr. Collins, 41
3 through 50, any objection?

4 MR. COLLINS: No objection to 41 through 50.

5 THE COURT: All right. Forty-one through 50 is
6 admitted without objection.

7 (WHEREUPON, State's Exhibits Nos. 41 - 50 were
8 admitted into evidence.)

9 THE COURT: All right. You have an objection to 51,
10 52. What about 53 and 54? Do you have an objection?

11 MR. COLLINS: I don't have an objection to 52. We
12 were mistaken as far as the --

13 THE COURT: All right.

14 MR. COLLINS: I do have an objection to 51.

15 THE COURT: All right.

16 MR. COLLINS: No objection to 53 or 54.

17 THE COURT: All right. Fifty-two, 53, 54 is admitted
18 without objection; is that correct?

19 MR. COLLINS: That's correct, Your Honor.

20 (WHEREUPON, State's Exhibits Nos. 52, 53, 54 were
21 admitted into evidence.)

22 THE COURT: All right. How about 65 and 66, any
23 objection?

24 MR. COLLINS: No objection to those two.

25 THE COURT: All right. Sixty-five and 66 is admitted

1 without objection.

2 (WHEREUPON, State's Exhibits Nos. 65, 66 were
3 admitted into evidence.)

4 THE COURT: Solicitor, you have them all marked. Do
5 I need to go through them again? You have them all marked
6 on your sheet?

7 MS. GARFIELD: I believe so, yes, sir.

8 THE COURT: Okay. You have got yours marked?

9 MR. COLLINS: Yes, I do.

10 THE COURT: Okay. All right. Anything else before
11 we bring the jury?

12 (Pause).

13 MS. GARFIELD: The State's ready, Judge.

14 THE COURT: The State is ready. Defense ready?

15 MR. COLLINS: The defense is ready.

16 THE COURT: All right. Bring us a jury, please.

17 (WHEREUPON, the jury came into open court at
18 approximately 2:44 p.m.)

19 THE BAILIFF: All jurors are present, Your Honor.

20 THE COURT: All right. Thank you very much. If the
21 State will call its next witness.

22 MS. FENT: The State calls Lieutenant Elsey Clemmons.

23 ELSEY CLEMMONS, after being duly
24 sworn, testified as follows:
25

1 THE CLERK: Have a seat in the witness box. State
2 your full name for the record, please.

3 THE WITNESS: Anna Elsey Clemmons.

4 DIRECT EXAMINATION:

5 BY MS. FENT

6 Q And with whom are you employed?

7 A The Richland County Sheriff's Department.

8 Q How long have you worked for the Richland County
9 Sheriff's Department?

10 A I've been there since July of 1996, so about
11 12-and-a-half years.

12 Q And what is your current capacity with the Richland
13 County Sheriff's Department?

14 A I supervise the crime scene and latent print
15 sections.

16 Q And how long have you been supervisor?

17 A I was promoted to lieutenant in August of 2007 and
18 was a sergeant three years prior to that.

19 Q Okay. And can you tell the jury a little bit about
20 your education and your training, your background, that
21 brings you to be a supervisor in this unit?

22 A Yeah. I graduated from the College of Charleston
23 with a bachelor of science in biology and a bachelor of
24 science in psychology, and I received my masters in
25 forensic D.N.A. and serology from the University of

1 Florida.

2 I graduated from the Criminal Justice Academy, spent
3 a little over two years in uniform patrol, and then was
4 promoted to the crime scene section.

5 Since I've been in that unit, I've had several formal
6 classes geared towards crime scene and latent print
7 examination processing. Some of those classes are blood
8 pattern analysis, emergency crime scene responder, crime
9 scene reconstruction, I.D. technician, advanced palm print
10 identification, crime scene investigation, basic
11 fingerprint, chemical development of latents, forensic
12 aspects of investigation, forensic ridgology, advance
13 blood pattern analysis, complex latent print
14 investigation, the detection, recovery and examination of
15 footwear impression evidence. I am also certified through
16 the International Association for Identification as a
17 Crime Scene Investigator.

18 Q And can you tell the jury a little bit about just
19 crime scene investigation in general, what your
20 responsibilities are when you go out to a crime scene?

21 A Yes. As a crime scene investigator, we respond to
22 any requests in Richland County in any type of crime that
23 ranges from a vandalism, burglary, anywhere to a sexual
24 assault, a kidnapping, robbery, and a homicide.

25 Once we arrive on the scene, our job is to document

1 the scene, identify, preserve, collect any physical
2 evidence related to that crime, and complete processing
3 for fingerprints and D.N.A. and some of the other
4 specialty areas in crime scene investigation.

5 Q And how close is your actual job to what we see on
6 the T.V. shows, the C.S.I. T.V. shows?

7 A Not very much.

8 Q Okay.

9 A No.

10 Q Were you asked then to go out to 1510 Brookhurst on
11 August 25th, 2006?

12 A Okay. I was contacted by Investigator Allen who was
13 working as the on-call investigator at that time and
14 advised that he had a homicide and needed my assistance
15 out there in processing and documenting the crime scene.

16 Q Okay. So he was already there on the scene?

17 A Correct.

18 Q Okay. Was he the investigator, I guess, on call?

19 A Yes. We work 24 hours a day, so we have someone who
20 is available to respond any time of the day or night, so
21 he responded and then called and advised me what he had.
22 Then I responded out there with him.

23 Q Okay. Do you know approximately what time you
24 arrived out there on the scene?

25 A I do. He contacted me at approximately 4:15 in the

1 morning, and I got there at about 5:08.

2 Q And I saw that you opened a book. Did you prepare
3 reports in connection with your involvement in this case?

4 A I did.

5 Q Okay. And if it helps you at any time to refer to
6 your reports or refresh your memory, please do so. You
7 have copies of all of those in front of you?

8 A Yes, ma'am.

9 Q Okay. Tell us then when you arrive what do you do,
10 what's your involvement?

11 A I made contact with Investigator Allen once I arrived
12 on the scene, and he did an initial walk-through with me,
13 showed me what he had, what he had done already as far as
14 documentation, identifying certain items of evidence and
15 marking those. Then I went with him, photographed those,
16 some of those items again. We identified some additional
17 items of evidence and continued processing the scene from
18 there.

19 Q Okay. When you say you went out there and he walked
20 you through, are you outside of the trailer? Are you
21 inside of one of the trailers? What basically is this
22 walk through?

23 A It started -- in this particular case, it started
24 outside of the trailer around the front area of the
25 trailer. Several items outside are identified, and then

1 we continued into the trailer and did a walk through
2 throughout the outside of the trailer.

3 Q And do you know the trailer number, I guess the lot
4 number, of the trailer you were going to?

5 A I believe it was lot number eight.

6 Q I'm going to show you what has been admitted as
7 State's Exhibit 66. I'm going to show this to you first.
8 Do you recognize what this diagram shows?

9 A Yes. That's a diagram that Investigator Allen
10 prepared on the scene, and that is the exterior portion of
11 the crime scene and the area where the victim was located
12 outside and some of the items that were identified and
13 documented.

14 Q Documented, okay. Some of the items then that you
15 all collected?

16 A Right.

17 Q Okay. And then diagram 65, what -- this has also
18 been admitted. What, basically, is this diagram showing?

19 A That's the interior of the trailer again showing some
20 of the items inside, some of the furniture items and some
21 of the items that were identified, marked, photographed
22 and collected.

23 Q Okay. You said you also photographed -- took
24 photographs at the scene?

25 A Yes.

1 Q And is that both outside and inside?

2 A That's correct.

3 Q Let's start with State's Exhibit 12. I'm going to
4 get an easel.

5 Your Honor, may the witness come down off the stand
6 to be able to refer to photographs?

7 THE COURT: Yes, ma'am.

8 BY MS. FENT

9 Q Since you don't have the microphone, make sure you
10 keep your voice up so everybody can hear you. Talk to us
11 generally about when you're photographing how do you start
12 to photograph a scene?

13 A Well, our first -- we first want to get some overall
14 general photographs of, in this particular case, the
15 interior and the exterior of the scene so we can relate
16 items one to another, just get the overall picture of what
17 the scene looked like when we first arrived there.

18 Q Uh-huh.

19 A Then as we identified items of evidence we wanted to
20 get closer, again identifying those items with other items
21 on the scene, and then finally closer on each particular
22 item showing up at -- in certain cases, blood, the
23 evidence marker corresponds to.

24 Q Okay. An evidence marker, is that what these yellow
25 letter markers are that we see in the photograph?

1 A It is.

2 Q Okay. So each item of evidence, what are you going
3 to do with the marker?

4 A Once the -- once the scene has been photographed
5 generally without markers, we then put a mark beside each
6 item that we identified, whether it be an item of evidence
7 or in this case some areas of blood that we identified.

8 We would take the marker, put it beside each of the
9 items, document what the number or letter corresponds to,
10 photograph it, also write it down in our notes and then
11 eventually collect the item.

12 Q Okay. So there's going to be one marker per either
13 piece of I guess blood or physical evidence that you see
14 or item of physical evidence?

15 A There should be, yes.

16 Q Okay. Can you tell us then just kind of give us some
17 different angles and views of what we're looking at here?
18 On Exhibit 12 we have photos A through H.

19 A This is -- I believe the roadway was right here. You
20 would pull in here. It's kind of a driveway that's split.
21 This is the trailer number eight that we're talking about,
22 and again, the victim is here in some of these items that
23 are marked here.

24 This is just another angle showing further out from
25 the roadway with the trailer right there; again, just

1 another angle showing the same markers and the trailer.

2 Once it got a little bit lighter, we took some
3 additional photographs here. This is looking straight at
4 the trailer with that driveway from this area as being --
5 over in this area looking that way. Again, there is
6 another angle here.

7 This is looking back towards where the driveway
8 begins in that direction and again in the daylight with
9 the trailer here on the left (indicating).

10 Q And then I'll hold this. I guess kind of relating
11 the diagram to the photographs?

12 A Sure. In this one, you can see the marker U and T
13 beginning in that driveway. Right here, Brookhurst here,
14 U and T going towards the trailer with the trailer here on
15 the right.

16 Q And then in this photo you can see the deceased, I
17 guess his foot?

18 A Yes.

19 Q Okay. So in the daylight where -- in this photo
20 where would he have been?

21 A He would have been here. By that -- the time this
22 particular photograph was taken, he was removed from the
23 scene.

24 Q How long did you all stay out there photographing,
25 documenting, collecting evidence?

1 A I'll have to refer to my notes. I arrived at, again,
2 a little after five and left the scene at a little after
3 one. That's with myself. Investigator Allen was there
4 for a little while. Eventually, he left and another
5 investigator came and assisted also on the scene.

6 Q And who was that investigator that came later?

7 A Investigator Bouknight.

8 Q And then this diagram just basically places what we
9 see in the photographs, just different letters, to what
10 that item is that was collected?

11 A Correct.

12 Q Okay, or documented.

13 Starting then -- we'll start with A. Now, these
14 are -- what photos are these?

15 A These are photographs that were taken closer up of
16 what each of the markers represent.

17 Q Okay. Would it help to use the diagram or the photos
18 to kind of place the --

19 A I'll just...

20 Basically, this is just a smaller version of the
21 diagram there. "A" is this -- a blood pattern that we
22 identified. Again, just a little bit closer here and here
23 by this diagram, and again, if you want to follow along
24 there, that's there, but it refers to -- B is another
25 impression of blood a little bit closer here, B.

1 Q And what did those impressions -- based on your
2 experience, why are you documenting this impression? What
3 do you think that it is?

4 A We believe those impressions were tire impressions
5 made in blood.

6 Q Okay.

7 A Okay. Again, C is a pool or a puddling of blood
8 here. D just refers to several blood droplets that are
9 located in that area. E is another type of transfer
10 pattern blood indicated here at E. F is another one of
11 the tire impressions, again a little bit closer here. G
12 is some glass that was located outside and so is H.

13 Q Okay. So then where is G and H?

14 A Right here, G is here, and H is here (indicating).

15 Q Okay.

16 A And the trailer is here, there.

17 Q Okay. And is this -- what do these two slash marks
18 indicate?

19 A I believe that indicates the door.

20 Q The front door, okay. Exhibit 14, then you have
21 moved inside the trailer, I guess?

22 A Yes.

23 Q Okay.

24 A This is the kitchen area here of the checker floor
25 pattern flooring with the carpet here leading into the

1 den. You see the chair knocked over here. Again, the
2 tile, the checkered flooring with the stuff in here moving
3 into the den area, with the sofa here.

4 J is the marker indicating blood located on the sofa
5 cushion itself. Again, that's just another photograph of
6 the same thing, a little bit closer.

7 Again, continuing with that sofa here in the den
8 area, marker L which was indicated in an area we located
9 with blood on the floor, cushion on the sofa here.

10 Just another view here that also shows there was a
11 small love seat on another wall, back wall, that leads
12 into -- this leads into the bedroom. So that wall divides
13 the den area from what we refer to as the front bedroom
14 with K indicated on there, and K was the blood stain
15 indicated on that love seat.

16 Q Okay. And just to I guess get kind of a perspective
17 of the inside of the trailer on State's Exhibit 21, can
18 you kind of orient us as to the inside of this home?

19 A Sure. This is again walking from that exterior area
20 where the driveway is up the steps into the front door of
21 the trailer looking in, from outside in.

22 Once you're inside, this is kind of a look outside.
23 This is the front door, that den area that we just showed
24 you in a couple of other photographs. Again, the den area
25 you can see the door here, the love seat, the sofa, and

1 this is the door leading into that front bedroom.

2 This would be looking the other way from the front
3 door into the kitchen area. There is a hallway that leads
4 to another bedroom here. That's just another view of that
5 particular area, and again, down that hallway here from
6 the kitchen into that second or rear bedroom. This is the
7 den area, again with the sofa, the love seat, and the door
8 leading into the front bedroom.

9 Q So there's a bedroom to the right and a bedroom down
10 to the left?

11 A Correct.

12 Q Okay. On this diagram, it doesn't appear to be like
13 the entire trailer?

14 A No. On this one he just -- we're showing two
15 particular areas, one the area right where you walk in.
16 This would be the love seat and the sofa here, the kitchen
17 area here, and then this would be the bedroom, the bed and
18 the side tables here.

19 Q Okay. Then we got to -- I guess L is the last
20 marker?

21 A Uh-huh, K.

22 Q K, L. Then State's Exhibit 15, we have A through I
23 here. So what room is this?

24 A If we go from L, M is here on this love seat -- I
25 mean, excuse me, on this side table, bedside table, as you

1 walk into the bedroom. The door here, right here, leads
2 to the den area.

3 Q So is this the bedroom to the right or to the left?

4 A If you walk into the trailer, it would be the one to
5 the right.

6 Q Okay.

7 A This is the bed here with the marker P and another
8 side table here with marker O. Just another view here,
9 you can see M with this door here that leads into the den
10 area; just a closer view, M and P and O, and again, just
11 another view there.

12 This is a close up view of this area here. You can
13 see the curtain here. This would be looking from the den
14 area into the bedroom. As you can see, the bedside table
15 here with the bed here, and this is just a close up. You
16 can see the lamp here of that area with the bed right
17 here.

18 Q We don't have a view of the marker because it looks
19 like the flash glared, but the marker on the lamp is --

20 A N.

21 Q N as in Nancy?

22 A Nancy.

23 Q Okay. Just as you're walking through and showing the
24 different markers, outside you marked glass and cups and
25 some blood spatter. Inside, you know, you put these

1 markers down next to random objects. Why are you doing
2 this? I mean, do you have any idea what's happened inside
3 this home?

4 A We don't know. We have an idea. We talk to
5 investigators and try to get as much information as we
6 could at the time.

7 From that information we try to determine what we
8 think may be of evidentiary value. We don't have someone
9 necessarily in there telling us "This is out of place.
10 This is out of place. This is out of place." So we have
11 to look at the area and determine what we think may be out
12 of place based on what we know at the time.

13 Q Then after State's Exhibit 16 we're back outside. So
14 kind of tell me as you're using these markers through the
15 alphabet, is it back outside or how does this happen?

16 A Well, like I said earlier Investigator Allen was
17 there prior to my arrival. He was again identifying items
18 prior to my arrival.

19 He would locate some items outside and then inside,
20 asking -- he would put the evidence markers beside those
21 items, so that he would not miss those items or forget
22 about them. At the time he located them, he would put the
23 markers down. Once I got there, they were -- we
24 photographed them.

25 Q So are you all walking through this scene more than

1 once to look for items?

2 A Yes.

3 Q So kind of tell us then what we're seeing in State's
4 Exhibit 16.

5 A Q here is again outside of the trailer, sort of a red
6 cup, and R is what is indicated as a piece of glass. S,
7 again, another one of those -- the blood areas,
8 impressions that we identified a little bit closer here.
9 U, T, blood here, and then B, a little bit closer here
10 with B and W.

11 Q And with tire impressions, I guess, why are you
12 preserving these in photos and measuring them?

13 A Again, at the time that we're documenting and
14 processing the scene, we don't know what is going to be
15 important at the time, later down the road, what's going
16 to come up, what's going to be needed for evidentiary
17 value.

18 So we didn't know if the tire impressions in blood
19 were going to be pertinent to the case. We wanted to make
20 sure that we were going to document them. If it's -- they
21 were good enough to have sufficient detail, possibly good
22 enough to determine which vehicle they came from.

23 Q Now, in terms of the blood that's documented, either
24 the tire impressions or the spots, did you have anything
25 to do with collecting swabs from those blood spots?

1 A I helped identify some of the locations. We put
2 numbers down in some of those locations and helped
3 document, and Investigator Bouknight actually collected
4 the swabs from those locations.

5 Q Okay. Let's walk then back through the physical
6 evidence that you collected yourself.

7 A Uh-huh.

8 Q I guess starting with A, B, C, D, E, F, all appear to
9 be blood.

10 A Impressions.

11 Q Right? So you didn't do anything else with that?

12 A Again, the blood was -- was documented with numerical
13 markers, and we put -- we did swab areas of the blood.

14 Q Okay. And you were there also, as I said, working
15 with Bill Allen?

16 A I was.

17 Q Okay. I'm going to show you what's marked as State's
18 Exhibit 41, and in terms of packaging the evidence, do you
19 want it to coordinate then with the markers that you put
20 done?

21 A Generally it should. Again, I did not mark those
22 items, so I would have to look at it to see.

23 Q Okay. If you'll take a look at Exhibit 41.

24 A This is glass located on -- right here to the right.

25 Q Of what we see in Exhibit I -- or excuse me, photo I?

1 A Yes.

2 Q Okay. And I'm going to show you what's marked as
3 State's Exhibit 42.

4 A I have another item of glass actually labeled as a
5 piece of glass with blood. You can see it located here.

6 Q And photo J on this exhibit?

7 A Yes.

8 MS. FENT: Your Honor, at this time, I'd offer into
9 evidence Exhibit's 41 and 42. .

10 MR. COLLINS: No objection.

11 (WHEREUPON, State's Exhibits Nos. 41, 42, having
12 previously been admitted, are admitted again.)

13 BY MS. FENT

14 Q We have some -- where is I?

15 A It's located here. Again, with the trailer here,
16 beginning of the driveway here, with the road here, I is
17 here, the victim was there (indicating).

18 Q Okay. I'm going to show you what's marked as Exhibit
19 43. See if you recognize that.

20 A Forty-three is a piece of glass. Again, if you look
21 at I, it's indicated a piece of the lamp that was -- that
22 was thrown.

23 MS. FENT: I'd offer Exhibit 43.

24 MR. COLLINS: No objection.

25

1 (WHEREUPON, State's Exhibit No. 43, having previously
2 been admitted, was admitted again.)

3 BY MS. FENT

4 Q Okay. Inside then on this sofa, what items, physical
5 items, if any, were collected?

6 A In -- J is here on the sofa. It's blood closer up
7 here. There is a handset, a white handset here on the
8 love seat, labeled K that was collected.

9 Q And I'm also going to ask you to look at State's
10 Exhibit Number 40 in this box and see if you recognize
11 that.

12 A Would you mind if I --

13 Q Do you want some gloves?

14 A I've got some.

15 Q Just take a look at it first.

16 A It's the brown -- one of the brown sofa cushions that
17 I collected.

18 Q Okay. Why were you interested in that sofa cushion?

19 A Again, at the time we didn't know what all was going
20 to be pertinent. There was what appeared to be a tear in
21 the sofa cushion. You can see it here in photograph E on
22 Exhibit 14 there.

23 Q Okay. Take a look at State's Exhibit Number 32 and
24 see if you recognize that.

25 A These are items that I collected. One is a swab from

1 the interior side of the front door; a swab from the
2 exterior side of the front door; a swab from the bedroom,
3 the front bedroom door on the den side; a swab from the
4 mouth of a plastic cup that was located on a dresser in
5 the front bedroom; a swab from the toilet, and a swab from
6 the toilet seat under the underside area.

7 Q Okay. Thirty-three, do you recognize that?

8 A And again, this is an item I collected, a cigarette
9 butt from the top of the filing cabinet in the rear
10 bedroom.

11 Q Thirty-four?

12 A Cigarette butts from ashtray on top of the red crate
13 in the rear bedroom.

14 Q State's Exhibit 22, can you tell us?

15 A This would be the red crate and the ashtray that's
16 located in this rear bedroom.

17 Q Okay. Thirty-five you had indicated there was
18 telephone handset on the sofa?

19 A Right here (indicating).

20 Q Okay.

21 A Okay.

22 Q Thirty-six?

23 A This is a white rag that was located on the den floor
24 in front of the sofa (phonetic).

25 THE COURT REPORTER: I'm sorry, it was a what?

1 THE WITNESS: A white rag.

2 BY MS. FENT

3 Q Can you show us where you -- and then 37?

4 A These were swabs collected from a vehicle that we
5 processed.

6 Q At another time?

7 A Yes.

8 Q Okay. Exhibit 31, do you recognize that?

9 A This is a large knife with a wooden handle that was
10 collected from the kitchen sink.

11 Q Okay. And again, you know, you don't know what's
12 happened. You're just trying to collect everything
13 that -- that might be important later on?

14 A That's correct.

15 Q Okay. No one -- had anyone identified this to you as
16 oh, that's a knife that was used?

17 A No.

18 Q Okay, okay. If you can take a look at State's
19 Exhibit 44 then and see if you recognize the
20 identifications, the markings and what this is.

21 A This is indicated on M on here, again corresponding
22 with M here. This was collected by Investigator Allen.
23 They are cigarette butts and a crack pipe or what we refer
24 to as a crack pipe or a pipe.

25 Q Forty-five, if you will take a look at that.

1 A This is a red cup, again that was collected and
2 marked by Investigator Allen, and here on this picture,
3 the red cup.

4 Q Okay. Exhibit 46?

5 A Again, this is a document collected by Investigator
6 Allen as a lamp, glass, here just off the cement in the
7 grass labeled as R.

8 MR. COLLINS: Your Honor, can we approach briefly?

9 THE COURT: Yes, sir.

10 (WHEREUPON, a bench conference was held in the
11 presence, but not within the hearing, of the jury).

12 BY MS. FENT

13 Q Forty-seven, let me ask you, first of all, just take
14 a look at it and see if you recognize what it is.

15 A Yeah. This is actually my handwriting on the
16 envelope. This area, it looks like I collected it, it's
17 my handwriting on the envelope.

18 Q Okay. And -- so how would your handwriting get on
19 that envelope?

20 A If I was assisting him, following him, maybe helping
21 him with documentation, I might write on the envelope what
22 it is. He would put it in there and then actually take it
23 and submit it into our evidence room.

24 Q Okay.

25 A This particular item I wrote what the item was.

1 Q Would you have been present when he placed that item
2 in the envelope?

3 A I would have been, yes. Well, I would have it in
4 place first and then him collecting it. I don't recall
5 specifically seeing him put it in the envelope.

6 Q Okay. But you're saying that you wrote on the
7 outside of the envelope, so how is this happening? Are
8 you standing there with him while he's picking the
9 evidence --

10 A I'm helping him write out some of the evidence
11 envelopes when he's collecting.

12 Q Okay. And in looking at State's Exhibit Number 22,
13 specifically I guess photographs A and B, what is this
14 that -- or did you see these items sitting here in place?

15 A Yes.

16 Q Okay. Without talking about that exhibit yet.

17 A Okay.

18 Q So did you personally see this that we see in
19 photograph A and B?

20 A Yes.

21 Q And what is this in photograph B?

22 A That is a cup with a condom in it.

23 Q Okay. Can you then take a look just inside exhibit
24 47 and just take a look for yourself and see if you
25 recognize what's in that exhibit.

1 A It appears to be a condom.

2 Q Okay. Do you recognize that?

3 A Yes. From what I recall and you can see the design
4 here, here on this cup.

5 Q Okay. And then you assisted him packaging this item
6 where you wrote on the outside of the envelope for him to
7 place this item in here?

8 A That's correct.

9 MS. FENT: Okay. I offer into evidence 44, 45, 46,
10 and 47.

11 MR. COLLINS: Your Honor, with regards to the condom,
12 she testified that she did not see it placed into an
13 envelope. It's only a white Styrofoam cup and a white
14 condom, which is clearly generic. She has not named any
15 describing characteristics to signify that that's the one
16 that --

17 THE COURT: All right. What about 45 and 46?

18 MR. COLLINS: No objection to 45 and 46.

19 THE COURT: Forty-seven is not admitted.

20 MS. FENT: Or 44 also?

21 MR. COLLINS: No objection to 44 either.

22 THE COURT: All right. In without objection, also.
23 Forty-seven is not admitted.

24 (State's Exhibit 47, having previously been admitted,
25 is not admitted.)

1 (WHEREUPON, State's Exhibits Nos. 44, 45, 46, having
2 previously been admitted, are admitted again.)

3 BY MS. FENT

4 Q If you can tell me from your memory then, do you
5 recall doing anything else at the scene in terms of
6 processing, collecting items?

7 A May I refer to my notes?

8 Q Yes, please.

9 A I processed some of the items for latent fingerprints
10 to try to identify any latent fingerprints that might be
11 on particular surfaces.

12 Some of those were the interior and exterior of the
13 door, a chair in the den a radio in the den, table tops in
14 the den area, countertops in the kitchen and den area.
15 The phone headset that was in the den, broken black phone
16 that was in the den, a filing cabinet in the back bedroom.

17 Additionally, I collected swabs from the interior of
18 the front door, the exterior of the front door. I
19 collected a swab from the mouth of a white plastic cup
20 that was located in the front bedroom found by
21 Mr. Bouknight.

22 I collected swabs from the front bedroom door on the
23 bedside, the toilet handle, and the underside of the
24 toilet.

25 I collected cigarette butts from the back bedroom and

1 on the filing cabinet, a ring from under the sofa cushion
2 and collected several papers from throughout the
3 residence.

4 I also processed some of the areas with what we call
5 L.C.V., which is leuco crystal violet, which is a chemical
6 that we use to sometimes enhance impressions and blood.

7 The chemical actually reacts with hemoglobin in the
8 blood. Sometimes if there's an impression there, we can't
9 see it that well initially until we put that chemical on
10 it. We did not identify any additional fingerprints with
11 that chemical.

12 Q Okay. If you can talk to us just a little bit about
13 trying to find fingerprints, talk to us a little bit about
14 that process and, you know, someone leaving actually a
15 print somewhere.

16 A As mentioned earlier, unfortunately, it's not as easy
17 as it sometimes would seem. If you think about your
18 fingerprints, if you look at your hands, you'll see there
19 are lines on your hands. You also have the same types of
20 lines, which are called friction ridge on the soles of
21 your feet. When you touch a surface, I like to think of
22 it as --

23 MR. COLLINS: Objection, Your Honor. I don't think
24 she has been qualified as an expert in this area.

25 THE COURT: What is your legal objection?

1 MR. COLLINS: This is all speculation and expert
2 opinion, which she doesn't qualify as an expert.

3 THE COURT: Overruled. Go ahead.

4 THE WITNESS: If you think of your fingerprints, the
5 ridges on your skin are it's like a stamp that a child
6 might play with.

7 You take that stamp and put it in ink and then put it
8 on a piece of paper, that picture of that stamp or
9 whatever is on that ink is going to be transferred over to
10 that piece of paper. You see a picture of what's on that
11 stamp.

12 Sometimes when we touch an object and we place our
13 fingers down, sometimes oils and residue that's on our
14 skin will transfer that picture of your fingerprint onto
15 that surface. That's what we generally refer to as a
16 latent print.

17 A lot of times there's prints we can't see with the
18 naked eye, so we have to use some type of enhancement
19 powder, some type of chemical to make those fingerprints
20 visible to react with the surface and the prints that are
21 left there.

22 If those -- if those prints were left there, we
23 develop them with whatever type of chemical we're using
24 and lift them and try to determine the source that left
25 those prints.

1 It's not always as easy as we would like. You might
2 have something on your hand, say a glove or dirt on your
3 hands so you can't transfer it to that item or you might
4 have dirt or something on the item that you touch that
5 won't allow you to make that transfer or your hand might
6 be in motion.

7 Several other items might have touched that
8 particular surface so that it's got several fingerprints
9 on top of it where we can't read it, or the texture of the
10 surface might be rigid or bumpy or cloth so that we can't
11 determine a fingerprint that someone left on a surface.
12 Several factors have to come into play for us to find a
13 fingerprint that we can actually identify.

14 Q So we know that you have been sitting here in this
15 witness stand here for a while. Is it possible you did
16 not leave a fingerprint?

17 A It is possible.

18 Q When you're talking about doing swabs, explain to us
19 exactly what you mean by, you know, taking some swabs.

20 A We take a sterile cotton swab and use distilled
21 water, place a couple of drops of distilled water, if it's
22 a surface that's not already damp, a couple of drops of
23 distilled water and rub it across that surface to see
24 if -- for instance, if I touch this, I might run swabs to
25 see if I might be able to pick up D.N.A. that I might have

1 left from skin cells or some type of fluid that's left on
2 that particular item, or we may take a swab from a liquid.
3 For instance blood, we would take a swab from blood
4 sometimes.

5 Q That's just almost like a big Q-tip or something?

6 A It's like -- yeah, it's -- each one of them is
7 individually packaged and kept in a sterile package until
8 we use it. It is then -- the swab is taken and then
9 placed into individual cartons labeled where they are
10 collected from.

11 Q And that's -- you had already talked about Exhibit
12 32. Is that basically what you're talking about, some of
13 the swabs you took at the house?

14 A Yes, it is.

15 Q And all of the evidence that you collect, just talk
16 to us briefly about the packaging that you all do.

17 A When I collect items, I will -- the items that are
18 collected here are then transported back to our laboratory
19 at which point each one of us -- the laboratory itself has
20 secure access. Only laboratory personnel are able to have
21 access and enter that particular area.

22 In addition to that, each investigator has a secure
23 locker that their evidence goes into. It is secure until
24 we properly package it and submit it to our evidence
25 section where they're secured in the evidence section.

1 Q And is that what you did with the items of evidence
2 that you collected?

3 A Yes.

4 Q Processing for prints, taking the swabs, collecting
5 all of this evidence, doing photographs, anything else
6 that you recall doing out there at the scene?

7 A Not that I recall.

8 Q Were you asked to do anything else in relation to
9 this investigation?

10 A Yes. On August the 30th I processed a vehicle.

11 Q What kind of vehicle was that?

12 A It was a blue Toyota Corolla.

13 Q Exhibit 23, is that the vehicle that you processed?

14 A It is.

15 Q Okay. And what basically were you asked to, you
16 know, process, to do?

17 A Myself and several other investigators actually
18 processed the vehicle together. We identified some areas
19 on the vehicle that tested positive for blood.

20 Several swabs were taken from that area, which was
21 actually the front wheel well area, driver's side of the
22 vehicle. Swabs were taken, in addition to that, from the
23 other investigators, did other things with the vehicle,
24 and we took impressions of the tire, of that front
25 driver's side tire.

1 Q You said that there was some positive blood, some
2 tests for blood that was positive. Explain that.

3 A We -- we found an area that we thought might contain
4 blood, so the Lieutenant at the time actually did a
5 presumptive test on one -- on all of the items and
6 determined that the test came back positive for being
7 blood, at which time we then proceeded with marking
8 particular areas and swabbing those areas.

9 Q And just explain for us then how this marking, these
10 marks are --

11 A The marks correspond with the swab number. For
12 instance, marker number one was a swab collected from
13 behind the driver's side front tire; number two in that
14 same general area, and three and four; five is from the
15 wheel well behind the driver's side front tire. Number
16 six is the wheel well in front of the driver's side front
17 tire. So is seven; eight is the wheel well behind the
18 driver's side front tire. Number nine, again, behind the
19 driver's side front tire and wheel well, and number ten
20 marks behind the driver's side front tire.

21 Q And you had looked at State's Exhibit 37 earlier, but
22 take a look at that again and tell me if you recognize
23 that.

24 A Yes. These are swabs I collected from markers one
25 through nine. Investigator Bouknight collected number

1 ten.

2 Q Okay. And you packaged all of -- all of those swabs?

3 A Yes.

4 MS. FENT: Your Honor, at this time I offer into
5 evidence exhibits 31 through 37.

6 MR. COLLINS: No objection.

7 THE COURT: All right. Thirty-one through 37 in
8 without objection.

9 (WHEREUPON, State's Exhibits Nos. 31 - 37 were
10 admitted into evidence.)

11 MS. FENT: I have no further questions. Answer any
12 questions of defense counsel.

13 THE COURT: Cross-examination?

14 MR. COLLINS: Thank you, Your Honor.

15 CROSS-EXAMINATION:

16 BY MR. COLLINS

17 Q Good afternoon.

18 A Good afternoon.

19 Q I noticed you have been referencing your notes a good
20 bit throughout your testimony, haven't you?

21 A I have.

22 Q And as you're doing investigations and collecting
23 evidence, you keep pretty detailed notes, don't you?

24 A That is -- yes, sir.

25 Q You want them to be accurate.

1 A Yes, sir.

2 Q Thorough.

3 A Yes, sir.

4 Q And complete.

5 A And again, we are on the scene, so some of the times
6 they are just notes for us to remind ourselves for us to
7 do the detailed report later but yes.

8 Q And you go back later and you do a detailed report
9 about everything you did?

10 A The report, the sketches, the notes, and the
11 photographs.

12 Q Sometimes it takes a long time before we end up in a
13 trial like this?

14 A This was in August of 2006.

15 Q And your notes help you remember the details as you
16 did?

17 A The notes assisted in my making the report and yes --

18 Q Okay.

19 A -- recalling the scene.

20 Q Now, you testified in the very beginning that you
21 have to sign in to a crime scene log as soon as you get to
22 a scene, right?

23 A There is an officer there that maintains the crime
24 scene log.

25 Q That's so you will have an exact log of who went into

1 the crime scene.

2 A Yes, sir. I did not maintain that log.

3 Q You signed in when you went inside the crime scene,
4 didn't you?

5 A I don't know that I actually signed in. The person
6 maintaining the crime scene log is the person that came
7 in.

8 Q Standard protocol is that you're supposed to sign
9 that log sheet, right?

10 A Initial it.

11 Q Yes. And then somebody is going to document when you
12 leave that crime scene?

13 A Yes.

14 Q So they had the exact time in and the exact time out?

15 A I don't know about exact. It should be the time that
16 I entered and exited, yes.

17 Q Okay. And that's because when you have a crime
18 scene, you have to worry about contamination.

19 A That is one of the issues that we deal with, yes.

20 Q Because you went into the scene, and you took 124
21 pictures inside and outside of the trailer, right?

22 A I did.

23 Q Your camera has a flash on it, doesn't it?

24 A Yes.

25 Q And when you got there, it was still dark outside,

1 right?

2 A It was.

3 Q There wasn't a street light in front of the trailer
4 in front of the front door, was there?

5 A Not that I recall.

6 Q From -- you can take a look at the pictures if that
7 will help refresh your memory. You can step down if you
8 need to. I think I might scoot back a little.

9 If we can look at picture B on State's Exhibit
10 Number 12, this is a picture -- that's the trailer where
11 this incident happened, right?

12 A It appears to be, yes.

13 Q It appears to be?

14 A From here. I can't really tell.

15 Q You can step down, if it would help.

16 A This is the driveway here, the trailer, the victim
17 here.

18 Q Okay. And directing your attention down to picture G
19 on the same exhibit, are those car lights in the
20 background right there?

21 A They are.

22 Q And going back to picture B, you can see the shadows
23 from your markers on the driveway, correct?

24 A There seems to be a shadow coming from that, yes.

25 Q And that would be consistent with the car lights in

1 this picture down here?

2 A I don't know.

3 Q You can take your time and look at it.

4 A I can say I don't know if that's consistent with the
5 car lights or not. It could be a flashlight, a flash.

6 Q And it would be fair to say you don't see any kind of
7 light emanating from around the front door of the trailer?

8 A I do not.

9 Q It's pretty dark, isn't it?

10 A It had to be dark. It was four o'clock in the
11 morning when I got there. I don't know what time that
12 photograph was taken. I don't know if I took that
13 photograph, but it was dark there.

14 Q Does that fairly and accurately represent what you
15 saw when you got there?

16 A It appears to be, yes.

17 Q Okay. Thank you. You can have a seat.

18 When you got to the scene, you still saw the body in
19 the driveway?

20 A Yes.

21 Q And there was a pool of blood around him?

22 A There was blood around him, yes.

23 Q And would you think a car would be able to pull into
24 that driveway and pull back out and not see that body?

25 A I don't know that.

1 Q You don't know if somebody could do that or not?

2 A No, I don't.

3 Q In your opinion do you think it would have been
4 plausible for that to happen?

5 A It would depend on the lighting at the time they
6 pulled in, what they were doing, what they were looking
7 at. I can't --

8 Q Let's say --

9 A -- say what another person was doing.

10 Q Let's say it was three o'clock in the morning and you
11 pulled in a car with head lights on, would you expect to
12 see the body?

13 A I don't know. Again, I don't know what that person
14 would be doing. I can't answer that question.

15 Q Let's just do a hypothetical. You're in your own
16 car. You're at the scene. You know what the driveway is
17 set up like, right?

18 A Yes, I do.

19 Q Do you remember how it was laid out?

20 A Yes, I do.

21 Q You drew a diagram of it?

22 A I didn't draw it but yes, there's a diagram of it.

23 Q There was a diagram that you just explained to the
24 jury?

25 A Yes.

1 Q You remember the layout of the driveway?

2 A I do.

3 Q Do you remember the lighting of that night?

4 A It appeared to be dark, yes. It was dark. It was
5 night. I don't recall any specific lights out there.

6 Q And you have an understanding of what it's like to
7 drive a car at night?

8 A I do. I usually have my headlights on then.

9 Q In your opinion, hypothetically, you say you pulled
10 into that driveway at about 3:30 that morning, about 30
11 minutes before the police were called, about an
12 hour-and-a-half before you got there, do you think it
13 would be possible to pull in there with your lights on and
14 pull back out without seeing that body?

15 A Again, an hour-and-a-half before I got there, I don't
16 know what the condition of anything was. All I know is
17 how it was when I got there.

18 Q Well, the sun didn't come out for an hour in the
19 middle of the night. It was still dark.

20 A No, but I don't know what was between the vehicle and
21 the victim. I don't know who was out there. I don't know
22 what the driver of that vehicle was doing. Is it -- was
23 it possible to pull in there with your lights on and see
24 the victim? I would say yes.

25 Q It was possible to see the victim if you pulled in

1 there. That's your testimony, or is it possible not to
2 see the victim?

3 A I don't understand your question. Can you ask your
4 question again?

5 Q I was confused with the answer, I'm sorry.

6 A Just ask your question that you would like for me to
7 answer.

8 Q Would you say it was likely if someone is in a car
9 with their headlights on to pull into this driveway in the
10 dark and back back (sic) out, maybe leaving a trail of
11 blood and not see a body?

12 A Would I say that's possible?

13 Q Would you say that's likely based on your own common
14 sense?

15 A When I got there -- the condition that the
16 environment was when I got there, if someone pulled in
17 with their headlights, it would be possible for them to
18 see the victim, yes.

19 Q So would it be likely was the question.

20 A That's the best I can answer your question.

21 Q It's a yes or no question.

22 A I can't answer it yes or no.

23 Q Okay. Thank you. We'll move along then. So you
24 walked into the trailer. Now, in these pictures, there's
25 a light on in the trailer, right?

1 A Yes. There appears to be a light on in the trailer.

2 Q And you took some of these pictures, right?

3 A Yes, I did take photographs of the scene.

4 Q You didn't get there until 5:08, I believe you
5 testified?

6 A Yes, that's correct.

7 Q So you don't know if that light was turned on after
8 someone arrived on the scene?

9 A No, I don't.

10 Q You don't know if that light was turned on?

11 A No, I don't.

12 Q Okay. So you walked into the trailer, and the light
13 was on?

14 A Yes.

15 Q And your job is to inspect every detail of the crime
16 scene to look for potential evidence.

17 A Our job is to identify, collect, document, process
18 evidence; that's correct.

19 Q You were looking for blood?

20 A Yes.

21 Q You want to look for areas where a fingerprint might
22 have been left?

23 A That's correct.

24 Q You want to look for any signs of disarray in the
25 trailer?

- 1 A Correct.
- 2 Q You want to look for any weapons that may be in that
- 3 trailer?
- 4 A Correct.
- 5 Q And you saw some blood in the trailer?
- 6 A Yes.
- 7 Q You saw blood on the couch, correct?
- 8 A Correct.
- 9 Q On the floor?
- 10 A Are you asking me?
- 11 Q On the floor?
- 12 A Correct, yes, I did.
- 13 Q On the other couch?
- 14 A On the loveseat, yes.
- 15 Q On the loveseat. You saw blood above the window.
- 16 A Yes.
- 17 Q So there was blood splattered all on the walls on
- 18 this day?
- 19 A There was blood identified throughout the trailer.
- 20 Q Throughout the trailer. There were blood smears on
- 21 the front door.
- 22 A I don't know that I indicated that in my notes.
- 23 Q And you swabbed the front door, the interior and
- 24 exterior for D.N.A., correct?
- 25 A Yes.

1 Q And you were swabbing trying to get some kind of
2 D.N.A. material, right?

3 A Yes.

4 Q You swabbed the bedroom door for blood?

5 A Yes.

6 Q So --

7 A We identified items and areas that we potentially
8 felt that -- were disturbed, moved, or we were notified
9 that may have had -- been touched by someone involved.

10 Q And a big red smear on the door is probably something
11 you would swab, right?

12 A That -- I don't know that I indicated that as my --
13 in my notes as being a smear. I did indicate blood on the
14 door. I'd have to look at my notes to see if there was a
15 swab taken from that.

16 Q And a smear -- correct me if I'm wrong, a smear is if
17 you have blood on some part of your body and is rubbed
18 onto another surface?

19 A We refer to that as a swipe.

20 Q A swipe?

21 A You have blood on a surface, and it comes into
22 contact with another surface.

23 Q And how would you define a smear?

24 A A smear can also be a swipe, but you can also have a
25 wipe, something -- blood that's already there and

1 something wipes through that, that surface with blood on
2 it.

3 Q Did you note anywhere in your notes whether or not
4 this was a smear, a wipe, or a swipe?

5 A I did not; however, I don't know if Investigator
6 Bouknight may have.

7 Q But you didn't know. You put -- you did put in your
8 notes about the condition of the inside of the trailer,
9 correct?

10 A (There was no response).

11 Q Are you with me?

12 A I made a -- yeah, I was referring to my notes. I
13 made an observation, yes, I did.

14 Q And it appears that it was in -- you put in your
15 notes that it appeared to be in disarray?

16 A There were items knocked over, and it appeared to be
17 in disarray, yes.

18 Q Consistent with a possible struggle inside of the
19 trailer, consistent with it?

20 A Yes, sir.

21 Q Okay. And let's move to the cigarette butts that you
22 collected, okay. You collected the cigarette butts to
23 possibly test for D.N.A. on the cigarette butts, correct?

24 A Yes, that was --

25 Q Because D.N.A. material can be removed from cigarette

1 butts?

2 A You can get D.N.A. from cigarette butts.

3 Q And you can get them from swabbing the cigarette
4 butts, the same process you were talking about swabbing
5 for blood?

6 A We would not -- particularly -- my unit would not
7 necessarily swab the cigarette butts. We would actually
8 enter the cigarette butts into our D.N.A. section.

9 Q And then they would test each individual cigarette
10 butt?

11 A I can't testify to what they would do.

12 Q And you would agree that different people smoked
13 different cigarette butts?

14 A I'm not a smoker, I don't know.

15 Q You don't know about that, and when you collected
16 these cigarette butts you put them all in the same
17 envelope, didn't you?

18 A If they came from the same location, yes.

19 Q The same ashtray?

20 A Yes.

21 Q All right. And you even put -- or Investigator
22 Allen, who was working underneath you at the time,
23 correct --

24 A Yes.

25 Q -- you even put the crack pipe that you found in the

1 bedroom in the same envelope as the cigarette butts.

2 A I believe they were from the same general location.

3 Q And they were all rubbing together in that envelope.

4 A Yes. Again, they would have had contact in that same
5 general location prior to being collected.

6 Q The crack pipe wasn't inside the ashtray, was it?

7 A I don't recall.

8 Q We can look at the picture.

9 A Sure.

10 Q You can step down if you need to.

11 (Pause).

12 Is that a crack pipe inside of the ashtray?

13 A No, it is not.

14 Q Okay. You can sit down now. That's all I have on
15 that.

16 (Complies).

17 Now, I want to take you for a minute to the car that
18 was impounded. You all did some tests on it?

19 A We took the -- I believe the car was taken to our
20 forensic garage.

21 Q And you testified that some blood was indicated on
22 the driver's side wheel well?

23 A Yes.

24 Q You did a -- somebody did a luminal test on the
25 inside of the car, correct?

1 A Yeah, Investigator Bouknight processed the interior
2 with luminal.

3 Q For negative results, right?

4 A That's what's indicated in my notes, yes.

5 Q And in your experience, luminal is a test for the
6 presence of blood?

7 A It could be used as a presumptive test to indicate if
8 blood is present. Again, if it can't be seen with the
9 naked eye, luminal will react with it to determine if it's
10 present.

11 Q And it's used, sometimes used in situations where
12 blood has been cleaned out of a place?

13 A Yes.

14 Q And it was negative anywhere inside of the car?

15 A Yes.

16 Q No blood was indicated anywhere on the driver's side
17 of the -- I mean on the passenger's side of the car?

18 A Again, I did not do the interior of the vehicle.
19 Other investigators did the interior of the vehicle, but
20 my notes do indicate that Investigator Bouknight processed
21 the interior with luminal with negative results.

22 Q And there was no blood present on the outside of the
23 passenger's side of the car?

24 A No. The only blood that I indicate is in the --
25 around the driver's side front wheel well.

1 Q Now, you were talking about fingerprints and how they
2 can be left. Sometimes it's hard to get fingerprints.
3 Would that be a fair statement?

4 A It can be.

5 Q Sometimes you can get a fingerprint if somebody cuts
6 their hand and touches something with the bloody finger or
7 a bloody palm?

8 A Can get an impression in blood?

9 Q Yes.

10 A Yes, which is why we use the L.C.V. in this
11 particular instance.

12 Q And you testified about a glass shard found in the
13 driveway that had blood on it.

14 A There was some glass, yes. There was a particular
15 piece of glass that had blood on it. I believe that was
16 letter H.

17 Q Okay. And that was just put in a manila envelope by
18 you, correct?

19 A I did not collect it, no. Investigator Allen
20 collected it.

21 Q But he was working underneath the --

22 A It was placed in the -- it was placed in that
23 envelope, yes.

24 Q It wasn't placed in any kind of plastic or anything?

25 A No. With a bloody substance on it, we would have

1 packaged it in paper, not in plastic.

2 Q And it wasn't swabbed?

3 A No, it was not. It was collected as opposed to being
4 swabbed. Some of the items that were swabbed were items
5 that we did not collect, so we just collected the entire
6 item --

7 Q And --

8 A -- in that particular instance.

9 Q And to your knowledge -- you never swabbed it, did
10 you?

11 A No, I did not.

12 Q And you collected a knife from the scene?

13 A I did.

14 Q No blood was on it?

15 A I did not indicate there was any blood. I did not
16 see any blood on it.

17 Q You didn't test it with luminal?

18 A No, I did not.

19 MR. COLLINS: No further questions. Thank you.

20 THE COURT: Any redirect?

21 REDIRECT EXAMINATION:

22 BY MS. FENT

23 Q Just generally, he was asking you about not wrapping
24 something in plastic and wrapping it in paper. Why paper
25 versus plastic?

1 A If we have a bloody item, we want to put it in paper
2 not plastic because plastic can degrade the blood itself,
3 and we may have problems if we want to do a D.N.A. later.
4 So we package it in paper, not plastic.

5 Q Is this standard procedure for all criminal
6 investigators, crime scene investigators?

7 A Yes.

8 Q Okay. This is what they teach at national, national
9 courses on crime scene investigation?

10 A It could be, yeah.

11 Q Okay.

12 A Blood will degrade depending on the amount of time it
13 is spent in that particular packaging.

14 MS. FENT: No further questions.

15 THE COURT: You may step down. Thank you very much.

16 THE WITNESS: Okay.

17 THE COURT: All right. Madam foreman and ladies and
18 gentlemen of the jury, it's four o'clock. We've been
19 going for about an hour-and-a-half. We're going to take
20 about a ten, 15 minute break. Please don't discuss the
21 case among yourselves. We'll get you back in about 15, 20
22 minutes. If you'll follow the bailiff.

23 (WHEREUPON, the jury left open court at approximately
24 3:58 p.m.)

25 THE COURT: All right. Mr. Collins, we had a bench

1 conference. Is there anything you would like to put on
2 the record concerning the exhibits?

3 MR. COLLINS: Yes, Your Honor. We made -- I
4 consented to a number of items on the list that was read
5 into the record numbered.

6 I consented to them being entered into evidence
7 without the chain of custody. I did so under the
8 impression given to me by the prosecutors that each person
9 that collected the evidence would be here to testify.

10 At some point I was informed that one of the C.S.I.
11 operatives, B. Allen, is not going to testify. I made
12 these concessions under the assumption that he would
13 testify because that's was what was informed to me. I
14 feel that after I made these concessions and it's entered
15 into evidence, it's already too late for me to bring it
16 back. I made this concession under that impression that
17 was given to me. I don't think --

18 THE COURT: Well, which specific items are you
19 referring to? Number 47 was the used condom.

20 She didn't see -- I believe at the bench conference
21 the Court told you if this -- if the last witness,
22 Ms. Clemmons or Lieutenant Clemmons, could not identify
23 where it was removed from, then they would have to call
24 the person that retrieved it. I did not admit number 47
25 which is a used condom; is that correct?

1 MR. COLLINS: That's correct.

2 THE COURT: Because she did not see it removed. Now,
3 do you have an objection to any of the other exhibits?

4 MR. COLLINS: Your Honor, my --

5 THE COURT: Other than what we talked about, the used
6 condom? Any others that we need to discuss?

7 MR. COLLINS: I think I may need to clarify what I'm
8 saying. I made the concession on the chain of custody.
9 Everything on this list that's --

10 THE COURT: I understand that.

11 MR. COLLINS: -- I consented to that, under that
12 impression.

13 Now that we're missing somebody, I don't know that I
14 would have made that same concession. That's what I want
15 to put on the record. I don't know how we can fix that at
16 this point because I've already made the concession, and
17 they're already in evidence.

18 THE COURT: I'm trying to fix it for you. I'm
19 telling you if the lady did not see it being retrieved
20 from the location, then I'll get the State to put up the
21 witness that retrieved it before admitting it into
22 evidence. That's what I'm trying to tell you. Now, will
23 would that correct your problem?

24 MR. COLLINS: That would correct the problem,
25 especially if --

1 THE COURT: Does the State understand?

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Okay.

4 MS. GARFIELD: If I can just reply to Mr. Collins, we
5 did talk, and I was under the impression that all the
6 physical evidence taken at the scene would have to be
7 admitted through someone who was at the scene who
8 collected it.

9 I followed my source. I was under the impression
10 Lieutenant Elsey Clemmons was there to observe all of the
11 items taken in. We have no problem with the item that you
12 have ruled not to come in. That's fine. She was there to
13 observe the items, so that she did testify to the
14 photographs. We would --

15 THE COURT: I understand everything is in evidence
16 except number 47.

17 MS. GARFIELD: Yes, sir. We have no --

18 THE COURT: Okay. Before it goes in, whoever
19 retrieved it, has to testify.

20 MS. GARFIELD: Yes, sir, and we understand that.

21 THE COURT: Okay. All right. Anything else before
22 we take a break?

23 MR. COLLINS: Your Honor, just to clarify, and I'm
24 not sure -- I know -- am I entitled to a
25 recross-examination on witnesses or is it, in your

1 courtroom, not something I'm entitled to?

2 THE COURT: Are you entitled to what?

3 MR. COLLINS: A recross of a witness after redirect.

4 THE COURT: I'm not going to recross. That's up to
5 the Court. You can call whatever witnesses you want to
6 call on your side. I'm not getting into recross.

7 MR. COLLINS: Thank you, Your Honor.

8 THE COURT: That's in the Court's discretion. We're
9 not going to do a recross by either side.

10 MR. COLLINS: Okay.

11 THE COURT: We're going to have direct, cross, and
12 redirect. Now, if you want to call a witness in your case
13 in chief, that's fine. I don't have a problem with that.

14 MR. COLLINS: Thank you, Your Honor. I just wanted
15 to clarify that.

16 THE COURT: Thank you very much. Thank you.

17 (WHEREUPON, a short break was taken.)

18 THE COURT: Please be seated. Is the State ready to
19 proceed?

20 MS. GARFIELD: Yes, sir.

21 THE COURT: Is the defense ready to proceed?

22 MR. COLLINS: Yes, sir.

23 THE COURT: Bring us the jury, please, sir.

24 (WHEREUPON, the jury came into open court at
25 approximately 4:26 p.m.)

1 THE COURT: All jurors available.

2 MS. GARFIELD: The State calls Investigator Mike
3 Bouknight.

4 MICHAEL BOUKNIGHT, after being duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION:

7 BY MS. GARFIELD

8 Q Where are you employed?

9 A With the Richland County Sheriff's Department, crime
10 scene unit.

11 Q How long have you been employed with the Sheriff's
12 Department?

13 A With the sheriff's department for six-and-a-half
14 years.

15 Q What did you do previously?

16 A I worked as a police officer with the West Columbia
17 Police Department.

18 Q How long have you been with the crime scene
19 department?

20 A Since August 15th, 2005.

21 Q Have you received any particular training in courses
22 and crime scene investigation?

23 A Yes, ma'am.

24 Q If you would, please explain to the jury your
25 training and background.

1 A Yes, ma'am. First of all, I completed an in-house
2 training program which covers all aspects of crime scene
3 investigation, processing, photography, blood stain
4 pattern analysis, footwear and tire wear comparisons and
5 fingerprint development and comparison which took
6 approximately 18 months.

7 I've also completed training in forensic
8 anthropology, a 16-hour course in expert witness
9 testimony, a 40-hour course in basic fingerprint, a
10 24-hour course in crime scene reconstruction, a 40-hour
11 course in blood stain pattern analysis, forensic
12 photography, forensic art, a 40-hour course in crime scene
13 reconstruction, comparison of footwear evidence, a 24-hour
14 course, a 40-hour course in large vehicle bomb, and a
15 course in D.N.A. overview, forensic pathology, another
16 course in expert witness testimony, and a 40-hour course
17 in advanced blood stain pattern analysis.

18 Q Are you familiar with the show C.S.I.?

19 A Yes, ma'am.

20 Q Is your job anything like that?

21 A A little bit.

22 Q Can you explain to the jury what you mean by that?

23 A The way I like to explain it is, you know, that's for
24 entertainment and ours is real life. Probably about
25 80 percent of the stuff they do on there is scientifically

1 correct. The other stuff isn't even close.

2 The stuff that they do make happen for T.V. may be
3 some day kind of would happen under the best possible
4 circumstances, but it just doesn't happen like that in
5 real life.

6 Q Investigator Bouknight, were you assigned to work a
7 case on August 25th, 2006?

8 A Yes, ma'am.

9 Q And where were you asked to respond to?

10 A I was contacted by my supervisor, Sergeant Clemmons,
11 and was advised to respond to [REDACTED] Brookhurst Drive, lot
12 number [REDACTED].

13 Q About what time do you believe you arrived there?

14 A It was approximately 7:16 in the morning.

15 Q About when you arrived, who all was already on the
16 scene?

17 A When I got there, Sergeant Clemmons and Investigator
18 Billy Allen were already on the scene.

19 Q And when you arrived, what did you observe at the
20 crime scene?

21 A I observed the victim, Mr. Guzman, was still there
22 covered with a sheet. He was being ready to be removed by
23 the body removal service.

24 There were blood stains, tire impressions in blood on
25 the outside of the house and different types of blood

1 patterns in the driveway and also blood stains throughout
2 the interior of the home.

3 Q What had your colleagues already done when you
4 arrived?

5 A When -- before I had arrived, they had already
6 photographed and marked the scene with the different tire
7 impressions in the blood and the different types of blood
8 within the home, the different areas, had marked those
9 with tent markers like you see on T.V. and then sticky
10 tabs that are marked with the different numbers.

11 Q And what were you instructed to do when you arrived?

12 A I was instructed to rephotograph some of them, the
13 tire impressions, mainly, with and without the scale. We
14 tried enhancement with L.C.V., leuco crystal violet, which
15 reacts with blood. We also -- I was told to swab all of
16 the areas of blood that had been marked already.

17 Q And approximately how many areas did you swab?

18 A Twenty-two.

19 Q And can you just briefly explain what does swabbing
20 mean?

21 A To swab for blood or any suspected D.N.A. we use a
22 sterile cotton tip, basically like a Q-tip, moisten it
23 with distilled water, swab the blood or where you suspect
24 D.N.A. could be located. It's placed in its own
25 individual cardboard box, and then that's forwarded to our

1 D.N.A. lab for analysis.

2 Q Investigator, how did you label the places you were
3 swabbing so that you could remove it for court today?

4 A Whenever I took a swab, I would label it "from blood
5 spot marked marker number" whichever marker number it was
6 on there, you know, one through 22.

7 Q I'm going to show you what's been marked as evidence,
8 State's Exhibit Number 17.

9 Your Honor, may the witness step down?

10 THE COURT: Yes, ma'am.

11 BY MS. GARFIELD

12 Q Investigator, on this exhibit you'll see eight
13 pictures labeled A through H.

14 A Yes, ma'am.

15 Q Can you explain what these pictures represent?

16 A In all of them, it's different blood stains that are
17 -- have been marked with the yellow tent markers and also
18 the numerical sticky markers. They're located here. It's
19 really hard to see from back there. Here are markers
20 number one and number two, and then number three way up
21 here.

22 Here is a little bit closer up, but this is probably
23 about the best one you can see, number one and number two,
24 which are drip stains, basically kind of 90-degree drips,
25 and then this is some pooling from somebody or something

1 that was bleeding was there for awhile. That's marker
2 number three.

3 Q And where are all of these blood spots and pools
4 found?

5 A These are outside of the trailer in the driveway
6 area. Then number four was also some pooling here, and
7 here is another photograph showing the relationship of
8 number four to number five which -- it looks like it's a
9 partial tire impression, and then number six is another
10 blood drop.

11 Q If you'll just stay right there.

12 Investigator, I'm going to show you what has been
13 marked as State's Exhibit Number 24. Do you recognize
14 this package?

15 A Yes, ma'am.

16 Q And can you explain what that package contains?

17 A These are the first set of swabs of blood that I took
18 from evidence markers number one through number seven.

19 Q And would that include the markers that we see in
20 State's Exhibit 17?

21 A Yes, ma'am. It's all of these and then another one.

22 Q Thank you. Just stay right there, please.

23 I'm going to show you what's been marked as State's
24 Exhibit Number 18. This exhibit has eight photographs
25 also labeled A through H. Can you please explain to the

1 jury the photographs of A through B?

2 A Yes, ma'am. This photograph A is midrange photograph
3 showing tent marker F, which is a tire impression in
4 blood. Then seven is shown in the background here near
5 this spot, and then a close up view shows that it's a drop
6 of blood.

7 Q And in relation to that, what do you see here in the
8 picture?

9 A This is the front steps.

10 Q Leading into where?

11 A The incident location.

12 Q And in the package you have before you, State's
13 Exhibit Number 24, what is that last swab that's in there?

14 A That's number seven from this drawing.

15 Q That's the one that corresponds with the pictures A,
16 B?

17 A Yes, ma'am.

18 Q Thank you.

19 All right. If you'll please continue with the
20 remainder of the pictures explaining what each of them
21 are.

22 A This is showing the entry into the incident location
23 and a mid-range photo with marker number eight, and then
24 there's a close up of marker number eight showing a blood
25 drop there. Then this is the door into the incident

1 location with number nine, and a close up of number nine
2 is some blood there. Then number ten showing this
3 relation -- this is inside if you're going out of the door
4 to the right down at the bottom. Then here's a close up
5 of number ten.

6 Q Is that a door from inside or outside the residence?

7 A This is the outside of the door. This is from the
8 inside of the residence.

9 Q Thank you.

10 Investigator, I'm now going to show you State's
11 Exhibit Number 19 that's been marked for evidence,
12 pictures A through H.

13 A Yes, ma'am.

14 Q Do you recognize these photographs?

15 A Yes, ma'am. These are also photographs of the
16 interior of the incident location that show -- once again,
17 to the right side of the wall you can see marker number
18 ten here. This one is marker 11.

19 These are blood drops that are close ups of marker
20 number 11. Then this is a sofa that's in the living room,
21 and it's got 12 and 13 on it. Then this is a close up of
22 12 and 13 here, and 14 is down here on the floor. It's a
23 bloody rag. Then this is another sofa inside the home
24 with marker number 15 and 16 on the floor.

25 Q In all of these locations that you pointed to, were

1 swabs collected?

2 A Yes, ma'am.

3 Q And collected by who?

4 A By me.

5 Q And in relation to that front door you were showing
6 us, what is this room?

7 A This is the living room, what I would call the living
8 room.

9 Q And each of these pictures were taken in the living
10 room?

11 A Yes, ma'am.

12 Q Thank you.

13 And I will now show you what's been marked for
14 evidence State's Exhibit Number 20, another board of
15 photographs marked A through I. If you will go through
16 photograph A and B.

17 A Okay. These are -- this is a photograph that's a
18 wall, and there's blood here at 17 and 18. There's a
19 close up photograph of those two, 17 and 18.

20 Q And swabs were taken from those spots, as well?

21 A Yes, ma'am.

22 Q And who were they taken by?

23 A By me.

24 Q At this time, Investigator, I'm going to show you
25 what's been marked as State's Exhibit for I.D. purposes

1 number 25. Do you recognize this package?

2 A Yes, I do.

3 Q And can you explain to the jury what that package
4 contains?

5 A These are the swabs, the swab boxes, that I took from
6 blood spot number eight through number 18.

7 Q And those are correlating with the previous pictures
8 you testified to?

9 A Yes, ma'am.

10 Q Your Honor, at this oh, never mind.

11 (Pause).

12 Investigator, if you would just please continue
13 explaining the remainder of the pictures on this board.

14 A Yes. This is a photograph of the bedroom door which
15 was to the right side of the living room, and it's a
16 slight pattern on the -- what would be the outside of the
17 bedroom door. Then this is number 20, which kind of all
18 you see is one little blood drop here. Then 21 is some
19 blood that appears to be a cast-off pattern across the top
20 of the window and a closer up, a close-up photograph of it
21 here. Then 22, there is some blood that's above the light
22 switch here.

23 Q Investigator Bouknight, in reference to State's
24 Exhibit 20, pictures G and I -- yes, G and I, what -- what
25 do you mean by cast-off?

1 A A cast-off stain is caused by -- the easy way to
2 explain it is if you cut your finger and you moved your
3 hand quickly like that, the blood would come off in drops.

4 Some went in a straight line, so you could tell which
5 way your hand was moving. It comes off those, centrifugal
6 force and force of gravity reacting on the blood. That
7 happens in assaults sometimes where, you know, someone was
8 beaten, whenever the weapon becomes contaminated with
9 blood and it's moved back into an arcing pattern, the
10 blood will come off the tip of it.

11 Q And is there anything unusual in picture E on State's
12 Exhibit 20?

13 A It just appears to be a swipe pattern. A swipe
14 pattern is whenever something is contaminated with the
15 blood, comes in contact with a non-blood surface. If I
16 have blood on my hand and I touch here and I swipe it
17 across the surface, it's going to leave a feathering edge
18 to it so you could tell which direction of travel the
19 bloody object was going.

20 Q Thank you, Investigator Bouknight.

21 A You're welcome.

22 Q If you'll just please remain here.

23 I'll now show you what's been marked into evidence
24 State's Exhibit Number 21, photographs A through G. Do
25 you recognize these photographs?

1 A Yes, ma'am. These are photographs -- they're more
2 overall photographs of the incident location, the inside
3 of the front door, the exterior of the home and a storm
4 door here. This is the sofa and the loveseat, the bedroom
5 door, and then this is from the bedroom door from the --
6 looking into the kitchen, and this is into the kitchen and
7 down the hallway, and this is another one back at the
8 bedroom.

9 Q Are -- was there anything in these photographs that
10 you physically collected other than the blood spots?

11 A I collected -- there were cigarette butts on the
12 sofa, and there were some in this hot pepper ashtray, hot
13 pepper shaped ashtray here. I also collected swabs from
14 the interior and exterior storm door handles.

15 Q Did you collect any other cigarette butts besides
16 those two?

17 A Yes, ma'am, some from a black ashtray in the bedroom.

18 Q I'm going to hand you what's been marked as State's
19 Exhibit 26. Can you explain to the jury what is contained
20 in that package?

21 A Yes, ma'am. These are cigarette butts from -- seven
22 cigarette butts from the sofa, five from the hot pepper
23 ashtray and four from the black ashtray. I swabbed from
24 the exterior door handle by the storm door. I swabbed the
25 interior handle of the storm door and blood spots 19, 20,

1 21 and 22.

2 Q And specifically when you refer to that storm door
3 can you show us what you're talking about?

4 A This storm door right here.

5 Q And when you say interior, on the inside and outside,
6 are you referring to both sides?

7 A Yes, ma'am, the interior handle, there's one swab and
8 the exterior handle is another swab.

9 Q Thank you. You can take your seat now.

10 A Thank you.

11 Q For a minute.

12 Did you have the opportunity to collect any other
13 items from this incident location?

14 A Yes, ma'am. I went back the next day on the 26th,
15 and I selected five Bud Lite beer cans and two King Cobra
16 beer bottles.

17 Q Why did you go back the next day to do that?

18 A After discussing it with Sergeant Clemmons, we
19 thought we might go back and get those. I can't remember
20 the exact reason. I think there was some new information
21 that came up in the investigation.

22 We went back -- well, I went back and collected those
23 and brought them back to our crime scene lab for
24 processing.

25 Q And what were you going back to process for?

1 A Latent fingerprints. I used -- processed them using
2 cyanoacrylate, which is basically superglue fuming and
3 using black powder. Then after I developed prints, those
4 were lifted and sent to our latent print section for
5 analysis, and I took swabs from the mouths of the beer
6 cans and the bottles and submitted those for D.N.A.
7 analysis.

8 Q Investigator Bouknight, I'm going to hand you State's
9 Exhibits number 28 and number 29. Do you recognize these
10 packaged documents?

11 A Yes, ma'am. These are the five Bud Lite beer cans
12 that I collected, and these are the two King Cobra bottles
13 that I collected.

14 Q And if you can give just a little more detail.
15 Specifically, what did you do with these items once you
16 got back to the Richland County Sheriff's Department
17 laboratory?

18 A I placed them in our cyanoacrylate fuming chamber,
19 which is a chamber specifically designed for superglue
20 fumes. The superglue esters, whenever they atomize on the
21 hotplate, they will adhere to any fingerprints on there
22 and make them more durable and easier for us to process
23 and see.

24 I did that, then after I developed some, one on the
25 beer bottle and one on the beer can, I lifted those prints

1 and sent them to our latent prints section.

2 Then using the same method that I used for swabbing
3 the blood, which is a sterile cotton swab and the
4 distilled water, I swabbed the mouth of the beer bottle
5 just in case, you know, whoever drank out of it, they left
6 some D.N.A. on the rim of it.

7 Q Were you able to lift any prints?

8 A Yes, ma'am.

9 Q Approximately how many?

10 A Two.

11 Q And you sent those to the latent department of the
12 sheriff's department?

13 A Yes, ma'am.

14 Q And what was your purpose of sending them?

15 A To have them examined to see if they were of A.F.I.S.
16 quality and have them run in A.F.I.S. if they were of such
17 quality.

18 Q I'm going to hand you what's been marked as State's
19 Exhibit 27. Do you recognize this package?

20 A Yes, ma'am.

21 Q And can you please tell the jury what that package
22 represents?

23 A These are the swabs from the five Bud Lite cans and
24 from the two King Cobra bottles.

25 Q And those were collected by you?

1 A Yes, ma'am.

2 Q Thank you.

3 Referring to your notes, did you observe anything
4 else about the crime scene in reference to a window?

5 A Yes, ma'am. There was an exterior -- there was a
6 window that the glass was broken, and there were still
7 some jagged pieces of glass in there. There was a piece
8 of sheetrock, looked like it was wedged into the window
9 frame. If I may check my notes real quick. I'm not sure
10 if we could tell if it was fresh or new.

11 Q Are those notes you prepared in preparation after
12 investigating this case?

13 A Yes, while I was on the scene. I just noticed also
14 that all the other windows in the home were covered with
15 either plastic or a piece of wood or a piece of cloth or
16 something like that.

17 Q Do you recall where that window was located?

18 A I believe it was in the bedroom.

19 Q And do you recall which bedroom?

20 A The right-side bedroom.

21 Q Would that be considered the bedroom up front?

22 A Yes, ma'am.

23 Q If I can ask you to look at State's Exhibit
24 Number 15, picture A. Do you see --

25 A Can I --

1 Q Yeah, please, I'm sorry. Do you see the picture
2 you're referencing -- I mean, the window you're
3 referencing?

4 A Yes, ma'am. It's this one right here next to the --
5 next to the bed.

6 Q Thank you.

7 A You're welcome.

8 Q Do you recall anything else that you would have
9 collected during your investigation at the mobile home?

10 A I also collected an earring, a maroon notebook,
11 another notebook, and I collected a fingerprint card from
12 a white cup on the dresser that I processed.

13 Q And do you recall why you were collecting all of
14 those other items?

15 A Because we were trying to identify the female that
16 was in the incident location. I don't think we were sure
17 of her actual identity. We were trying to get something
18 that we could link to her to find out exactly who she was.

19 Q At that time y'all were unaware when you were on the
20 scene?

21 A I was, yes, ma'am.

22 Q At any time after your investigation at the mobile
23 home park, were you asked to process anything connected to
24 this case?

25 A (There was no response).

1 Q Specifically, I'm referencing were you asked to
2 process a car?

3 A Oh yes, ma'am. That was later on at our crime
4 scene -- at our crime scene garage.

5 Q Can you refer to your notes and tell the jury when
6 you were asked to process the car?

7 A That was August 30th, 2006.

8 Q If you would step down briefly, Investigator. I'll
9 show you State's Exhibit Number 23, again, photographs A
10 through G. Do you recognize these photographs?

11 A Yes, ma'am. This is photographs of the car that we
12 processed.

13 Q And what specifically did you process?

14 A I processed -- I assisted in processing the interior
15 with luminal which reacts with blood, and no reaction was
16 seen as far as luminal. I swabbed that blood drop.

17 Q And where was that blood drop --

18 A It was --

19 Q -- that blood drop located?

20 A -- the interior wheel well of the -- this vehicle.

21 Q I'll hand you what's been marked as State's Exhibit
22 Number 30. Do you recognize that package?

23 A Yes, ma'am. It contains a swab I took of blood from
24 spot number ten.

25 Q Thank you. Please take your seat.

1 Your Honor, at this time the State would move into
2 evidence State's Exhibit Number 25, 26, 27, 28, 29 and 30.

3 MR. COLLINS: No objection.

4 THE COURT: Twenty-five through 30 admitted without
5 objection.

6 (WHEREUPON, State's Exhibits Nos. 25 - 30 were
7 admitted into evidence.)

8 MS. GARFIELD: Thank you. Beg the Court's
9 indulgence.

10 (Pause).

11 Investigator Bouknight, thank you. Please answer any
12 questions Mr. Collins has for you.

13 THE WITNESS: You're welcome.

14 THE COURT: Cross-examination.

15 MR. COLLINS: Thank you, Your Honor.

16 CROSS-EXAMINATION:

17 BY MR. COLLINS

18 Q Let me move this out of the way here.

19 (Pause).

20 How are you doing today, Investigator?

21 A I'm doing good, sir. How are you?

22 Q I'm doing pretty good.

23 Were you the first C.S.I. member to arrive at the
24 scene?

25 A No, sir.

1 Q No. Who would that be?

2 A I believe it was Investigator Billy Allen.

3 Q About what time did you get there?

4 A I got there at -- if I may look at my notes,
5 approximately 7:16 in the morning.

6 Q The sun was already coming up?

7 A Yes, sir.

8 Q All right. And you described to the Solicitor a
9 little bit about the inside of the trailer. You swabbed
10 blood spots from the walls?

11 A Yes, sir.

12 Q From the couch?

13 A Floor.

14 Q Floor, doors?

15 A Yes, sir.

16 Q And you're swabbing that trying to get the D.N.A.
17 evidence?

18 A Yes, sir.

19 Q To be tested later?

20 A Yes, sir.

21 Q See if it matches with any person's D.N.A.?

22 A Yes, sir.

23 Q At that time you don't know if it's the victim's
24 blood, correct?

25 A Correct.

1 Q Or possibly the person that committed the attack's
2 blood?

3 A Yes, sir.

4 Q Or somebody else's blood?

5 A Yes, sir.

6 Q And then some of the pictures that you took -- you
7 took a picture of a bowl of noodles, didn't you?

8 A I believe I did.

9 Q Do you remember seeing a bowl of noodles in the
10 kitchen?

11 A I remember -- yes, sir, I sure do.

12 Q Ramen noodles, weren't they?

13 A It looks like it, yes, sir.

14 Q And you couldn't tell if they were still warm or cold
15 at that time?

16 A I didn't check them.

17 Q Probably cold at that point.

18 You attempted to lift prints off a number of things?

19 A Yes, sir.

20 Q You wrote a report about what you did at the trailer,
21 right?

22 A Yes, sir.

23 Q And you wrote a report about what you did with the
24 car?

25 A Yes, sir.

1 Q And that's standard operating procedure?

2 A Yes, sir.

3 Q Now, you tried to take prints from a dresser top?

4 A Yes, sir.

5 Q Bedroom door?

6 A Yes, sir.

7 Q Toilet seat?

8 A Yes, sir.

9 Q Toilet handle?

10 A Yes, sir.

11 Q Toilet rim?

12 A Yes, sir.

13 Q White cup on a dresser?

14 A Yes, sir.

15 Q An ashtray on a couch?

16 A Yes, sir.

17 Q Television in the bedroom?

18 A Yes, sir.

19 Q Bathroom on the sink?

20 A Yes, sir.

21 Q And a wall above the toilet. I guess you were

22 thinking maybe you had a palm print up there?

23 A Yes, sir.

24 Q And then you testified that when you went back, I

25 believe it was the following day, to get the bottles and

1 the beer cans?

2 A Yes, sir.

3 Q You took those back to the lab, right?

4 A Yes, sir.

5 Q And you fumigated those?

6 A Yes, sir.

7 Q And you said that makes it easier to lift prints off
8 of it?

9 A Sometimes it does. It depend on the type of surface.

10 Q And in this situation it did. You were able to lift
11 two prints off the bottles and the cans?

12 A Yes, sir.

13 Q A total of two prints. You didn't take the ashtray
14 that you indicated?

15 A No, sir.

16 Q You didn't take the door hand handle to be fumigated?

17 A The door handle?

18 Q Yes, the door handle.

19 A No, sir.

20 Q And you didn't take the toilet handle to be
21 fumigated?

22 A No, sir.

23 Q Now, I want to take you to the back bedroom. You
24 observed cigarette butts in an ashtray, correct?

25 A Yes, sir.

1 Q And you observed a crack pipe next to that ashtray?

2 A No, sir.

3 Q If you looked at the picture, would it refresh your
4 memory?

5 A I've seen a picture of one. I believe it was --
6 might have been collected before I got there.

7 Q Okay. And when you collected the cigarette butts,
8 did you put more than cigarette -- more than one cigarette
9 butt in the same envelope?

10 A Yes, sir.

11 Q And they're together?

12 A The ones that were in each ashtray, they were
13 co-mingling in the ashtray, so they all went into one
14 envelope.

15 Q Dumped them all in one?

16 A Yes, sir.

17 Q Where they could rub up against each other?

18 A Yes, sir.

19 Q And in regards to the car, you testified there's
20 blood indicated on the...

21 A Wheel well.

22 Q Driver's side?

23 A Yes, sir, front and the left.

24 Q You sent that off to be tested?

25 A Yes, sir.

1 Q You didn't detect the presence of blood anywhere else
2 in the car?

3 A No, sir.

4 Q But you looked for blood all over the car, right?

5 A No, sir.

6 MR. COLLINS: Thanks, I appreciate it.

7 MS. GARFIELD: Nothing further, Judge.

8 THE COURT: Okay. Thank you very much. You may step
9 down.

10 THE WITNESS: Thank you.

11 THE COURT: Do you want to call your next witness?

12 MS. GARFIELD: Your Honor, may Investigator Bouknight
13 be excused?

14 THE COURT: Any objection?

15 MR. COLLINS: No objection.

16 THE COURT: You're excused. Thank you very much.

17 MS. GARFIELD: State calls Linda Morphis.

18 LINDA MORPHIS, after being duly sworn,
19 testified as follows:

20 THE CLERK: Have a seat in the witness box, and state
21 your name for the record, please.

22 THE WITNESS: Linda Morphis.

23 DIRECT EXAMINATION:

24 BY MS. GARFIELD

25 Q Good afternoon, Ms. Morphis.

1 Ms. Morphis, where are you employed?

2 A I'm a Sexual Assault Nurse Examiner at Palmetto
3 Health Richland and Baptist.

4 Q I'm just -- Your Honor, may I approach the witness
5 just to move that box?

6 THE COURT: Yes, ma'am.

7 BY MS. GARFIELD

8 Q I'm not the tallest person. I can't see.

9 Can you give the jury some information regarding your
10 background in nursing?

11 A I have been a women's health nurse practitioner for
12 over 25 years and a sexual assault nurse examiner for
13 five.

14 Q And what made you go into sexual assault nurse
15 examination?

16 A I just wanted to help women who are in that situation
17 to ease the trauma of it to -- just to assist in their
18 recovery, that type of thing. Being a women's health
19 nurse practitioner, I saw many women who had been
20 assaulted and had come to me for care after the fact and
21 just wanted to get more involved with the process of it.

22 Q Can you explain to the jury what a sexual assault
23 nurse examiner is?

24 A It's a registered nurse. You don't have to be a
25 nurse practitioner. I am one, but you don't have to be.

1 A sexual assault nurse examiner collects evidence,
2 interview the patient, try to make the process of evidence
3 collection as painless and as efficient as possible.

4 Q Were you asked to conduct an examination on a patient
5 the morning of August 25th, 2006?

6 A I was.

7 Q Can you recall or explain to the jury what you
8 observed about this patient initially?

9 A Well, it's really vivid in my mind because it was
10 such a brutal attack, and she was so ill. She wasn't
11 really expected to live when I was called in to do her
12 exam.

13 She was in the surgical intensive care recovery room.
14 She was unconscious. She had multiple I.V.s. She had
15 been to surgery. She had multiple lacerations that had
16 been sutured. She had bandages all over, and she was just
17 there being assisted to breathe and to maintain her blood
18 pressure and her vital signs.

19 Q Do you know the name of this patient?

20 A I don't recall her name, actually.

21 Q Would it help you to refer to your notes?

22 A Yes.

23 MS. GARFIELD: May I approach the witness?

24 THE COURT: Yes, ma'am.

25 THE WITNESS: Thank you.

1 BY MS. GARFIELD

2 Q Do your notes help refresh your memory?

3 A Yes. Thank you. I needed that because she -- at
4 first I don't think that her name was known, and then she
5 was just listed as "trauma patient", but her name was Mary
6 Chavis or Chavis.

7 Q Thank you. Do you recall why you were asked to do
8 such an examination?

9 A She -- the call that I got from the hospital nurse
10 said that it -- she had bleeding that appeared to be
11 vaginal, and they wanted evidence collected to see if it
12 was a sexual assault.

13 Q To explain to the jury -- not talking about the
14 examination you conducted on Ms. Chavis, can you explain
15 to the jury what entails in a typical sexual assault
16 examination?

17 A It's a very comprehensive physical exam to collect
18 evidence. We use multiple cotton swabs to put on the skin
19 to collect any D.N.A. that may be there. We collect hair
20 from the head, from the vaginal area. We do a speculum
21 exam. We do swabs from the genital area. We look at
22 those swabs under the microscope.

23 We collect clothing. We collect any trace evidence
24 like little pieces of weed or bark or dirt that may be on
25 the patient when they undress. It's a very extensive

1 evidence collection process and interview.

2 Q And normally when you're conducting such an
3 examination, is the patient conscious?

4 A Yes.

5 Q And when you first approached that particular -- I'm
6 not talking about Ms. Chavis. I'm talking about in
7 general, what would you have that patient do?

8 A We do an interview to get exactly what happened in
9 the patient's words. We write down verbatim what they say
10 to us. We document everything that we -- all the evidence
11 that we collect, any bruising that we see, any trauma to
12 the patient, all of that is documented in very extensive
13 notations.

14 Q And how do you go about collecting that evidence that
15 you refer to as debris, things of that nature?

16 A We have cotton swabs that we use. We put it all in
17 individual envelopes, label it with the patient's name,
18 with our name, with the time it's collected.

19 It's a very precise protocol that we go through to
20 collect the evidence. Then we -- after all of that, we
21 dry the swabs that we take. We put the clothing in
22 separate bags, and then we sign it over to either the
23 sheriff's department or whatever authority has requested
24 us to do the -- what's called the sexual assault kit.

25 Q Specifically, do you do any testing to the victim's

1 hands?

2 A We look at the hands. We take scrapings from
3 underneath the fingernails. If she has had any contact
4 that may have scratched her assailant, we collect that
5 evidence. If there's any trauma to the hands, we take
6 pictures.

7 Q So on to August 25th, 2006 you were asked to conduct
8 this type of examination to Mary Chavis.

9 A Yes.

10 Q And what was Mary Chavis' mental state when you began
11 your examination?

12 A She was unconscious.

13 Q And why was she unconscious at that time?

14 A She had been to surgery to repair multiple
15 lacerations. She had a large abdominal stab wound that
16 was covered. She had been to surgery, and she was in such
17 fragile condition that they had given her multiple
18 medications, I.V.'s going, and she was not conscious.

19 Q If you would refer to your notes starting with the
20 second page, is this a checklist you use during your
21 examination?

22 A Yes.

23 Q Is this, in fact, your notes, the checklist you used
24 for Ms. Chavis' examination?

25 A It is.

1 Q And can you just go through step-by-step to the jury
2 as to what you examined with Ms. Chavis and the results
3 you were able to obtain?

4 A I was not able to get a history. We normally ask
5 about consensual intercourse that they may have had within
6 the past week, what they did after the assault, if they
7 brushed their teeth, took a shower, those kinds of things.

8 I was not able to ask her any of that because of her
9 unconsciousness, so I wasn't able to obtain an assault
10 history. We also asked about the assailant, how old they
11 were, any relationship that they had with the person. I
12 was not able to do that either.

13 We ask about penetration, oral, genital, rectal, no
14 information on that, so my findings start with just the --
15 her vital signs and her injuries.

16 Q At what notation, if any, did you make regarding
17 that?

18 A Her blood pressure was very high. She was being
19 medicated for that. Normal blood pressure is around 120
20 over 70 to 80. Hers was 181 over 123, so she was in a
21 very fragile medical condition when I was there to do an
22 exam.

23 Q Any other notations regarding her medical situation?

24 A I have the location of the lacerations that were
25 sutured. She had a surgical repair to a mid-abdominal

1 wound. The dressing was in place. She had surgical
2 repair to multiple lacerations. She had bandages on her
3 hands, on her arms, dressings were in place on her right
4 forearm and her left forearm.

5 She had a laceration on her forehead approximately
6 three inches mid-forehead and to her upper nose. That had
7 been surgically repaired. I could see those. She just
8 had those sutured.

9 She had a five-inch laceration on the right side of
10 her face. That was repaired also. Her lateral left hand,
11 which is just on the side, had a two inch -- five-inch
12 laceration there. The side of her face had a two-inch
13 laceration on her left cheek. She had also multiple
14 lacerations on the back of her head, and those were
15 stapled rather than sutured.

16 Q You mentioned that her hands were heavily bandaged.
17 Were you able to conduct any examination on her hands?

18 A No. I did not remove the bandages.

19 Q Did you also collect any clothing that the victim was
20 wearing?

21 A I did.

22 Q And who would you have turned this clothing over to?

23 A That was turned over to the Richland County Sheriff's
24 Department.

25 Q Do you recall who?

1 A Yes, Terry Downey.

2 Q And the other items -- well, I guess to go back,
3 explain to the jury exactly what a rape kit is.

4 A A rape kit is a small box that has the Q-tips that we
5 use to swab various areas; multiple envelopes that these
6 Q-tips go into, every one is separate, every one is dry
7 before they're put into the envelopes. Everything is
8 labeled with the patient's name, my name, the time it was
9 collected. They are sealed with tape. I initial the
10 tape, and then the smaller envelopes are put in larger
11 envelopes depending -- from what area of the body the
12 swabs are collected from. Blood is drawn. That blood --
13 some blood goes to the lab in the hospital. Some blood
14 goes into the box.

15 Q And this box -- you may have said this, I'm sorry,
16 but this box is issued by the hospital?

17 A We have them in the hospital, but they're just
18 general boxes that are used at all hospitals. It's put
19 together by S.L.E.D. They get a copy of the notes that we
20 make, and the other copy goes to either the sheriff's
21 department or Columbia Police or whoever requests the kit.

22 MS. GARFIELD: Your Honor, may I approach the
23 witness?

24 THE COURT: Yes, ma'am.

25

1 BY MS. GARFIELD

2 Q Ms. Morphis, I'm going to show you what's been marked
3 as State's Exhibit Number 39. Inside this exhibit are
4 several different bags. I'm going to ask you to look at
5 each one and tell me if you can identify these materials
6 without touching them?

7 A I can only identify them because they're labeled with
8 the patient's name and with my name on the marker.

9 Q Would that help you out?

10 A Yes. That's who I gave the evidence, the clothing
11 and the kit to.

12 Q And can you just explain then what would be in this
13 bag?

14 A In the bag is all the clothing that is taken from the
15 patient. Her underwear goes into a separate envelope, and
16 it goes into the box or the kit. The clothing is -- may
17 be a shirt, pants, a dress, jacket, whatever the patient
18 is wearing at the time of the assault.

19 Q And this is the clothing that Ms. Chavis was
20 wearing --

21 A Yes.

22 Q -- that you collected?

23 A Yes.

24 Q I'm going to also show you what's been marked as
25 State's Exhibit Number 38. Do you recognize this package?

1 A I do.

2 Q And can you just explain to the jury what that is?

3 A This is the evidence collection kit. This is the
4 patient's name, my name, the hospital it was collected
5 from, and this is Terry Downey, the investigator that I
6 assigned the evidence over to.

7 On the other side is the chain of custody that
8 we're -- we conduct when we collect evidence and turn it
9 over to the authorities. This is the date, my name, the
10 signature, the time I gave it to Mr. Downey. It goes from
11 me to him, and both of us sign, put the date and the time
12 that it was given to the other person.

13 Q And that is the rape kit that you're referencing?

14 A It is.

15 MS. GARFIELD: Thank you.

16 Your Honor, at this time the State would move to
17 introduce State's Exhibit Number 38 and 39.

18 THE COURT: Any objection?

19 MR. COLLINS: No objection.

20 THE COURT: All right. Thirty-eight and 39 admitted
21 without objection.

22 (WHEREUPON, State's Exhibits Nos. 38, 39 were
23 admitted into evidence.)

24 MS. GARFIELD: Ms. Morphis, thank you. Please answer
25 any questions Mr. Collins has for you.

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION:

3 BY MR. COLLINS

4 Q Do you remember what articles of clothing you put in
5 the bag?

6 A A shirt, pants, underwear, as I said, went into the
7 kit.

8 Q Any socks or shoes?

9 A I don't recall. I could check my notes and see, but
10 the items should be listed there.

11 MR. COLLINS: Thank you for coming.

12 THE WITNESS: Uh-huh.

13 THE COURT: Any redirect?

14 MS. GARFIELD: Just briefly.

15 REDIRECT EXAMINATION:

16 BY MS. GARFIELD

17 Q Ms. Morphis, would you check your notes on page 11?

18 A Sure.

19 (Pause).

20 I collected a white T-shirt saturated with blood,
21 denim jeans, a brown leather belt, and brown shoes.

22 MS. GARFIELD: Thank you. Nothing further.

23 Your Honor, may Ms. Morphis be excused?

24 THE COURT: Any objection?

25 MR. COLLINS: No objection.

1 THE COURT: All right. You may be excused. Thank
2 you very much.

3 Call your next witness.

4 MS. GARFIELD: Your Honor, if I can consult with my
5 co-counsel briefly who walked out?

6 THE COURT: Yes, ma'am.

7 (Pause).

8 MS. FENT: State calls Captain Stan Smith.

9 JAMES S. SMITH, after being duly
10 sworn, testified as follows:

11 THE CLERK: Have a seat in the witness box. State
12 your name for the record, please.

13 THE WITNESS: It's James Stanton Smith.

14 DIRECT EXAMINATION:

15 BY MS. FENT

16 Q Where do you work?

17 A Richland County Sheriff's Department.

18 Q And in what capacity?

19 A I'm a captain in the investigative division, and I am
20 responsible for supervising all homicides and violent
21 crimes.

22 Q Okay. Prior to coming to testify here today, where
23 have you been?

24 A I apologize to the Court, Your Honor. I was in a
25 class, and we had a little miscommunication about me

1 testifying today. I apologize for my appearance.

2 Q Can you tell the jury about your education and your
3 training that brings you to where you are today with the
4 Richland County Sheriff's Department?

5 A I graduated from the University of South Carolina in
6 August of 1983. My first job out of college was with the
7 Richland County Sheriff's Department. I went to the
8 Criminal Justice Academy, became certified, started on the
9 road as a uniformed officer, was on the road for several
10 years, was in a specialized unit called the saturation
11 team. It was the then-equivalent to the C.A.T. team now
12 that most people are familiar with.

13 Through the years, I have been through a number of
14 schools and seminars. I actually made detective in 1987,
15 moved through the ranks of investigations and briefly left
16 the Sheriff's Department for a period of time, went into
17 the private sector and came back, came back in
18 investigations in '99 and kind of -- Sheriff Lott has
19 promoted me through the ranks, and I am now a captain back
20 in investigations.

21 Q And your role as captain, what are your duties and
22 responsibilities?

23 A Primarily to supervise the violent incidents, and
24 usually the most violent incidents, which would include
25 armed robberies and homicides.

1 Q Back on August 25th, 2006 did you become involved in
2 the investigation of the homicide that happened on
3 Brookhurst Court?

4 A I did.

5 Q Okay. And can you tell us then how you became
6 involved?

7 A Yes. I -- we actually had a couple of homicide back
8 to back, and I usually received an immediate briefing from
9 responding investigators.

10 We have to assign our assets, our personnel, to make
11 decisions in this case. I assigned Hal Siniard and Willie
12 Gonzales as his second; Hal being the primary detective
13 and Willie as his second.

14 He began working on it right away. I came in the
15 following day and received an extensive briefing and went
16 from there.

17 Q Okay. And you said there were a couple of homicides
18 back to back. You mean that same night around the same
19 hour or...

20 A There were -- there were two that same everything in
21 northeast Columbia.

22 Q Okay.

23 A There was another one in the Decker Boulevard area.
24 We had assigned -- we have a team on call, and that
25 particular team was led by now Sergeant Isenhoward. Once

1 we had assigned him to that crime, we then have to
2 designate another team. It's very unusual to have two
3 homicides in the same night.

4 Q Okay. So what then did you -- what was your
5 involvement personally then at this point?

6 A My involvement is usually to supervise the overall
7 progress of the investigation. My detectives -- and
8 Investigator Siniard is a veteran. He does not typically
9 need to be told what to do. Oftentimes my role is just to
10 kind of help warehouse the information and pass it on to
11 my superiors for the progress of the cases. Sometimes I
12 get more involved in the cases than others.

13 Q Okay. And in this particular case, did you become
14 involved specifically with hunting down witnesses or
15 figuring out what happened here?

16 A I did. I became involved, to a limited degree, in
17 this case.

18 Q Okay. And tell us how that was.

19 A Actually, I reached out to a -- we learned that there
20 was a description of a white female that was present
21 during this incident.

22 I have a number of law enforcement contacts that I
23 speak to frequently, and I reached out to Detective Mark
24 Jones with the West Columbia Police Department because we
25 had a nickname. I believe it was Tracy at the time.

1 I asked Detective Jones who has a -- is very familiar
2 with the Hispanic population, it's a large population in
3 the West Columbia area, and I thought he might know who
4 that person was. He helped me, to some degree, with that.

5 Q Okay. And basically, what did you do then? Now, you
6 have this name Tracy. What did you do?

7 A He was actually able to provide me with a possible
8 last name, which was Risinger. I actually ran some
9 checking on that name.

10 I pulled up a South Carolina driver's license photo
11 on Tracy Risinger, and I was actually able to show that
12 picture to another individual who I was familiar with who
13 I felt like might know her.

14 We were familiar with from a previous incident who
15 also had contacts with the Hispanic population in
16 northeast Columbia specifically. Ironically, it was
17 another case that Investigator Siniard had worked prior to
18 this case --

19 Q Okay.

20 A -- with that individual.

21 Q So this person that you showed the photo, Tracy, to,
22 of Bille Joe Risinger --

23 A Yes.

24 Q -- how do you think she might know or why would she
25 know Tracy?

1 A Some individual that we knew interacted with the
2 Hispanic population, again much in the same fashion that
3 Mark Jones in West Columbia advised me that Tracy Risinger
4 would. That's a pretty close connection of contacts.
5 They generally will know one another. In this case that
6 was true.

7 Q Okay. Did that person have any connection with the
8 victim, Mary Chavis?

9 A I believe she knew of her.

10 Q Okay. So you have -- now you have Tracy's name, and
11 I guess an identification. What do you do with that
12 information now?

13 A Well, actually, we ran a records check on Tracy
14 Risinger and were able to access the Columbia Police
15 Department incident report which -- where she had been
16 made of -- a missing person's report where she had been
17 reported missing by her mother.

18 We were able to reach out to a number that was in
19 that report and actually make contact with her mother who
20 indicated that her -- her daughter was at home right then.

21 Q Okay.

22 A And at that point in time I asked Investigator
23 Siniard and Investigator Gonzales to go to her mother's
24 home in the Irmo area to pick her up.

25 Q Okay. Did you have contact with Ms. Risinger?

1 A Yes.

2 Q Okay. And where was that contact?

3 A Siniard and Gonzales would bring her back to the
4 Richland County Sheriff's Department, and I spoke to her
5 there in conjunction with those investigators.

6 Q Okay. Did you talk to her about whether or not she
7 had knowledge of what happened at this trailer on
8 Brookhurst?

9 A Yes. I learned through the phone call that she,
10 indeed, had knowledge.

11 Q Okay.

12 A I learned that from her mother, and when she came
13 into the Sheriff's Department she would give a statement
14 indicating that she was present during the incident.

15 Q Based on your investigation did this now lead to
16 another possible person that was at the scene and would
17 have information?

18 A Yes. We -- we learned that there was an individual,
19 not necessarily through her, but we learned through some
20 informant information that there was another individual
21 who had witnessed a black male coming to the victim's
22 trailer.

23 Two of my Hispanic investigators actually brought
24 this individual in, and he would provide some significant
25 information regarding a subject by the name of Kelv, as he

1 was explaining it.

2 Q Did you get that information from -- the name Kelv
3 from that person or ultimately from Tracy?

4 A We got it -- I wound up getting it from both
5 sources --

6 Q Okay.

7 A -- because Tracy would ultimately admit that she did
8 know Kel--- She described the name as Kelv, K-E-L-V. She
9 indicated that she had contact with him that night.

10 Q Okay. Now, that you have a name and Tracy saying she
11 had contact with this person that night, what do you do to
12 identify who Kelv is?

13 A Well, what we did is actually in a second interview,
14 we brought Tracy back in for some more detailed -- she was
15 a little under the weather in the first interview.

16 We actually -- I actually went through the Alvin S.
17 Glenn Detention Center photo database, and -- and we were
18 able to -- after flipping through a number of individuals
19 with that similar first name, she identified one Kevin
20 Nails as the person she was calling Kelv.

21 Q And identified him by how, by name or by photo and
22 saying "that's him"?

23 A She was referring to him as Kelv, and when we hit the
24 photo -- we can pull up the photos by first name, last
25 name, and I believe I was searching -- you know, Kelv

1 would be close to Kevin.

2 Q Okay.

3 A We were going through in that -- using that
4 procedure. We actually came upon Kevin Nails. She
5 pointed at the screen and said, "That's Kelv".

6 Q "That's the guy that was out at the scene with me"?

7 A That's correct.

8 Q Now, that you have Kevin Nails, what do you do with
9 that information?

10 A Well, we began to run information on -- check on him
11 just as we have when I got the name Tracy Risinger. We
12 were able to pinpoint an address for him, [REDACTED] Highway Six
13 in Lexington. This was -- this also was sort of
14 corroborated by the fact that Tracy indicated that he,
15 indeed, was from the Lexington area.

16 Q Okay. Now, you have an address on Kevin nails what
17 do you do with that information?

18 A We actually -- you know, when I coordinated with the
19 detectives assigned the case, Siniard and Gonzales, and I
20 actually accompanied them with Sergeant Ewing who was one
21 of my sergeants at the time who is now the police chief in
22 Bishopville, we actually accompanied those two detectives
23 to southern Lexington County to the Nail's residence.

24 Q Okay. And did you make contact with Kevin Nails?

25 A We did.

1 Q And did he talk to you?

2 A Yes.

3 Q And did he -- I guess in your presence, did he
4 provide a written statement or did he just chat with you?

5 A He provided some preliminary information at his
6 residence, and then as is our custom on information that
7 significant, we returned him back to the Richland County
8 Sheriff's Department where he gave Investigator Siniard
9 and Gonzales a written statement.

10 Q Okay. Based on your investigation now at this point
11 then, do you now learn of another name?

12 A Yes.

13 Q And where is -- what is that name?

14 A Nails would come in and basically identify his
15 cousin, Christopher Heller, who he said was from Baxley,
16 Georgia --

17 Q Okay.

18 A -- as the individual that we were seeking.

19 Q Okay. Other than overseeing, I guess, the remainder
20 of the investigation and following it -- let me back up.
21 You did make a report about your involvement and about the
22 investigation in this case?

23 A Yes. My report actually sort of refers to both
24 murders because I had some involvement concurrently, if
25 you will, with both cases.

1 Q Okay. So it's documenting, I guess, just the overall
2 overseeing of both investigations, not just on the
3 personal things that you did but other things that other
4 people are doing?

5 A It refers to the actions by the detectives, that's
6 correct.

7 Q Okay. So then other than overseeing the
8 investigation at this point, was there anything else that
9 you personally did?

10 A I think I had some contact with the Georgia
11 authorities --

12 Q Okay.

13 A -- mentally to help out with that transition.

14 Q Okay. In terms of the search warrant and all that?

15 A Arrest, search warrant, that kind of thing.

16 Q Okay. As part of your responsibilities, are you
17 involved in policy making at the sheriff's department?

18 A To some degree, certainly with the interpretation of
19 the policies and supervision of the policies.

20 Q Okay. Can you tell us about what, if any, policies
21 you have in terms of videotaping statements?

22 A We don't video or tape record statements. This
23 policy has been in effect since 1994.

24 Q And why is that?

25 A Well, the main reason is we don't have the equipment,

1 but my opinion, I think the policy was enacted due to the
2 fact that we have a system that's based on the
3 transference of documentation.

4 When people are charged with a crime, if they give a
5 statement, for instance, they're formulating a legal
6 document. We try to be very careful with the review and
7 preparation of that document because it contains very,
8 very crucial information to that individual, whether it be
9 a witness or a defendant.

10 Based on that, when we have -- they give them -- they
11 have an opportunity to prepare their statement, we go back
12 and review it.

13 If they want to make any changes, alterations,
14 they're afforded that opportunity, because again, it's a
15 very important document. We don't want something to be
16 said that they didn't intend to say or that was misstated
17 or reversed or something to that nature.

18 We actually give them a chance to review it. Once
19 they're satisfied that that's, in deed, what they wanted
20 to say, whether again, they be a witness or a defendant,
21 then they signed the document.

22 They're provided a copy. A copy then goes on to the
23 prosecution office, and again, the system is based on the
24 transference of paperwork. That's the way our system has
25 been since I've been in investigation with the Sheriff's

1 Department.

2 MS. GARFIELD: No further questions.

3 THE COURT: Cross-examination?

4 MR. COLLINS: Thank you, Your Honor.

5 CROSS-EXAMINATION:

6 BY MR. COLLINS

7 Q It's possible to video someone signing a piece of
8 paper, isn't it?

9 A Beg your pardon?

10 Q It's possible to video someone signing a piece of
11 paper?

12 A Certainly.

13 Q Now, I'm just going to start right out with Bille Joe
14 Risinger.

15 A Yes, sir.

16 Q She came in originally on August 25th.

17 A Yes, sir.

18 Q The same day. She didn't mention anything about Kelv
19 or her drug dealer that day, did she?

20 (Pause).

21 A No.

22 Q And I believe you said on direct that she seemed to
23 be a little bit under the weather, but you put in the
24 report as if she was coming off a crack binge?

25 A Yes. My report indicates that she was upset and was

1 still coming off of a crack binge.

2 Q And you knew she was at the scene of this murder --

3 A Yes.

4 Q -- at this time?

5 A Yes, sir.

6 Q And she told you what she told you on the 25th,
7 correct?

8 A Yes, sir.

9 Q And you knew she wasn't the one that called 911 that
10 night?

11 A I take your word for it, yes, sir.

12 Q And you let her go back home?

13 A Yes, sir.

14 Q And then --

15 A There was no indication then that she was involved in
16 the murder at that point at all.

17 Q And --

18 A There would no reason to not allow her to go back
19 home.

20 Q And according to policy, none of this was tape
21 recorded or video recorded?

22 A No, sir.

23 Q And then a few days later she comes back in, back
24 into headquarters.

25 A Yes, sir.

1 Q She doesn't give a second written statement, does
2 she?

3 A I don't recall whether she did at that point or not.
4 I don't --

5 Q And she came in and gave --

6 A I believe that's the day she gave the identification.

7 Q She gave additional information?

8 A She gave additional information. By that time we had
9 learned a nickname, and she corroborated that information.

10 Q And she talked about a -- three people in -- three
11 males in the car?

12 (Pause).

13 A Bear with me just a minute.

14 Q Okay.

15 A In the first interview she did mention the name Kelv.

16 Q Okay.

17 A In the first interview.

18 Q And then --

19 A The second interview, which would be on the 28th, she
20 said that Kelv had, indeed, come with two other subjects
21 in the car with him --

22 Q And --

23 A -- and one was allegedly his cousin.

24 Q Named who?

25 A (There was no response).

1 Q Originally says his cousin was named Devon, right?

2 A I do not have that in my notes.

3 Q Okay. It must be in another investigator's notes,
4 but it was from the same conversation?

5 A Okay.

6 Q You don't remember her?

7 A I do not remember her saying that, no.

8 Q Okay. You just remember what's in your notes at this
9 point?

10 A Yes, sir.

11 Q A long time ago.

12 A Yes, sir.

13 Q Now, you said -- I'm going to back up a little bit to
14 when you say you got a photo of Bille Joe Risinger --

15 A Okay.

16 Q -- and you were looking around for people that may be
17 able to help you identify -- or I'm sorry. Let me start
18 over. You were trying to identify who this person, who
19 this girl was, correct?

20 A Yes.

21 Q And you were asking around West Columbia people in
22 that area, right?

23 A I asked Detective Mark Jones --

24 Q Okay.

25 A -- who I had talked to before regarding Hispanic, if

1 you will, related intel., was able to help --

2 Q And at some point it led you to a person that you
3 said on direct was from the northeast and knew a little
4 bit about people around in the northeast?

5 A Well, we -- I was familiar with -- this wasn't by
6 virtue of my contacts with Mark Jones. I was familiar
7 with this other individual by virtue of my involvement in
8 another case, yes.

9 Q And you knew that she was familiar with that trailer
10 park where this incident actually happened?

11 A Exactly.

12 Q And you talked about there was actually another
13 incident right around there that she was involved with?

14 A That's correct.

15 Q And Ms. Chavis?

16 A That's correct.

17 Q It was actually murder --

18 A Ms. Chavis was peripherally involved in that
19 incident.

20 Q And there was a murder that happened right at the
21 same trailer?

22 A No. That happened in a different trailer park
23 nearby.

24 Q You're sure it wasn't the same trailer park?

25 A Yes, sir. There was some activity that I think

1 involved our victim here in this case, in the aftermath of
2 that murder. That murder happened --

3 Q In the aftermath?

4 A Yeah. That murder happened off of Faraway Drive near
5 Blue Cross, Blue Shield.

6 Q Okay. And then the aftermath came back to that
7 trailer?

8 A I think they had gone to the trailer or something to
9 that effect.

10 Q That was the connection, I guess, that led you to --

11 A There was some connection, but I don't remember
12 exactly what it was. I remembered that she was involved
13 in that case. That case had recently occurred. I felt
14 like she could help us, much in the same fashion that Mark
15 Jones helped us.

16 Q Okay. And at the beginning of your testimony, you
17 testified you supervised the progress of the
18 investigation?

19 A Yes, sir.

20 Q You supervised to make sure they submit things into
21 evidence?

22 A Well, I may not supervise with that degree of
23 specificity. I supervised the general course of the
24 investigation. I'm not going to say I supervised putting
25 items into evidence.

1 Q I probably misstated that. After the evidence is
2 collected do you then supervise what they do with that
3 evidence?

4 A No, sir. I generally supervise the flow of the case,
5 the major objectives. I can't testify that I supervise
6 the evidence that's submitted properly. I don't get
7 involved to that degree.

8 Q To check up on the case over 100 items were collected
9 for D.N.A. evidence, would you think to ask if it had been
10 tested for D.N.A. yet?

11 A That would be the case officer's responsibility. In
12 one of our meetings we may cover that. We have homicide
13 meetings that we go over. I don't have a reference to
14 that in my notes.

15 In this case I was dealing with a veteran homicide
16 detective who does things right, and I was fully confident
17 he would handle those kind of details.

18 Q And it doesn't typically take over two years before
19 anything is sent off for testing, does it?

20 A Sometimes it can. It can with the amount of volume
21 that we have. We don't know how these cases are going to
22 sort themselves out.

23 Q I'm talking about the request for it to be tested.

24 A Well, it can.

25 Q That be preferable? Would you want to wait two years

1 before you request to have the evidence tested?

2 A Well, the results would not be -- it would be
3 inevitable discovery. It would be the same in two years
4 as it would have been two years ago.

5 Yeah, we would love -- like to have it sooner.
6 Again, we don't know how these cases are going to work
7 themselves out, and the request may not be handed in that
8 fashion that close to the arrest. A lot of it is based on
9 the evidence that you have at the time of the arrest.

10 Q And you don't know what happened with this case? You
11 don't have anything in your notes as far as what happened
12 with the testing of evidence in this case?

13 A Well, in response to your question, I knew about the
14 evidence in this case and the evidence that we had at the
15 point in time when the arrests were made right after the
16 arrest.

17 Q And then you don't have anything in your notes about
18 the progress or how this evidence was tested or --

19 A I don't have anything specific about when requests
20 were made to test evidence, no, sir.

21 MR. COLLINS: Okay. Thank you.

22 THE COURT: Redirect?

23 MS. FENT: No, Your Honor.

24 THE COURT: Any reason Captain Smith can't be
25 excused?

1 MR. COLLINS: No objection.

2 THE COURT: Okay, sir. Thank you very much.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: You may be excused.

5 THE WITNESS: Thank you.

6 THE COURT: All right. Madam forelady, ladies and
7 gentlemen of the jury, it's 5:30. We're going to stop at
8 this time.

9 Is there anybody that cannot be here at nine o'clock
10 in the morning? If you can't be here at nine o'clock,
11 raise your right hand.

12 (There was no response).

13 All right. We'll start in the morning at
14 nine o'clock. Please don't discuss the case amongst
15 yourselves or with anyone else.

16 I want you to make the decision on the case on what
17 you hear in the courtroom. I don't want your boyfriend,
18 your girlfriend, your husband or your wife tells you about
19 the case or what you read in the paper or what you hear on
20 television. I want you to make your decision on what you
21 hear in the courtroom. I'll see you in the morning at
22 nine o'clock. Have a good evening.

23 (WHEREUPON, the jury left open court at approximately
24 5:36 p.m.)

25 THE COURT: Solicitor, is there anything that we can

1 deal with this afternoon so we can start the testimony
2 right at nine?

3 MS. FENT: Specifically, there is something that we
4 could ask you to do. Our next witness that we're calling
5 has some challenges getting here on time, and we would
6 ask -- we would like to bring her in here and for you to
7 admonish her that if she is not here on time, we're going
8 to be asking for a warrant for her arrest.

9 THE COURT: Who are you talking about, Tracy?

10 MS. FENT: Yeah, Tracy, Bille Joe Risinger.

11 THE COURT: Bring her in.

12 MS. FENT: Okay.

13 THE COURT: Let me ask you this, assuming she is not
14 here at nine, do you have somebody you can call?

15 MS. FENT: We will have other witnesses.

16 THE COURT: Okay. Just make sure you have somebody
17 to back her up, okay?

18 MS. FENT: Absolutely.

19 THE COURT: Is it a transportation problem?

20 MS. FENT: No, I don't think so.

21 THE COURT: I mean, because if it's a transportation
22 problem, we can send a deputy out to pick her up in the
23 morning.

24 MS. GARFIELD: Would you please offer that?

25 THE COURT: Pardon?

1 MS. GARFIELD: If you would offer that, I think that
2 would be nice.

3 (Ms. Risinger was brought into the courtroom).

4 THE WITNESS: Wait. I don't want my phone going off.

5 THE COURT: Ms. Risinger?

6 THE WITNESS: Yes, sir.

7 THE COURT: We're going to start in the morning at
8 nine o'clock, okay?

9 THE WITNESS: Okay.

10 THE COURT: I want you here by a quarter till nine.

11 THE WITNESS: A quarter till nine.

12 THE COURT: Can you be here?

13 THE WITNESS: Yes, sir.

14 THE COURT: All right. Let me explain something to
15 you, two things to you, okay?

16 THE WITNESS: Okay.

17 THE COURT: If you're not here, I'm going to issue a
18 bench warrant for you to pick you up and put you in jail.

19 THE WITNESS: Okay.

20 THE COURT: Okay?

21 THE WITNESS: Yes, sir.

22 THE COURT: Number two, do you have transportation
23 problems? Do you have a way --

24 THE WITNESS: No.

25 THE COURT: -- of getting here?

1 THE WITNESS: No, sir.

2 THE COURT: You can get here?

3 THE WITNESS: I have three cars.

4 THE COURT: All right. Be here at a quarter till
5 nine.

6 THE WITNESS: All right.

7 THE COURT: See you in the morning.

8 THE WITNESS: Okay. A quarter till nine.

9 THE COURT: A quarter till nine.

10 THE WITNESS: I'll be here at 8:30.

11 THE COURT: Okay. And stay clean.

12 THE WITNESS: 8:30, okay.

13 THE COURT: All right. Anything else?

14 MS. GARFIELD: No, sir.

15 THE COURT: Anything from the defendant?

16 MR. COLLINS: Nothing from the defense, Your Honor.

17 THE COURT: All right. We'll adjourn until
18 nine o'clock in the morning.

19 MS. FENT: Thank you.

20 (There was an overnight recess).

21 (WHEREUPON, State's Exhibits Nos. 67, 68 were marked
22 for identification only.)

23 THE COURT: Do you have any objections, Mr. Collins?

24 MR. COLLINS: Not for I.D. purposes.

25 THE COURT: Pardon?

1 MR. COLLINS: For demonstrative I don't have any
2 objection at this point, but I don't know after they mark
3 it up.

4 THE COURT: After the doctor marks it you're talking
5 about?

6 MR. COLLINS: Uh-huh.

7 THE COURT: Okay. Is the State ready to proceed?

8 MS. GARFIELD: Yes. We're taking them out of order.
9 Bille Joe Risinger is present.

10 THE COURT: Okay.

11 MS. GARFIELD: Dr. Bynoe was only available first
12 thing this morning.

13 THE COURT: Okay. That's fine.

14 MS. GARFIELD: We're going to go ahead with him. I
15 would also like to take up matters that were discussed in
16 pretrial regarding Bille Joe Risinger's photo lineup,
17 exhibit number 10.

18 Your Honor, I have made a copy redacting the portion
19 that we discussed where she indicates she witnesses the
20 murder, I would like Mr. Collins to review.

21 THE COURT: Okay.

22 MS. GARFIELD: I would ask that I am able to review
23 this redacted portion when I do my direct examination of
24 Ms. Risinger.

25 THE COURT: You're talking about the bottom where it

1 talks about the -- what did you put on the form?

2 MS. GARFIELD: I just basically redacted the portion
3 where she says that this is the person who committed the
4 murder.

5 THE COURT: Okay.

6 MS. GARFIELD: Instead, it more reflects that this is
7 the person that was at that trailer.

8 THE COURT: Okay. Do you have any objection other
9 than the objection that you had at pretrial?

10 MR. COLLINS: Not at this point, Your Honor.

11 THE COURT: Okay. Yes, ma'am.

12 MS. GARFIELD: So I guess we'll just leave the
13 originally marked as the exhibit for the Court --

14 THE COURT: Right.

15 MS. GARFIELD: -- for pretrial, and I'll mark this
16 new copy as State's Exhibit 10.

17 THE COURT: What number are you going to make it?

18 MS. GARFIELD: Ten also.

19 THE COURT: Give the court reporter the one that's
20 marked, and we'll mark it as a Court's Exhibit.

21 MS. GARFIELD: Okay.

22 THE COURT: The one that talks about the person that
23 did the murder.

24 (WHEREUPON, Court's Exhibit No. 12 was marked for
25 identification only.)

1 (State's Exhibit 10 was substituted with a redacted
2 copy.)

3 THE COURT: Are you ready to bring the jury?

4 MS. GARFIELD: Yes, sir.

5 THE COURT: Okay. Bring the jury, please.

6 (WHEREUPON, the jury came into open court at
7 approximately 9:11 a.m.)

8 THE BAILIFF: All jurors are present.

9 THE COURT: Thank you, sir. Call your first witness,
10 please.

11 MS. FENT: The State calls Dr. Raymond Bynoe.

12 RAYMOND BYNOE, after being duly sworn,
13 testified as follows:

14 THE CLERK: Have a seat in the witness box. State
15 your name for the record, please.

16 THE WITNESS: It's Raymond Paul Bynoe, B-Y-N-O-E.

17 DIRECT EXAMINATION:

18 BY MS. FENT

19 Q And where do you work?

20 A Presently I'm employed by the University of South
21 Carolina, the school of medicine, department of surgery,
22 and I am the medical director for the Palmetto Health
23 trauma service.

24 Q Okay. And what do your daily duties entail as
25 medical director of the trauma center?

1 A Well, I'm actively involved in individuals who are
2 involved in traumatic sort of injuries, as well as general
3 surgery.

4 I run the -- kind of help to coordinate the services
5 for individuals who are involved in traumatic events and
6 trying to make sure that the appropriate individuals, i.e.
7 facial neurosurgery, those individuals are involved, as
8 well as doing general surgery for individuals who have
9 thoracic chest injuries, vascular injuries, that sort of
10 thing.

11 Q And when we're talking about trauma, what kinds of
12 things are we talking about?

13 A Motor vehicle collisions, falls, stabbings,
14 shootings, people that are -- you know, run over by
15 different sort of vehicles or things that may occur in
16 life, plane crashes, those sort of things that we're
17 involved in, as well.

18 Q Okay. Can you tell the jury about your education and
19 your training, your background that leads you to this
20 current position?

21 A I am trained at -- went to school here in Columbia,
22 South Carolina. I went to undergraduate at Lincoln
23 University in Pennsylvania. From there I went to the
24 Medical University of South Carolina for medical school,
25 came back and did my surgery training here at the

1 university, Palmetto Health combined program.

2 From there I left and went to -- that was a five-year
3 program. From there I left and went to the University of
4 Tennessee in Memphis at the Elvis Presley Trauma Center
5 and did my trauma and critical care training.

6 Q How long ago did you go to medical school?

7 A 1974 to 1979.

8 Q Okay. So how long have you been involved in trauma
9 and emergency medicine?

10 A I finished my fellowship in 1988, so for the last 21
11 years I've been involved in trauma and critical care the
12 last -- '98, the last 12 years I've been the medical
13 director at Palmetto Health Richland.

14 Q And have you testified as an expert before in the
15 area of trauma and emergency medicine?

16 A Yes, ma'am.

17 Q And have you been -- approximately how many times
18 have you been qualified as an expert in this area?

19 A Numerous times. I mean, greater than -- we take care
20 of 2,000 patients a year, so if you extract that, maybe
21 10 percent of those come about, you know, five, 600 times,
22 roughly as a number, if I had to pull a number out.

23 MS. FENT: At this time, Your Honor, I'd offer
24 Dr. Bynoe as an expert in the area of trauma and
25 medicine --

1 THE COURT: Mr. Collins, do you want to ask him any
2 questions on qualifications, or do you have any
3 objections?

4 MR. COLLINS: We have no objection.

5 THE COURT: The Court so finds. Thank you very much.

6 BY MS. FENT

7 Q Back in August of 2006, did you come to care for a
8 patient by the name of Mary Chavis?

9 A Yes, ma'am. Can I have the records, if I can?

10 Q Sure. Absolutely. I'll tell you what I'm going to
11 do. I'm going to give you my whole notebook. If there
12 are some specific records, we can pull out.

13 A Thank you.

14 Q There are some records that we did specifically go
15 over, correct?

16 A Yes. Yes, ma'am, we did.

17 Q And if there's any other -- like I said, if there's
18 any other record you need to refer to, you can look
19 through that notebook.

20 A Yes, ma'am.

21 Q Do you recall what day it was that you became
22 involved in Ms. Chavis' case?

23 A It was the morning of the -- it would -- it would
24 have been the afternoon of -- the day of the 26th that I
25 actually got involved in the case. My associate, my

1 partner, Dr. Richard Bell was involved initially when she
2 came in.

3 I subsequently took over the care during that time
4 period and began to continue the care, which she -- that
5 she needed from that time on.

6 Q Okay. Were you involved until when she was released
7 from the hospital?

8 A We -- yes, ma'am. It's kind of -- the way it works
9 is that because of the volume and things that go on,
10 there's no way that one of us can actually do the entire
11 care throughout that time period because of the volume of
12 people that we see.

13 We kind of rotate through the service part -- I.C.U.
14 part, the floor service. We kind of split it up into two
15 separate things. It would be -- somebody would do the
16 investigation in terms of this process, and then someone
17 else would come in and kind of do it and switch back and
18 forth as to what we do, but yes, I was.

19 Q Okay. When you became involved, did you review
20 Ms. Chavis' records up until everything that had happened
21 up until that time?

22 A Yes, ma'am. Well, the way it goes is the person who
23 was on that night when we worked -- just as I worked last
24 night a 24 hour, 36-hour shift.

25 We're there from the start of -- for instance, last

1 night I -- or yesterday morning I came in and started work
2 at 7:00 a.m. I would work through the night until the
3 next day until things were done and completed.

4 My partner, Dr. Bell, kind of signed off. We went
5 through -- I evaluated, saw what he did. We talked about
6 things in that nature. From there we went on and
7 continued with the care, yes, ma'am.

8 Q Okay. And did you go personally see Ms. Chavis and
9 see her injuries?

10 A Yes, ma'am.

11 Q Okay. Can you tell us then what had occurred up
12 until the point you became involved?

13 A She was involved in a stabbing, assault was what we
14 were told at that point in time. The way they come in,
15 it's not that they come in by name. We just assign them a
16 number, particularly people that are involved in violent
17 crimes, so that no one else can actually access it.

18 Because of the name, you're anonymous. Her number
19 was Trauma Female 060220. So that's the way it was --
20 it's done so that there's some protection to the
21 individuals who are involved, as well as to allow us to
22 complete the care and not having different names.

23 I was called in. It was the 25th that I started in
24 the morning, not the 26th but the 25th of the morning --

25 Q Okay.

1 A -- and at 10:00 a.m. that -- or probably 7:00 a.m.,
2 8:00 a.m. that I was involved in the care and started to
3 evaluate the work at that point in time in terms of trying
4 to complete what had happened to her during the night.

5 Q Okay. And what injuries did you come to learn that
6 Ms. Chavis had?

7 A She sustained multiple stab wounds. She had a
8 laceration to her left lower quadrant in which the muscle
9 had been completely transected. The bowel was protruding
10 out of her abdomen.

11 There was -- the small intestine was hanging outside
12 as if you open up the window and push something out the
13 window, that's the way the abdominal wall protects, and
14 that was done. She had a collapsed lung on the left side.
15 She had multiple facial lacerations and multiple
16 lacerations to her abdomen, chest, neck, face, head in
17 which she had on her hands, as well.

18 Q If you could, State's Exhibit 67 is just a diagram of
19 a body, the front of the body. Would you be able to show
20 us here on this diagram the lacerations that she had and I
21 guess the measurements of them? Just try to keep your
22 voice up so everybody can...

23 A That's the front side. She had --

24 Q I have another diagram that shows the back, so we can
25 do the back.

1 A These are front sides. She had a 15 centimeter
2 laceration, and that's kind of six, seven inches, then it
3 went down the right side of her face.

4 Q How many centimeters?

5 A Fifteen. She had a six centimeter laceration, which
6 is about three inches, three-and-a-half inches, down on
7 the right side. She had a five centimeter laceration
8 here. She had a laceration on the cheekbone, as well,
9 there. That was two centimeters, and she had another one
10 that was up here on her forehead. That was four. That
11 was two. That was four.

12 This was a two centimeter laceration. That's about
13 like that (indicating). She had another laceration right
14 here. This was about 18 -- 16, 18 centimeters here where
15 the bowel was protruding out. She had multiple
16 lacerations on her hands at the time.

17 Q Multiple on both or just one?

18 A Both, both hands.

19 Q And do you have an indication as to whether or not
20 these lacerations on the hands indicated to be defensive
21 wounds or...

22 A I couldn't --

23 MR. COLLINS: Objection, Your Honor, calls for
24 speculation.

25 MS. FENT: He's an expert in the area of trauma.

1 THE COURT: Overruled.

2 THE WITNESS: These were on the back of the hands.

3 BY MS. FENT

4 Q Okay. So not --

5 A Right.

6 Q -- as if holding --

7 A Right.

8 Q -- the backs of the hands, okay.

9 A There were some on the front, but mainly on the back
10 and the front.

11 Q Okay. Anything else that you recall on the front?

12 A No.

13 Q Okay.

14 A She had a six centimeter laceration on the back of
15 her scalp here, and seven centimeters on the back of her
16 shoulder blade.

17 Q Thank you very much.

18 Basically, I guess her -- did she have one surgery or
19 multiple surgeries?

20 A Multiple. She had one surgery on her abdomen and
21 then multiple procedures done on her hands and face.

22 Q Okay. The first surgery that occurred, what did they
23 have to do?

24 A At that point in time, she noted -- they had the
25 evisceration of her abdomen. She had multiple lacerations

1 through the small intestine, which means that it was cut.
2 They were a full thickness, as well as multiple
3 lacerations.

4 The bowel has three walls to it. It's almost like
5 the wall here. The big one in the abdomen that went
6 through that was at the lower part of her left side. That
7 had gone through and transected the entire abdominal wall
8 and through the entire small bowel.

9 So it's like you take this, go through that, enter
10 into the abdomen, and then the abdomen has -- the small
11 intestines has three layers to it. Those three layers
12 were transected in half so that there was intestinal
13 content leaking out into her abdomen, as well. Then there
14 were multiple in which just the front layer was cut and
15 not the full thickness. There were multiple lacerations
16 of the bowel in different segments.

17 Q When you say transected --

18 A Cut in half.

19 Q Cut in half. So what -- basically, repairs had to be
20 done?

21 A We had to sew -- or Dr. Bell sewed up the lacerations
22 in the bowel. The one that was cut in half, he put that
23 bowel back together which also has the ability to leak.

24 She lost a fair amount of blood from -- there are
25 blood vessels that run through what we call the

1 mesenteries. It's the fatty tissue where all the blood
2 vessels run through the intestines. It keeps it alive.
3 Those things were transected. He had to oversee those,
4 take out a segment and put it back together and sew it
5 back so that you have the lumen back so things can go
6 through it again.

7 She was what we call coagulopathic, which meant there
8 was a fair amount of blood loss and that she didn't
9 have -- she had lost a lot of blood, so she had to receive
10 blood transfusions during the course of the operation to
11 get her blood volume back into her, as well as I.V.
12 fluids.

13 Q Okay.

14 A She had a collapsed lung which took us -- we had to
15 put a tube -- it's kind of a tube that's connected to a
16 series of water chambers that will allow the lung to
17 re-expand. That had to be done, and then the multiple
18 lacerations were closed, particularly some on the chest
19 and the back. They were closed with sutures.

20 The facial laceration, we called in a facial doctor
21 who came in and sewed that up. She also ended up with
22 a -- what they felt was a facial nerve injury which
23 controls the ability to kind of pucker and smile and those
24 sort of things that when you have that injury, so you
25 can -- she was left with a -- at that point in time. I

1 haven't seen her since the time of the injury, since she
2 has been out, but in the last few years, two-and-a-half
3 years I haven't seen her, but it allows -- it kind of
4 leaves you with a deformity of the face and those sort of
5 things depending on how much you gain back and how well
6 you put that nerve back together and how well that nerve
7 responds to what we've done.

8 Q The scalp wounds, I think on the back here you
9 indicated there was a six centimeter laceration to the
10 back --

11 A Yes, ma'am.

12 Q -- of her head. I'd like you to look at Dr. Bell's
13 report, and number eight an indication of multiple scalp
14 wounds.

15 A Yes, ma'am.

16 Q Okay. And a total length of those multiple scalp
17 wounds was how long?

18 A Fifteen centimeters.

19 Q Okay. So not just a single 15 --

20 A No. It was multiple wounds that added up to 15.

21 Q And how did those have to be repaired?

22 A There were closed with suture underneath, and then we
23 put staples in, kind of the similar staples that you use
24 in staples in the paper. They make them for medical use,
25 and that was used to close the skin edges of it so we

1 could get it back together.

2 Q Then you said that she had had multiple surgeries.
3 Talk to me about then when those other surgeries occurred
4 and what those were about.

5 A The ones with her hands, they were done by Dr. Walsh
6 who is one of the orthopedic surgeons at the hospital.
7 That's one of the things that we try to do is coordinate
8 those individuals.

9 He came in on separate occasions, kind of watched out
10 with the hand, made sure we got rid of most of the
11 infection, those sort of things to decrease the incidence
12 of infections.

13 He repaired the lacerations, as well as tendons to
14 make your fingers move back and forth, the tendons that
15 are there.

16 She had laceration of her left index finger and
17 middle finger, there were lacerations of those. She had
18 her small finger, pinky finger, there were lacerations on
19 both hands that they washed out and closed and went
20 through that, irrigate those out and closed those,
21 primarily.

22 Q Okay.

23 A He also put a pin in because there was a fracture
24 through multiple bones. They put pins in to kind of help
25 to keep it in line.

1 Q Any other surgeries?

2 A As we talked about the facial one, the laceration
3 that went down the face, that curved around along the head
4 area, and that's where the facial nerve runs.

5 It's the nerve, as I talked about earlier that
6 controls the ability to smile and those sort of things.
7 Dr. T.D. Fall was one of the facial doctors that repaired
8 that, as well. That was done on the morning of the 26th
9 and that sort of thing.

10 So she went back on the 25th. Dr. Walt -- I mean
11 Dr. Watford did his surgery, and then on the 26th she went
12 back and had that facial laceration closed and attempted
13 nerve repair as well, and which is -- it's a little duct
14 that helps us make saliva to keep your mouth moist. That
15 duct was explored. It's called a parotid gland, a
16 parotid duct, and that was explored, as well.

17 Q With regard to the facial laceration, do you have an
18 opinion as to a reasonable degree of medical certainty as
19 to whether or not there would be a risk of the loss of the
20 normal use of your mouth in terms of the muscle used
21 and --

22 A The nerve -- that nerve innervates it, so there's a
23 potential risk of that. That would be something that we,
24 you know, follow long-term to evaluate to see how much was
25 recovered and how much didn't, but that sort of thing you

1 look for. There's a great risk for having that whenever
2 you have a facial nerve injury.

3 Q Okay. In terms of the injuries to her hands and the
4 tendon injuries, do you have an opinion as to a reasonable
5 degree of medical certainty as to whether or not there
6 would be long-term impairment of the use of her hands?

7 A Yeah. I mean -- again, that's something as you
8 follow up you look to see, and those sort of things are
9 evaluated long-term. It's extensive physical therapy.

10 Most individuals when you have tendon, as well as
11 when you talk about tendon loss, there are little blood
12 vessels that run along those sort of things, as well as
13 nerves. They can end up with deformities of the hand, not
14 being able to extend the hand fully, depending on the
15 location of whether it's a flexor or extensor.

16 Flexor means it allows your hand to bend. Extensor
17 means that it allows your hand to stand out, so you have
18 to have those in harmony in order to have a straight hand.
19 If you don't have that, the ability in which one oversees
20 the other in terms of the -- if the tendons on the back of
21 the hand are gone, then your hand will assume a natural
22 position of flexion.

23 If it's the flexion part, one that is intact and the
24 extensor one, then you end up in the opposite manner and
25 not be able to extent the hand, as well. That can end up

1 with deformities of the hand. That will impede you from
2 being able to grab a cup, pick up things, keys, those sort
3 of things and writing, depending on which fingers are
4 involved.

5 Q And in terms of her abdominal, the evisceration of
6 her abdominal area, do you have an opinion as to a
7 reasonable degree of medical certainty as to whether or
8 not Ms. Chavis was at the risk of death?

9 A Yes. Particularly so when you look back and see that
10 she was what we call the coagulopathy that goes along with
11 it, the blood loss, she received. Excuse me for a second.

12 (Pause).

13 When you go back and look at the initial operative
14 report, I think you and I went through, and she received
15 five units of blood, which is 250 CC, 300 CC's per unit.
16 You're talking about 1500 CC's of blood loss.

17 Initially, depending on your weight, it's usually 70
18 kilograms per -- 70 CC's per kilogram. So you could say
19 that someone has a five liter volume, you know, five
20 liters of Coke bottles. If you have one, and you have
21 five of them, that's how much fluid you have circulating
22 in your body at any one time.

23 She lost at least a liter-and-a-half to two liters of
24 fluid blood. So we gave her back that fluid during that
25 time so she was not at significant risk of death.

1 Q So the blood loss alone is significant risk of death?

2 A Yes, ma'am.

3 Q What about the collapsed lung, injuries to the bowel?

4 A Those sort of things all add up to risk of infection,
5 and those sort of things down the road which can add -- by
6 having intestinal contents leak out into your abdomen,
7 those sort of things increase the risk, as well.

8 MS. FENT: No further questions at this time.

9 THE COURT: Cross-examination?

10 MR. COLLINS: Thank you, Your Honor.

11 CROSS-EXAMINATION:

12 BY MR. COLLINS

13 Q Good morning, Dr. Bynoe.

14 A Yes, sir.

15 Q Let me move this out of the way.

16 (Pause).

17 So some of these cuts were pretty deep?

18 A Yes.

19 Q You said she lost a lot of blood?

20 A Yes, sir.

21 Q She had multiple lacerations to the back of her head?

22 A Yes, sir.

23 Q Where it's mostly skin and bone?

24 A Skin and bone, yes, sir.

25 Q Skull?

- 1 A Down to the skull.
- 2 Q And the skull is pretty thick?
- 3 A Yes, sir.
- 4 Q You have testified that some of the bones in her
- 5 hands were broken?
- 6 A Yes, sir.
- 7 Q It takes a little bit of force to break a bone in the
- 8 hand?
- 9 A Yes, sir.
- 10 Q And she came in on August 25th, right?
- 11 A Yes, sir.
- 12 Q And she went through multiple surgeries on the 25th?
- 13 A Twenty-fifth, 26th --
- 14 Q Twenty-sixth.
- 15 A -- 31st.
- 16 Q And 31st, so she had two surgeries on the 25th and
- 17 26th?
- 18 A Yes, sir.
- 19 Q Surgery includes going under anesthesia?
- 20 A Yes, sir.
- 21 Q She was given medication for pain?
- 22 A Yes, sir.
- 23 Q Through an I.V.?
- 24 A Yes, sir.
- 25 Q She was in the Intensive Care Unit?

- 1 A Yes, sir.
- 2 Q And when she came in, she was evaluated for a
- 3 possible head trauma, as well, right?
- 4 A Yes, sir.
- 5 Q Because of the blows to her head?
- 6 A Yes, sir.
- 7 Q And with that, you kind of monitor whether there's
- 8 any psychosis as part of that evaluation, correct?
- 9 A When you say psychosis, what do you mean?
- 10 Q What her mental ability is.
- 11 A We look at a Glasgow, the Glasgow Coma Scale, to give
- 12 us a basic sort of assessment to tell us whether or not
- 13 they can follow demands and do that sort of thing. That's
- 14 a part of it.
- 15 Q And some of the nurses asked her about symptoms and
- 16 how she is feeling?
- 17 A Pain, mainly.
- 18 Q Pain?
- 19 A Yes, sir.
- 20 Q And have you had a chance to look over the nurse's
- 21 notes in this case?
- 22 A No, sir, I didn't.
- 23 Q Have you had a chance to look over from August 30th?
- 24 A Which one?
- 25 Q From Palmetto Richland Health nurse's notes.

1 A Nurse's notes, no, sir, I didn't.

2 Q So you're not aware of Ms. Chavis talking of
3 nightmares where difficult attacker's faces were morphing
4 together?

5 A Say that -- ask your question again.

6 Q You're not aware of Ms. Chavis telling the nurse that
7 different attackers from her past, their faces morphing
8 together in her nightmares?

9 A No, sir. I didn't realize that. No, sir. I didn't
10 look at that.

11 MR. COLLINS: No further questions, Your Honor.

12 THE COURT: Any redirect?

13 REDIRECT EXAMINATION:

14 BY MS. FENT

15 Q He asked you about some of these injuries were deep.
16 Do you have any indication as to how many centimeters the
17 injuries went in? We've talked about the length of them
18 but how deep the injuries were.

19 A I mean, in order to go through the abdominal wall, it
20 depends on the individual. That -- those sort of things
21 go along with it in terms of the depth of it. You know,
22 if we went in deep enough that it penetrated, transected
23 her abdominal wall into the abdomen and transected the
24 bowel, that's fairly significant.

25 Q But you're not attaching a number to that word

1 "deep"?

2 A No.

3 MS. FENT: Okay. Your Honor, at this time I would
4 just offer exhibit 67 and 68 into evidence.

5 THE COURT: Any objection?

6 MR. COLLINS: No, sir.

7 THE COURT: All right. Sixty-seven admitted without
8 objection.

9 MS. FENT: No further questions.

10 THE COURT REPORTER: Just to be clear on the record,
11 it's 67 and 68?

12 THE COURT: Sixty-eight.

13 (WHEREUPON, State's Exhibits Nos. 67, 68 were
14 admitted into evidence.)

15 MS. FENT: No further questions from the State, Your
16 Honor.

17 THE COURT: Doctor, thank you very much. You may be
18 excused.

19 THE WITNESS: Thank you.

20 THE COURT: State, call your next witness.

21 MS. GARFIELD: The State calls Bille Joe Risinger.

22 THE CLERK: Raise your right hand.

23 BILLE JOE RISINGER, after being duly
24 sworn, testified as follows:

25

1 THE CLERK: Have a seat in the witness box and state
2 your full name for the record, please.

3 THE WITNESS: My name is Bille Joe Risinger.

4 DIRECT EXAMINATION:

5 BY MS. GARFIELD

6 Q Ms. Risinger, I'm going to ask you to speak into the
7 microphone, okay?

8 A Is that good?

9 Q That's good.

10 A Okay.

11 Q Do you have a nickname, Ms. Risinger?

12 A Tracy.

13 Q May I call you Tracy?

14 A Yes.

15 Q Tracy, where are you from?

16 A West Columbia.

17 Q Is that where you grew up?

18 A Yes, ma'am.

19 Q Did you graduate from high school?

20 A Yes.

21 Q Where did you graduate from?

22 A Airport.

23 Q After you graduated from Airport High School, what
24 did you do?

25 A I went to college, started community college.

- 1 Q And where was that located?
- 2 A In North Carolina, up in that area.
- 3 Q How long were you in college?
- 4 A A semester.
- 5 Q What caused you to drop out, Tracy?
- 6 A I went through a divorce, and I moved -- I moved back
- 7 here with my family.
- 8 Q Back here to the Columbia area?
- 9 A Uh-huh.
- 10 Q Tracy, did you develop a drug problem?
- 11 A Yes.
- 12 Q And can you just share with the jury what kind of
- 13 drug problem did you have?
- 14 A I had a problem with crack cocaine.
- 15 Q Do you still battle addiction?
- 16 A Yes.
- 17 Q Are you clean now?
- 18 A Yes.
- 19 Q Tracy, did you have the opportunity to ever know Mary
- 20 Chavis?
- 21 A Yes. She was a good friend of mine.
- 22 Q And how did you get to know her?
- 23 A We lived in the same trailer park.
- 24 Q Do you recall being with her back in August, early
- 25 morning hours of August 25th, 2006?

1 A Yes, I do. I haven't seen her in the past two years,
2 but at that time I saw her every day.

3 Q Specifically -- and you know what we're talking
4 about. You know why you're here, right, Tracy?

5 A Yes, ma'am.

6 Q Tracy, tell the jury when the first time on August
7 25th, 2006 you saw Mary.

8 A I had walked a little cut through the trailer park,
9 and she was at the -- sitting at the fence in front of her
10 yard with some other -- some other friends, Mark and some
11 other people. We all had the same addiction and she did.
12 I just -- I just called Kev.

13 Q And who is Kev?

14 A One of our suppliers at the time.

15 Q Do you know what his full name was?

16 A No, at that time I didn't.

17 Q Okay. And did you have the opportunity to see Kev
18 that night?

19 A Yes.

20 Q And share with the jury how you came about seeing
21 Kev.

22 A He came up and...

23 Q Tracy, are you nervous?

24 A Yes.

25 Q Take your time.

- 1 A Okay. He came and served them.
- 2 Q Be honest, what did he do?
- 3 A I left with him for a minute with Kevin, and there
- 4 was another boy with them named Devon and this man right
- 5 here (indicating).
- 6 Q And did you know that man at the time?
- 7 A I had never seen him before in my life.
- 8 Q You met him that night?
- 9 A Right.
- 10 Q And you got in the car with this man; is that
- 11 correct?
- 12 A With Kevin.
- 13 Q Right, and Kevin?
- 14 A And this other boy named Devon.
- 15 Q And you don't know anybody's last names?
- 16 A No.
- 17 Q Is that pretty common among the trailer park?
- 18 A It's pretty common in the street not knowing people's
- 19 last names.
- 20 Q And where did y'all go?
- 21 A We went -- he went to serve somebody else some drugs,
- 22 and we came back to Mary's trailer.
- 23 Q And when you got back to Mary's trailer, who was
- 24 there?
- 25 A Chino and Mary.

1 Q And do you know Chino's real name?

2 A Gustavo.

3 Q Do you know his last name?

4 A I don't remember.

5 Q You just knew it was Gustavo?

6 A Uh-huh.

7 Q And you knew Mary?

8 A Uh-huh.

9 Q And in the course of the evening, did anyone ever

10 leave?

11 A Yes, Kevin left and Devon left, and for some reason

12 they left this gentleman behind.

13 Q And I'm going to back up. Be very honest with the

14 jury. Did you --

15 A I did.

16 Q -- do anything with Kevin and Devon at the trailer?

17 A I had sex with Devon.

18 Q And describe Devon to the jury?

19 A He had dreads, long dreads, kind of like Kevin, but

20 she was taller, skinnier.

21 Q And after you and Devon engaged in intercourse, did

22 Devon leave?

23 A Yes.

24 Q And did Kevin leave?

25 A Yes.

1 Q And who was left at the trailer?

2 A This man (indicating).

3 Q Anyone else in the trailer?

4 A It was me, Mary, and Chino and this man. Chino went
5 to get a phone because --

6 Q Okay, slow down, slow down.

7 A Okay.

8 Q What were y'all doing in the trailer?

9 A Smoking.

10 Q And when you say smoking, what were you --

11 A We were all smoking crack.

12 Q And did you observe anything unusual about this man?

13 A He was very strange. He kept taking his shoes off
14 and putting them back on and his shirt off and putting it
15 back on, and Mary said, "I'm sorry, you have got to
16 leave," because he was weird. He was just acting weird.
17 She said, "You have to leave, please."

18 Q How did he make you feel?

19 A He gave me the creeps because I had tried to leave
20 right before that, and he tried to follow me out. I was
21 like huh-uh. I backed up. I said no.

22 Q Did you look --

23 A She goes --

24 Q -- at him good?

25 A Oh, yeah.

1 Q Eventually, Mary asked him to leave?

2 A She asked him to leave. In a very polite way, she
3 asked him to leave.

4 Q Did he leave?

5 A Yeah, he left, but he knocked on the door about three
6 to five minutes later.

7 Q Okay. He left?

8 A Uh-huh.

9 Q Did Chino ever leave?

10 A Chino left to get a phone --

11 Q Well --

12 A -- because I wanted to leave, and we wanted him,
13 Kevin, to come back and get him because we didn't know him
14 or why he was even left there.

15 Q So eventually, were just you and Mary left in the
16 trailer?

17 A Right.

18 Q And what were you and Mary doing?

19 A Well, we were trying to sit down and have a
20 conversation, but somebody knocked on the door. It was
21 him. I heard his voice.

22 Q And you heard this person --

23 MR. COLLINS: Objection, Your Honor. May we
24 approach?

25 THE COURT: What's your legal objection?

1 MR. COLLINS: She is making an I.D. on a voice that's
2 never come up before.

3 THE COURT: Well, do you have a legal objection?

4 MR. COLLINS: I'm objecting to her --

5 THE COURT: I don't --

6 MR. COLLINS: -- identification based on voice which
7 has never been addressed before. It was not brought up in
8 pretrial.

9 THE COURT: All right. I'll -- that's your
10 objection? Overruled, go ahead.

11 MR. COLLINS: My objection is to the identification
12 of the voice. I move to strike that.

13 THE COURT: Come up here.

14 (WHEREUPON, a bench conference was held in the
15 presence, but not within the hearing, of the jury)

16 THE COURT: All right. The objection is sustained.

17 BY MS. GARFIELD

18 Q Tracy, previously in the night, let me back up some.
19 When Kevin first arrived with this person, when you say
20 this person, who are you talking about? Describe him.

21 A I didn't know his name at the time but Chris Heller.
22 I just knew he was a black male with a very round face.

23 Q And you're describing --

24 A I remember his face very clearly.

25 MS. GARFIELD: Your Honor, for purposes of this

1 examination, may it reflect that Ms. Risinger has
2 identified the defendant?

3 THE COURT: Yes, ma'am.

4 BY MS. GARFIELD

5 Q Thank you.

6 I'll refer to him as the "defendant" instead of this
7 person.

8 A Okay.

9 Q Earlier when you first saw him, did you have an
10 opportunity to talk with the defendant?

11 A A little. He was kind of a person up to something.

12 Q Did he talk while everyone was there?

13 A Yeah.

14 Q And you heard his voice?

15 A I heard his voice, yeah.

16 Q Would you describe his voice?

17 A Kind of raspy.

18 Q Was it a high pitched voice --

19 A No.

20 Q -- or deep voice?

21 A No.

22 Q Was it high pitched?

23 A No.

24 Q Was it deep?

25 A Yes.

1 Q You could recognize his voice if you heard it again?

2 A Yes, ma'am.

3 Q So that night when someone came and knocked on the
4 door, did the person say anything?

5 A I don't know what exactly he said. I just heard -- I
6 just heard her saying, "No, no," and I heard him say
7 something, and then I heard a whole lot of noise --

8 Q Like --

9 A -- like banging, like (indicating).

10 Q Did the voice belong to a man or a woman?

11 A A man.

12 Q And could you identify that voice?

13 A Yes.

14 Q And who was that voice belonging to?

15 MR. COLLINS: Objection, Your Honor.

16 THE COURT: Overruled. Go ahead.

17 THE WITNESS: I would say him.

18 BY MS. GARFIELD

19 Q The defendant?

20 A Uh-huh, without a doubt.

21 Q And when you heard that voice, what did you do,
22 Tracy?

23 A Well, I asked -- I said, "Don't open the door." She
24 said just shut my door. Like I said, she is a nice lady.
25 She answers her door.

1 Q When you say "just shut my door", what door are you
2 talking about?

3 A Her bedroom door. I was in her bedroom. She said,
4 "Just shut my bedroom door." I am -- when I -- when I
5 heard all of the commotion, I got up and I locked the
6 door, and I hid under the bed.

7 Q And what kind of commotion are you talking about?

8 A Do you want me to describe it?

9 Q Please describe it to the jury.

10 A It was just like a lot of banging and screaming, a
11 lot of like banging, like on every wall banging and
12 screaming. I heard her screaming for her life.

13 Q What did you hear her say?

14 A "Stop, please".

15 Q What did you do, Tracy?

16 A I hid under the bed.

17 Q And what did you do under the bed?

18 A I prayed to God, and I seen a hatchet under the bed.
19 I grabbed it, and I crawled out from under the bed because
20 I had a little bit of courage, and I tried to break the
21 window open.

22 MS. GARFIELD: Your Honor, may this witness step down
23 to review some photographs?

24 THE COURT: Yes, ma'am.

25

1 BY MS. GARFIELD

2 Q Tracy, I'm showing you State's Exhibit Number 15.

3 A I hid under this bed.

4 Q Hold on one second.

5 A Uh-huh.

6 Q State's Exhibit Number 15, this is a diagram of nine
7 photographs. Specifically, you just pointed to picture
8 number -- picture letter D. Is that the bed you hid
9 under?

10 A Yes, ma'am.

11 Q And what bedroom is this?

12 A This is her bedroom, the main bedroom.

13 Q And this is the bedroom you hid in?

14 A Right.

15 Q And when you got out from under that bed, what did
16 you do?

17 A I crawled out right about here, out towards. At this
18 window right here, you can see the wood right here. I was
19 trying to break it, and there were little trinkets. In
20 her room, there were trinkets.

21 I was throwing -- you see where I ripped this out, I
22 was throwing them out the window, little wax trinkets
23 trying to get attention to -- the trailers are really
24 close together, really close. I was just trying to get
25 somebody's attention to come help her and help us because

1 I didn't know what -- I didn't know what to do.

2 Q Thank you. Please take your seat.

3 A Okay.

4 Q Were you scared, Tracy?

5 A Out of my mind.

6 Q What did you eventually do?

7 A Well, Mary said -- she said, "I'm dying. My guts are
8 hanging out." I remember seeing that.

9 Q Where were you?

10 A I was in the room, and I said, "Where is he? Where
11 is he? Where is the man?"

12 She said, "I don't know. I'm dying."

13 I opened the door, and I was scared. I didn't -- I
14 didn't know what to do. I ran out the trailer, and when I
15 ran out --

16 Q Did you see Mary?

17 A No, not -- I couldn't look at her. I was -- my mind
18 was so -- was racing. I felt like I was in a horror
19 movie. All I saw was blood everywhere. When I ran out
20 the door, I seen our friend Chino face down in the street.

21 Q What did you do, Tracy?

22 A And I didn't know...

23 (Crying).

24 I didn't know where that man was, and I thought he
25 was going to come out of nowhere for me.

1 Q And when you say "man", are you -- are you referring
2 to the man that had assaulted your friends?

3 A Right.

4 Q What do you have in your possession while you're
5 running out?

6 A A hatchet in my hand.

7 Q And is that the hatchet from under the bed?

8 A Yes.

9 MS. GARFIELD: May I approach the witness, Your
10 Honor?

11 THE COURT: Yes, ma'am.

12 (Getting water for the witness).

13 THE WITNESS: Thank you.

14 BY MS. GARFIELD

15 Q Tracy, why did you have that hatchet in your hand?

16 A Because I was scared, and I didn't know if I was
17 going to have to protect myself from him because I seen
18 what he did to my friends, and I didn't know where he was.

19 Q What did you do next?

20 A I started banging on all the trailers with them --
21 the hatchet. I started banging on all of the trailers,
22 every one, to wake people up. At that time, I seen Kev
23 ride by. I seen his car. It's a little blue car. You've
24 got it on your pictures. It's a little blue car. I seen
25 that blue --

1 Q Let me stop. Did you ever try to call anyone?

2 A I had knocked on the door and got a phone, and I was
3 getting ready to call the police. I seen Kev ride by. I
4 mean, yeah everybody was laughing. They didn't take me
5 seriously.

6 They thought I was just -- you know, they didn't --
7 they didn't know that Mary was dying and that Chino was
8 dead. They didn't know that.

9 I seen Kev ride by. I called Kev, and I said "Stop".
10 I went running after his car flagging him down to stop and
11 get me out of there.

12 Q Take a break.

13 (Pause).

14 Of course it would be the last one. I'm going to
15 show you State's Exhibit Number 23. Do you recognize the
16 first two photographs?

17 A This is the car that I chased down and the car that I
18 had been in earlier.

19 Q And that car was driven by who?

20 A Kevin.

21 Q And when you saw Kevin, what did you do?

22 A I flagged him down. I said "stop". I told him that
23 your cousin had went crazy, and he was trying to kill
24 everybody. I didn't know where he was, and to get me out
25 of there because I was scared for my life.

1 Q Did Kevin take you away?

2 A He did. He took me to Faraway Drive.

3 Q When you got to Faraway Drive, what did you do?

4 A I called my mom.

5 Q Where does your mother live?

6 A In Irmo.

7 Q And tell -- why were you calling your mom?

8 A I told my mom what had happened, that I had witnessed
9 a murder. I didn't know if my friends were okay, and I
10 was scared and to get me out of there because I didn't
11 know what to do.

12 I didn't -- I mean, I knew that I probably would have
13 to talk to the police. I knew. I just -- all I wanted
14 was my mama. I just wanted my mom. I was scared. I
15 didn't know what to do.

16 Q Did she come get you?

17 A She did.

18 Q And where did she take you?

19 A To her house and put me in the bed.

20 Q And sometime later, subsequently the next day, were
21 you notified by law enforcement?

22 A Yes. I think it was the same day they had called and
23 they came by the next day.

24 Q And did you speak with law enforcement?

25 A I did.

1 Q Did you initially tell them the truth, Tracy?

2 A I told them the truth, but I had left out Kevin's
3 name.

4 Q Why?

5 A Well, because I didn't know his last name, number
6 one, and number two, I didn't -- I didn't know that it was
7 his cousin or -- that was later told to me. I didn't know
8 his last name or anything like that. I didn't --

9 Q Why wouldn't you tell them the name Kev?

10 A Because I -- I didn't want anybody to get in trouble
11 for the drugs that were part of all of this.

12 Q Eventually did you go back and tell law enforcement
13 the truth?

14 A The next day.

15 Q And did you help law enforcement identify who Kev
16 was?

17 A In every way that I could.

18 Q And how did you do that?

19 A They kept showing me pictures of him in the computer.

20 Q You were able to pick him out?

21 A Uh-huh. He was a good friend of mine. I was able to
22 pick him out. I didn't know his last name.

23 Q That's pretty common?

24 A That's very common.

25 Q Tracy, did you leave anything at Mary's trailer that

1 night?

2 A I left my drugs and my paraphernalia under her -- in
3 a little purse under her bed because I wasn't really -- I
4 was pretty much scared sober, and I wasn't really
5 concerned with the -- with the drugs anymore. It kind of
6 put my mentality to a reality like that.

7 Q Were you asked to go to anyone at S.L.E.D., State Law
8 Enforcement Division, and help with the drawing of the
9 person that you saw that night?

10 A Yes.

11 Q And I'm going to show you what's been marked as
12 State's Exhibit Number seven. Do you recognize this?

13 A Yes.

14 Q And I'm going to show you the back. Do you recognize
15 that?

16 A Yes.

17 Q What is that?

18 A That's my signature.

19 Q Is this the picture -- I'm not going to show it to
20 the jury yet. Is this the picture that you helped draw?

21 A Yes.

22 Q And what kind of description of this person did you
23 give law enforcement?

24 A I remembered -- I remembered his face pretty well.

25 Q And can you tell the jury how you described him?

1 A Just that he had a real small round face and kind of
2 dimplish.

3 Q Can you remember --

4 A Pretty much that photo is the best, the best
5 description I had. When they showed me the lineup, I was
6 pretty sure which one -- it was him.

7 Q We'll get to that in a second, Tracy.

8 Do you recall what the defendant that night that you
9 saw him previously, what he was wearing?

10 A A white T-shirt.

11 Q Do you remember any kind of pants or shoes?

12 A White T-shirt and shorts.

13 Q And did you remember anything else particular about
14 the defendant?

15 A Just that he acted real strange.

16 Q Do you remember anything like any scarrings or
17 tattoos?

18 A I remember he had a tattoo that said -- I couldn't
19 remember exactly where on his body it was, just that I had
20 seen it in the event of him taking his clothes on and off.

21 Q And what were those tattoos of?

22 A There was a tattoo that said "made man" on it, "made
23 man", a tattoo that had dollar signs, and I think an eye,
24 but I'm not sure about that. All I -- I'm definitely sure
25 of the man made -- the made man and the dollar signs. I'm

1 not positive about the others.

2 Q And did you also share that with the person you were
3 making the composite?

4 A Yes, ma'am.

5 Q I'm going to show you what's been marked as State's
6 Exhibit Number eight. Do you recognize this?

7 A Yes. That was my memory of his tattoos.

8 Q And is that your signature on the back?

9 A Yes, ma'am.

10 Q Okay. And sometime after that, were you also
11 approached by law enforcement, I believe at your home, and
12 asked to look at a photographic lineup of the person you
13 saw at the trailer?

14 A Yes, ma'am.

15 Q I'm going to show you what's been marked as State's
16 Exhibit Number ten. Do you recognize this?

17 A Yes, I do.

18 Q And is that the photographic lineup?

19 A Yes.

20 Q And which picture did you pick out?

21 A The one, number three, with my signature.

22 Q And how long did it take you to pick that picture
23 out?

24 A A matter of looking at -- just looking at them. When
25 I looked at the page, I knew which one it was.

1 Q Did law enforcement tell you which one it was?

2 A No, they didn't know. How could they tell me?

3 Q Beg the Court's indulgence.

4 (Pause).

5 Tracy, after this incident when you ran from that
6 trailer, when is the next time you saw Mary?

7 A I haven't seen -- she was a good friend of mine, and
8 I saw her every day. I have not seen her. This is the
9 first time I've seen her in the past two -- over two
10 years.

11 Q You never spoken to her about this incident?

12 A I have not spoken to her. I have not known where she
13 was or anything until being at this courthouse.

14 Q Tracy, where is the man that you heard come into that
15 trailer while you were in the bedroom?

16 A He's sitting right there looking at me.

17 MS. GARFIELD: Your Honor, may the record reflect
18 that Ms. Risinger has pointed out the defendant?

19 THE COURT: Yes, ma'am.

20 MS. GARFIELD: Thank you. Please answer any
21 questions Mr. Collins has.

22 THE WITNESS: Okay.

23 MS. GARFIELD: Thank you.

24 THE COURT: Cross-examination?

25 MR. COLLINS: Thank you.