

VOLUME II 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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THE FOLLOWING EXHIBIT’S ARE ON FILE WITH THIS COURT:

PLAINTIFF’S EXHIBIT NOS. 4 AND 5 (PHOTOGRAPHS)

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CROSS-EXAMINATION:

BY MR. COLLINS

Q Tracy, you remember giving a written statement to the police --

A Yes, sir.

Q -- back in 2006?

A Yes, sir.

Q And you signed it at the bottom?

A Yes, sir.

Q And it says that you were swearing to tell the truth, right?

A I did tell the truth. I didn't lie but --

Q The whole truth?

A I did not lie about anything. I had only left out one name. That was the only thing that I had left out.

Q Swore to tell the truth?

A Yes, sir.

Q The whole truth?

A Yes, sir.

Q Nothing but the truth?

A Yes, sir.

Q And in that written statement you don't mention anything about hearing anybody's voice at the front door that night, do you?

A Well, it was --

1 THE COURT: You have a --

2 THE WITNESS: I was --

3 THE COURT: Do you have the statement, a copy of the
4 statement?

5 MR. COLLINS: Yes, Your Honor.

6 THE COURT: How about giving her a copy of the
7 statement if you're asking questions about it, please.

8 MR. COLLINS: Would you like to look at --

9 THE COURT: Do you have an extra copy?

10 MS. GARFIELD: Here, you can have mine.

11 THE WITNESS: It's okay.

12 BY MR. COLLINS

13 Q Do you remember what you have in that statement?

14 A Yeah, but I was -- just -- just to let you know, I
15 was really scared when I made that statement, and as
16 things came back to me and it -- those investigators made
17 it easier for me to tell the truth to them because I was
18 scared for me. I was scared for my friends to get in
19 trouble, and it had given me to tell a lot of --

20 Q You wanted to catch the man that did this, didn't
21 you?

22 A Yeah, but I was really scared.

23 Q You wanted him --

24 A It was a traumatic thing to go through. I don't know
25 if you've witnessed a murder or been anywhere where

1 somebody killed innocent people, but it's very traumatic
2 on your mind.

3 Q So there's nothing in that written statement about
4 hearing a man's voice outside that trailer?

5 A No.

6 Q Okay. And you remember testifying earlier before
7 this trial started, correct?

8 A Yes, sir.

9 Q And you swore to tell the whole truth?

10 A Yes, sir.

11 Q Nothing but the truth?

12 A Yes, sir.

13 Q And even God can help you if you have trouble telling
14 the truth, right?

15 A And I guess he has.

16 Q So help you God, and you didn't say anything about
17 hearing a man's voice outside the front of the trailer,
18 did you?

19 A Well, things come to you as --

20 Q It just came to you today?

21 A As they're asked to you, yeah.

22 Q Okay.

23 A As they're asked to you.

24 Q All right. You talked about having a hatchet that
25 night, right?

1 A Yes.

2 Q Did you give it to the police?

3 A Yeah. They got it out of Kev's car.

4 Q They got it out of Kev's car?

5 A Yeah.

6 Q So it would be in evidence, if they have it?

7 A I don't know. That's not my job.

8 Q And you also took a phone from somebody that night,
9 right?

10 A Yes.

11 Q And it would be in evidence, too?

12 A No. The phone wouldn't be in evidence because I had
13 it with me. I was going to return it where I got it from
14 but I --

15 Q You didn't return it?

16 A I couldn't go back there.

17 Q Okay. You didn't give it to the police?

18 A No. I didn't have it in my possession.

19 Q And after you saw your good friend gutted, you ran
20 out of the trailer, right?

21 A I -- I told you, I couldn't look at her.

22 Q So you ran out of the trailer?

23 A I was scared. I didn't know where this crazy man
24 was. I would be laying right beside them with my guts
25 hanging out, too.

1 Q So you ran out of the trailer?

2 A I ran out of the trailer.

3 Q And you saw another one of your friends face down on

4 the pavement?

5 A And that made me run even harder.

6 Q And then you got a telephone in your hand from a

7 friend, right?

8 A Right, which was quickly out of reach when I got out

9 of there. The phone stopped working.

10 Q And you didn't call 911?

11 A I had somebody else call 911.

12 Q You didn't call 911?

13 A No, I did not.

14 Q You called your drug dealer?

15 A No. He rode by, and I seen that my friend had it and

16 he -- I seen him drive by, and I stopped him to get me out

17 of there.

18 Q And you called him?

19 A Would you -- would you stand around if you knew that

20 there was a killer running loose?

21 Q I'm asking the question.

22 A In a dark trailer park, a little girl? Would you

23 stand around there? Would you? Let me ask you that.

24 Q I'm asking the questions here.

25 A Okay.

1 Q You called your drug dealer --

2 A Okay. Why don't you ask yourself some of these
3 questions you're asking me?

4 Q It's a yes or no. You called your drug dealer, too,
5 didn't you?

6 A No. I saw my friend drive by, and I called him to
7 stop and get me. I left my drugs under the bed. I was
8 not concerned about drugs.

9 Q Is that a yes?

10 A Take it however you want to. You're asking the same
11 question over and over. What do you want me to say here?

12 MR. COLLINS: Your Honor, can you instruct the
13 witness to answer the question?

14 THE COURT: All right.

15 THE WITNESS: What is your question?

16 THE COURT: Will --

17 MR. COLLINS: Did you or did not call your --

18 THE COURT: Listen to me just a second, okay.

19 THE WITNESS: No. I did not call my drug dealer.

20 THE COURT: Ms. Risinger.

21 THE WITNESS: He's not my drug dealer. He's my
22 friend.

23 THE COURT: Ms. Risinger.

24 THE WITNESS: Yes, sir.

25 THE COURT: Listen to me just a second.

1 THE WITNESS: Yes, sir.

2 THE COURT: Calm down.

3 THE WITNESS: Well, he's trying to twist these --

4 THE COURT: Listen to me for just a second. Just be
5 quiet --

6 THE WITNESS: Uh-huh.

7 THE COURT: -- for just a minute.

8 THE WITNESS: Uh-huh.

9 THE COURT: Calm down, okay.

10 Now, let me explain to you the process. He's asked
11 the questions, and you've got to answer them.

12 THE WITNESS: But he's asking the same question
13 twisted.

14 THE COURT: Listen to me, ma'am.

15 THE WITNESS: Okay.

16 THE COURT: You need to learn to listen a little bit.
17 Quit running your mouth and listen. Do you understand?

18 THE WITNESS: Uh-huh.

19 THE COURT: All right. Now, he's going to ask the
20 questions, and you're going to answer them. If it entails
21 a yes or no, I don't know, or I don't understand answer,
22 answer it that way. You can explain it, but quit arguing
23 with the attorney, and you quit asking questions. Do you
24 understand?

25 (There was no response).

1 Do you understand?

2 THE WITNESS: Yes, sir, but I cannot say yes to a
3 question that he's trying to --

4 THE COURT: Yes, ma'am, you can say yes or no or I
5 don't understand, and then you will have ample opportunity
6 to explain your answer.

7 THE WITNESS: Okay.

8 THE COURT: And I will let him give you that time.
9 Do you understand the process?

10 THE WITNESS: Okay.

11 Well, okay. Yes, sir, I did call my friend that
12 happens to be a drug dealer.

13 BY MR. COLLINS

14 Q Thank you.

15 A Only because I saw him drive by. I didn't call him
16 like first thing that popped in my head. He happened to
17 drive by, and it was my way out of a scary scene.

18 Q Thank you. I want to take you back to before the
19 attack happened, okay. You said you were in the back
20 bedroom with Ms. Chavis?

21 A Uh-huh.

22 Q And you heard a knock at the door?

23 A I heard a knock at the door.

24 Q She went and answered the door, right?

25 A Uh-huh.

1 Q You stayed in the bedroom?

2 A I stayed in the bedroom.

3 Q With the door closed?

4 A With the door closed.

5 Q Was there a lamp on in the back bedroom?

6 A I don't remember.

7 THE COURT: Now, Mr. Collins, give her an opportunity
8 to explain if she wants to before you fire another
9 question at her, okay?

10 MR. COLLINS: Okay.

11 THE COURT: Give her an opportunity to explain her
12 answers.

13 Please proceed.

14 BY MR. COLLINS

15 Q Was there a -- you don't know if there was --

16 A I don't --

17 Q -- a light on --

18 A I don't remember if there was a lamp. I'm sure there
19 was. It was lited (sic). It was a lit room. I don't
20 remember details on what -- on what light was on or not.

21 Q And you remember telling me that the light was off in
22 the den that night?

23 A No, I don't remember telling you that.

24 Q You don't remember telling me that under oath?

25 A A light was off in the den?

1 Q Uh-huh.

2 A I don't know. I wasn't in the den. I was in the
3 bedroom. Why would I tell you that the light was on in
4 the den?

5 Q Okay.

6 A I don't remember.

7 Q And when you heard all of the commotion in the den,
8 you didn't open the door during that, did you?

9 A No. I hid under the bed. I was scared.

10 Q You didn't see the attack, did you?

11 A I did not see the attack. I only heard it, but
12 just -- can I just say one thing?

13 Q No.

14 A She had -- he had -- she had just kicked him out
15 three minutes before there was a knock on the door. Who
16 else would it have been?

17 MR. COLLINS: Who else? Thank you.

18 THE COURT: Redirect?

19 MS. GARFIELD: Just briefly.

20 REDIRECT EXAMINATION:

21 BY MS. GARFIELD

22 Q Tracy, when you testified in the hearing before we
23 started the case --

24 A Uh-huh.

25 Q -- were you asked about hearing the defendant?

1 A No.

2 MS. GARFIELD: Thank you. Nothing further.

3 THE COURT: Ms. Risinger, thank you very much. You
4 may step down. Thank you. Be careful stepping down.
5 Thank you very much.

6 THE WITNESS: Thank you.

7 MS. GARFIELD: Your Honor, may Ms. Risinger be
8 excused?

9 THE COURT: Any objection?

10 MR. COLLINS: At this point I'm going to have to wait
11 until we hear from Ms. Chavis.

12 THE COURT: I'm asking if you have an objection, yes
13 or no?

14 MR. COLLINS: Yes, we have an objection.

15 THE COURT: All right. Ms. Risinger, wait out in the
16 hall, okay? Thank you very much.

17 Solicitor, call your next witness.

18 MS. GARFIELD: The State calls Special Agent Deborah
19 Goff.

20 DEBORAH GOFF, after being duly sworn,
21 testified as follows:

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

24 THE WITNESS: My name is Deborah R Goff, G-O-F-F.

25 DIRECT EXAMINATION:

1 BY MS. GARFIELD

2 Q Where are you employed?

3 A With the South Carolina Law Enforcement Division.

4 Q What is your rank there?

5 A I'm a Special Agent assigned to the Forensic Art
6 Unit. My title is forensic artist.

7 Q Can you explain to the jury what a forensic artist
8 is?

9 A A forensic artist is someone who is especially
10 trained to use their art skills and knowledge to help in
11 criminal investigations and case prosecution.

12 Q And specifically what do you do?

13 A We conduct composite interviews to develop composite
14 sketches, and we also do other forensic art like facial
15 reconstruction on the skull and stuff like that, but in
16 this case, we conduct composite interviews to create a
17 composite sketch.

18 Q How long have you been doing composite sketches?

19 A For about five years total.

20 Q Has that always been with the State Law Enforcement
21 Division?

22 A No. I've been with S.L.E.D. -- March will be three
23 years.

24 Q And where were you previously employed?

25 A At the North Carolina State Bureau of Investigations.

1 Q What is your educational background?

2 A This is a brief summary of my training as it relates
3 to composite sketches. I have a Bachelor of Fine Arts
4 degree from Georgia State University majoring in
5 illustration in 1995.

6 I've attended the Federal Bureau of Investigations
7 Academy for Forensic Facial Imaging course. It's a
8 three-week course in Quantico, Virginia in 2006.

9 I've completed comprehensive composite drawing course
10 with Karen Taylor in Scottsdale, Arizona in 2003. I've
11 attended the International Association for Identifications
12 93rd educational conference in 2008, and I've been a
13 member of the International Association for Identification
14 since 2003. This past year, in 2008, I became certified
15 in forensic art through the International Association for
16 Identification.

17 Q How many composites would you say you have created?

18 A To date I've completed about 200 composites.

19 Q Exactly what is a composite drawing?

20 A A composite drawing is an image made up of component
21 parts which represent the witness's memory of what the
22 suspect looks like.

23 Q Would this just be of the face?

24 A We -- it doesn't only include the face. We mainly
25 focus on the face, but if the witness can remember other

1 things like clothing or jewelry or tattoos, we will also
2 draw that or sketch that. Anything that the witness can
3 remember, we will attempt to sketch.

4 Q And what is the purpose of a composite?

5 A The purpose of a composite, when a crime is committed
6 and the suspect of the crime is unknown, a composite
7 sketch can help put an identity to the unknown suspect.

8 Q And how do police use these composites?

9 A The police will use a composite to help generate
10 leads. When they have a case where the suspect is
11 unknown, we'll develop a composite sketch. Then the
12 police can use that composite sketch either through the
13 local law enforcement or through the media to help
14 generate leads to hopefully create, get an identity, of
15 who the suspect was.

16 Q Please explain to the jury the process you use to
17 create a composite.

18 A Okay. When I'm -- when I'm called to assist a local
19 agency to do a composite, I will meet with a witness one
20 on one, and I'll ask them to briefly describe to me what
21 happened. That's so that I have an idea of what the
22 circumstances were when they saw the suspect.

23 Then I'll ask the person -- ask the witness to
24 describe to me what did the suspect look like, and as they
25 describe what the suspect looked like in their own words,

1 I'll start sketching.

2 Then as we start developing the sketch, I will also
3 introduce some photo reference material. That's a Federal
4 Bureau of Investigations Facial Identification Catalog
5 book which has all the different features broken out into
6 different categories like eyes, nose, mouth.

7 In that way, the witness can flip through the catalog
8 book, and when they see something that looks familiar to
9 them that reminds them of a suspect, they can point that
10 out to me. I'll use that as reference, and we'll work
11 with that.

12 The sketch goes through many changes. I'll show the
13 sketch to the witness, and they'll say -- they'll make
14 adjustments and changes to the sketch. We'll continue
15 doing that until we're satisfied that we've done
16 everything we can to create as close a likeness as we
17 possibly can.

18 Q Is this an actual drawing or a computer?

19 A This is a drawing, hand-drawn sketch.

20 Q And what is the role of the witness as far as you're
21 concerned?

22 A The witness -- the witness's role is very important
23 because they are the source of the information. They --
24 they're the person who saw the suspect, not me. So they
25 direct and control the drawing throughout the entire

1 process.

2 Q Around August 28, 2006, were you contacted by the
3 Richland County Sheriff's Department to assist in
4 conducting a composite?

5 A Yes, ma'am.

6 Q And what were you asked to do?

7 A I was asked to respond to Richland Memorial Hospital.
8 They had a female victim that had been badly cut up, and
9 just all I was told was to respond to the hospital and
10 where she would be, so that's where I went.

11 Q Were you told anything about the suspect?

12 A I don't believe I was. In many cases when local
13 agencies call, we are told what the race and sex of the
14 suspect is, as well as the race and sex of the victim.

15 In this case I think I was only told female victim
16 Richland Memorial Hospital, respond immediately, so I
17 went.

18 Q Okay. And who did that victim turn out to be?

19 A Mary Dianna Chavis.

20 Q And when you saw Ms. Chavis, how did she appear?

21 A She was -- she was obviously very badly wounded. She
22 was bandaged up. She had lacerations all over her, and
23 her hands were completely bandaged up.

24 Q Did she appear lucid?

25 A Yes, she did.

1 Q I'll hand you what's been marked as State's Exhibit
2 Number six. Do you recognize this exhibit?

3 A Yes, I do.

4 Q And what is that exhibit of?

5 A This is the composite sketch that I created by
6 interviewing Mary Dianna Chavis.

7 Q And you drew that from the description she gave you?

8 A Yes, ma'am.

9 Q Has that been changed in any way?

10 A No, it has not.

11 MS. GARFIELD: Your Honor, at this time I would move
12 State's Exhibit Number six into evidence.

13 THE COURT: Any objection?

14 MR. COLLINS: At this time, it's based on hearsay.

15 (Pause).

16 No objection. We'll let it in.

17 THE COURT: Okay. What number is that?

18 MS. GARFIELD: Six.

19 THE COURT: State's Exhibit 6 admitted without
20 objection.

21 (WHEREUPON, State's Exhibit No. 6 was admitted into
22 evidence.)

23 BY MS. GARFIELD

24 Q Did you also have an opportunity to interview any
25 other witnesses in this case?

1 A Yes. The next -- the next day I was able to
2 interview Bille Risinger or Tracy Risinger.

3 Q And where did you interview her?

4 A In my office. She came to my office, and I
5 interviewed her in my office.

6 Q Okay. And did she also render a composite?

7 A Yes, she did.

8 Q And I'll hand you what's been marked as State's
9 Exhibit Number seven. Do you recognize this?

10 A Yes, I do.

11 Q And what is that reflecting?

12 A This is the composite sketch that was developed with
13 my interview with Bille Risinger.

14 Q And did Ms. Risinger provide you any other details
15 concerning her memory of this person?

16 A She was able to remember some tattoo markings on the
17 suspect.

18 Q And I'll hand you what's been marked as State's
19 Exhibit Number eight. Do you recognize this exhibit?

20 A Yes, I do.

21 Q And can you explain to the jury what that is?

22 A This is a sketch that was developed through Tracy
23 describing to me what she remembered about tattoo markings
24 on the suspect's body, and there are two small scars.

25 MS. GARFIELD: Thank you.

1 At this time, Your Honor, we would introduce State's
2 Exhibit Number eight into evidence.

3 MR. COLLINS: No objection.

4 THE COURT: Eight admitted without objection.

5 (WHEREUPON, State's Exhibit No. 8 was admitted into
6 evidence.)

7 BY MS. GARFIELD

8 Q Are these intended to look exactly like the suspect?

9 A No, they're not. The best that we can hope for,
10 since we're working from somebody's memory and memory
11 isn't 100 percent, the best that we could hope for is a
12 good enough likeness of the individual that it will create
13 a lead to an identification.

14 Q And are each of -- the witnesses were able to review
15 these composites?

16 A Yes, ma'am.

17 Q And were they able to make changes?

18 A Oh yes. They are able to make changes throughout the
19 entire process.

20 Q And were you able to ask them -- I believe you
21 mentioned the scale at one point. Were you able to ask
22 the witnesses --

23 A Yes. At the end of the composite interview, I asked
24 the witness to rate --

25 MR. COLLINS: Objection, calls for hearsay, Your

1 Honor.

2 THE COURT: Overruled. Go ahead.

3 THE WITNESS: At the end of the composite interview,
4 we ask the witness to rate the drawing on a scale of one
5 to ten, one being doesn't look anything like the suspect
6 and ten being looks exactly like him.

7 BY MS. GARFIELD

8 Q How many forensic artists are there in South
9 Carolina?

10 A Currently we have two at South Carolina Law
11 Enforcement Division.

12 Q And do you all assist in composites all over the
13 state?

14 A Yes, we do.

15 MS. GARFIELD: Beg the Court's indulgence.

16 THE COURT: Yes, ma'am.

17 (Pause).

18 BY MS. GARFIELD

19 Q Were you able to ask either of these witnesses to
20 give you a specific rating?

21 A Yes, I asked Bille Risinger.

22 Q And what was the rating she gave?

23 MR. COLLINS: Objection, Your Honor, calls for
24 hearsay.

25 THE COURT: I'll sustain the objection.

1 MS. GARFIELD: Beg the Court's indulgence.

2 (Pause).

3 Thank you. I have nothing further.

4 THE COURT: Cross-examination?

5 MS. GARFIELD: Your Honor, may I publish these
6 exhibits to the jury?

7 THE COURT: What is that?

8 MS. GARFIELD: Six, seven, and eight.

9 THE COURT: Six, seven and eight, yes, ma'am.
10 Cross-examination?

11 MR. COLLINS: Thank you for coming, Ms. Goff.

12 THE COURT: Thank you very much. You may be excused.

13 THE WITNESS: Thank you.

14 THE COURT: Call your next witness.

15 MS. FENT: State calls Kevin Nails.

16 KEVIN NAILS, after being duly sworn,
17 testified as follows:

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

20 THE WITNESS: Kevin Nails.

21 DIRECT EXAMINATION:

22 BY MS. FENT

23 Q Mr. Nails, can you tell the jury a little bit about
24 yourself? How old are you?

25 A I'm 26.

1 Q And are you married? Do you have any kids?

2 A No, ma'am. I'm single.

3 Q What do you do for a living?

4 A I'm trying to attend Midlands Tech for automotive

5 work.

6 Q Automotive work?

7 A Yes, ma'am.

8 Q You're doing -- trying to do that right now?

9 A Yes, ma'am. I'm trying to apply to Midlands Tech.

10 Q You're trying to get in?

11 A Yes, ma'am.

12 Q Okay. How long have you lived in Columbia, South

13 Carolina?

14 A I've been in Columbia about -- I'd say about ten

15 years.

16 Q Where are you originally from?

17 A Baxley, Georgia.

18 Q Do you know Christopher Heller?

19 A Yes, ma'am.

20 Q Do you see him in the courtroom?

21 A Yes, ma'am.

22 Q Can you tell me what he's wearing or where he's

23 sitting so we know who you're talking about?

24 A Right here with the striped shirt on (indicating).

25 Q You say right here --

1 A Right there at the defendant's seat.

2 Q Okay. Sitting at this table right here.

3 A Yes, ma'am.

4 MS. FENT: Let the record reflect the witness has
5 identified the defendant.

6 THE COURT: Yes, ma'am.

7 BY MS. FENT

8 Q How do you know Christopher?

9 A That's my cousin.

10 Q Have you known him all your life?

11 A Yeah.

12 Q When you lived back in Baxley, Georgia, did you live
13 near --

14 A Yes, ma'am. We stayed together in the same house.

15 Q Okay. Are y'all around the same age?

16 A He's about fours years older than me.

17 Q So you grew up together?

18 A Yes, ma'am.

19 Q Did you go to the same schools?

20 A No. We -- I went there. He was kind of like in --
21 I'd say about middle school when I was in elementary
22 school, so we went to separate schools.

23 Q When you moved to Columbia, did you still keep in
24 contact with him?

25 A Sort of, kind of.

- 1 Q Do you have a close family?
- 2 A Yes, ma'am.
- 3 Q You're cousins -- so how are you related? Are your
- 4 dads or moms related?
- 5 A Moms are sisters.
- 6 Q Do your moms keep in touch?
- 7 A Yes, ma'am.
- 8 Q You go back to Baxley, Georgia every once in a while?
- 9 A Yes, ma'am.
- 10 Q Back in August of 2006 --
- 11 A Uh-huh.
- 12 Q -- did you see your cousin, Christopher Heller?
- 13 A Yes, ma'am.
- 14 Q And where did you see him?
- 15 A He had got dropped off here. They were supposed to
- 16 go to Cherokee, North Carolina for the weekend.
- 17 Q You said he got dropped off here. What do you mean?
- 18 A At my mom's house.
- 19 Q In Columbia?
- 20 A In Lexington.
- 21 Q In Lexington, and who brought him to your mom's
- 22 house?
- 23 A I don't -- I don't know.
- 24 Q Do you remember when in August?
- 25 A It was like, I think, a Thursday. I'm not sure.

1 Q You know the -- do you know what date he left
2 Columbia?

3 A No, ma'am.

4 Q Okay. Can you tell us how many days before the day
5 that he left -- I guess I asked you do you know what day
6 he left? You don't know the date?

7 A No, ma'am.

8 Q Okay. But you know you saw him leave?

9 A Yes, ma'am.

10 Q Okay. When you saw him leave Columbia --

11 A Uh-huh.

12 Q -- how many days had he been here in Columbia?

13 A Probably about -- I'd say about two or three days.

14 Q And you said they were supposed to go to Cherokee?

15 A Yes, ma'am.

16 Q Who is "they"?

17 A My grandma, my mother, and my cousin.

18 Q And Chris?

19 A Yes, ma'am.

20 Q But they didn't get there to Cherokee?

21 A No, ma'am.

22 Q Okay. So specifically you -- August 25th of 2006 --

23 A Uh-huh.

24 Q -- did you happen to go to Mary Chavis' trailer?

25 A Yes, ma'am.

1 Q And you know Mary Chavis?

2 A Yes, ma'am.

3 Q What do you call her?

4 A Dion, Dee.

5 Q And do you see Dee in the courtroom?

6 A Yes, ma'am.

7 Q And where is she?

8 A Right here with the -- like turtle neck on.

9 Q Okay. How long had you known Dee?

10 A I'd say about a year, two years.

11 Q Who was with you when you went to Dee's trailer?

12 A My cousin Chris and a dude named Devon.

13 Q What car were you driving?

14 A The little blue car right here in this picture right

15 here.

16 Q State's Exhibit 23?

17 A Yes, ma'am.

18 Q That's your car?

19 A Yes, ma'am.

20 Q You were in that car with Devon and Christopher

21 Heller?

22 A Yes, ma'am.

23 Q When you went to Mary's trailer, Dee's trailer, who

24 did you see there?

25 A Dee, Tracy, and I forgot the name. They call him the

1 mechanic.

2 Q The mechanic?

3 A Yes, ma'am.

4 Q Do you remember what race the mechanic was?

5 A Like Mexican, I think.

6 Q So what happened then? The three of you go to Dee's
7 trailer and what happened?

8 A I started smoking. Devon was in the room with Tracy
9 to have sex with Tracy.

10 Q Okay. And you said you started smoking. What were
11 you smoking?

12 A Marijuana.

13 Q Crack? You weren't doing crack?

14 A Oh, it was mixed in with the marijuana.

15 Q Who all was smoking crack?

16 A Me, Devon, and Tracy, and Dee, and the mechanic.

17 Q You said at some point Tracy and Devon go into the
18 bedroom?

19 A Yes, ma'am.

20 Q To have sex?

21 A Yes, ma'am.

22 Q In the trailer do you know how many bedrooms there
23 were?

24 A I think two.

25 Q Okay.

- 1 A Yes, ma'am.
- 2 Q What happened after Devon and Tracy came out of the
3 bedroom?
- 4 A My cousin Chris and Tracy were in there.
- 5 Q Okay. They went into the bedroom?
- 6 A Yes, ma'am.
- 7 Q Okay. Then what happened?
- 8 A I had got a phone call. I had to go somewhere else
9 real quick, and so I was leaving Dee's trailer.
- 10 Q Did you get a phone call to go sell some drugs?
- 11 A No, ma'am, to meet another chick.
- 12 Q To meet another girl?
- 13 A Yes, ma'am, because I didn't want to have sex with
14 those two.
- 15 Q Okay. So you were going to leave Dee's house?
- 16 A Yes, ma'am.
- 17 Q Who goes with you?
- 18 A Devon. I called Chris to come with me, but he wanted
19 to have sex with Tracy.
- 20 Q He wanted to have sex with Tracy?
- 21 A Uh-huh.
- 22 Q And what was his -- when you said you wanted to
23 leave, "Come on, let's go" --
- 24 A Yes, ma'am.
- 25 Q -- what was his attitude about leaving?

- 1 A He was kind of upset. He didn't want to leave. He
2 wanted to stay with Tracy.
- 3 Q You say kind of upset. How do you know he was upset?
- 4 A Kind of cursed a little bit.
- 5 Q Okay. Cussing at you?
- 6 A Uh-huh.
- 7 Q And then what do you tell him, basically?
- 8 A I just told him to get out and stay with her, and I'd
9 be back to pick him up.
- 10 Q So he was actually in the car, and you said --
- 11 A Yes, ma'am.
- 12 Q -- "Get out of the car"?
- 13 A Yes, ma'am.
- 14 Q And then you leave with who?
- 15 A Devon.
- 16 Q Devon?
- 17 A Yes, ma'am.
- 18 Q And where do you and Devon go?
- 19 A Back to Oasis.
- 20 Q The Oasis?
- 21 A Yes, ma'am.
- 22 Q The Oasis is -- what is the Oasis?
- 23 A It's a little bar, a little pool hall.
- 24 Q Okay. From the time that you got to Dee's trailer --
- 25 A Uh-huh.

1 Q -- to the time that you left with Devon, how long do
2 you think y'all were there --

3 A About --

4 Q -- because you were smoking. Tracy and Devon had
5 sex.

6 A About 20, 30 minutes.

7 Q Twenty or 30 minutes?

8 A Uh-huh.

9 Q Okay. So you go back to the Oasis, and what happens
10 then?

11 A I dropped Devon off. I go meet Kim, and something
12 told me to go get my cousin Chris. So I go back to Dee's
13 house to get my cousin.

14 Q You say something told you to go get Chris?

15 A Yes, ma'am, because he didn't really know where he
16 was. So something just told me go get my cousin.

17 Q And he had been cussing when you left?

18 A But he really wasn't irate with it. He was just
19 like, "No. I want to trick this B."

20 Q Okay. He wanted to trick this B?

21 A Yeah.

22 Q And he was cussing?

23 A Yeah, but he wasn't like too upset with it. It's
24 just like how we talk to each other, basically.

25 Q But you're at the Oasis, and something tells you

1 inside I better go get Chris?

2 A When I was going to get Kim, something told me to go
3 get Chris.

4 Q Okay.

5 A Yes, ma'am.

6 Q So where do you go then?

7 A I went back to Dee's trailer.

8 Q What happened when you get back to Dee's trailer?

9 A I pull up with my lights off, blow the horn, didn't
10 get a response so...

11 Q Why do you have your lights off?

12 A I always do that when I pull up down there.

13 Q Why do you always turn off your lights?

14 A That's just me. I do that when I go home and I pull
15 in my driveway. I cut my lights off.

16 Q You cut your lights off?

17 A Uh-huh.

18 Q And you said you blew the horn?

19 A Yes, ma'am.

20 Q And what happened?

21 A I didn't get a response.

22 Q Okay.

23 A So I backed out to leave, and I ran into Tracy at the
24 top of the hill by the stop sign.

25 Q Okay. You said you ran into Tracy?

1 A Yes, ma'am. She jumps in the car with me.

2 Q Okay. And what happens when Tracy jumps in the car?

3 A She jumps in with a house phone and a hatchet. She

4 is like, "Your boy, your boy snapped." I asked her where

5 my cousin was. She was like, "I don't know. He left."

6 Q She's got a hatchet and a phone and she is like -- is

7 she calmly saying this?

8 A No. She is kind of ecstatic with it.

9 Q Okay. And she is saying, "Your boy snapped"?

10 A Uh-huh.

11 Q So what do you do?

12 A I asked her, "Where is my cousin?" She was like she

13 don't know. He had left.

14 Q Okay. But she said, "Your boy snapped"?

15 A Yeah, but she wouldn't say if he was with Devon or

16 Chris. She just said, "Your boy, your boy snapped."

17 Q But you had left with Devon, right?

18 A Yes, ma'am.

19 Q You had taken Devon with you?

20 A Yes, ma'am.

21 Q You left Chris there?

22 A Yes, ma'am.

23 Q So now what do you do?

24 A I leave. Tracy tells me to drop her off at the

25 little trailer park on Faraway, East Boundary.

1 Q Okay.

2 A And that's what I did.

3 Q Okay. Then what do you do?

4 A I returned to the Oasis to call my mom to tell her I
5 couldn't find Chris, so we rode -- she came from Lexington
6 to Oasis, and we rode to find Chris.

7 Q Then what do you do?

8 A We get by Dee's trailer. We see blue lights, so I
9 panicked and told her like just keep going. We rode
10 around trying to find Chris. We couldn't find him, so she
11 took me back to Oasis.

12 Q Okay.

13 A I said maybe -- well, he probably popped back up
14 here.

15 Q So you see blue lights back at --

16 A Yes, ma'am.

17 Q -- Dee's trailer?

18 A Uh-huh.

19 Q Tracy has said, "Your boy snapped." Now you go back
20 and see blue lights at the trailer?

21 A Uh-huh.

22 Q What do you do then?

23 A See the Oasis and wait to see if Chris is there and
24 go and turn back up there.

25 Q And Chris never calls you? At this point, he's not

1 called?

2 A When I was at Oasis, I had like -- it's a certain
3 area you got to be in for your phone to actually catch the
4 signal. Like my phone rung (sic), but when I picked it
5 up, it like lost the signal. I tried to call the number
6 back. It was just like a -- you call a pay phone that
7 really can't receive calls.

8 Q Okay. Did you give a statement, Kevin?

9 A Yes, ma'am.

10 Q I'm going to show you this. I want you to take a
11 look at that.

12 A Uh-huh.

13 Q See if you recognize that.

14 A Yes, ma'am.

15 Q Did you say where in there that you had received a
16 phone call, but you weren't able to pick it up?

17 A No, ma'am. I was nervous at the police station. I'm
18 not going to lie to you.

19 Q You did not say anything about --

20 A No, ma'am.

21 Q -- that in your written statement?

22 A I didn't, no, ma'am.

23 Q Okay. So did --

24 A It's --

25 Q -- you ever get a phone call from Chris that night?

- 1 A Yes, ma'am.
- 2 Q Did you receive --
- 3 A Yes, ma'am.
- 4 Q -- a phone call from Chris?
- 5 A Yes, ma'am.
- 6 Q How did you know that?
- 7 A I had got like -- later on that night, I had got a
- 8 call that came through, and it was Chris.
- 9 Q Okay. And where in your statement do you say that?
- 10 A Like right here toward the bottom. "Later that
- 11 evening I drove back to Oasis about 9:30, had a couple of
- 12 drinks and Chris had called me from a phone at the
- 13 Marlboro Room."
- 14 Q That was the next day, wasn't it?
- 15 A It was like the same day because it was after 12 that
- 16 day.
- 17 Q Okay.
- 18 A That night.
- 19 Q After 12 the next day?
- 20 A No, ma'am, that -- that same day. Like it was --
- 21 Q Twelve p.m.?
- 22 A It was like three o'clock that morning when we got to
- 23 Dee's house, like two something, three o'clock, so I
- 24 consider that the same day.
- 25 Q Okay. So we're talking twelve -- you're saying

1 twelve p.m.?

2 A Yes, ma'am.

3 Q Noon?

4 A Yes, ma'am.

5 Q When do you see Chris next?

6 A Once I picked him up right off of Marlboro, right off
7 of Old Percival Road.

8 Q And Chris gets into your car, and where do you take
9 him?

10 A I called my mom, tell her I got Chris, and I met her
11 on Bluff Road at the Shell Station at a Burger King.

12 Q She met you at a Burger King?

13 A Yes, ma'am.

14 Q As soon as you say "I have Chris with me"?

15 A Yes, ma'am.

16 Q She meets you at the Burger King --

17 A On Bluff Road.

18 Q -- and then what happens?

19 A Chris gets in the van with my mom, and they return
20 back to Lexington. I go back to the Oasis.

21 Q Okay. And then where did your mom take Chris?

22 A I think they went back to Lexington for that night.

23 Q Okay.

24 A And I think they left like either a day -- I think a
25 day after she picked him up from me.

1 Q Okay. They leave to go where?

2 A To Baxley.

3 Q Back to Baxley --

4 A Yes.

5 Q -- Georgia?

6 A Because he was here on like a parole leave. He had a
7 certain amount of time until he had to be back.

8 MR. COLLINS: Objection, Your Honor, move to strike.

9 THE COURT: Disregard his comment about the parole.

10 I'll sustain the objection.

11 BY MS. FENT

12 Q I'm going to show you State's Exhibit Number nine.
13 I'm just going to ask you in photo number three who is
14 that?

15 A Chris.

16 Q That's your cousin, Christopher Heller?

17 A Yes, ma'am.

18 Q The statement that you gave --

19 A Uh-huh.

20 Q -- what day was that that you gave that written
21 statement?

22 A The 29th of August at 15:10.

23 Q Of 2006?

24 A Yes, ma'am.

25 Q And since this date, you have spoken with your cousin

1 Christopher Heller over the phone, and you all have
2 exchanged letters, correct?

3 A Visited, yes, ma'am.

4 Q In terms of your car?

5 A Uh-huh.

6 Q How was it that your car ended up here at the
7 sheriff's department?

8 A They said I had -- car had some blood.

9 Q And so you consented to them to look at your car?

10 A Yes, ma'am; yes, ma'am.

11 Q Okay. Looking at Exhibit 12 --

12 A Uh-huh.

13 Q -- do you recognize what's in these photos?

14 A Yes, ma'am.

15 Q And what is this?

16 A A picture of Dee's trailer.

17 Q Okay. And can you show us where you pulled in?

18 A I think that's the letter.

19 Q Do you want to step down --

20 A Yes, ma'am.

21 Q -- and take a look at the photos?

22 A Right there.

23 Q Speak up real loud so they can hear you.

24 A Like right there at her -- right in front of her
25 door, that driveway right there.

1 Q Pulled up all the way up to the door?

2 A Yes, ma'am.

3 Q And you did not see?

4 A No, ma'am.

5 Q Guzman laying there --

6 A No, ma'am.

7 Q -- in the road?

8 A Like I said, it's dark. Like basically you can see
9 it's dark down there, just like no street lights, no porch
10 lights, no nothing.

11 Q When you say you go back to the Oasis to drink, why
12 did you go after being at Dee's house --

13 A Uh-huh.

14 Q -- dropping off Tracy, why did you go back to the
15 Oasis to drink?

16 A I couldn't find my cousin. I was nervous, so I just
17 started drinking.

18 Q Now, you said that Tracy got into the car with a
19 hatchet and a phone?

20 A And a house cell phone.

21 Q What did you do with that hatchet and the phone?

22 A It's at the house.

23 Q You took it?

24 A Yes, ma'am.

25 MS. FENT: No further questions.

1 THE COURT: All right. Madam forelady, ladies and
2 gentlemen of the jury, we've been going for about an
3 hour-and-a-half. We're going to take a break at this
4 time, about a ten, 15 minute break. If you need anything,
5 let the bailiffs know.

6 Please don't discuss the case among yourselves until
7 you've heard all the testimony before you start discussion
8 of the case, at the end of the case.

9 If you'll follow the bailiff to the jury room, we'll
10 take about a 10, 15-minute break.

11 (WHEREUPON, the jury left open court at approximately
12 10:40 a.m.)

13 THE COURT: We'll take about a ten, 15-minute break.

14 MR. COLLINS: Your Honor.

15 THE COURT: Mr. --

16 MR. COLLINS: If I can put something on the record?

17 THE COURT: Hold on a second.

18 All right. Mr. Nails, during the break don't discuss
19 the case with anyone, okay?

20 THE WITNESS: Okay.

21 THE COURT: All right.

22 Yes, sir. What now?

23 MR. COLLINS: Your Honor, at this point now that the
24 jury is out of the room, I'd like to go back and address
25 the mention of my client being on parole by the witness.

1 I filed a pretrial motion specifically so they could
2 instruct the witnesses not to bring that up voluntarily.
3 They asked why he was here in discovery. There are
4 mentions that he was here on a parole visit.

5 The witness made a mention of parole. I'd move for a
6 mistrial. That curative instruction or the -- striking it
7 from the record is not a remedy that can solve the
8 problem. The cat is out of bag that he was out on parole
9 at the time this happened.

10 THE COURT: Okay. Does the State want to make any
11 argument?

12 MS. FENT: Well, first --

13 THE COURT: The statement was just spontaneous. She
14 didn't ask the question. He just blurted it out.

15 MS. FENT: Correct. It was not in response to --

16 THE COURT: It wasn't --

17 MS. FENT: It was nonresponsive to my question.

18 THE COURT: -- in response to any question.

19 MS. FENT: The other thing is actually, it is not in
20 discovery that he was here on a parole visit.

21 There is an indication that he had requested to come
22 here on a parole visit, but his parole officer had denied
23 him that request.

24 But, Your Honor, it was a -- it was a small comment
25 Your Honor instructed the jury to please disregard, and I

1 believe that is sufficient.

2 THE COURT: All right. As far as the mistrial is
3 concerned, the motion is denied. Thank you.

4 MR. COLLINS: Thank you, Your Honor.

5 THE COURT: Anything else before we take a break?

6 MR. COLLINS: No, Your Honor.

7 THE COURT: All right. Thank you very much.

8 (Off-the-record discussion).

9 Put it on -- I'm sorry.

10 THE COURT REPORTER: Give me one --

11 THE COURT: Put it on the record.

12 THE COURT REPORTER: Okay.

13 THE COURT: It's without objection.

14 MS. GARFIELD: Yeah, I didn't --

15 THE COURT REPORTER: I can look.

16 THE COURT: I said six and eight. I never did say
17 seven, but they offered it, and I failed to say it. So
18 put on there it's admitted without objection, six, seven,
19 and eight, okay.

20 THE COURT REPORTER: Thank you.

21 (WHEREUPON, State's Exhibit No. 7 was admitted into
22 evidence.)

23 (WHEREUPON, a short break was taken.)

24 THE COURT: Is the State ready to proceed?

25 MS. FENT: We are.

1 THE COURT: Is the defense ready?

2 MR. COLLINS: We are.

3 THE COURT: Where is our witness?

4 MS. FENT: He needs to be on the stand.

5 THE COURT: Mr. Nails.

6 MS. FENT: Before we begin, also, Ms. Risinger has
7 asked --

8 THE COURT: Ms. Risinger, do you want to come around,
9 please?

10 THE WITNESS: Risinger.

11 THE COURT: Yes, ma'am. How are you doing?

12 THE WITNESS: I'm good. How are you?

13 THE COURT: Did you calm down any?

14 THE WITNESS: Yes, sir.

15 THE COURT: Well, it's normal to get nervous like
16 that, okay.

17 THE WITNESS: Uh-huh.

18 THE COURT: I'm going to let you go, okay.

19 THE WITNESS: Okay.

20 THE COURT: But I want -- you'll stay under the
21 subpoena.

22 THE WITNESS: Okay.

23 THE COURT: If the Solicitor's Office calls you and
24 tells you to come, I'm going to expect you to be here,
25 okay.

1 THE WITNESS: I was here at eight o'clock this
2 morning.

3 THE COURT: I understand. I appreciate you doing
4 that. Thank you very much.

5 THE WITNESS: Okay.

6 THE COURT: If the Solicitor calls you, I want you
7 here because I don't want to send a deputy looking for
8 you, okay.

9 THE WITNESS: I don't want you to send him.

10 THE COURT: I don't want to do that, okay.

11 THE WITNESS: I'll be here.

12 THE COURT: All right. Thank you very much. Have a
13 good day.

14 THE WITNESS: You, too. Thank you.

15 THE COURT: Thanks.

16 Bring us the jury, please.

17 (WHEREUPON, the jury came into open court at
18 approximately 11:10 a.m.)

19 THE BAILIFF: Ail jurors present, Your Honor.

20 THE COURT: Thank you very much.

21 Cross-examination?

22 MR. COLLINS: Thank you, Your Honor.

23 CROSS-EXAMINATION:

24 BY MR. COLLINS

25 Q How is it going?

- 1 A Good.
- 2 Q Just to start off, the solicitor asked you a little
- 3 bit about a hatchet Tracy gave to you.
- 4 A Yes, sir.
- 5 Q You gave it to the police?
- 6 A Yes, sir.
- 7 Q You weren't trying to hide it?
- 8 A Oh no.
- 9 Q It's still at your house?
- 10 A Yes, sir.
- 11 Q Now I want to take you to when all you guys were at
- 12 the trailer.
- 13 A Uh-huh.
- 14 Q You said you got a call from a lady friend?
- 15 A Yes, sir.
- 16 Q And you said you, Chris, and Devon went out to your
- 17 car?
- 18 A Yes, sir.
- 19 Q So Chris came out of the trailer?
- 20 A That's correct.
- 21 Q And then went back in?
- 22 A Yes, sir.
- 23 Q And you and Devon left?
- 24 A Yes, sir.
- 25 Q And then you dropped Devon off sometime later that

1 night?

2 A Yes, sir.

3 Q And Devon is a skinny guy, isn't he?

4 A Yes, sir.

5 Q Now, I want to ask you a little bit about -- do you
6 remember getting a phone call from Tracy that morning?

7 A Earlier.

8 Q Like about three o'clock in the morning, something
9 like that?

10 A Yes, sir.

11 Q If I showed you the records for your cell phone --

12 A Yes, sir.

13 Q -- will it refresh your memory.

14 A Uh-huh.

15 Q Beg the Court's indulgence a moment.

16 (Pause).

17 Now, what was your cell phone number then?

18 A 261-0036.

19 Q Okay. And I'm going to hand you the records of the
20 phone calls to that number on August 25th.

21 A Okay.

22 Q Now, you start at the top of the page. It starts
23 around four o'clock in the morning. Do you see that?

24 A Yes, sir.

25 Q Do you see a call that was made to you about 3:26 in

1 the morning?

2 A About 3:27.

3 Q Yes.

4 A Yes, sir.

5 Q And what number was that?

6 A 782-6112.

7 Q 782-6112?

8 A Yes, sir.

9 Q How long was that conversation?

10 A About a minute and four seconds.

11 Q You said that was 3:27 a.m.?

12 A Yes, sir.

13 Q I'm sorry?

14 A 3:26 and 3:27.

15 Q Okay. And can you repeat that number for me, please?

16 A 782-6112.

17 Q Thank you. Now, when Chris called you later on that

18 same night --

19 A Uh-huh.

20 Q -- or that same day --

21 A Yes, sir.

22 Q -- you went and picked him up, correct?

23 A Yes, sir.

24 Q And you got into your car?

25 A Yes, sir.

1 Q He was still wearing the same clothes the last time
2 you saw him?

3 A Yes, sir.

4 Q White T-shirt?

5 A And blue jean shorts and some white shoes, I think.
6 I believe they were Nike or Reebok.

7 Q Did you see any cuts on his hands or anything?

8 A No, sir.

9 Q Did you see any blood on him whatsoever?

10 A No, sir.

11 Q Was he acting normal?

12 A Yes, sir. He was acting normal.

13 MR. COLLINS: Thank you.

14 THE COURT: Any redirect?

15 REDIRECT EXAMINATION:

16 BY MS. FENT

17 Q Devon has dreads, doesn't he?

18 A No.

19 Q Or had them --

20 MR. COLLINS: Objection, leading.

21 MS. FENT: -- at the time?

22 THE COURT: I'll sustain the objection.

23 BY MS. FENT

24 Q What was his hair like at the time?

25 A He had braids.

1 Q Braids?

2 A Yes, ma'am.

3 Q He was not bald headed?

4 A Huh-uh.

5 Q And just the time line that you gave in terms of when
6 things happened, what time was it? You said it was about
7 four a.m. or three a.m. when you were at Dee's house?

8 A Yes, ma'am.

9 Q What time was it and what day did Chris call you to
10 come pick him up?

11 A It was like later on that same day like, but like in
12 the evening time.

13 Q But in the evening time?

14 A Yes, ma'am.

15 Q Past 9:30 p.m.?

16 A It was about 9:30.

17 MS. FENT: No further questions.

18 THE COURT: Anything else?

19 (Indicates in the negative).

20 All right. You may step down. Thank you very much.

21 Call your next witness, please.

22 MS. GARFIELD: May Mr. Nails be excused, Your Honor?

23 THE COURT: Pardon?

24 MS. GARFIELD: May he be excused?

25 THE COURT: Any objection?

1 MR. COLLINS: I would like him to stay under
2 subpoena.

3 THE COURT: All right. Mr. Nails, you're still under
4 subpoena. If you get a call, I want you here. Do you
5 understand?

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you, sir.

8 MS. GARFIELD: The State calls Lieutenant Scott
9 McDonald.

10 SCOTT MCDONALD, after being duly
11 sworn, testified as follows:

12 THE CLERK: Have a seat in the witness box. State
13 your name for the record, please.

14 THE WITNESS: Scott McDonald.

15 DIRECT EXAMINATION:

16 BY MS. GARFIELD

17 Q Where are you employed?

18 A The Richland County Sheriff's Department.

19 Q And what do you do at the sheriff's department?

20 A I'm a lieutenant in the Major Crimes Division.

21 Q And specifically, what does that mean you
22 investigate?

23 A I supervise all of the aggravated assaults,
24 robberies, carjackings and murders.

25 Q Were those your duties back in August of 2006?

1 A I was actually a Sergeant in that same unit then over
2 in the robbery division.

3 Q Did you have the occasion to assist in the
4 investigation involving a victim of Mary Chavis and
5 Gustavo Hernandez Guzman?

6 A Yes, I did.

7 Q And can you tell the jury in what capacity you
8 assisted in this investigation?

9 A I was asked to construct a photo lineup to be
10 presented to some witnesses.

11 Q And when you say photo lineup, can you explain to the
12 jury what that is?

13 A A photo lineup is an array of six pictures. We put
14 the possible suspect picture in with five other
15 candidates, similar characteristics for a fair and
16 impartial type lineup to be presented to these witnesses.

17 Q And how do you go about putting together a lineup,
18 generally?

19 A Generally, I'm provided or I obtain a picture of the
20 suspect, and then I find five other candidates from
21 several different databases that we have access to.

22 I place these pictures into a photo array using a
23 computer to insert the pictures into a template. Once we
24 have a finished product that we're satisfied with, we
25 print those out.

1 Q Were you provided such a picture of the suspect in
2 this case, Christopher Heller?

3 A Yes, I was.

4 Q Do you recall where you may have obtained that?

5 A No, I don't.

6 Q And once you obtain that photograph of Mr. Heller,
7 what did you do to construct the photo lineup?

8 A I located five other candidates that had similar
9 characteristics to his. He was a black male, balding, no
10 facial hair, things like that.

11 Q And Lieutenant McDonald, when you obtained this
12 photograph of Mr. Heller, do you recall if it was in color
13 or black and white?

14 A It was in color.

15 Q At this time -- may I approach the witness, Your
16 Honor?

17 THE COURT: Yes, ma'am.

18 BY MS. GARFIELD

19 Q I'll hand you what's been marked State's Exhibit
20 Number four. Do you recognize this lineup?

21 A Yes. It's the photo lineup that I instructed.

22 Q And that is the lineup you constructed including the
23 picture of Mr. Heller?

24 A That's correct.

25 Q And what is unusual about that photograph as far as

1 backgrounds?

2 A Mr. Heller's is the only one with a light blue
3 background.

4 Q And because his picture seemed different from the
5 others, what did you do?

6 A We printed it out in black and white, gray scale.

7 Q I'm going to hand you what's been marked as State's
8 Exhibit Number five. Do you recognize this document?

9 A Yes, I do. This is the photo lineup we actually
10 printed out to be used to show to the witnesses.

11 Q And did you assist in showing this photographic
12 lineup to any witnesses?

13 A No, I did not.

14 Q Is this the extent of your assistance in this
15 investigation?

16 A Yes, it is.

17 Q And do you feel those pictures in that lineup are
18 similar?

19 A Yes, I do.

20 Q And those are all photographs of what kind of person?

21 A Black male, balding, no facial hair.

22 MS. GARFIELD: Thank you.

23 Your Honor, at this time, I'd introduce State's
24 Exhibit Number five and six into evidence.

25 THE COURT: Any objection?

1 MS. GARFIELD: I'm sorry, four and five into
2 evidence.

3 THE COURT: Any objection?

4 MR. COLLINS: No objection.

5 THE COURT: All right. Four and five admitted
6 without objection.

7 (WHEREUPON, State's Exhibits Nos. 4, 5 were admitted
8 into evidence.)

9 MS. GARFIELD: Thank you, Your Honor.

10 Please answer any questions Mr. Collins has for you.

11 THE COURT: Yes, sir. Cross-examination?

12 CROSS-EXAMINATION:

13 BY MR. COLLINS

14 Q You just testified one of the traits that's similar
15 in this, there's no facial hair?

16 A That's correct.

17 Q Your Honor, may I publish this to the jury?

18 THE COURT: Yes, sir.

19 MR. COLLINS: I don't have any further questions.

20 THE COURT: Any redirect?

21 MS. GARFIELD: No, sir. May Lieutenant McDonald --

22 THE COURT: Lieutenant McDonald, you may be excused.
23 Thank you very much.

24 MS. FENT: State calls Mary Chavis.

25 MARY CHAVIS, after being duly sworn,

1 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: My name is Mary Chavis.

5 DIRECT EXAMINATION:

6 BY MS. FENT

7 Q And I heard Kevin refer to you as Dee. What's that
8 about?

9 A My middle name is Deanne. Some people call me Dee
10 Some call me Deanna.

11 Q Okay. Mary, can you tell the jury a little bit about
12 yourself? Where were you born?

13 A I was born and raised in Columbia, South Carolina. I
14 lived on Rosewood until I was about 17, 18, and then I
15 moved to the West Columbia area.

16 Q Okay. And how far did you go in school?

17 A I finished the ninth grade.

18 Q And why did you stop going to school in the ninth
19 grade?

20 A My mother had passed away.

21 Q Okay. So then what -- how did you basically make a
22 living, or who did you live with?

23 A I had lived in -- I lived in the street with my
24 brother, my father, people up the street from my mom's
25 house. I would get a job, and I would get fired because I

1 wasn't 18.

2 Q Okay. You weren't old enough to -- supposed to be
3 working?

4 A Yeah.

5 Q Okay. So what kind of jobs have you -- have you
6 worked at?

7 A Waitressing when I was younger. I worked at the
8 farmer's market, things like that.

9 Q During your life did you develop an addiction to
10 drugs?

11 A Yeah.

12 Q Okay. Tell us a little bit about -- about that.

13 A Well, when you really have nobody and you're on the
14 street, most of the people that you meet are drug addicted
15 people or, you know...

16 Q It's okay. Take your time.

17 A Or people that have problems themselves, and so you
18 associate with those people and...

19 Q What kind of drugs were you addicted to?

20 A It started out cocaine and then crack.

21 Q Okay. About how long do you think you have had a
22 crack addiction?

23 A Years.

24 Q How were you doing on that?

25 A Many years.

1 Q How are you doing on that now?

2 A I'm doing a whole lot better. Yeah, I won't -- I
3 won't lie. I have had a relapse, but I'm doing good.

4 Q Okay. Taking it day to day?

5 A Yeah.

6 Q Okay. How long did you live at the home we've been
7 talking about on -- on Brookhurst?

8 A Maybe a year.

9 Q Okay. And the home that we've been talking about in
10 the photographs, for example in State's Exhibit Number 12,
11 is that your home?

12 A Yes.

13 Q Okay. And who all lived with you in that home?

14 A Me.

15 Q Tell us about how long you had known -- up until this
16 day when this happened, how long had you known Bille Joe
17 or Tracy?

18 A I had known her for a little over a year, so I'd see
19 her in the street. I fed her every day. She would come
20 to my house and eat. I would give her clothes and a place
21 to take a shower.

22 Sometimes she would be up for days, and so I would
23 let her sleep in my home because I've been there, and I'm
24 the type of person, I try to help everybody. You know, if
25 you need clothes, I'd get you that or whatever. I'm just

1 a compassionate person, I guess, but...

2 Q It's okay.

3 A She always needed someone to depend on.

4 Q Okay. So she would stay with you sometimes?

5 A Yes.

6 Q And tell me about Chino. Where did he live?

7 A He lived directly across the street from me.

8 Q Okay. In one of the other trailer homes there?

9 A Yes.

10 Q And how long had you known Chino?

11 A A little over a year.

12 Q And basically, what was your relationship with Chino?

13 A He was my best friend.

14 Q Okay.

15 A We were -- we were more.

16 (Pause).

17 He was like my boyfriend, more or less, but we kept
18 it a secret.

19 Q Did you all have a physical relationship?

20 A Yes.

21 Q On this particular day on August 25th, 2006 in the
22 early morning hours or -- I guess you tell me, do you
23 recall when you first saw Bille Joe, when you first saw
24 Tracy?

25 A That night that this happened, I had seen her. Me

1 and Chino was walking to the store. Chino was to stay
2 with me that night because I am a cancer victim. I had
3 ovarian and breast cancer. I had no hair, so Chino was
4 the only one that didn't actually make fun of that. He
5 would stay with me at night sometimes when I was sick.

6 Q Okay. When you were going through chemo?

7 A Yeah.

8 Q Okay.

9 A Or just sometimes you have bad days even though you
10 haven't had chemo that day. But anyway --

11 Q So Chino was with you and you saw --

12 A No. It was just me and Chino, and we were walking to
13 the store because we had played cards and stuff earlier.
14 We decided to walk to the store and get more cigarettes
15 and a few beers.

16 Q Okay. That's when you saw Tracy?

17 A That's when I seen her in the car with the gentleman.

18 Q Okay, her in the car. Would you be able to recognize
19 the car that you saw them in?

20 A Yes, ma'am.

21 Q Okay. I'm going to show you State's Exhibit 23 and
22 ask if you recognize that.

23 A Yes, ma'am. That's the car that they were in.

24 Q Okay. That you saw Tracy in and you said with the
25 other --

1 A Gentlemen.

2 Q -- gentlemen. How many were there?

3 A There were three.

4 Q Okay. And did you know any of those people that were
5 in the car?

6 A I knew one.

7 Q Okay. Who did you know?

8 A Kevin.

9 Q And where was Kevin in the car?

10 A He was driving.

11 Q Okay. But you didn't -- you never met the other two
12 people?

13 A No, ma'am.

14 Q What happens then? You see Tracy and Kevin and the
15 two people in the car. What happens next?

16 A Kevin pulled up. We were on his side. Tracy was in
17 the back on our side. I mean, on the driver's side also.
18 She had asked if she could go in my house for a few
19 minutes, so I gave her the key. We had a special place
20 for her to hide the key, which was in a flower pot.

21 Q Okay.

22 A So I told her that we were going to the store. If
23 she -- if she left before I had returned, for her to put
24 the key in the flower pot.

25 Q Okay. Do you go back to your home?

1 A Later, yes.

2 Q Okay. And when you go back to your home, who do you
3 see when you come in?

4 A The first time -- I went in the first time and they
5 were there in the house, so me -- I didn't feel
6 comfortable with them there, so me and Chino left. I told
7 Chino I didn't want to go in, so we left. Then we came
8 back the second time.

9 Q Okay. And when you say they were there, was Kevin
10 there?

11 A Yes, ma'am.

12 Q Okay. And Kevin, is he the same person that just
13 testified?

14 A Yes, ma'am.

15 Q That's the person we're talking about? The other two
16 people that were in the car and now in the trailer, do you
17 see any of those people in the courtroom today?

18 A Yes, ma'am.

19 Q Okay. And can you point to that person, describe --

20 A It's the --

21 Q -- what they're wearing?

22 MR. COLLINS: We would object for previously stated
23 reasons.

24 THE COURT: Overruled. Go ahead.

25 THE WITNESS: It's the defendant.

1 BY MS. FENT

2 Q Okay.

3 A With the tan striped shirt.

4 MS. FENT: May the record reflect the witness has
5 identified the defendant?

6 THE COURT: Yes, ma'am.

7 BY MS. FENT

8 Q What do you recall like where they were, what they
9 were doing in the house?

10 A I think that most of them were in the back.

11 Q You mean the back meaning where?

12 A In my bed -- in the back bedroom.

13 Q Okay. When you walk into your home, there's a
14 bedroom to the right and a bedroom to the left, so which
15 one do you think they were in?

16 A They were to the left.

17 Q Okay. So then what happens at this point?

18 A So I left and then later me and Chino returned.

19 Q Okay.

20 A The car was gone, so we walked in the house. We went
21 in my room. I locked my front door, went in my room and
22 locked my bedroom door. We started to play cards again.

23 Q Okay. So when the car is gone and you come back into
24 the house, do you see anyone --

25 A No.

1 Q -- in your home?

2 A No.

3 Q Do you -- can you hear if anybody is there?

4 A No.

5 Q So you and Chino go into your bedroom then.

6 A My front bedroom --

7 Q Is that the one on the right?

8 A The front bedroom, yes, ma'am.

9 Q Okay. And what happens next?

10 A We're sitting there. We're playing cards, and I
11 think I opened a beer and taken (sic) a swallow. I hear
12 someone arguing, so I asked Chino, "Who in the world is
13 that?" So I get up and I go to open my door, and Tracy
14 and the defendant are arguing.

15 Q Okay. They are in what room?

16 A They are at my front door in my living room.

17 Q Okay. And do you recall what they're arguing about?

18 A He's --

19 MR. COLLINS: Objection, calls for hearsay.

20 THE COURT: Overruled.

21 THE WITNESS: He had said that --

22 MR. COLLINS: Objection, calls for hearsay.

23 THE COURT: Overruled. Identify who "he" is.

24 THE WITNESS: The defendant. I asked what the
25 problem was.

1 THE COURT: Overruled. Go ahead.

2 BY MS. FENT

3 Q Okay. What does the defendant say?

4 A The defendant says that she had stole \$7 from him,
5 and that he had put all of his stuff on the crack pipe and
6 wouldn't let him have it.

7 Q Okay. That she wouldn't let him have it?

8 A Right. I asked her to give it to him but she
9 refused.

10 Q Okay.

11 A So --

12 Q So what happens then?

13 A So I give him -- I gave him the money. I gave him
14 \$20 and smoked a piece of crack with him.

15 Q Okay.

16 A While he was doing that, he started -- we went in my
17 room first. I said, "Just leave her alone now. You know,
18 not to mess with her anymore."

19 Q Okay.

20 A "If you can't trust her." I said, "I'll pay you so
21 there wouldn't be any problem." So I gave him the money
22 and gave him 13 extra more dollars.

23 Q Okay.

24 A So we're sitting at --

25 Q And where is Chino at this point?

1 A He's -- well, all four of us are in the room, me,
2 Chino, Tracy, and the defendant.

3 Q Okay.

4 A He -- me and Tracy are sitting on my bed, and Chino
5 is standing in front of us. He had like a kitchen chair
6 in my bedroom. The defendant is sitting in the kitchen
7 chair.

8 Well, he starts taking off his shirt and his shoes.
9 I'm asking him, "What are you doing? Why are you doing
10 this?" He didn't answer me. I said, "You know, if you
11 don't mind, I'd appreciate it if you would put your stuff
12 back on, and you have got to go. I'm not being mean, but
13 I would appreciate it if you would leave my home."

14 So he got dressed. He said he had nowhere to go, so
15 I -- I told him that there was a guy that lived across the
16 street; that he could walk over there and talk with him
17 and that he --

18 Q Talk with him meaning what?

19 A Well, whatever he wanted to do or -- and he also had
20 a phone.

21 Q Okay. So then what happens?

22 A So I'm looking -- I -- I have my -- I'm looking out
23 my kitchen -- out my living room window, and I watched him
24 walk over there. I watched him knock on the door.

25 Q Where is Tracy and Chino at this point?

1 A They're in my bedroom.

2 Q Okay.

3 A My window is almost at my bedroom door.

4 Q Okay.

5 A Okay. I'm looking out the living room window. I see

6 him knock on the door. No one answers.

7 Q Okay.

8 A So he comes back.

9 Q Okay. Now, Chino is still in the -- in the house

10 with you?

11 A Yes, ma'am.

12 Q Okay. So what happens now?

13 A Okay. He knocks on my door, and he says he has

14 nowhere to go. He doesn't know anyone around there. So I

15 asked Chino if he could go and let him use his phone so he

16 could call him a ride so he wouldn't be left outside by --

17 not knowing where he lives or not knowing where he's at

18 and see if Kevin would come back and pick him up.

19 Q Okay. So then what happens?

20 A So they left.

21 Q You say "they". Who?

22 A Chino and the defendant left to go use Chino's phone.

23 Q Okay. So where is Tracy now?

24 A She is in my room.

25 Q Okay.

1 A So I go back in my room, and I'm waiting for Chino to
2 return. There was a knock on my door. Most of the time I
3 always look out my window or my -- or there's a peephole
4 at the bottom of my door. So I usually look and see who
5 is at the door before I open it, but I'm thinking it is
6 Chino because he spent the night with me that night.

7 Q Okay.

8 A When I opened the door, the defendant is standing at
9 the door. He tries to come in, and I put my hand out and
10 put it on his chest and asked him, "What is the problem?
11 What's up?"

12 By the time I get this out of my mouth, he says
13 something and he starts stabbing me. I fight him as long
14 as I can with my hands, and I couldn't fight him anymore.

15 In between the time I'm begging Tracy to come out and
16 help me. She is screaming, "How many people is it?" I'm
17 telling her it's just one. It's the same one.

18 So...

19 (Crying).

20 Q It's okay.

21 A So anyway, after I can't fight him anymore with my
22 hands, I decide that I'm going to back up because my couch
23 is sitting directly behind me against the wall. So I
24 decide that I'm going to start backing up so I can maybe
25 kick him. As I'm backing up, he took the knife and

1 stabbed me in my stomach.

2 I started kicking him even more. I would kick him
3 more, and my insides would come out. So I knew I couldn't
4 kick anymore, so I just curled up into a ball onto the
5 couch and just kept -- I just kept -- I can still see it
6 with his hand and just stabbing and stabbing away and...

7 (Crying).

8 Q It's okay, okay. Take a minute. Take a minute.

9 (Pause).

10 A And I can hear the knife. Every time it hits the
11 bone, I can hear it. It's pop because he broke my ribs,
12 which obviously I didn't know at the time, but I could
13 tell something popped. I'm thinking that maybe it was the
14 knife he was stabbing me with.

15 Q Okay. You said that you rolled up into a ball.

16 A Right.

17 Q Basically, what do you mean? Kind of show me.

18 A Okay. My insides were hanging out of me, so I
19 grabbed them like this, and I put my hand here and the
20 other one and they curled like this (indicating).

21 Q Okay. And he continued to stab you while you were --

22 A Right.

23 Q -- in that position?

24 A Yes, ma'am. Okay. Then he stopped and he ran out
25 the door while my -- I have -- I also keep stray dogs and

1 feed the stray dogs, but I had one in my home.

2 My dog barked, and I got up off of the couch. I
3 walked to my bedroom door and I stood there, and I begged
4 Tracy to open the door so she could pack my wounds. She
5 -- I told her if she didn't, I would bleed to death.

6 Q What do you remember happening next?

7 A I stood there for a minute, and she wouldn't open the
8 door. So I slid down the wall, and I was yelling for
9 help. Every time I would ask for help, I could see the
10 blood squirt out the front of me, and I could feel it
11 squirt out my back. So I knew that I had to lay down to
12 stop the wounds in the -- in my back from bleeding, so I
13 laid on my back.

14 Q And where are you laying now?

15 A But -- oh, excuse me. I got confused.

16 Before I laid down on my back, Tracy opened, finally
17 opened, the door. She jumped over me. As soon as she
18 jumped over me, she said "oh poop", but she used the bad
19 word.

20 Q And then where did you see her go?

21 A She ran out the front door. Well, I'm thinking that
22 I'm in there by myself, but Chino had came in and the
23 defendant had come back in the house, but he had taken his
24 shirt off and --

25 Q Where did you see the defendant go when he came back

1 into the house?

2 A He sat down on the couch where he had been stabbing
3 me.

4 Q Okay.

5 A But Chino had ran in the door. He bent over to get
6 the guy and something happened, and I seen a movement. So
7 the arms and then Chino ran out the door, and the
8 defendant ran behind him.

9 Q Okay. Now what's the next thing that you remember
10 happening?

11 A I laid on my back. That's when I laid on my back,
12 and I kept yelling for help. The pain got so intense I
13 asked the Good Lord to come get me because I couldn't take
14 the pain anymore. So I remember drifting, drifting away,
15 and...

16 Q Do you remember anybody else coming into your home?

17 A I remember the police officer.

18 Q Okay.

19 A Coming in.

20 Q And do you have any memory then of E.M.S. taking care
21 of you or going to the hospital?

22 A I remember them picking me up off the floor and
23 moving me, yes, because I was hurting, and they put me in
24 the ambulance.

25 Q Okay. And --

1 A And I think if -- I'm not sure, but I think that
2 the -- one of the ambulance drivers had to get out because
3 they were so gored out from what they had seen. So they
4 finally covered me with a blanket.

5 Q And you're taken to the hospital?

6 A Yes, ma'am.

7 Q Okay.

8 A And when I arrived into the emergency room, there's a
9 doctor that's standing behind me. All I remember is I'm
10 telling him my name, my address and my Social Security
11 number and telling him -- I told it to him, I think,
12 twice. I told him I couldn't take the pain anymore, for
13 him to please knock me out. I couldn't handle it anymore.

14 Q Okay.

15 A It was terrible. It was too intense.

16 Q Okay. You had a few surgeries at the hospital?

17 A From what I understand I had more than a few.

18 Q Okay. Okay. Do you remember how long you stayed in
19 the hospital?

20 A A month or so, a little over a month.

21 Q Okay.

22 A But they wanted to keep me longer, but I'm -- when --
23 the day I came out of I.C.U. -- I'm basically a strong
24 person. I had to be with all the stuff I went through in
25 my life.

1 So the day I come out of intense care, five minutes
2 after they walked out of the room, I had both my I.V.'s,
3 you know, just walking down the hallway because I knew if
4 I laid in bed I wouldn't go home so...

5 Q You were determined to get up --

6 A Yeah.

7 Q -- and walk around?

8 A So they wanted to keep me longer, but I refused to
9 stay anymore. I knew I had to get out of the hospital.
10 If not, I might not make it.

11 Q Okay.

12 A So I walked every day.

13 Q Since you have been out of the hospital, have you had
14 to have any more surgeries on your hands or your face?

15 A I've had to have one on my eye. I've got two left on
16 my eye.

17 Q And where on your eye? Show us.

18 A My eyelid doesn't blink.

19 Q Okay.

20 A Where it's -- I have no moisture. The blue part of
21 my eye has an indentation. It's sinking in.

22 Q Do you still have some scars from the -- from the
23 cuts?

24 A Oh, yeah, yeah. I guess all the way down my face.
25 It starts at the top and comes all the way back down.

1 Q Okay.

2 A I have got plenty of scars to remind me of everything
3 of that day.

4 Q And talk to me about your hands. How are your hands
5 doing?

6 A This is -- this is my hands.

7 Q How much can you straighten out your --

8 A I can't straighten them out no further.

9 Q Okay.

10 A But this is as far as these were.

11 Q Now, Mary, when you were in the hospital, do you
12 remember the sketch artist coming in and asking to see if
13 you could do a sketch --

14 A Yes, ma'am.

15 Q -- of the person who attacked you?

16 A Yes, ma'am.

17 Q Okay. And I'm going to show you what's marked as
18 State's Exhibit Number six.

19 A Right.

20 Q And ask you to look at the back of that. Were you
21 able to actually sign your name at the time?

22 A No. My hands were bandaged. My arms were bandaged
23 from the tips of my fingers to my elbows.

24 Q Okay. So how did you mark that this was the sketch,
25 you know --

1 A An "x".

2 Q -- that resulted from your information?

3 A An "x".

4 Q An "x" on the back? Okay. So is that the composite

5 you did with the S.L.E.D. agent?

6 A Yes, ma'am.

7 Q And do you also recall investigators coming in and

8 showing you basically, a photo lineup to see if you could

9 identify the man who stabbed you?

10 A Yes, ma'am, I did.

11 Q I'm going to show you what's marked as State's

12 Exhibit Number nine and ask if you recognize that.

13 A Yes, ma'am.

14 Q And is that the photo lineup they showed you?

15 A Yes, ma'am.

16 Q And were you able to pick somebody out?

17 A Yes, ma'am.

18 Q And how did you indicate which photo you were

19 picking?

20 A Photo three.

21 Q Okay. But did you -- were you able to sign it again?

22 A No.

23 Q What did you put --

24 A An "x".

25 Q -- to indicate that this was?

1 A An "x".

2 Q An "x". Did you put that there?

3 A I don't think so.

4 Q But it was photo number three that you picked out?

5 A Right.

6 MS. FENT: At this time, Your Honor, I'd offer
7 State's Exhibit Number nine in evidence.

8 MR. COLLINS: Same objection as before, Your Honor.

9 THE COURT: Admitted with objection.

10 (WHEREUPON, State's Exhibit No. 9 was admitted into
11 evidence.)

12 BY MS. FENT

13 Q Mary, can you step down and take a look at these
14 photographs for me?

15 A I will. Thank you.

16 Q I want you to keep your voice up since we don't have
17 a microphone, okay.

18 A Yes, ma'am.

19 Q Can you show us, as you have described, where this
20 attack happened? Show us initially where it started and
21 then where you said you went to.

22 A Okay. It started here.

23 Q Okay.

24 A He was standing on the top step here. I was standing
25 here. He went to come in, and I put my hand up.

1 Q Okay.

2 A He started stabbing me here, so I stepped backwards a
3 few. He started stabbing me more. I started putting my
4 hands up hiding me.

5 Q And this is, for the record, State's Exhibit 21,
6 photo A. Okay.

7 A I backed up until right here is the front door, which
8 is here (indicating).

9 Q Okay.

10 A Okay.

11 Q Is this the front door here also?

12 A Right.

13 Q Okay.

14 A I stayed here. Okay. I'm here. He's by me here.
15 (indicating). My hands are hurting too bad.

16 Q Okay.

17 A I can't keep fighting anymore, so I backed up here.

18 Q To this brown sofa?

19 A Right.

20 Q Okay.

21 A The more I kicked, the more my insides would come
22 out.

23 Q Okay. And then you said you --

24 A And then --

25 Q -- got up and moved?

1 A I got up. I got up from here, and I came here. The
2 door was shut then, but I was standing here, okay.

3 No one answered. She didn't answer the door, so I
4 slid down and leaned up against the couch in the corner of
5 the couch and the wall.

6 Q Okay.

7 A Until I seen Chino come in, and she jumped over me.

8 Q And Tracy jumped over you?

9 A Right.

10 Q Okay.

11 A Chino came in, and I see then evidently he had taken
12 his shirt off. I'm not sure, but he didn't have his shirt
13 on then.

14 Q You said "he" meaning?

15 A The defendant.

16 Q Okay.

17 A Didn't have his shirt on then. Then I seen Chino
18 bent over, and then the arms moved and then Chino ran out
19 the front -- out this door.

20 Q Okay.

21 A And the defendant got up behind him and ran after
22 him.

23 Q You can go ahead and have a seat.

24 (Pause).

25 Did you know Chino's real name? Was this a

1 nickname?

2 A Chino went by a few nicknames: Chino, Mechanic,
3 Mechanico. No one called him by his real name.

4 Q Okay. And from I guess the time that you first saw
5 the defendant in the car when they drove up and you were
6 headed to the store until the attack --

7 A Uh-huh.

8 Q -- do you know about how much time passed?

9 A I'm not really sure.

10 Q Okay. How much time do you think you all spent in
11 the bedroom when you all smoked crack together?

12 A Maybe 15, ten, 15 minutes. I don't know.

13 Q And the bedroom that we're talking about, is that the
14 one in exhibit 15?

15 A The front, the front bedroom, yes, ma'am.

16 Q Okay.

17 A Yes, ma'am.

18 Q And where did you all sit or where were you all
19 sitting?

20 A Do I need to come down?

21 Q Sure.

22 A Could you come undo this for me?

23 MS. FENT: Yeah.

24 THE BAILIFF: Sure.

25 THE WITNESS: Thank you.

1 (Pause).

2 Okay. They were arguing at my front door.

3 BY MS. FENT

4 Q But you said earlier that all of you --

5 A Tracy --

6 Q -- had come in, and this is when I'm talking about --

7 A Yes, ma'am.

8 Q -- is when the four of you were in there smoking
9 crack.

10 A All right. Me and Tracy are sitting here and here.
11 Chino is here (indicating). This chair is where the
12 defendant was sitting.

13 Q Okay. Is that kind of at the foot of the bed?

14 A Right. It was -- I think it was back a little
15 further. I'm not sure.

16 Q Okay. Is that the chair there?

17 A Yes.

18 Q In photo H?

19 A That's it.

20 Q Okay. And what do you remember about the lighting in
21 this bedroom?

22 A The lighting was good.

23 Q What -- I see there's a lamp on the floor. What was
24 happening with that lamp?

25 A I don't know. It wasn't there when I walked out the

1 room and left Tracy by herself.

2 Q Okay. But did it work?

3 A Yes, ma'am.

4 Q Okay. Go ahead and have a seat.

5 The person that attacked you in your home, do you see
6 him in the courtroom today?

7 A Yes, ma'am, I do.

8 Q And can you point to him and tell him --

9 A It's the defendant sitting there (indicating).

10 MS. FENT: No further questions.

11 THE COURT: Cross-examination.

12 MR. COLLINS: Thank you, Your Honor.

13 CROSS-EXAMINATION:

14 BY MR. COLLINS

15 Q Good morning, Ms. Chavis.

16 Back in 2006 a few days after this happened, you got
17 to talk with Investigator Siniard, right?

18 A Yes, sir.

19 Q And that was in the hospital?

20 A Yes, sir.

21 Q Now, did you tell him everything that you testified
22 to here today?

23 A I don't know exactly what all I told him that day.

24 Q You don't know what you told him?

25 A We talked about a few things.

1 Q He took notes. It would probably be in his notes?

2 A I'm sure it would be.

3 Q Everything you told him?

4 A I'm sure it would be.

5 Q Okay. You have been in this courtroom from the
6 beginning of this trial, haven't you?

7 A Yes, sir, I have.

8 Q You have heard and seen things the jury hadn't seen,
9 correct?

10 A Not too much more, no.

11 Q But some stuff?

12 A Not really.

13 Q You testified in this courtroom when the jury wasn't
14 in here.

15 A Yes, I did.

16 Q Okay. And you testified about the same things you're
17 testifying to here today?

18 A Mostly, yes.

19 Q Mostly. It's a little bit different today?

20 A Yes, sir, because I wasn't asked the same questions.

21 Q Okay. And I'm just going to go ahead and -- I know
22 this is tough, but it's important that we get the details
23 about as much as you remember, okay?

24 A Yes, sir.

25 Q To go back to 2006, the night in the trailer, okay?

1 A Right.

2 Q We'll skip right to the part where you told Ms. Fent
3 that it was you and Chino, and Tracy and the defendant?

4 A Right.

5 Q Are in the bedroom smoking crack, right?

6 A Right.

7 Q You didn't tell me about this the last time you were
8 under oath, did you?

9 A Excuse me?

10 Q You didn't tell me about this on Monday, did you?

11 A You didn't ask me.

12 Q Okay. Now, at that point you said that you told the
13 defendant to go borrow a neighborhood's phone?

14 A No. What I had said is that I had asked Chino to
15 take him to his house to let him use his phone.

16 Q Well, before that you testified that you told him to
17 go to a neighborhood's house to ask him?

18 A Chino is my neighbor.

19 Q So you don't remember testifying about the first time
20 telling him to go over to another person's house?

21 A I don't know how I worded it, but that's who --
22 that's whose house he went to. He was in my house. I
23 asked Chino to take him across the street to use the
24 phone.

25 Q You don't remember talking about him to watch him

1 walk all the way back to the trailer?

2 A Now, I did -- no. I told him he could go next
3 door --

4 Q Okay. So that's --

5 A -- to my neighbors.

6 Q -- what I said -- okay.

7 A That's who you're speaking of.

8 Q Uh-huh, the first time, and you said -- you said you
9 were looking out the window of your den?

10 A My living room. I don't have a den. It's a living
11 room.

12 Q I'm sorry, your living room?

13 A Right.

14 Q You're looking out that window the whole time you
15 walked over to your neighbor's house?

16 A Yeah. I peeked out the window because he was acting
17 strangely in my home. Undressing and stuff like that I
18 found very strange.

19 Q And you watched him go all the way to the neighbor's
20 house?

21 A Yes, I did.

22 Q And all the way back?

23 A I watched him when he returned.

24 Q Okay.

25 A When he started walking my way, I shut -- I moved --

1 I got out of the curtain. I didn't want him to see me
2 watching him.

3 Q Okay. And then he came back into the trailer, right?

4 A He knocked.

5 Q And did you let him in?

6 A Yes, I did.

7 Q Okay. And then that's when he and Chino went over to
8 Chino's trailer, right?

9 A As far as I know. That's what I asked.

10 Q Okay. And it's that point when you and Tracy went
11 back to your back bedroom?

12 A Yes. We went to the same room.

13 Q Okay. And --

14 A Tracy was still in there. She hadn't came out.

15 Q Okay. And then that's when you say you heard a knock
16 at the door?

17 A Exactly.

18 Q You left Tracy in the back bedroom?

19 A Yes.

20 Q Door closed?

21 A She closed the door behind me.

22 Q And the light, the lamp, was on in the back bedroom?

23 A Yeah.

24 Q The light was not on in the den?

25 A No.

1 Q The front porch light was not on?

2 A No, I don't think so. I'm not sure.

3 Q And you said that you thought it was Chino, right?

4 A Excuse me?

5 Q You say you thought it was Chino, right?

6 A Yes, sir.

7 Q You opened the door, and that's when you were
8 attacked?

9 A Yes. When I opened the door, I put my hand on the
10 defendant's chest.

11 Q Okay.

12 A He was standing from here to there in front of me.
13 There's no way I could not see his face.

14 Q And you fought harder than him, didn't you?

15 A Yes, I did. I had to.

16 Q You were fighting for your life?

17 A No doubt.

18 Q It was pretty traumatic?

19 A Yeah.

20 Q Okay. Now --

21 A But that doesn't change who I saw.

22 Q Now, when you were talking to Ms. Fent today you said
23 that the defendant ran out, ran out of the trailer, right?

24 A Right.

25 Q And then he came back in with his shirt off?

1 A I assume. His shirt was off when he ran out the
2 second time, yes.

3 Q So he ran out of your trailer twice?

4 A Yes. When Chino came in --

5 Q All right.

6 A He left -- after he started stabbing me I got up and
7 walked to my bedroom door. I had to slide down because I
8 couldn't stand any longer. I had put my head down for a
9 second, and I didn't know that someone -- that he had
10 returned into my home. I don't know if it was to get
11 Tracy.

12 Q So -- and you didn't testify to anything about him
13 coming back on Monday, did you?

14 A I wasn't asked that question.

15 Q Okay. You were asked about what happened in the
16 trailer, weren't you?

17 A I wasn't asked the question --

18 THE COURT: Let me see the attorneys up here just a
19 second.

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

22 BY MR. COLLINS

23 Q You testified you spoke with Investigator Siniard
24 back in 2006?

25 A Yes. It was --

1 Q Okay. You told him --

2 A -- some time or another.

3 Q You told him as much detail as you could tell him at
4 that time, right?

5 A I told him every -- I answered every question he
6 asked me.

7 Q Because you wanted to make sure they caught the guy
8 who did this to you?

9 A Most definitely.

10 Q So you told him as many details as you could?

11 A That's right.

12 Q If you told him what you say here today, it would be
13 in his notes?

14 A As far as I know, I guess. I don't know what he
15 wrote.

16 Q Okay. So it's your testimony that you were attacked
17 the first time, and the attacker ran out of the trailer,
18 right?

19 A Right.

20 Q And then came running back in with his shirt off,
21 right? Is that right?

22 A Yes. He entered into my home again, yes.

23 Q And he sat down on the couch?

24 A Yes, sir, he did.

25 Q And then Chino came in?

1 A That's right.

2 Q And then you said that Chino and this guy had an
3 altercation, right?

4 A Right.

5 Q And then Chino ran out, out the front door?

6 A Right.

7 Q And that this person who had their shirt off ran out
8 the front door after Chino?

9 A Yeah, run -- automatically jumped up and ran behind
10 him.

11 Q Okay. And you also testified that Tracy was yelling
12 out how many people were in there?

13 A She asked who was in there, and I said the same man.
14 "How many people are in there?" I said, "The same man
15 from before."

16 Q And that's what you just told Ms. Fent?

17 A Excuse me?

18 Q Is that what you told Ms. Fent earlier?

19 A Who is Ms. Fent?

20 Q The Solicitor.

21 A Oh, Ms. Margaret, yes.

22 Q I'm sorry, Ms. Margaret. You remember just telling
23 her that?

24 A Yeah.

25 Q You didn't say that Tracy asked how many people were

1 in there?

2 A Yes, okay.

3 Q Okay. And --

4 A She said, "How many is it?"

5 Q All right.

6 A I said, "Just one, the same man that was here
7 before." If I'm not mistaken, that's my same words.

8 Q And you firmly believe Mr. Heller is the person that
9 did this, right?

10 A I know for a -- beyond a shadow of a doubt. There is
11 no doubt in my mind he's not the one that did it. I seen
12 him just as good as I can see your face today.

13 Q Okay. You want him punished, right?

14 A Do you think that he shouldn't be?

15 Q You want him punished, right?

16 A Yes, sir, I do.

17 Q Now --

18 A I don't want him walking around so he can do this to
19 me again or someone else.

20 Q Now, you testified you have been through a lot in
21 your life.

22 A Yes, sir, I have.

23 Q You have actually been assaulted before this
24 happened, haven't you?

25 A Sure.

1 Q A number of assaults, right?

2 A Yeah, from the time I was four.

3 MS. FENT: Objection, Your Honor.

4 THE WITNESS: What does that have to do with --

5 THE COURT: Hold on a second.

6 What's your legal objection?

7 MS. FENT: Relevance.

8 THE COURT: I'll sustain the objection.

9 BY MR. COLLINS

10 Q When you were in the hospital --

11 A Right.

12 Q -- nurses would come and talk to you while they were
13 treating you?

14 A Some would, yes.

15 Q And you would tell them how you were feeling?

16 A Yeah. I told them not to shut my door.

17 Q Okay. Because you were having --

18 A I was scared to have my door shut.

19 Q You were having nightmares.

20 A It wasn't necessarily nightmares. I was scared that
21 someone was going to come and get me because I didn't know
22 if he had been captured or what was going on, why it was
23 done to me or anything.

24 Q Do you remember telling a nurse that you were having
25 weird dreams, and your attacker would morph into other

1 attackers in your past?

2 A No, I don't remember that.

3 Q You don't recall telling a nurse that?

4 A No, I sure don't.

5 MR. COLLINS: I have no further questions.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION:

8 BY MS. FENT

9 Q In Mr. Collins' questions he kept saying the back
10 bedroom or the lamp in the back bedroom, but the bedroom
11 where the lamp is --

12 A It's in the front.

13 Q -- the bedroom -- okay. When you walk into your
14 trailer, which bedroom did this --

15 A My front door is here. There's a little room. I
16 have two bedrooms. My front door was here. When you
17 enter, you go automatically to the right is my room. To
18 the back is a spare bedroom where no one slept.

19 Q The room where Tracy had been. The room where you
20 all smoked crack, the room that the lamp is --

21 A Is my room.

22 Q -- the front bedroom?

23 A It's the front room, yes, ma'am.

24 Q The one to the right, okay.

25 No further questions, Your Honor.

1 THE COURT: Mr. Collins, I'll let you do any recross
2 on this witness if you want to, if there's any questions
3 you want to ask.

4 MR. COLLINS: No. I don't have any questions.

5 THE COURT: All right. Thank you very much. You may
6 step down. Thank you very much.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Call your next witness please, sir.

9 MS. GARFIELD: The State calls Investigator Stan
10 Richards.

11 STANLEY RICHARDS, after being duly
12 sworn, testified as follows:

13 THE CLERK: Have a seat in the witness box. State
14 your name for the record, please.

15 THE WITNESS: Stan Richards.

16 DIRECT EXAMINATION:

17 BY MS. GARFIELD

18 Q Excuse me, Investigator Richards. I'm just getting
19 set up.

20 (Pause).

21 Where are you employed?

22 A With the Richland County Sheriff's Department.

23 Q And what is your position with the Richland County
24 Sheriff's Department?

25 A I am currently the Sergeant of the Crime Scene Unit.

1 Q Sergeant, what does that mean?

2 A I oversee about nine crime scene investigators who
3 are on duty 24 hours a day. Our job is to go to any crime
4 scene that we are requested to go to, identify, collect
5 and preserve physical evidence at that crime scene, and
6 whenever possible, we take that physical evidence and try
7 to reconstruct the crime scene.

8 Q As part of your reconstruction of crime scenes, do
9 you have the opportunity to observe autopsies?

10 A Yes, ma'am.

11 Q And particularly in this case did you have the
12 occasion to observe the autopsy of Hernandez -- I'm sorry,
13 Gustavo Hernandez Guzman?

14 A I did.

15 Q And when did that take place?

16 A On the -- excuse me.

17 (Pause).

18 On August 25th, 2006 I attended the autopsy at around
19 9:30, approximately 9:30 a.m.

20 Q And who performed that autopsy?

21 A Dr. Clay Nichols.

22 Q And what, if anything, did you obtain at that
23 autopsy?

24 A I obtained from the autopsy some items that are
25 protocol to us which are postmortem prints, latent

1 fingerprints of the individual, of the victim. I did nail
2 scrapings. I collected hair samples from the body. The
3 swabbed the left and right hand for possible trace
4 evidence from the victim.

5 Q And what do you mean by trace evidence?

6 A Trace evidence could be anything from fibers, hair,
7 D.N.A., blood which would, of course, be construed --
8 could be possible D.N.A. items in itself, anything that
9 would come off the victim that might give us an indication
10 of an altercation with someone else.

11 Q What is the purpose of getting nail scrapings?

12 A Nail scrapings is the same reason. Anytime there is
13 an altercation, there is a possibility of someone
14 scratching the assailant. Cell fragments from an
15 individual could be underneath the nails. We scraped
16 those and sent them to D.N.A. for analysis also.

17 Q Sergeant, were you also able to obtain any clothing?

18 A Yes, ma'am, I was. I obtained from the victim,
19 Mr. Guzman, brown shoes, white socks, white shirt, gray
20 underwear and a key ring with four rings.

21 Q Beg the Court's indulgence.

22 (Pause).

23 I'm going to show you what's been marked as State's
24 Exhibit number 51. Can you identify this package?

25 A Yes. This package has my handwriting on it, which

1 would have been sealed by me. It includes the jeans,
2 black belt, brown shoes, gray socks, white T-shirt, gray
3 underwear.

4 Q Sir, would you mind opening that package at this
5 time, and tell me if you can identify what that is?

6 (Pause).

7 Okay. You have got gloves.

8 (Pause).

9 A Separate bags for separate items. Would you like me
10 to take them out of each one?

11 Q Well, first will you explain to the jury why you put
12 them in separate bags?

13 A Most items that contain blood evidence, as a matter
14 of fact, would have to be or should be packaged separately
15 just for cross-contamination purposes or even destroying
16 the evidence, if there is any evidence there. So we
17 package each individually, as well as totally in one
18 submission to the evidence room.

19 Q Thank you.

20 Now, if you would at this time open each package and
21 explain to the jury what each package contains.

22 (Pause).

23 If it's easier for you to step down, please do so.

24 A I can get it.

25 The first item is the pair of jeans with a black

1 belt.

2 (Pause).

3 The next item is a blood soaked white T-shirt.

4 (Pause).

5 A gray pair of underwear.

6 (Pause).

7 It's a pair of brown shoes also containing the white
8 socks with the shoes.

9 Q And those are the items you obtained at the autopsy?

10 A It is.

11 Q Thank you. Once you obtained these items, what do
12 you do with them?

13 A At that point, I brought the items back. They were
14 dried and then entered into our evidence room for --
15 pending further investigation or request for further
16 analysis.

17 Q And how do you go about -- when you say they are
18 dried, exactly what did you do?

19 A If we have to dry an item, particularly if an item
20 has wet blood on it, we have drying chambers in our lab,
21 predominately in our forensic garage, which is a secure
22 facility.

23 We place it in there and annotate it on a log, who
24 placed it there, what time and for what reason. They are
25 dried over a number of hours in order for them to be

1 submitted into our evidence room.

2 Q And did you then submit them into the evidence room?

3 A I did.

4 Q And do you recall who you submitted them to?

5 A I don't have the copy of the evidence label with me.

6 Q Could it be Tena Goff?

7 A She is in charge of the evidence room. Most likely
8 it would have been Ms. Goff.

9 Q Sergeant, I'm also going to show you what's been
10 marked as State's Exhibit 52. Do you recognize this item?

11 A Yes. It also has my handwriting, the case number on
12 it for a hair sample that I discussed previously, swabs
13 from the hand, nail scrapings, a set of keys and
14 postmortem prints that were collected at the autopsy.

15 Q And those are what you previously testified to?

16 A Yes, ma'am.

17 Q And what would you have done with that package?

18 A Same thing. This package would have been sealed just
19 as is each of these individual items would have been --
20 each of these items would have individually packaged
21 inside. This would also have been turned in to our
22 evidence room probably pending further investigation or
23 requested for further analysis.

24 MS. GARFIELD: Thank you.

25 Your Honor, at this time I'd introduce State's

1 Exhibit 52 into evidence.

2 MR. COLLINS: No objection.

3 THE COURT: I think it's already in, but go ahead, 52
4 admitted.

5 (WHEREUPON, State's Exhibit No. 52 was admitted into
6 evidence again.)

7 BY MS. GARFIELD

8 Q Do you recall collecting any other clothing involving
9 this case?

10 A Yes, I did. Later that afternoon, I believe around
11 3:20 in the afternoon on August 25th, 2006 I received a
12 pair of jeans with a brown belt, one pair of red shoes and
13 white sock, one red bra, one white shirt, and one silver
14 in color chain with a cross.

15 Those were received from Investigator Downey that he
16 had collected. They were given to me on a chain of
17 custody that I, in turn, submitted those to our evidence
18 room.

19 Q And I'm going to show you what's been marked as
20 State's Exhibit Number 39. Do you recognize this bag?

21 A Yes, I do. It has my handwriting. It included jeans
22 with a belt, silver chain with cross, red bra, white
23 T-shirt, and red shoes with white socks.

24 Q And Sergeant, just to keep things clear, can we --
25 can I ask you, since you're wearing the gloves --

1 A Sure.

2 Q -- if we can repackage these items before we display
3 the other ones?

4 (Complies).

5 Sergeant, before you go any further, would you have
6 packaged that item in this box?

7 A Yes, ma'am.

8 Q And then you would have turned that box into where?

9 A Into evidence.

10 Q Okay. Thank you. If you can help me put this back
11 in this box.

12 (Complies).

13 Thank you.

14 You can now unopen, open that package and display to
15 the jury what those items contain.

16 A This particular bag contains a white T-shirt, blood
17 soaked.

18 (Pause).

19 A pair of jeans with a brown belt, also with the
20 chain with the cross on it that I mentioned before, also
21 blood soaked.

22 (Pause).

23 The red bra that was mentioned with possible blood on
24 it.

25 (Pause).

1 Red shoes, possible blood stained, with white socks.

2 Q And were you informed who this clothing belonged to?

3 A Yes. I was informed by Investigator Downey that
4 these clothes belonged to a second victim, Mary Chavis.

5 Q Thank you, Sergeant.

6 Your Honor, at this time, I'd introduce State's
7 Exhibit Number 39 into evidence.

8 MR. COLLINS: No objection.

9 THE COURT: All right. Thirty-nine is admitted
10 without objection.

11 (WHEREUPON, State's Exhibit No. 39 was admitted into
12 evidence again.)

13 Q Sergeant Richards, was that the extent of your
14 involvement in the investigation of this case?

15 A It was.

16 MS. FENT: Thank you. Please answer any questions
17 Mr. Collins has for you.

18 THE COURT: Cross-examination?

19 CROSS-EXAMINATION:

20 BY MR. COLLINS

21 Q Good afternoon.

22 A Good afternoon.

23 Q You were testifying about how each garment was
24 packaged individually?

25 A Yes, sir.

1 Q And that's to prevent against cross-contamination?

2 A Yes, any degrading of any D.N.A. or trace evidence.

3 Q Just each article could have, possibly, different
4 type material on it?

5 A Sure, sure.

6 Q And you don't want to cross-contaminate that?

7 A That's correct.

8 Q Because you're packaging this in the way that you did
9 in the hopes that it would be tested?

10 A I was packaging it for further -- pending further
11 investigation, whoever wants to do what with it, yes, sir.

12 Q So that it could be tested?

13 A It could be.

14 Q To preserve it?

15 A Yes, sir.

16 Q So the results would be valid?

17 A Yes.

18 Q And you were looking at the packaging on the clothing
19 from the autopsy that you attended, correct?

20 A Yes, sir.

21 Q And you wrote your name on that?

22 A Well, it was my handwriting. My name would have been
23 on the label of the box that it was entered into evidence.

24 Q And if anybody else goes in there and opens it up,
25 they write their name on it, keep a log of who all

1 accesses the evidence?

2 A Yes, sir.

3 Q Did you see anybody else's name on it?

4 A I didn't look, but I was looking for mine.

5 Q You can take a look at it now. Which one was it?

6 A Well, what I would look for, sir, would be the box
7 itself.

8 Q The box itself?

9 A Yes, sir, and if it hadn't been opened. Those are my
10 initials and date on the initials seal.

11 Q Okay.

12 A This is additional, this is additional labeling and
13 sealing from a -- with initials on it that I don't know.

14 Q Is there a date on there?

15 A 10/7/06.

16 Q 10/7/06?

17 A Yes, sir.

18 Q Now, you went through clothes from the autopsy,
19 correct?

20 A Yeah.

21 Q Boots, correct?

22 A (There was no response).

23 Q Boots were part of it?

24 A Brown shoes.

25 Q Brown shoes?

1 A Yes, sir.

2 Q And one of the shoes had what looked like drops of
3 blood on it?

4 A No. I said possible blood when I was going through
5 this bag on the shoes.

6 Q Okay.

7 A I'd have to take those back out and look again to say
8 for sure.

9 Q Okay. You saw possible blood on those shoes?

10 A Yes, sir.

11 Q Now, you would have to test that out to find out,
12 right?

13 A Yes. That's why I said possible.

14 Q Okay. And when there's blood on, say, a shirt,
15 different areas of the shirt could be tested separately,
16 correct?

17 A It could be, yes, sir.

18 Q There could be a blood splotch over here that could
19 be tested, correct?

20 A Correct.

21 Q And that could be one person's D.N.A., correct?

22 A Could be.

23 Q And it's possible there could be blood on a sleeve
24 that could be somebody else's D.N.A., correct?

25 A That's correct.

1 Q But you would have to test it to find out?

2 A We would, yes, sir.

3 MR. COLLINS: Thank you.

4 THE COURT: Any redirect?

5 MS. GARFIELD: Yes, sir.

6 REDIRECT EXAMINATION:

7 BY MS. GARFIELD

8 Q Sergeant, you said you attended the autopsy. This
9 clothing was taken from what kind of victim? How did he
10 demise?

11 A The call for death was made due to a wound to the
12 heart, a stabbing wound.

13 Q Did you personally observe the stab wounds at that --

14 A Yes, I did.

15 Q -- autopsy?

16 A Yes, I did.

17 MS. GARFIELD: Thank you. That's all.

18 THE COURT: Recross on that issue?

19 MR. COLLINS: No, Your Honor.

20 THE COURT: Okay. You may step down. Thank you very
21 much. You may be excused.

22 Call your next witness.

23 MS. FENT: May we approach, Your Honor?

24 THE COURT: Yes, sir.

25

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

3 THE COURT: All right. Madam Forelady and ladies and
4 gentlemen of the jury, we're going to take a lunch break
5 at this time. Please don't discuss the case amongst
6 yourselves and be back in the jury room at two o'clock.
7 We'll get started at that time. When you come to the
8 courthouse, come straight to the jury room. I'll see you
9 at two o'clock. Have a good lunch.

10 (WHEREUPON, the jury left open court at approximately
11 12:27 p.m.)

12 THE COURT: All right. Anything -- we've got to look
13 at some autopsy photos, I believe you said?

14 MS. FENT: Yes, Your Honor. We've picked out which
15 photos we'd like to introduce, and we just haven't gone
16 over that with Mr. Collins.

17 THE COURT: Show it to Mr. Collins, see which ones he
18 has objections to. I'll look at the ones he has
19 objections to.

20 MR. COLLINS: Your Honor, they're going to call the
21 daughter of the victim to identify him. For the record, I
22 would object to that.

23 There's many other ways, many other witnesses, that
24 they could get his real name in with. The primary purpose
25 would probably be to gain sympathy from the jury.

1 I think the danger of the daughter giving testimony
2 other than just looking at a picture and saying that's so
3 and so, any other testimony is not relevant to this case.
4 It would be --

5 THE COURT: Well, we'll just have to deal with that
6 as it comes. I'll deal with your objections as it comes.
7 They can call who they want.

8 MR. COLLINS: I just wanted to address that with the
9 jury not in here. It could prejudice me if it have to
10 stand up and object in front of the jury.

11 THE COURT: That's what objections are for. You can
12 stand up and make your objection.

13 MS. FENT: Your Honor, did you want to cover these
14 now?

15 THE COURT: I would like to, the ones he has
16 objections to.

17 MS. FENT: We have six photos. Mr. Collins is only
18 agreeing to one.

19 THE COURT: Well, let me see the other five.

20 MR. COLLINS: Your Honor --

21 THE COURT: I don't care about seeing the ones he
22 agrees with.

23 MR. COLLINS: Your Honor, the reason -- here you go.

24 THE COURT: Well, let me look at them first.

25 (Pause).

1 All right. Let me see the pictures. The ones he has
2 objections to, please.

3 MS. FENT: They all show different, different
4 injuries.

5 THE COURT: What are they marked?

6 MS. FENT: I have not marked them yet.

7 THE COURT: Well, how about marking them so we can
8 identify them --

9 MS. FENT: Okay.

10 THE COURT: -- for the record, okay.

11 MS. FENT: Okay.

12 THE COURT: Have them marked.

13 MS. FENT: Absolutely.

14 THE COURT: I guess it would be what, 69-A through
15 whatever?

16 MS. FENT: Where is the one that you --

17 THE COURT REPORTER: We have 69 through...

18 MS. FENT: Here's one.

19 THE COURT: Just mark that. How do you want to mark
20 them, 69-A, B, C and D or --

21 THE COURT REPORTER: Since they are not on one board,
22 I would rather mark them separate.

23 MS. FENT: Yeah.

24 THE COURT: Okay. Just mark them separate --

25 MS. FENT: There are six of them.

1 THE COURT: -- so we'll know how to deal with them,
2 Mr. Collins, at least by number, okay.

3 (WHEREUPON, State's Exhibits Nos. 69 - 74 were marked
4 for identification only.)

5 MS. FENT: My understanding is the only one that he
6 is not objecting to is Exhibit 74, which is the shoulder.

7 MR. COLLINS: That's correct.

8 THE COURT: All right. Mr. Collins, if you'll come
9 up here. I'll hand them to you one at a time and listen
10 to your objections, okay.

11 MR. COLLINS: Okay.

12 THE COURT: All right. Here is number -- been marked
13 State's Exhibit for identification Number 69. What's your
14 objection to 69?

15 MR. COLLINS: Your Honor, it's a -- there are
16 pictures that are not blow up in this fashion. This is
17 the one in evidence from the actual crime scene that show
18 each one of these injuries at a closer point in time to
19 when the injuries were inflicted.

20 My objection is twofold: One, the best evidence
21 would be the wounds closer to the time they were actually
22 inflicted; two, that these are prejudicial, all of these
23 pictures, because it clearly shows the body in a morgue on
24 a morgue table. That's -- those are the two reasons for
25 my objections to all of those.

1 THE COURT: To all of those? The same objection to
2 all of them?

3 MR. COLLINS: And the reason I agreed to the shoulder
4 wound is because there is not a picture from the crime
5 scene of the wound to the shoulder. Every other wound is
6 shown clearly --

7 THE COURT: All right.

8 MR. COLLINS: -- from the crime scene pictures.

9 THE COURT: Assuming that -- assuming that they're
10 identified properly by -- do you have any problem with
11 authentication on the pictures? I guess that's the
12 question.

13 MR. COLLINS: I don't foresee any.

14 THE COURT: Do you have any objection to
15 authentication, or are we going to bring somebody in to
16 identify the picture?

17 MR. COLLINS: I believe Clay Nichols will be
18 testifying. I don't foresee --

19 MS. FENT: He did the autopsy, will be testifying.

20 THE COURT: Okay. Assuming the pictures are
21 authenticated and assuming the doctor makes the pictures
22 relevant, I'll rule on your objection, okay.

23 I'm not saying the doctors can make these relevant.
24 There may still be a relevancy argument. It depends on
25 his testimony, okay.

1 MR. COLLINS: Okay. Thank you, Your Honor.

2 THE COURT: But as far as your objection concerning
3 to --

4 MS. FENT: It's 69 through 73, I believe.

5 THE COURT: Sixty-nine, 70, 71, 72 and 73, I will
6 overrule your objection, except as to authentication and
7 relevancy, okay.

8 (WHEREUPON, State's Exhibits Nos. 69 - 73 were
9 admitted into evidence.)

10 MR. COLLINS: Okay. Thank you, Judge.

11 THE COURT: All right. Anything else?

12 MS. FENT: I do not believe so, Your Honor.

13 THE COURT: Pardon?

14 MS. FENT: I think that's it with us.

15 THE COURT: All right. We'll adjourn until
16 two o'clock.

17 MR. COLLINS: Two. Judge, just one more thing for
18 scheduling purposes, we briefly talked at the bench about
19 scheduling.

20 We may finish with the State's case this afternoon.
21 Can I tell my witnesses to be here at nine o'clock in the
22 morning? Can I have my witnesses here at ten o'clock
23 tomorrow morning?

24 THE COURT: What have you got at nine o'clock?

25 MS. FENT: Mr. Collins has --

1 MR. COLLINS: I have --

2 MS. FENT: -- that D.S.S. hearing.

3 THE COURT: You had the D.S.S. hearing you wanted to
4 go to.

5 MR. COLLINS: At 9:30.

6 THE COURT: Right. I'm going to let you go to that.

7 MR. COLLINS: I'm just saying --

8 THE COURT: I mean, I'm here at nine if you want to.

9 MR. COLLINS: No. I mean, can I just have my
10 witnesses who are here today and tell them --

11 THE COURT: Do you have -- how long -- when do you
12 think you'll finished if we get started at two o'clock?

13 I don't need any of this on the record.

14 THE COURT REPORTER: Okay.

15 (There was a lunch break).

16 (WHEREUPON, State's Exhibits Nos. 75, 76 were marked
17 for identification only.)

18 MS. GARFIELD: These are just for I.D.

19 THE COURT: I'm sorry, what?

20 MS. GARFIELD: I've been told Mr. Collins does not
21 have an objection. Ms. Fent spoke to him. These are just
22 for demonstrative purposes.

23 THE COURT: Seventy-five and 76 just for I.D.?

24 MS. GARFIELD: That's correct, Judge.

25 THE COURT: Okay. All right. Anything from the

1 State before we bring the jury?

2 MS. FENT: Yes, Your Honor. Our first witness is
3 going to be Nohemi Guzman Flores, who is the deceased's
4 daughter. She requires a translator. We have a
5 translator here, Mr. Britt Hunt. I don't know if you want
6 to put him oath.

7 THE COURT: Christine, do you have an oath for him?

8 THE CLERK: Yes, sir.

9 THE COURT: What's your name?

10 THE WITNESS: Britt Hunt.

11 THE COURT: I'm going to let the clerk swear you.

12 THE CLERK: Do you want me to do it right now or in
13 the presence of the jury?

14 THE COURT: I want to do it right now, and we'll do
15 it again in the presence of the jury. I want to ask him
16 some questions.

17 BRITT HUNT, after being duly sworn,
18 promised to translate correctly the testimony of Nohemi
19 Guzman Flores.

20 THE COURT: All right. What's your training for
21 interpreting in Spanish?

22 THE WITNESS: I have a Bachelor's degree from Clemson
23 in Spanish, and I am certified, took all the training
24 courses and certifications in the State of Georgia before
25 it was required here.

1 THE COURT: Okay.

2 THE WITNESS: And I'm on the State Court
3 Administration list.

4 THE COURT: Okay.

5 THE WITNESS: I've been interpreting in courts for
6 probably about four years now.

7 THE COURT: All right. Let me ask you this: Do you
8 prefer giving a running commentary, or do you want to do a
9 sentence and you give the sentence and stop? How do you
10 prefer it?

11 Some interpreters like for the lawyers to ask a
12 question and then stop, and then you give it or like you
13 do a running commentary. I've seen it done both ways.
14 Which do you prefer?

15 THE WITNESS: I would prefer the pause. If there's a
16 witness on the stand, I think that's the preferred method
17 where the attorney would ask the question and pause and it
18 be translated into Spanish for the witness.

19 THE COURT: Okay. Everybody understand?

20 MS. FENT: Yes.

21 THE COURT: All right. Anything else before we bring
22 the jury?

23 MR. COLLINS: Your Honor, I forgot to bring this up
24 before we broke for lunch. Just to put on the record
25 regarding the voice identification by Bille Joe Risinger,

1 while she was on the stand we approached the bench.

2 At the bench conference I requested an in-camera
3 hearing to be able to vigorously cross-examine her on the
4 voice identification in regards to a similar Neil vs.
5 Biggers hearing outside the presence of the jury.

6 I believe that request was denied, and the
7 identification was admitted into evidence without that
8 in-camera hearing.

9 I just want to have a record that I did request that,
10 and it was denied. It was admitted over my objection.

11 THE COURT: Okay. Anything else?

12 MS. FENT: No, Your Honor.

13 THE COURT: I think at the in camera -- to make the
14 record complete, at the in-camera hearing, I did sustain
15 the objection. However, I gave the prosecutor a chance to
16 lay the background information as to how she could make
17 that voice identification.

18 The prosecutor then, in fact, laid some foundation
19 and made the objection in open court, and I overruled
20 after the proper foundation. So I think that also
21 transpired at the bench conference. I did sustain the
22 objection at the bench conference.

23 MR. COLLINS: Yes, sir.

24 THE COURT: You did request an in camera hearing,
25 which I denied.

1 MR. COLLINS: Yes, sir.

2 THE COURT: As far as the cross-examination is
3 concerned.

4 MR. COLLINS: Yes, Your Honor.

5 THE COURT: Okay. All right. Anything else?

6 MS. FENT: No, Your Honor.

7 THE COURT: All right. Bring us a jury, please.

8 (WHEREUPON, the jury came into open court at
9 approximately 2:09 p.m.)

10 THE BAILIFF: All jurors present, Your Honor.

11 THE COURT: Thank you, sir.

12 Solicitor, if you'll call your next witness, please.

13 MS. FENT: The state calls Nohemi Guzman Flores.

14 THE COURT: All right. I believe you're going to
15 need an interpreter.

16 MS. FENT: Yes, Your Honor.

17 THE COURT: All right. Who is your interpreter?

18 MS. FENT: Mr. Britt Hunt.

19 THE COURT: Is it Hanks?

20 THE INTERPRETER: Hunt, Your Honor, H-U-N-T.

21 THE COURT: If you'll come around and be sworn, sir.

22 BRITT HUNT, after being duly sworn,
23 interpreted as follows:

24 NOHEMI GUZMAN FLORES, after being duly
25 sworn, testified as follows:

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

3 (The following answers were made by Ms. Flores but
4 interpreted through Mr. Hunt.)

5 THE WITNESS: My name is Nohemi Guzman Flores.

6 DIRECT EXAMINATION:

7 BY MS. FENT

8 Q And can you spell that for the court reporter?

9 THE INTERPRETER: Should the interpreter spell it?

10 MS. FENT: Yes.

11 THE INTERPRETER: N-O-H-E-M-I, G-U-Z-M-A-N,
12 F-L-O-R-E-S.

13 BY MS. FENT

14 Q Ms. Flores, how old are you?

15 A I'm 24.

16 Q And do you live here in Columbia, South Carolina?

17 A Yes.

18 Q How long have you lived here?

19 A For three years.

20 Q And where did you live before that?

21 A Before what happened to my father, I always lived
22 here in Irmo.

23 Q And your father, what is your father's name?

24 A My father's name was Gustavo Guzman Hernandez.

25 Q Okay. I'm going to have to ask you to look at a

1 photograph and tell me if you recognize the person in that
2 photograph, okay.

3 A (Nods in the affirmative).

4 Q This is photograph 69.

5 A Yes.

6 Q And who is the person in photograph 69?

7 A My father.

8 MS. FENT: I have no further questions.

9 THE COURT: Any cross-examination?

10 MR. COLLINS: No questions, Your Honor.

11 THE COURT: Tell her she may step down.

12 (Complies).

13 THE INTERPRETER: Thank you.

14 THE COURT: Call your next witness, please.

15 MS. GARFIELD: Thank you, Your Honor. The State
16 calls Tena Goff.

17 TENA GOFF, after being duly sworn,
18 testified as follows:

19 THE CLERK: Have a seat in the witness box. State
20 your name for the record, please.

21 THE WITNESS: Tena Goff.

22 DIRECT EXAMINATION:

23 BY MS. GARFIELD

24 Q Hi, Ms. Goff. Where are you employed?

25 A The Richland County Sheriff's Department.

1 Q And what is your duties with the Richland County
2 Sheriff's Department?

3 A I am the senior evidence tech or evidence custodian
4 for the sheriff's department. My job is to supervise the
5 staff that are assigned to the evidence room and make sure
6 that evidence is being received and handled properly,
7 logged in and then shelved properly, and then handed out
8 to the lab or techs who need to take it and do any kind of
9 testing to it.

10 Q And how do you receive property from different
11 investigators?

12 A It's either -- it's done one of two ways. You can
13 either do it hand-to-hand, person-to-person or you can put
14 it in our drop box or locker which is a temporary storage
15 facility that we have right outside our door for after
16 hours or weekends when the office is closed.

17 Q And when someone puts it into the lockbox, what do
18 you do with that?

19 A We open up the lockboxes, make sure that it's
20 packaged properly. Everything is filled out and signed,
21 and then we take it in and accept it into the evidence
22 room.

23 Q Would you accept something into evidence that was not
24 packaged properly?

25 A No.

1 Q Have you ever had someone try to do that?

2 A Mistakenly, yes, not on purpose. They would forget
3 some detail or some item that we need. The officer is
4 immediately called, and then the evidence just sits until
5 they come in and correct it. Then we bring it in.

6 Q This is a case involving a murder where the defendant
7 is Christopher Heller. Were you or anyone under you
8 responsible for taking in evidence under this case?

9 A Yes, ma'am.

10 Q Specifically, I'm going to show you some items that
11 have been marked as State's Exhibit 57. Do you recognize
12 this package?

13 (Pause).

14 A No, I do not.

15 Q Oh, actually, I'm sorry. It would have been in a
16 box. I'm sorry.

17 (Pause).

18 I'm going to hand you a box that contains State's
19 Exhibits number 57, 64, 55, and 63. Do you recognize this
20 box?

21 A Yes, I do.

22 Q And can you please just identify for the record what
23 that box is?

24 A This is a box that I accepted into the evidence room
25 on September 5th of 2006 at 7:30 in the morning. It was

1 properly sealed by the evidence red tape that's on the
2 sides and on the bottom, and also because the bar codes
3 are on the side after I logged them in. I would attach
4 those to the box.

5 Q Who did you receive that box from?

6 A Investigator Siniard.

7 Q And once you received that box, what would you have
8 done with it?

9 A It would have been put back on the shelf along with
10 the rest of the evidence in this particular case.

11 Q And can -- is there anything on that indicating if
12 that box was ever given to anyone else?

13 A There's two requests marked here for D.N.A. and
14 trace, and if you give me a moment, I can look through my
15 records to tell you.

16 Q Thank you. Please do.

17 (Pause).

18 A On October 19th of 2006, a Mr. Ron Abrahams who was
19 an evidence technician under me logged this evidence out
20 to investigator John Barron for D.N.A. analysis.

21 Q Thank you.

22 Ms. Goff, I'm going to show you another box of
23 evidence. This box is labeled -- I'm sorry, has packages,
24 State's Exhibits number 61, 62, 60, 59 and 58. Can you
25 tell me what this -- do you recognize this box and this

1 packaging?

2 A It's another box that I accepted from Investigator
3 Siniard on September 5th, 2006.

4 Q And how would it have been packaged when you received
5 it?

6 A Again, the box was sealed with the evidence red
7 sealing tape on the top and bottom initialed with
8 Mr. Siniard's initials and dates, and then I signed it and
9 dated it when I received it in.

10 Q And is it --

11 A And the bar code labels are on the side.

12 Q And is there any trail on that as to where that box
13 may have gone to afterwards?

14 A On January 6th, 2009 I signed all of those items out
15 to D.N.A. technician Christine Barrickman.

16 Q Thank you.

17 Oh, and you reference the bar codes on the side. Can
18 you just explain to the jury what the bar codes are and
19 how this system is at the Sheriff's Department relating to
20 those bar codes?

21 A We have a computerized evidence logging in system
22 called ACISS. We plug in the case number, and we fill in
23 all of the appropriate blocks and spaces with the
24 information.

25 We're held accountable as to what items are turned in

1 by what the officer has written on the labels. Once we
2 log that evidence in, depending if it's the first evidence
3 or if it's additional, there's extra steps that we take in
4 creating a chain of custody, if you will, and once we get
5 it all logged in and documented properly, the computer is
6 assigns unique identifiers or item numbers.

7 Once the computer has done that, we can print out
8 these bar codes, which like at a grocery store or Wal-Mart
9 gets scanned by a laser scanner.

10 Q Thank you.

11 And lastly, Ms. Goff, I'll show you another box, and
12 inside there is a bag, State's Exhibit Number 51. Do you
13 recognize this box?

14 A This is a box that I received from Investigator Stan
15 Richards on August 30th, 2006. It was sealed properly
16 with initials and date, plus the evidence seal. Once I
17 initialed and signed for it, I put the bar codes on the
18 side.

19 Q And can you just give a brief description of what
20 that box may contain?

21 A Item number -- our item number 54, hair and nail
22 scrapings, hand swabs, a set of keys, post mortem prints
23 from Guzman --

24 Q Uh-huh.

25 A -- item 55, bag of Guzman's clothing and item 56, bag

1 of Chavis' clothing.

2 Q Okay. Now, you just made a mention that -- you can
3 go ahead and have a seat, that you're -- the evidence
4 custodian assigns a unique number. What -- does that
5 number have anything to do with what the investigators
6 assign it?

7 A No.

8 Q So if an investigator has already labeled something
9 like swabs one through eight, does that have anything to
10 do with the number you assign it?

11 A No. I don't assign the item number. The computer
12 does. Our -- the evidence database assigns the numbers
13 because there may be more than one officer turning in
14 evidence on a particular case.

15 There's no way for us humanly possible to assign case
16 numbers. So again, we're held to what the officers wrote
17 on the label, but also the electronic chain of custody is
18 kept by the computer as to when we put in those items, and
19 they go in order as we receive them into the evidence
20 room.

21 Q Now, oftentimes you say D.N.A. or other labs from the
22 sheriff's department come and check out other evidence?

23 A Yes.

24 Q Do they within their own laboratories or whatnot
25 assign their own numbers to certain items?

1 A (There was no response).

2 Q Specifically, I'm asking if someone from D.N.A., if
3 they generated a report, would the item numbers they
4 despite, a specific piece of evidence, necessarily be the
5 same item number the evidence room has?

6 A No, because with D.N.A. in particular, once they get
7 an item from us, if they're taking out a piece or a
8 cutting, they will sub item that, or it will be -- it will
9 be my item number one. They'll make item number 1.1 or
10 1.2 in their notes which has no reflection or bearing on
11 what evidence we actually gave them.

12 MS. GARFIELD: Thank you.

13 Your Honor, at this time I would introduce State's
14 Exhibit Number 51 into evidence.

15 THE COURT: Any objection?

16 MR. COLLINS: No objection.

17 THE COURT: All right. Fifty-one admitted without
18 objection.

19 (WHEREUPON, State's Exhibit No. 51 was admitted into
20 evidence.)

21 MS. GARFIELD: Thank you, Your Honor.

22 Please answer any questions defense counsel may have.

23 THE COURT: Cross-examination?

24 MR. COLLINS: No questions, Your Honor.

25 THE COURT: All right. Ms. Goff, you may be excused.

1 Thank you very much.

2 MS. GARFIELD: Thank you, Your Honor.

3 MS. FENT: The State calls Investigator Willie
4 Gonzales.

5 WILLIAM GONZALES, after being duly
6 sworn, testified as follows:

7 THE CLERK: Have a seat in the witness box. State
8 your name for the record.

9 DIRECT EXAMINATION:

10 BY MS. FENT

11 Q State your name.

12 A William Gonzales.

13 Q Where are you employed?

14 A Richland County Sheriff's Department.

15 Q In what capacity?

16 A Currently an investigator at the Major Crimes Unit.

17 Q Okay. Can you tell the jury a little bit about your
18 education and your employment with the Richland County
19 Sheriff's Department that brings you to be an
20 investigator?

21 A Yes, ma'am. I retired from the military with 23
22 years. I came to work with the Richland County Sheriff's
23 Department -- I've been with the Sheriff's Department for
24 a little bit over eight years. I've been in the Criminal
25 Investigative Unit for a little bit over three years.

1 Q And what types of crimes are you assigned to
2 investigate at this point?

3 A I usually investigate at this point armed robberies,
4 burglaries, aggravated assault with a weapon.

5 Q Back in August of 2006 what were your
6 responsibilities?

7 A I was assigned to assist Investigator Siniard in a
8 homicide that just occurred earlier that morning where a
9 Hispanic male was murdered at the Brookhurst Mobile Home
10 Park area.

11 Q Okay. Had you been assigned to investigate a
12 homicide prior to this?

13 A That was -- that was my first homicide.

14 Q Okay. And you said you were assigned to assist
15 Investigator Siniard?

16 A That's correct.

17 Q Okay. Can you tell me in this case did you do any
18 investigation or anything on your own, or were you always
19 with somebody else?

20 A No, ma'am. Every time -- I was always with
21 Investigator Siniard.

22 Q Okay. Tell me a little bit about, you know, what you
23 remember doing that morning when it was -- the case was
24 assigned to you or assigned to Investigator Siniard?

25 A I remember linking up with Investigator Siniard. I

1 want to say it was on the 25th.

2 Q Basically, going with him to try to --

3 A We went --

4 Q -- track down witnesses?

5 A That's correct. We went to several locations to try
6 to make contact with possible witnesses and stuff like
7 that.

8 Q Okay. Did you meet with Bille Joe Risinger at all
9 with Investigator Siniard?

10 A That's correct.

11 Q And --

12 A I believe it was the 25th, in the afternoon, if I'm
13 not mistaken.

14 Q I'm going to show you -- I guess on the 25th, on that
15 first meeting, did you get a written statement from Bille
16 Joe?

17 A That's correct.

18 Q Okay.

19 A That's correct.

20 Q Okay. And you were present and witnessed that
21 written statement?

22 A That's correct.

23 Q Okay. Later did you have occasion to show her a
24 photo lineup?

25 A Yes, ma'am.

1 Q Okay. I'm going to show you State's Exhibit
2 Number ten and ask you if you recognize that.

3 A Yes, I do.

4 Q Okay. And did you witness her look at this photo
5 lineup and make any identifications?

6 A Yes, ma'am.

7 Q And which photo did she identify?

8 A She identified number three.

9 Q Okay. Did you present this to her or did
10 Investigator Siniard do the presenting of the photo
11 lineup?

12 A I believe it was Investigator Siniard.

13 Q Okay. Did you witness him suggest to her in any way
14 who to pick out or tell her, "The person is here. We just
15 need you to pick him out," anything like that?

16 A Negative.

17 Q Okay. Did you have an occasion to go with
18 Investigator Siniard to see the victim, Mary Chavis, in
19 the hospital?

20 A That's correct.

21 Q And I'm going to show you what's been marked as
22 State's Exhibit Number nine. Take a look at that and see
23 if you recognize that.

24 A Yes, ma'am.

25 Q Okay. And did you actually present this or did

1 Investigator Siniard?

2 A Investigator Siniard presented this to Ms. Chavis.

3 Q Okay. Did you witness her make any identifications
4 on that lineup?

5 A Yes, ma'am.

6 Q And how did she indicate which photo she was picking
7 out?

8 A She pointed out photo number three.

9 Q Okay. And did you sign this as a witness?

10 A That's correct.

11 Q Okay. Was she able to sign at that point in the
12 hospital?

13 A No, she wasn't. She had -- I believe she had an I.V.
14 in both hands, and some of her hands were wrapped up.

15 Q Okay. And did you witness Investigator Siniard in
16 any way suggest to her who to pick out or tell her, "The
17 person is here. We just need you to point to him"?

18 A Negative.

19 Q In talking to all of the witnesses, who was the
20 suspect that you all developed, or did you develop a
21 suspect?

22 A Ma'am?

23 Q Through your investigation did you develop a suspect,
24 who the person was that attacked Mary and killed Gustavo
25 Guzman?

1 A That's correct.

2 Q And who was that person you developed?

3 A Christopher Heller.

4 Q Did you make physical contact with Christopher
5 Heller?

6 A Yes, ma'am.

7 Q And where was that?

8 A It was at Baxley, Georgia.

9 Q And where physically in Baxley, Georgia did you make
10 contact with Christopher Heller?

11 A At the see if I pronounce that right, Appling,
12 Appling County Sheriff's Department.

13 Q Okay. And describe for the jury basically the
14 Sheriff's Department. Where is this? What was this
15 physical building?

16 A That was my first time being there, so to me it just
17 looked like a small sheriff's department.

18 Q And how did the defendant make contact with you, or
19 how did you make contact with him?

20 A We had just finished doing a search warrant at his
21 residence, and we had gone back to the sheriff's
22 department. After being a little bit -- after being
23 awhile back at the sheriff's department, he walked in and
24 turned himself in.

25 Q Okay. When you first saw the defendant, what

1 basically, was his demeanor?

2 A He was a calm individual that came in, and it seemed
3 like he wanted to be cooperative.

4 Q Okay. When he walks in, what do you do?

5 A We immediately apprehend him. I put handcuffs on
6 him, and I pat him down.

7 Q For what purpose?

8 A Make sure that he didn't have any weapon or anything
9 like that.

10 Q And then what did you do next? Where did you go?

11 A We went to speak to the defendant, and we were given
12 a room that the sheriff had there for myself and
13 Investigator Siniard to speak to them.

14 Q Okay. Describe the room for us, if you can.

15 A To me it looked like an average room. I believe -- I
16 believe it was probably like a 12-by-12 room.

17 Q Was it an interrogation room or somebody's office or
18 just an empty room?

19 A I don't know if it was somebody else's office. It
20 had a desk and some chairs. There were some papers on top
21 of the desk. It was just an office. We asked if they had
22 a place that we could use, and they pointed out that
23 place.

24 Q Okay. So you go into that room, and you said there's
25 a desk and a couple of chairs. Who all is now in that

1 room?

2 A Just myself and Investigator Siniard and the
3 defendant.

4 Q Okay. And do you see the person that walked in,
5 turned himself in, and you go into this room, do you see
6 him in the courtroom today?

7 A Yes, ma'am.

8 Q Could you point to him, describe what he's wearing,
9 so we know who you're talking about?

10 A Yes, ma'am. He's sitting over there at the defense
11 table wearing a white shirt.

12 MS. FENT: May the record reflect the witness has
13 identified the defendant?

14 THE COURT: Yes, ma'am.

15 BY MS. FENT

16 Q So when you go into this room, do you remember? Does
17 everybody sit down? What's basically happening?

18 A No. I recall. We all were sitting down. It was
19 three chairs there. Investigator Siniard was behind the
20 desk. I was to the left, to the left of him. The
21 defendant was in a chair sitting in front, pretty much in
22 front of the desk.

23 Q Okay. And what basically happens at this point?

24 A I advise him of his legal rights in the written form.

25 Q Okay. I'm going to show you what has been marked as

1 State's Exhibit Number one and ask you if you recognize
2 that.

3 A Yes, ma'am. This is a form that I used to advise him
4 of his rights.

5 Q And is this a standard form that the Richland County
6 sheriff's office uses?

7 A Yes, ma'am, pretty much.

8 Q Okay. Can you tell us then basically how you walked
9 through advising him of his rights?

10 A Yes, ma'am. It's -- I -- what I usually do is kind
11 of like a norm for me. I try to read every sentence in a
12 piece of paper, and I go line by line.

13 I usually tell them that as I'm going through each
14 sentence if they don't understand something, that they can
15 stop me and ask me questions. Then I continue on going
16 down until I'm done with all the advisement of rights.

17 Q Okay. And did you fill out basically, who you're
18 advising, where you're advising, the time that this is
19 starting?

20 A That's correct. On top it has a name, and in this
21 case it was Christopher Heller. The place was Appling
22 County Sheriff's Department in Baxley, Georgia. The
23 officers were myself and investigator Siniard, the date,
24 and the time.

25 Q Okay. And the date that this happened?

1 A August 31st, 2006.

2 Q And the time?

3 A 13:31 which is 1:31.

4 Q Okay. Then you said that you go through each right
5 individually. Do you pause between each right and ask if
6 they understand their rights, or do you read all of them
7 and then at the end ask them, "Did you understand what I
8 just read to you?"

9 A Well, what I usually do is I just go ahead and read,
10 read the sentence. When I'm done -- and I try to read it
11 at a normal pace. When I'm done, I just go to the next
12 one. Like I said before, I try to -- I tell them that if
13 they don't understand something, they can stop me at any
14 time.

15 Q Okay. And is there any way that you document on the
16 form that the defendant acknowledged that right and
17 understood that right?

18 A Yes, ma'am.

19 Q And how do you do that?

20 A By signature down in the bottom where it says
21 signature and also on each sentence, they'll put the
22 initials in the beginning of the sentence.

23 Q Okay. If you can read for us what the first right
24 was that you read to Christopher Heller.

25 A Yes, ma'am. "Before we ask you any questions, you

1 must understood your rights."

2 Q And did he initial that right?

3 A That's correct.

4 Q What was the second right that you read to him?

5 A "You have the right to remain silent."

6 Q And did he initial that right?

7 A That's correct.

8 Q And what was the next right?

9 A "Anything you say can be used against you in a --
10 against you in court."

11 Q And did he initial that right?

12 A Yes, ma'am.

13 Q What was the next one?

14 A "You have the right to talk to a lawyer for advice
15 before we ask you any questions and to have a lawyer with
16 you during any questioning."

17 Q And did he initial that right?

18 A That's correct.

19 Q What was the next one?

20 A "If you cannot afford a lawyer, one will be appointed
21 for you before any questioning, if you wish."

22 Q And did he acknowledge understanding that right?

23 A That's correct, ma'am.

24 Q And what was the next one you read to him?

25 A "If you decide to answer questions now without a

1 lawyer present, you still have the right to stop answering
2 at any time. You also have the right to stop answering at
3 any time until you talk to a lawyer."

4 Q And did he acknowledge that he understood that right?

5 A Yes, ma'am.

6 Q And then what do you do next after reading those
7 rights to him?

8 A After reading him his rights, then down at the bottom
9 it says "waiver of rights".

10 Q Okay. Before the waiver of rights, what happens?

11 A We have a signature line and a witness line.

12 Q Okay. At that point, do you have him sign or you
13 still haven't done that yet?

14 A No. Not at that point, ma'am.

15 Q Okay, okay. So now what do you read?

16 A The waiver of rights.

17 Q Okay. And how do you present this to him? Do you
18 let him read it himself, or do you read it to him?

19 A No. I read it to him just like I did previous
20 sentences.

21 Q Okay. Tell us what you told him, what you read to
22 him.

23 A "I have read this statement of my rights and
24 understand what my rights are. I am willing to talk and
25 answer questions. I understand and know what I am doing.

1 No promises have been made to me, and no pressure or
2 coercion of any kind has been used against me."

3 Q Okay. After reading that to him, what happens?

4 A Once he understands that, then I ask him if you -- at
5 this point, if you decide, you can sign the top portion,
6 you can sign the bottom portion and initial each one of
7 these blocks as I read to you each one of those sentences.

8 Q Okay. And so did he do that?

9 A Yes, ma'am.

10 Q Did he sign in both places under the "your rights"
11 portion and the "waiver of rights"?

12 A That's correct, as a witness.

13 Q And you saw him sign?

14 A That's correct.

15 Q And who signed as a witness?

16 A Myself and Investigator Siniard.

17 Q What happens next, then, now that he has indicated he
18 understands his rights and that he is willing to waive his
19 rights and talk to you?

20 A Investigator Siniard started speaking to him.

21 Q And did he give a written statement?

22 A That's correct.

23 Q Or a -- I guess a typed statement?

24 A Investigator Siniard had a -- had his bag with his
25 laptop.

1 Q Okay, had a laptop there. Did you also have a
2 printer?

3 A That's correct. We had a portable printer.

4 Q And so then it's basically Investigator Siniard
5 talking to the defendant?

6 A That's correct, ma'am.

7 Q I'm going to show you what has been marked as State's
8 Exhibit Number two, and how many pages are in State's
9 Exhibit Number two?

10 A Three pages.

11 Q Okay. If you just would take a look at that and tell
12 me if you recognize this exhibit.

13 A Yes, ma'am. This is a statement that Investigator
14 Siniard obtained from the defendant.

15 Q Okay. And on each of those pages at the bottom of
16 each of those pages, there's signatures. Whose signatures
17 are there at the bottom of each of those pages?

18 A The defendant's signature and my signature and
19 Investigator Siniard's signature.

20 Q And did you witness the defendant sign his three-page
21 statement?

22 A That's correct, ma'am.

23 Q And you signed in what capacity?

24 A As a witness.

25 Q Okay. At any time when you read him his rights or

1 when he was giving his statement, did he appear to
2 understand what you all were talking about and what he was
3 doing?

4 A Oh definitely, ma'am.

5 Q Did he appear to be under the influence of any
6 alcohol or drugs affecting his decision making?

7 A Not to my knowledge, no.

8 Q Did you make any promises to him if he gave you a
9 statement what might happen to him?

10 A No, negative.

11 Q Did you coercion him or force him in any way to give
12 you this statement and waive his rights?

13 A Negative.

14 Q After he gives you the statement and signs the
15 statement, where do y'all go? What happens next?

16 A We obtain a written consent from him so we could go
17 back to his residence and look in his room for some items
18 that he told us that he still had in his room, some of the
19 clothing he was wearing the night of the incident.

20 Q Okay.

21 A We went back to the residence. He pointed out, if
22 I'm not mistaken, some shoes and a T-shirt that was there
23 that he said he was wearing that night. We obtained those
24 items.

25 Q Okay.

1 A From there we went back to the sheriff's department,
2 and if I'm not mistaken, we had an extradition hearing.

3 Q Okay. And then did you come back to Columbia that
4 day or stay for a few more days there in Baxley?

5 A No, ma'am. After the extradition hearing, which he
6 waived, we came back to Columbia.

7 Q. Okay. And when you come back to Columbia, did you go
8 anywhere with the defendant and the investigator?

9 A Yes, ma'am. We went back to the Brookhurst,
10 Brookhurst Road, Brookhurst Street, where the incident
11 happened.

12 Investigator Siniard wanted him to show, show us,
13 what route he took when the incident happened that he
14 left, where was he at all that night until the next day,
15 so he was able to show us that.

16 MS. FENT: Okay. No further questions. If you'll
17 just answer any questions from the defense counsel.

18 THE COURT: Cross-examination?

19 CROSS-EXAMINATION:

20 BY MR. COLLINS

21 Q So your testimony is that Christopher Heller showed
22 up at the sheriff's department in Baxley, Georgia?

23 A Turned himself in, yes, sir.

24 Q Calm as a cucumber?

25 A Excuse me?

1 Q Calm as a cucumber?

2 A That's correct.

3 Q You patted him down, right?

4 A That's correct.

5 Q Cuffed him?

6 A That's correct.

7 Q Brought him in a room?

8 A That's correct.

9 Q And you say he just openly cooperated with you?

10 A That's correct.

11 Q And in his statement, he actually said, "I told her I
12 was waiting on Kevin to come back and pick me up,"
13 correct?

14 A I'm sorry, what was that the first page?

15 Q Last line, first page.

16 A Okay.

17 Q That's what he -- that's what he said, correct,
18 according to you?

19 A That's the statement that Investigator Siniard took,
20 yes, sir.

21 Q And then according to this statement, it says, "I
22 just started stabbing people"?

23 A That's correct.

24 Q And that's the extent of the details of stabbing in
25 this type statement, correct?

1 A That's what's written there, yes, sir.

2 Q Okay. Now, I want to take you back to the early
3 morning August 31st, 2006.

4 A Yes, sir.

5 Q Do you remember that?

6 A Yes, sir.

7 Q I know you said a couple of times "I want to say" or
8 "I believe". That's because you don't have any notes to
9 refer to, do you?

10 A No, sir.

11 Q You didn't take one single written note the entire
12 investigation, did you?

13 A No, sir.

14 Q This is all just in your head, correct?

15 A Those are things that happened.

16 Q And you have no video of any of this.

17 A That's correct.

18 Q And no audiotape of any of this.

19 A Of what?

20 Q Anything you did on this case.

21 A No, sir.

22 Q You were just along for the ride?

23 A I wasn't along for the ride. I was assisting
24 investigator Siniard.

25 Q Okay. So about six o'clock in the morning

1 August 31st, you and Investigator Siniard meet up and go
2 to Baxley, Georgia?

3 A That's correct.

4 Q You had already talked to some authorities in Georgia
5 to get a search warrant, correct?

6 A That's correct.

7 Q Because you had found out where Christopher Heller
8 lived in Georgia?

9 A That's correct.

10 Q So you take that four-hour trip down the highway?

11 A That's correct.

12 Q And you meet up with the Appling County officers?

13 A At the sheriff's department, that's correct.

14 Q About ten o'clock?

15 A That's about the time, correct, before lunch.

16 Q You'd have to guess, though, right?

17 A Yes, sir.

18 Q And the sheriff's department is actually the
19 magistrate's office, too, correct?

20 A That's correct.

21 Q And so you got there at ten, around ten o'clock.

22 A Yes, sir.

23 Q The first thing you did is you got the magistrate to
24 sign a search warrant, correct?

25 A That's correct.

1 Q So roughly about 10:30 in the morning, you're still
2 guessing there, you joined the Georgia officers to out on
3 the search warrant?

4 A That's correct.

5 Q Investigator Siniard got in the van with the other
6 Georgia officers, correct?

7 A It was two groups, that's correct. He went in one
8 group. I went in the other one.

9 Q You followed behind in your car?

10 A That's correct.

11 Q And there were about six, seven, eight, nine officers
12 total, right?

13 A Right. That's correct, roughly.

14 Q All armed?

15 A That's correct.

16 Q Wearing uniforms that obviously said "police"?

17 A Law enforcement, that's correct.

18 Q Law enforcement, and you go to his residence,
19 correct?

20 A Correct.

21 Q And people file out of the van and get out of your
22 car, correct?

23 A That's correct.

24 Q You go to one side of the house and secure the
25 perimeter?

1 A That's correct.

2 Q You let the Georgia officers go straight in the
3 house, right?

4 A That's correct.

5 Q They had a no knock warrant, didn't they?

6 A I don't know about that, whether they had a no knock
7 warrant. I know we had a warrant.

8 Q You didn't hear that (indicating) knock at the door,
9 did you?

10 A I believe somebody did knock on the door.

11 Q And then they went right in?

12 A That's correct.

13 Q And you heard some noise coming out of the house,
14 didn't you?

15 A Noise like what?

16 Q Yelling, clearing the house?

17 A That's pretty much standard procedure, identify
18 themselves.

19 Q Standard procedure. You want to make sure it's loud,
20 right?

21 A That's correct.

22 Q So if you're in the house, you can hear it?

23 A That's correct.

24 Q And then once it's cleared, you went in the house,
25 right?

1 A That's correct.

2 Q And when you got in the house, you saw there were two
3 ladies inside the house, correct?

4 A That's correct.

5 Q You saw they were being somewhat detained by the
6 Georgia officers at that time, right?

7 A I believe they were in the living room, that's
8 correct.

9 Q And you actually went and talked to Christopher
10 Heller's mother, didn't you?

11 A I did speak to her.

12 Q Because you wanted to know where Chris' room is?

13 A That's correct.

14 Q And so she told you where his room was?

15 A She pointed it out.

16 Q Okay. And you guys got clothing from that room?

17 A That's correct.

18 Q And then you also collected clothing from another
19 room in the house, too, right?

20 A I believe that's correct. That might have been in
21 the brother's room.

22 Q You collected clothing from the brother, too, right?

23 A That's correct.

24 Q You were there 30, 45 minutes?

25 A We were there for awhile, a little bit. I can't say

1 exactly.

2 Q More than an hour, less than an hour?

3 A That could be right.

4 Q More than two hours, less than two hours?

5 A Probably less than two hours.

6 Q And from there everybody that was on that search
7 warrant piled back up in the vehicles and went back to
8 headquarters, correct?

9 A That's correct.

10 Q Including the two women from the house?

11 A I believe the local sheriff's deputies took them down
12 to headquarters.

13 Q All right. With the same group you went to
14 headquarters with, correct?

15 A That's correct.

16 Q They were in the same group you went to headquarters
17 with?

18 A That's correct.

19 Q And you got back at approximately the same time?

20 A That's correct.

21 Q You were aware that those women were in the custody
22 of Georgia authorities?

23 A I did not know that they were in custody until after
24 we got back to the sheriff's department.

25 Q Did you think they wanted to go on a field trip with

1 the officers?

2 A I don't know what they were thinking.

3 Q So you got back to headquarters, and y'all were at
4 headquarters for about an hour or two, right?

5 A That's correct, sir.

6 Q I'm sure you were talking with the Georgia officers?

7 A That's correct.

8 Q Maybe not talking about this case but just talking
9 about things, right?

10 A That's correct.

11 Q And then that's when Mr. Heller came in to
12 headquarters, correct?

13 A Correct.

14 Q And you never saw either one of those women leave
15 headquarters before Christopher Heller got there, did you?

16 A Correct.

17 Q In fact, after these pieces of paper were signed, you
18 escorted Mr. Heller to see his mother, didn't you?

19 A He wanted to speak to her.

20 Q And you escorted Christopher Heller to see his
21 mother, didn't you?

22 A That's correct.

23 Q And that was right before y'all put him in the car to
24 take him back to Columbia?

25 A No. I want to say that was before we went back to

1 the residence to recover some more items.

2 Q And you left from the residence back to Columbia?

3 A No. We came back to the sheriff's department for the
4 extradition hearing.

5 Q Okay. But it was before you left the headquarters,
6 correct, and you had to go back to his house to recover
7 more clothes?

8 A That's correct.

9 Q And you say he told you these were the clothes he was
10 wearing that night?

11 A He pointed out, that's correct.

12 Q And you collected them?

13 A That's correct, yes, sir.

14 Q Now, let's talk a little bit about the room that you
15 and Investigator Siniard talked to Mr. Heller in, in
16 Baxley, Georgia instead of just a normal office.

17 A To me it was normal, yes, sir.

18 Q Just one desk?

19 A That's correct.

20 Q A couple of chairs?

21 A I saw three chairs.

22 Q A couple on one side?

23 A I don't know if they were on one side. I know there
24 were three chairs.

25 Q Two on one side; one on the other side?

- 1 A No.
- 2 Q Horseshoe?
- 3 A Pretty much, yeah, pretty much horseshoe.
- 4 Q No windows?
- 5 A Not that I can recall, no, sir.
- 6 Q Mr. Heller in handcuffs?
- 7 A That's correct.
- 8 Q The door closed behind you?
- 9 A That's correct.
- 10 Q No cameras?
- 11 A No.
- 12 Q You guys didn't take any pictures of the house or
- 13 search on them either, did you?
- 14 A No.
- 15 Q You didn't have a camera there, did you?
- 16 A No, sir.
- 17 Q You didn't have a tape recorder?
- 18 A No, sir.
- 19 Q You probably didn't have a pen either, did you?
- 20 A No. I had two of those.
- 21 Q You had a couple of pens?
- 22 A Yes, sir.
- 23 Q You just didn't like using pens, though.
- 24 So then you take him back to Columbia?
- 25 A That's correct.

1 Q Take him straight out to this trailer park, right?

2 A We took him back to Columbia.

3 Q And you took him straight out to the trailer park.

4 A (There was no response).

5 Q You don't remember?

6 A No. I want to say -- I want to say that we went to
7 headquarters, and then after headquarters we went back to
8 the trailer park.

9 Q You want to say.

10 You took him back to headquarters, and that's when
11 the warrants were served on him, right?

12 A I want to say warrants were served on him.

13 Q Okay. You want to the serve warrants inside the
14 state those are valid.

15 A Excuse me?

16 Q You want to serve warrants inside the correct
17 jurisdiction, right?

18 A Well, he was in N.C.I.C.

19 Q Okay. So you had him processed at headquarters.

20 A I didn't process him in headquarters, I don't know.

21 Q There's no cameras there either, huh?

22 A We have security cameras.

23 Q You do have security cameras?

24 A We have two security camera at the back door.

25 Q But no video of any process?

1 A I didn't take no videos or anything about the
2 process.

3 Q You're not aware of anything that anybody did?

4 A No, sir.

5 Q And when you took him out to the scene, whether it
6 was before or after headquarters, right, you didn't turn
7 on the dash video camera in the car?

8 A We don't have one.

9 Q Not in your car?

10 A No, sir. I was riding with Investigator Siniard's
11 car.

12 Q There are county patrol cars that have dashboard
13 cameras though, correct?

14 A Only the marked cars.

15 Q Marked patrol cars?

16 A That's correct.

17 Q In fact, it's standard that every marked patrol car
18 have a dashboard?

19 A Excuse me?

20 Q It's standard that every marked patrol car has --

21 A Standard, that's correct. The sheriff wants it that
22 way.

23 Q And they also have audio attached to their uniforms,
24 too, correct?

25 A That's correct.

1 Q And then after you took him out to the trailer park
2 and he told you which trailer he hid in, correct?

3 A He pointed it out to the middle trailer.

4 Q To the middle trailer? Did you take pictures of the
5 trailer?

6 A No, sir.

7 Q Did you go back the next day and take pictures of the
8 trailer?

9 A I didn't.

10 Q Did you go back the following day to look at the
11 trailer?

12 A I believe Investigator Siniard did that.

13 Q Okay. And you weren't by his side at that time?

14 A Excuse me?

15 Q You weren't by his side at that time?

16 A Not that I recall, no.

17 Q Okay. And you were present when some of the
18 investigators talked with Kevin Nails, too, right?

19 A That's correct; that's correct.

20 Q And there's no video or audio of that conversation
21 either?

22 A No, sir.

23 Q Just a typed statement?

24 A That's correct.

25 Q That he signed?

1 A That's correct.

2 Q And did you guys ever go out to the Oasis Club?

3 A I never did.

4 Q You never went out there to check on his story?

5 A No, sir, I didn't.

6 Q You never went out there to see if there were any
7 witnesses that saw those guys at the Oasis Club that
8 night?

9 A No, sir.

10 Q You never went out there to see if there was a video
11 in Oasis Club that night?

12 A No, sir.

13 Q Beg the Court's indulgence.

14 (Pause).

15 Oh I'm sorry. You talked about the time on the
16 advice of rights sheets that you read to Mr. Heller.

17 A Yes, sir.

18 Q You said 1:31 p.m. or 13:31.

19 A 13:31.

20 Q That's military time for 1:31 p.m.?

21 A That's correct, sir.

22 Q And then you also looked at this typed statement that
23 you signed at the bottom. There is a date and time on
24 that typed statement, too, correct?

25 A On the bottom?

1 Q On the top.

2 A On the top, that's correct.

3 Q And it says 13:30, correct?

4 A That's correct.

5 Q One minute before the advice of rights?

6 A Well, the time that I put on the advice of rights,
7 that was the time I obtained from my watch.

8 Q And that would -- the time on the statement would be
9 one minute before you put on the advice of rights; is that
10 correct?

11 A Whichever time Investigator Siniard...

12 Q Whatever his watch says.

13 A Whether his watch or laptop, I don't know.

14 Q And there's also a place for a notify public to sign
15 this, these statements, too, correct?

16 A That's correct.

17 Q And on this first page the date of the notary is the
18 31st of August, 2006. Do you agree with me there?

19 A Correct.

20 Q And the next two pages the date of the notary is
21 August 25th, 2006?

22 A That's correct.

23 Q And the signatures, however similar, have some pretty
24 major differences in the first letter of each signature,
25 correct? You would agree with me on that?

1 A Yes, sir.

2 Q And it's your testimony that these notaries were
3 signed in front of you back to back to back?

4 A That's correct, sir.

5 Q But you don't have any notes to refer to, do you?

6 A I don't have what?

7 Q You don't have any notes to refer to, do you?

8 A No, sir.

9 Q You have no video to look at?

10 A No, sir.

11 Q You have no audio to listen to?

12 A That's correct.

13 Q It's just your word on this statement?

14 A That's correct.

15 MR. COLLINS: Thank you.

16 THE COURT: Redirect.

17 REDIRECT EXAMINATION:

18 BY MS. FENT

19 Q When you went out to Baxley, Georgia, were you in a
20 marked car?

21 A No, ma'am. We were in an investigator's car,
22 unmarked.

23 Q And in regards to the questions about the two women
24 that went back to the sheriff's department with some
25 Appling County sheriff's officers, did you ever have any

1 discussion with any Appling County sheriff's officer
2 regarding those two women?

3 A No.

4 Q About taking them into custody?

5 A No, ma'am.

6 Q Did they ask you for your advice about taking them
7 into custody?

8 A No, ma'am.

9 Q Did they tell you they were going to take them into
10 custody?

11 A No, ma'am.

12 Q Did you ask them to take them into custody?

13 A No, ma'am.

14 Q As an investigator, have you had occasion where a
15 person is not in custody but you provide a witness a ride
16 down to the sheriff's office to give a statement?

17 A That's correct.

18 MS. FENT: No further questions.

19 THE COURT: Thank you very much.

20 THE WITNESS: Thank you.

21 THE COURT: You may step down.

22 Is that the statement?

23 THE WITNESS: Yes, sir.

24 THE COURT: Let me see it just a second, please.

25 (Complies).

1 Thank you, sir.

2 (Pause).

3 Call your next witness.

4 MS. GARFIELD: Thank you, Your Honor. The State
5 calls Ron Abrahams.

6 MR. COLLINS: And Your Honor, we have no objection to
7 Mr. Gonzales being excused.

8 THE COURT: I'm sorry, what?

9 MR. COLLINS: We have no objections to Mr. Gonzales
10 being excused as far as a witness.

11 THE COURT: Okay. Do you want Mr. Gonzales,
12 Investigator Gonzales, to stay in the courtroom?

13 MS. GARFIELD: It doesn't matter.

14 THE COURT: I mean, he's welcome to stay in the
15 courtroom.

16 MS. GARFIELD: He has asked to stay --

17 THE COURT: That's fine. He's welcome to stay in the
18 courtroom.

19 All right. Who is your next witness?

20 MS. GARFIELD: Ron Abrahams.

21 Your Honor, Mr. Abrahams has a bit of physical
22 limitation. His questioning is very brief. Is there any
23 way we can just stand in front of the jury?

24 THE COURT: He can stay where he's comfortable.

25 MS. GARFIELD: Thank you.

1 THE COURT: Do you have any chairs that he can sit
2 down so he doesn't have to climb up the steps, or do you
3 want him to stand?

4 (There was no response).

5 Solicitor, do you want him to stand or sit?

6 (There was no response.)

7 THE COURT: Just stand and raise his right hand.
8 Forget about the Bible.

9 THE BAILIFF: There you go.

10 RONALD ABRAHAMS, after being duly
11 sworn, testified as follows:

12 THE CLERK: You can take a seat if you like, and
13 please state your name for the record.

14 THE WITNESS: Thank you. My name is Ronald Abrahams.

15 DIRECT EXAMINATION:

16 BY MS. GARFIELD

17 Q Mr. Abrahams?

18 A Yes.

19 Q Are you currently employed?

20 A No, ma'am.

21 Q Where are you retired from?

22 A Richland County.

23 Q And what did you do at Richland County?

24 A The last job I did was I was working in the evidence
25 room as an evidence room technician.

1 Q At the Richland County Sheriff's Department?

2 A Yes, ma'am.

3 Q I'm going to show you two boxes. If you'll just
4 ask -- tell me if you had occasion to come in contact with
5 these boxes.

6 For the record, the first box contains evidence,
7 Exhibits Number 62, number 61, 60, 59, and 58. Tell me if
8 you recognize this box.

9 A No, ma'am, I don't recognize it.

10 Q Do you recognize any of the evidence sheet?

11 A No. I didn't do that.

12 Q And you know what, that's because I gave you the
13 wrong box. I apologize.

14 I'll show you another box.

15 A Okay.

16 Q Forget this one. It's been a long day.

17 This box containing evidence items number 57, 64, 55
18 and 63. Do you recognize this box? I believe you would
19 have turned it over to someone. It's not actually listed
20 on here, but these are the boxes containing --

21 A Right.

22 Q -- clothing that was recovered from the defendant?

23 A Okay.

24 Q Do you recall ever coming into contact with this and
25 turning it over to anyone?

1 A Yes, ma'am.

2 Q And who would you have turned that over to?

3 A This here, whoever the investigator would be would
4 come pick it up.

5 Q Would it have been someone from D.N.A., perhaps John
6 Barron?

7 A Yes, ma'am.

8 MS. GARFIELD: Thank you. I have no further
9 questions.

10 THE WITNESS: It could be.

11 MS. GARFIELD: I have nothing further.

12 THE WITNESS: Okay.

13 THE COURT: Any cross?

14 MR. COLLINS: No cross.

15 THE COURT: Okay.

16 MS. GARFIELD: Your Honor, may Mr. Abrahams be
17 excused?

18 THE COURT: Yes, you may be excused. Be careful
19 leaving. Thank you very much.

20 THE WITNESS: Thank you.

21 (Pause).

22 I'm sorry to hold you up.

23 THE COURT: You're not holding anybody up. Take your
24 time.

25 (Pause).

1 Call your next witness.

2 MS. FENT: The State calls Christine Barrickman.

3 CHRISTINE BARRICKMAN, after being duly
4 sworn, testified as follows:

5 THE CLERK: Have a seat in the witness box. State
6 your name for the record, please.

7 THE WITNESS: Christine Barrickman.

8 DIRECT EXAMINATION:

9 BY MS. FENT

10 Q With whom are you employed?

11 A Richland County Sheriff's Department.

12 Q In what capacity?

13 A I work in the D.N.A. laboratory as a forensic
14 technician.

15 Q Okay. With regard to case number 0608232125, a
16 murder investigation involving a Christopher Heller, did
17 you have occasion to come in contact with some physical
18 evidence in this case?

19 A I did.

20 Q And basically, how did you come in contact with this
21 physical evidence?

22 A It's my duty in the D.N.A. laboratory to process the
23 items for D.N.A. evidence, and I picked up some clothing
24 in this case along with some other stuff to process it for
25 D.N.A.

1 Q Okay. And do you recall what day it was that you
2 came to pick up that -- those items?

3 A January 6th, 2009.

4 Q Okay. And you said some clothing to process and some
5 other items. Did you open or touch any of those other
6 items that you picked up?

7 A I did.

8 Q Okay. And what did you do with -- in terms of
9 processing what did you do?

10 A It depends exactly what it was. If it's swab
11 evidence, there would be swabs from where somebody had
12 swabbed another item. Those swabs I take out and cut
13 them. They go into a tube, and they're sent on to D.N.A.
14 analysis.

15 There might have been -- let's see. Cigarette butts
16 is kind of the same thing. You cut off the end of a
17 cigarette butt and put it in a tube in the same fashion.

18 Q When everything came to you, was it all properly
19 sealed and maintained appropriately?

20 A Yes.

21 Q Okay. If anything had been inappropriately
22 maintained, what would you have done?

23 A We would have stopped and not analyzed that evidence
24 and turned it back into evidence and got it corrected.

25 Q Okay. And the items of evidence that you processed,

1 what did you do then after you were finished?

2 A After I was finished processing them, I turned them
3 over to the D.N.A. analyst who was actually working the
4 case.

5 Q Okay. And the clothes that you said that you
6 processed, what items of evidence were those?

7 A It looks like items 88 through 93.

8 Q I'm going to hand you this box. If you need to get
9 down here you can. If you can take a look, do you
10 recognize this?

11 A I do.

12 Q And what is this?

13 A This is the case that I looked at, items 88 through
14 93.

15 Q Exhibits 60, 61, 62, 58 and 59, the items here, do
16 you make any kind of markings or indications that you came
17 in contact with these items?

18 A I do. That's my writing there. It has the case
19 number, the time number and my initials on it.

20 Q Okay. And each of these bags, can we see your
21 initials?

22 A Uh-huh.

23 Q And basically, what's the purpose of you processing
24 these items before they go on?

25 A In this case we were looking at these clothing items

1 for the presence of blood, and I looked through all the
2 clothes thoroughly. If there was blood, if there was a
3 stain there that looked like blood, I tested it.

4 If it appeared to -- if a presumptive test was
5 positive, then I cut it out and it went on for D.N.A.
6 analysis.

7 Q Okay. And did any of that happen with those items
8 you processed in terms of, I guess, these items we just
9 talked about?

10 A Item 89 there was a cutting made from a pair of
11 shorts that was positive for blood.

12 MS. FENT: At this time, Your Honor, I would offer
13 these exhibits into evidence, and it was 58, 59, 61, 62
14 and 60.

15 MR. COLLINS: No objection.

16 THE COURT: Fifty-eight, 59, 60, 61 and 62 admitted
17 without objection.

18 (WHEREUPON, State's Exhibits Nos. 58 - 62 were
19 admitted into evidence.)

20 MS. FENT: No further questions.

21 THE COURT: Any cross-examination?

22 MR. COLLINS: Very briefly, Your Honor.

23 CROSS-EXAMINATION:

24 BY MR. COLLINS

25 Q That's not all that was collected and tested in this

1 case, was it?

2 A No.

3 Q And you didn't receive this until I think you said
4 January 6th of this year?

5 A These items, correct, January 6th this year.

6 MR. COLLINS: No further questions.

7 THE WITNESS: Okay.

8 THE COURT: Any redirect?

9 MS. FENT: No, sir.

10 THE COURT: All right. You may step down. Thank you
11 very much.

12 THE WITNESS: Thank you. Call your next witness.

13 MS. GARFIELD: Would you -- oh, I'm sorry, Your
14 Honor. I was going to request at this time that we take a
15 short recess.

16 THE COURT: Do what?

17 MS. GARFIELD: Take a short recess, please, sir.

18 THE COURT: Okay. All right.

19 MS. GARFIELD: Thank you.

20 THE COURT: Ladies and gentlemen, we're going to take
21 a short recess. Let me know if you need anything. Please
22 don't discuss the case among yourselves.

23 Do they have a place in Richland County where they
24 can take them to smoke? Do you have any smokers on the
25 jury?

1 THE BAILIFF: Outside.

2 THE COURT: Pardon?

3 THE BAILIFF: We'll have to take them outside.

4 THE COURT: Okay. Do we have any smokers?

5 (There was no response).

6 No smokers? If you're a smoker, raise your hand?

7 (There was no response).

8 So we don't have anybody smoking, okay, all right.

9 We'll see you shortly.

10 (WHEREUPON, the jury left open court at approximately
11 3:17 p.m.)

12 THE COURT: All right. We'll take about a 15, 20
13 minute recess.

14 MS. GARFIELD: Thank you, Your Honor.

15 (WHEREUPON, a short break was taken.)

16 THE COURT: All right. Anything from the State
17 before we bring the jury.

18 MS. GARFIELD: Just so there's no confusion, can we
19 go ahead and introduce all of pictures before we call the
20 next witness?

21 THE COURT: All right. You want to do what now, I'm
22 sorry?

23 MS. GARFIELD: Go ahead and introduce the pictures
24 into evidence before we call the next witness.

25 THE COURT: You mean the autopsies?

1 MS. GARFIELD: No, sir, the other pictures that we
2 were referring to. We just never officially made the
3 motion.

4 THE COURT: Tell me which exhibits you're talking
5 about.

6 MS. FENT: It's 12.

7 MS. GARFIELD: Twelve.

8 MS. FENT: Twelve through twenty---

9 THE COURT: Twenty what?

10 MS. FENT: Twenty-three, I believe.

11 THE COURT: We admitted those the first day.

12 MS. GARFIELD: We've never done it in front of the
13 jury. Do we need to do so?

14 THE COURT: Well, that's fine. I mean, if you want
15 to offer them, that's fine, but we admitted them the first
16 day.

17 MS. GARFIELD: Okay. That's fine. We'll go ahead
18 and check it off.

19 THE COURT: If you want to make this -- make the
20 request before the jury, that's fine.

21 MS. GARFIELD: That's fine.

22 THE COURT: It doesn't matter to me.

23 MS. GARFIELD: That's fine, Judge.

24 THE COURT: Any preference?

25 MR. COLLINS: I'm fine with the pictures going to the

1 jury --

2 THE COURT: Okay.

3 MR. COLLINS: -- without entering.

4 THE COURT: Anything else?

5 MS. GARFIELD: No, sir.

6 THE COURT: Anything from the defendant?

7 MR. COLLINS: No, Your Honor.

8 THE COURT: All right. Bring us the jury, please.

9 (WHEREUPON, the jury came into open court at
10 approximately 3:40 p.m.)

11 THE BAILIFF: All jurors are present.

12 THE COURT: Thank you, sir.

13 Call your next witness, please.

14 MS. GARFIELD: Thank you, Your Honor. The State
15 calls John Barron.

16 JOHN BARRON, after being duly sworn,
17 testified as follows:

18 THE CLERK: Have a seat in the witness box. State
19 your name for record.

20 THE WITNESS: My name is John C. Barron, B-A-R-R-O-N.

21 DIRECT EXAMINATION:

22 BY MS. GARFIELD

23 Q Mr. Barron, where are you employed?

24 A Richland County Sheriff's Department.

25 Q And how long have you been employed with the Richland

1 County Sheriff's Department?

2 A Almost five years.

3 Q What are your duties at the Richland County Sheriff's
4 Department?

5 A I'm a D.N.A. analyst and also the C.O.D.I.S.
6 administrator, which is the administrator of the local
7 D.N.A. database of unknown profiles that are loaded up to
8 the state database and the national database to see if
9 there's any matches.

10 Q And how long have you had -- you have been at the
11 sheriff's department five years. Where had you been
12 previously?

13 A South Carolina Law Enforcement Division otherwise
14 known as S.L.E.D.

15 Q What did you do at S.L.E.D.?

16 A I was a forensic D.N.A. analyst. Prior to that I was
17 a forensic serologist. I was also a forensic trace
18 evidence examiner and also a forensic toxicologist.

19 Q Do they have D.N.A. labs at the Richland County
20 Sheriff's Department?

21 A Yes, as of 2004.

22 Q And that's primarily where you work?

23 A Correct.

24 Q Can you please share with the jury your educational
25 background?

1 A I have a Bachelor of science degree in microbiology
2 from Clemson University. I began training in forensic
3 serology at S.L.E.D. in 1975. I've attended numerous
4 training seminars with the F.B.I., also professional
5 organizations and training seminars.

6 I have completed additional graduate training -- I
7 mean graduate courses at the University of South Carolina
8 in molecular biology and statistics. I began D.N.A.
9 training at S.L.E.D. in 1999, became qualified in 2000.

10 In 2004, myself and another D.N.A. analyst from
11 S.L.E.D. came to Richland County, set up the D.N.A.
12 laboratory.

13 We are accredited by American Society of Crime
14 Laboratory Directors and testified numerous times in
15 D.N.A. analysis and forensic serology in the State of
16 South Carolina.

17 Q And have you ever been qualified as an expert in the
18 field of serology, forensic serology?

19 A Yes.

20 Q And how many times?

21 A In serology prior to D.N.A. involved blood typing and
22 stuff like that, I was qualified in -- up to over probably
23 several hundred times in the courts.

24 Q And have you ever been qualified as an expert in the
25 field of D.N.A. analysis?

1 A Yes, approximately 30 times.

2 MS. GARFIELD: Your Honor, at this time I would offer
3 Mr. John Barron as an expert in forensic serology and
4 D.N.A. analysis.

5 THE COURT: Do you have any questions you'd like to
6 ask or do you object?

7 MR. COLLINS: I don't object, Your Honor.

8 THE COURT: Okay. The Court so finds.

9 BY MS. GARFIELD

10 Q Mr. Barron, would you explain to the jury what
11 forensic serology is?

12 A Forensic serology at this point is the identification
13 of body fluids, body stains, mostly blood. In the case of
14 sexual assault, it would be semen stains, tissues. In the
15 case of fingernail scrapings, you know, it could be
16 identifying tissue, anything that potentially could
17 provide us with a D.N.A. profile.

18 Q And pretty much everybody knows what D.N.A. is now,
19 but just kind of give an explanation of what D.N.A. is.

20 A Well, D.N.A. is an acronym for deoxyribonucleic acid,
21 which is a very long molecule in each of your cells that
22 has a nucleus.

23 It is the cell that identifies you as a human being
24 and also individually as a person. D.N.A. is about --
25 when it's taken out of a cell, it's about 3.1 meters long.

1 Since we have trillions of cells in our bodies, if
2 you put D.N.A. end to end, it probably would go to the
3 moon several times and back, but D.N.A. for each person,
4 each cell in your body that has D.N.A. it's identical.

5 D.N.A., of course, is used for research, medical
6 research, genetic research, but it also is used for human
7 identification.

8 We do not bother with examining the whole D.N.A.
9 molecule, but we are interested in certain points on the
10 molecule that can be copied and typed. Those points put
11 together constitute a D.N.A. profile for each individual.
12 Because the D.N.A. is unique, your profile is unique to
13 you unless you have an identical twin.

14 Q What kind of results can you obtain through D.N.A.
15 testing, like what are they called?

16 A The results are simply a profile. Profiles from
17 unknown samples or stains left at crime scene or other
18 places are compared to known profiles of individuals. If
19 the profiles match, then you know, we say that the D.N.A.
20 came from that person.

21 Q Can you also explain what an inconclusive result is?

22 A Sometimes we attempt to develop D.N.A. profiles and
23 not get very good results. Like I said, we test 15 points
24 on the D.N.A. molecule plus the sex gene.

25 Not every time do we attempt to develop a profile

1 that we get a complete profile. We may get mixtures,
2 minor contributors in all this confusion. We could have a
3 mixture of a lot of people in one sample which causes us
4 to be unable to make a conclusion.

5 Q And you just mentioned "mixture". What does mixture
6 mean?

7 A Mixture means that in one sample, there's more than
8 one individual present.

9 Q And what did you mean by minor contributor?

10 A Some mixtures have what we call major and minor
11 contributors. Those types of mixtures we can discern the
12 individuals involved because the major contributor may
13 match a particular individual and a minor contributor may
14 match someone else.

15 Some mixtures are equal contributors. I mean, the
16 contribution is fairly equal. What we do in those
17 situations is include or exclude individuals from being a
18 possible contributor to the mixture, but we're not
19 necessarily identifying the individual.

20 Q Is D.N.A. analysis used also to exclude people that's
21 suspects in crimes?

22 A Absolutely. Since D.N.A. is so specific when a
23 profile is developed, it will be specific to that
24 individual and, of course, naturally exclude everyone
25 else.

1 Q Did you have the opportunity to perform any analysis
2 of D.N.A. in this particular case that we're in court for
3 today?

4 A Yes, I did.

5 MS. GARFIELD: Your Honor, may I approach the
6 witness?

7 THE COURT: Yes, ma'am.

8 BY MS. GARFIELD

9 Q I'm going to show you a large box, Mr. Barron. Do
10 you recognize this box?

11 A Yes, I do.

12 Q Can you explain what that box contains?

13 A It contains numerous items of clothing that was
14 submitted for analysis to me.

15 Q And when was that submitted?

16 A It was submitted probably back in 2006 at the
17 evidence room at the Richland County Sheriff's Department.

18 Q And when did you actually perform the analysis?

19 A A couple of weeks ago.

20 Q Mr. Barron, I'm going to ask you to look inside. Do
21 you recognize the objects inside items number 64, 62, 60,
22 59 and 58?

23 A Yes, ma'am.

24 Q And what are those items?

25 A They are two shirts, the blue jeans, and tennis

1 shoes.

2 Q Were those items presented to you in the lab?

3 A Yes.

4 MS. FENT: Your Honor, at this time I would introduce
5 all of these items into evidence.

6 MR. COLLINS: No objection.

7 THE COURT: What numbers are you admitting,
8 Solicitor?

9 MS. GARFIELD: Sixty-one, 60, 59, 62, and 58.

10 THE COURT: Okay, in without objection.

11 (WHEREUPON, State's Exhibits Nos. 58 - 62, having
12 previously been admitted, were admitted again.)

13 BY MS. GARFIELD

14 Q And Mr. Barron, I'll show you another box, if you
15 recognize this box.

16 A Yes, I recognize the box.

17 Q And if you would just look through the contents of
18 that box also and tell me if you recognize those items.

19 A Yes, ma'am.

20 Q And what were those items?

21 A More blue jeans and tennis shoes and T-shirts.

22 Q Were those also presented to the D.N.A. lab for
23 analysis?

24 A Yes, they were.

25 MS. GARFIELD: Your Honor, at this time I would

1 introduce State's Exhibits 55, 56, 57, 63, and 64 into
2 evidence.

3 THE COURT: Any objection?

4 MR. COLLINS: No objection.

5 (WHEREUPON, State's Exhibits Nos. 55 - 57, 63, 64
6 were admitted into evidence.)

7 BY MS. GARFIELD

8 Q Mr. Barron, who directs you to perform a D.N.A. test?

9 A We generally meet with investigators. We work pretty
10 close to them. We have meetings which we discuss the
11 biological evidence in a case, which ones are pertinent
12 for examination.

13 A lot of items are collected by crime scenes just in
14 case, but not all of them end up being pertinent to the
15 case. Later then we may even get a request from the
16 Solicitor's Office to examine some evidence based upon
17 their purview of the case and what they feel like is
18 required to proceed in court.

19 Q In this particular case, who all requested you to
20 perform a D.N.A. analysis?

21 A Investigator Siniard who at that time worked for
22 Richland County, the Crime Scene Investigator, I believe
23 it was Anna Clemmons at the time. I'm not sure what her
24 name was at the time.

25 Q She goes back to Elsey?

1 A Else, that's right, and then yourself, the
2 Solicitor's Office also requested it.

3 Q And sometimes D.N.A. analysis is requested because it
4 may exclude a particular person that's been charged with a
5 crime; is that correct?

6 A Well, any D.N.A. analysis can exclude individuals
7 that are potential suspects or whatever, whatever our
8 results are would include or exclude anyone.

9 Q You just testified to this clothing that you were
10 asked to perform analysis on. Were you asked to perform
11 tests on any other evidence involved in the case?

12 A Oh, yeah.

13 Q I know this is going to be lengthy, and I have a
14 list. If you can just go through and read to the jury all
15 of the items that were requested for you to review and
16 analyze.

17 A Well, my report is quite lengthy with the number of
18 requests. Basically, it's a lot of drink cans at the
19 crime scene, cigarette butts, blood spots, known samples
20 from individuals, autopsy samples from Mr. Hernandez,
21 swabs from doors and, of course, all of these clothes.

22 Q Mr. Barron, the results at that you obtained from
23 doing this analysis, were some of those results -- did you
24 not do any analysis?

25 A Well, the items that are submitted into our

1 laboratory come containerized, and if we want to analyze
2 something in a container, we have to go down to the
3 evidence room and get the container.

4 Inside the container may be items that we don't
5 analyze but they're there, so we list them on our report
6 because we did handle them and we did come in contact with
7 them and become a part of that chain through the chain of
8 custody. We only analyze those particular items that we
9 were requested to do.

10 Q And there were also items that were submitted to you
11 where there was no D.N.A. found?

12 A Correct. There were some items that were tested. I
13 mean, there's a process you go through to determine
14 whether or not D.N.A. is present. If none is present,
15 then the process stops in that particular item. If D.N.A.
16 is present, then you proceed to try to develop a profile.

17 Q And were there items tested where there were mixtures
18 found?

19 A Yes.

20 Q And were some of those mixtures of unknown people?

21 A Yes, there were.

22 Q Who all did you have samples from to compare to in
23 this case?

24 A Well, I had samples from the two victims, Mary Chavis
25 and Guzman Hernandez, and I also had a sample from a

1 Christopher Heller and another individual by the name of
2 Bille Risinger.

3 Q And Mr. Barron, were there also results you obtained
4 where there were mixtures involving Ms. Chavis and unknown
5 people?

6 A Yes, there were.

7 Q And were there also results finding mixtures of
8 Chavis and Guzman Hernandez?

9 A Yes.

10 Q And finally, were there matches found where Mary was
11 a match? I'm sorry, Mary, Ms. Chavis.

12 A Yes.

13 Q And were there also matches where Hernandez Guzman
14 was found?

15 A Yes, there were.

16 Q And were there also matches, a match, with
17 Christopher Heller?

18 A Yes, there was.

19 Q Mr. Barron, did you file a written report in this
20 case?

21 A Yes, I did.

22 Q I'm going to show you two diagrams. For I.D.
23 purposes only, these are State's Exhibits 75 and 76. Do
24 you recognize these as just enlarged versions of the items
25 that are submitted that are written in your report?

1 A Yes.

2 Q Okay. Thank you. And the item number that
3 corresponds in your report, who designates that item
4 number?

5 A It is designated in the evidence room when it comes
6 in to evidence.

7 Q And does D.N.A. give another number, as well when
8 you're conducting your -- I mean, finalizing your report?

9 A Well, the only numbers that we may add to it is if
10 there's multiple items in the particular items. For
11 example, if there's eight cigarette butts, we would number
12 them. If it's item 31, we would say 31.1, 31.2, that type
13 of thing.

14 Q Now, you just mentioned cigarette butts. There's
15 been testimony that cigarette butts were collected in this
16 case, and several cigarette butts were put into one
17 container. Would that have jeopardized in any way your
18 D.N.A. testing?

19 A No.

20 Q Can you explain why not?

21 A Well, the only way D.N.A. can be mixed from one item
22 to another is if the biological fluid is still wet. For
23 instance, if two samples containing blood that was still
24 wet were mixed together, then the blood could potentially
25 transfer, but once it is dry, the transfer is negligible.

1 The amount of D.N.A. that is required to develop a profile
2 would not be transferred with dry samples.

3 Q Now, if we can just go through your results of your
4 analysis, can we go start with the items where you did not
5 do any D.N.A. analysis, can we just go through those one
6 by one?

7 A Well, there were numerous packages of cigarette butts
8 submitted. What we try to do with cigarette butts is to
9 analyze a representative sample of those cigarette butts
10 with the different types of cigarette butts.

11 You know, obviously different brands of cigarettes
12 are going to have a difference in their cigarette butt, so
13 what we do is, you know, if we recognize there's five Kool
14 cigarettes in there, we take a representative sample and
15 test one or two of the Kools and the Marlboros and the
16 Winstons and that type of thing, so that there's not a
17 redundancy in the laboratory.

18 I mean, these tests are expensive. So we try to
19 target our testing to where it's most efficient without --
20 and get the most information that we can.

21 So some of those cigarette butts were not analyzed,
22 and that's because we felt like we tested enough cigarette
23 butts to get a representation of the people involved in
24 smoking those cigarettes.

25 Sometimes -- well, squabs from exterior and interior

1 door handles --

2 Q And can you --

3 A Door handles are not very good unless there's blood
4 on there --

5 Q That's true.

6 A -- are not a good source of D.N.A. because multiple
7 people would be touching it, so it's going to be a mixture
8 of a lot of people, which is not going to give us a lot of
9 good evidence.

10 Q Mr. Barron, before you move on, could you just
11 reference the numbers contained in those cigarette butts
12 that were not tested?

13 A Item 33, which was cigarette butts from a hot pepper
14 ashtray, we did not analyze all those cigarette butts.
15 Item 34, which is a black ashtray, we did not analyze all
16 of those cigarette butts. There's a couple that we left
17 out.

18 Item 35, 36, swabs from interior and exterior door
19 handle. Then some of these items that we analyzed were
20 evidence that weren't really thought to be relevant for
21 D.N.A. analysis. They were just contained in some of the
22 packaging that we had.

23 An envelope, a glass -- excuse me, item 46, item 48
24 through 53, glass lamp globe, red cup, an envelope with
25 glass shards, these types of things we did not analyze.

1 Q You said 48 through 53?

2 A Forty-eight through 53, yeah.

3 Q Okay. Please continue.

4 A Okay. Some of the autopsy samples like hair samples
5 from Mr. Guzman weren't analyzed. Usually hair samples
6 are involved in sexual assault cases. There was nothing
7 to indicate that he was sexually assaulted.

8 Q And what numbers would that correspond to?

9 A That was item 54, which was part of the autopsy
10 samples of Mr. Guzman.

11 Q And that's the head hair and pubic hair?

12 A Correct.

13 Q Would his -- the swab from his hands or his rolled
14 prints have been taken?

15 A No. I think the swabs -- I'm not sure what the swabs
16 were taken. They're not for D.N.A. Fifty-five, 56,
17 Mr. Guzman's clothes, 63, 64, swabs from a toilet.

18 Q I'm sorry, what were those numbers again?

19 A Sixty-three, 64.

20 Q And just to back up, you just said the swabs from the
21 victim's hands were not taken for D.N.A. purposes?

22 A As far as I understood it was not.

23 Q Okay. Thank you.

24 A Sixty-six would also contain some cigarette butts we
25 did not analyze. That's an ashtray in the rear bedroom.

1 Q You did not analyze any of them or some of them?

2 A I believe we didn't analyze all of them.

3 Q Okay.

4 A We did analyze some of them.

5 Q Okay. And did you just say items 55 which was
6 Hernandez Guzman's clothing, that was not analyzed?

7 A That's correct.

8 Q Were there any items that you did analyze and just
9 simply found no D.N.A.?

10 A Yes, one of the cigarette butts from the couch, item
11 32.

12 Q Okay.

13 A There was a hair from a white T-shirt. We tried to
14 find D.N.A. We didn't find any on that.

15 Q Were there any items where D.N.A. was found but it
16 didn't match to any of the samples you had?

17 A There was D.N.A. recovered from some of these cans
18 and bottles and cigarette butts from people that were not
19 people that we had standards from. They were not Mary
20 Chavis, they were not Mr. Hernandez or Mr. Heller or this
21 other lady, Bille Risinger.

22 They -- in my report, I referenced them as an unknown
23 male number one, unknown male number two, unknown female
24 number one and unknown female number two.

25 In other words, there's a good D.N.A. profile there.

1 If I had these individual standards, I could match them,
2 but we don't know who they are. I just don't know who
3 they are, so I didn't -- wasn't able to make a match
4 statement on them.

5 Q And Mr. Barron, before we move on, you indicate that
6 while you didn't know the samples, you were able to
7 differentiate whether they were male or female?

8 A Correct.

9 Q Explain to the jury.

10 A Well, I mentioned earlier that part of our analysis
11 is the sex chromosome. So each profile is male or female.
12 We can tell that for sure.

13 Q Okay. Can we just go through one by one which of
14 these items were found with these unknown D.N.A.?

15 A Item nine, that had unknown male number one, item 13,
16 which was a swab from the bottle. Number nine was a swab
17 from the hand. It was unknown male number two.

18 Thirty-two had cigarette butts from the couch. One
19 of the cigarette butts was clearly from unknown male
20 number one, the same person who had his D.N.A. on the can
21 on number nine.

22 Some of these unknown people appeared several places
23 at this crime scene. Item 65 is a cigarette butt from the
24 top of the filing cabinet was also unknown male number
25 one, and then cigarette butts from the ashtray in the rear

1 bedroom, several of them were all of the same person,
2 unknown male number two.

3 One of the cigarette butts from the hot pepper
4 ashtray, item number 33, was from unknown male number one,
5 and one of the cigarette butts from the rear bedroom,
6 ashtray in the rear bedroom, was from an unknown female,
7 unknown female number one.

8 Q Thank you. And following that, were you also able to
9 find some with mixtures from unknown people?

10 A Yes, I was.

11 Q And can we just go through your results with those?

12 A One of the cigarettes butts from item 32, which was
13 cigarette butts from the couch, was a mixture. In other
14 words, most likely both people smoked the cigarette, took
15 puffs out of the cigarette. The mixture was unknown male
16 number two and unknown female number one.

17 Q Okay.

18 A Item 66, which is an ashtray from the rear bedroom,
19 one of the cigarette butts was unknown male number two,
20 and at least two other people that in this mixture is a
21 very complicated mixture. The only person we could
22 discern out of it was unknown male number two.

23 Another cigarette butt from the same ashtray was a
24 mixture of unknown male number two and unknown female
25 number one. Then item 32, which is cigarette butts from

1 the couch, one of the cigarette butts was unknown male
2 number two and then someone else, but in a lot of these
3 mixtures, the second person is too weak. In other words,
4 they -- we can tell there's someone else there, but we
5 really can't tell who it is number.

6 On item 66, cigarette butts in the ashtray from the
7 rear bedroom, a couple of mixtures there. Unknown male
8 number two was the major contributor, and then the second
9 contributor was too weak to determine.

10 There were three more cigarette butts in item 66,
11 which were unknown male number two, plus another
12 individual too weak to discern who it might be.

13 Then item number 86, which was a white T-shirt which
14 was alleged to me to be the defendant's T-shirt, there was
15 a blood stain on it. However, the blood stain was a
16 mixture of I believe -- let me check my notes, of an
17 unknown female and another male that's too weak to
18 interpret.

19 Then item 33, which is a cigarette butt from the hot
20 pepper ashtray, unknown female number one was the dominant
21 contributor, and then the other D.N.A. was too weak to
22 interpret.

23 Q Were there any items that showed from your analysis
24 then, it was too weak to interpret the D.N.A.?

25 A Yes, one of the cigarette butts from the couch.

1 Well, let's see, two of the cigarette butts from the
2 couch, item 32. One is cigarette butts from item 33, hot
3 pepper ashtray, and a cigarette butt from the top filing
4 cabinet, item 65. I have one other one I'd like to look
5 at the results before I say.

6 Q Please do so.

7 A 89.1, which is a blood stain from a pair of cut off
8 jeans, jean shorts, was a mixture of an unknown female.
9 Number three, an unknown male is too light to interpret.

10 Q And are you familiar with where those jean shorts
11 were, or who are those jean shorts belonged to?

12 A It's my understanding they belonged to the defendant.

13 Q Thank you, Mr. Barron.

14 Were you also able to find results of items that had
15 a mixture of the sample of Mary Chavis and an unknown
16 person?

17 A Yes.

18 Q And can we please go through those results?

19 A Item ten, a swab from the can, was Chavis and an
20 unknown male number two; item 11, another swab from the
21 can was Chavis and an unknown male number one; item 32,
22 cigarette butt from the couch was Chavis and an unknown
23 female number two.

24 Q I'm sorry, what was that number?

25 A Thirty-two.

1 Q And an unknown female, is that what you said?

2 A Correct.

3 Q And were you able to find anything that had a mixture
4 of Chavis and Hernandez Guzman?

5 A Yes.

6 Q And can we please go over those results?

7 A Item 32, cigarette butt from the couch. One of those
8 cigarette butts was a mixture of Chavis and Hernandez.
9 Item 54.2 is the fingernail scrapings on the left hand of
10 Mr. Hernandez. This was -- this fingernail scraping
11 contained blood that was dominantly Mr. Hernandez. There
12 was a minor contributor that is consistent with that of
13 Mary Chavis.

14 Q And that would indicate to you that both of them had
15 smoked the same cigarette?

16 A No. We're talking about fingernail scrapings.

17 Q I'm sorry. Back up to the cigarette. Would that
18 indicate to you they were both smoking the same cigarette?

19 A Yes.

20 Q And the mixture came from the hand of Hernandez
21 Guzman?

22 A Correct.

23 Q Okay.

24 A And there was blood under the fingernails, and the
25 major contributor of that D.N.A. profile was Hernandez, so

1 it would lead you to believe it was Hernandez's blood
2 possibly with some tissue also from under his fingernails.

3 When you scrape fingernails, you may get some tissue,
4 skin cells and possibly a little bit of blood from
5 Ms. Chavis. There -- from my understanding of the crime
6 scene, they were both bleeding profusely.

7 Q Were you able to find any mixtures with the sample of
8 Bille Joe Risinger?

9 A Yes.

10 Q And what was that found on?

11 A Item 45, which was a condom. The condom -- there was
12 no semen present in the condom. There were enough female
13 cells to match to Ms. Risinger. There were some male
14 cells present, but it was too weak to interpret.

15 Q And that would be compared to item number 42 which is
16 the buccal swab from Bille Joe Risinger?

17 A Yes.

18 Q Okay. Now, were you able to find any D.N.A. matches
19 in this case?

20 A Yes.

21 Q In particular were you able to find any matches to
22 the victim, Mary Chavis?

23 A Yes, I was.

24 Q And can we go through those matches please, sir?

25 A Items seven and eight which were swabs from beer

1 cans; item 12, swab from a beer bottle; items 25 through
2 31, these were all blood spots belonging to Ms. Chavis,
3 blood swabs that were collected by the crime scene and
4 crime scene investigators, twenty-five through 31.

5 Q Thirty-one, I'm sorry.

6 A Item 37, another blood spot was Ms. Chavis' blood.
7 Item 12 through 18 -- no, excuse me, item 12.

8 Q Okay. We've already covered 12.

9 A All right. Okay. Item 32 had a cigarette butt from
10 the couch that was exclusively Ms. Chavis' D.N.A. Item
11 34, cigarette butt from the black ashtray, contained
12 Ms. Chavis' D.N.A.

13 Q And were any items found to be matches to Hernandez
14 Guzman?

15 A Yes.

16 Q And what were those?

17 A Item 14 through 24, those were all blood spots
18 belonging to Hernandez.

19 Q Fourteen through?

20 A Twenty-four.

21 Q Twenty-four. Anything else, Mr. Barron?

22 A Yes. Thirty-eight through 40, those were all blood
23 stains belonging to Hernandez, and his fingernail
24 scrapings in his right hand was exclusively his D.N.A.

25 Q So all the blood spots that were swabbed that was

1 submitted to you for testing either belonged to Mary
2 Chavis or Hernandez Guzman?

3 A Well, that's a true statement, but also had other
4 blood spots that were not --

5 Q I'm sorry. Just --

6 A -- matched to anybody.

7 Q The swabs from the blood spots, particularly items 14
8 through 31 and swabs 38 through 40.

9 A Yes. Those were swabs that were taken from the crime
10 scene itself. The other two blood stains were from
11 articles of clothing allegedly belonging to the defendant.

12 Q Was there anything that was submitted to you that had
13 the D.N.A. matching the defendant, Christopher Heller?

14 A Yes.

15 Q And what was that, please, sir?

16 A That was a blood stain -- I mean, excuse me, a
17 cigarette butt from item 33 which was the cigarette butts
18 from the hot pepper ashtray.

19 Q And you would testify that all of these items are
20 your expert opinion?

21 A Yes.

22 Q On the clothing that was submitted to you that you
23 looked at, were there any results specifically to that
24 clothing?

25 A To the clothing of the defendant?

1 Q Yes, sir.

2 A All those articles were examined for blood with hopes
3 of finding blood from either of the victims. I've already
4 testified to the results of the two blood stains I did
5 find. One was on a T shirt, one was on one of his blue
6 jean shorts. Neither of those blood stains matched the
7 victim, neither did they match the defendant. They were
8 both mixtures of other people.

9 The rest of the clothing was examined for blood, and
10 no blood was found on any of the rest of those items, all
11 those jeans and those T-shirts and those tennis shoes.

12 Q And was there any analysis done on the swabs from the
13 interior side of the front door and the exterior side of
14 the front door, specifically your item numbers 59 and 60?

15 A Yes. They were examined -- item 59 was examined for
16 blood, and it was negative. It could have been some sort
17 of stain, reddish stain on there that it was thought might
18 be blood but it wasn't.

19 Item 60 was a swab from the exterior side of the
20 front door. That stain was blood. It was very, very
21 weak. It was enough to test for blood. The test was
22 positive indicating it was blood, but there was
23 insufficient D.N.A. present.

24 There was -- as a matter of fact, there was no D.N.A.
25 present. We extracted it for D.N.A., quantified it for

1 D.N.A. and got a negative result, so that's how weak that
2 blood stain was.

3 Q Since all the blood that was found in the home either
4 matched to the two victims, was it necessary to test
5 either of their clothing?

6 A Well, in this type of case where --

7 MR. COLLINS: Objection, Your Honor. This is outside
8 his field of expertise.

9 THE COURT: Overruled. Go ahead.

10 THE WITNESS: Well, in a case where people are
11 bleeding that are cut and stabbed, the clothing is
12 typically saturated with blood. It is their blood,
13 obviously. It doesn't need to be tested to prove that.

14 The only reason that we might test it would be if
15 there was the belief that a suspect was bleeding. If he
16 was bleeding, all these other blood stains that were
17 collected would probably pick up his blood. You know,
18 that's the reason why we don't bother with D.N.A. testing
19 on blood soaked clothing from victims.

20 Q And none of the blood that you analyzed matched
21 Christopher Heller?

22 A No.

23 Q Lastly, I just want you to review these items of
24 evidence. Item number 53, do you recognize that?

25 A Yes. This is the envelope containing the buccal

1 swabs of Bille Joe Risinger. A buccal swab is a swab from
2 inside of your mouth. It collects the swabs from the
3 inside of your cheek. The medical name for it is buccal,
4 buccal cells.

5 It contains a ton of D.N.A. It's easy to develop a
6 profile from, and it's not invasive as sticking a needle
7 in your arm, so it's much easier to collect. We recommend
8 that type of collection for D.N.A. standards for a known
9 sample from an individual.

10 Q And do you recognize State's Exhibit Number 50?

11 A Yes. This is the blood standard from Mr. Hernandez.
12 At autopsy, a blood sample is collected and put on what we
13 call a D.N.A. card. It's an absorbent paper. They put
14 the blood on it, let it dry. They put it on an envelope.
15 It's a known D.N.A. sample from that person.

16 Q And do you recognize State's Exhibit Number 54?

17 A Yes. State's Exhibit 54 is the swab cartons that
18 contains swabs of Christopher Heller. These are buccal
19 swabs, swabs from inside of his mouth and used for his
20 known D.N.A. sample.

21 Q And lastly, can you identify State's Exhibit
22 Number 52?

23 A This is an envelope of -- containing autopsy samples
24 from Mr. Guzman, hair samples, swabs from his hands, nail
25 scrapings and postmortem fingerprints.

1 MS. GARFIELD: Thank you.

2 Your Honor, at this time I would seek to introduce
3 State's Exhibits 50, 52, 53, 54.

4 MR. COLLINS: No objection.

5 THE COURT: In without objection.

6 (WHEREUPON, State's Exhibits No. 50, 53, 54 having
7 previously been admitted, are admitted again.)

8 (WHEREUPON, State's Exhibit No. 52, having previously
9 been admitted twice, is admitted again.)

10 MS. GARFIELD: Beg the Court's indulgence.

11 (Pause).

12 Thank you, Mr. Barron. Please answer any questions
13 Mr. Collins may have for you.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION:

16 BY MR. COLLINS

17 Q Good afternoon.

18 A Good afternoon.

19 Q Just to summarize, because we just heard a lot there,
20 there was a shirt that you attributed to Mr. Heller that
21 you tested, right?

22 A Well, that's what it was alleged to be.

23 Q Okay.

24 A A piece of the shirt.

25 Q Alleged -- that was labeled as Mr. Heller's shirt?

1 A Right.

2 Q And you testified that was -- just put this right
3 back here just to keep it simple.

4 (Pause).

5 I believe it was number 86.

6 A Yes.

7 Q It was blood, a mixture of an unknown female,
8 correct? One was an unknown female.

9 A Item 45 was the unknown female and the male that was
10 too weak. Eighty-six was a mixture of D.N.A., which I
11 excluded Heller, Hernandez, Chavis, and Risinger.

12 Q So it was a mixture of nobody involved with this
13 case?

14 A That's correct.

15 Q Okay. And 89.1 was a pair of blue jean shorts,
16 correct?

17 A Right.

18 Q And that was also attributed to Christopher Heller in
19 some way?

20 A Right.

21 Q As far as you --

22 A It was submitted as clothing from -- from him.

23 Q Okay. And it's an unknown female, a mixture of an
24 unknown female?

25 A It's definitely an unknown female.

1 Q And then the --

2 A And another male that it was not.

3 Q Was not Christopher Heller?

4 A Correct.

5 Q So you know no unknown female couldn't quite get out
6 a different profile for the male, but it was good enough
7 to say it was not Mr. Heller?

8 A Right. It's a male that's too weak to interpret, but
9 the best I can tell, Mr. Heller is not the male.

10 Q So that has no connection to anybody in this case?

11 A Correct.

12 Q Now, in total, and I went through and counted these
13 things up, including the subdivisions, over 100, I mean,
14 117 items that were submitted for testing.

15 A Well, I'm not going to --

16 Q Okay.

17 A -- doubt your math. I didn't add them up.

18 Q Okay. But it was a large number of things for you to
19 test, correct?

20 A It was.

21 Q And you actually tested different items on two
22 different indications, right?

23 A Yes.

24 Q You wrote two different reports?

25 A I did.

1 Q The first report was back in 2006, December 8th.

2 A Right. That's -- that's when the original request
3 for D.N.A. analysis came to me, and I did some testing
4 back in 2006, yes.

5 Q And that's when you tested the white T-shirt
6 attributed to Mr. Heller, right?

7 A Yes.

8 Q And you tested the fingernail scrapings from the
9 autopsy?

10 A Correct.

11 Q And you tested the hair recovered from the shirt,
12 right?

13 A Yes.

14 Q And that's all you tested back on December 8th, 2006?

15 A (There was no response).

16 Q I'm sorry, I apologize. You tested some clothing.
17 That's the only thing that had any kind of results back in
18 2006.

19 A Well, I did -- you know, back in -- I mean, prior to
20 a couple of weeks ago, I did test the sexual assault kit
21 from Mary Chavis, which I don't think was mentioned yet,
22 tested her vaginal swabs and rectal swabs, and they were
23 negative for semen so...

24 Q So back on December 8th, 2006 you didn't test any
25 swabs from any blood inside of a trailer?

1 A No.

2 Q You didn't test any cigarette butts back then?

3 A No.

4 Q You didn't test any beer bottles?

5 A No.

6 Q You didn't test any beer cans?

7 A No.

8 Q That was all just a few weeks ago.

9 A Yes.

10 Q At the request of the Solicitor.

11 A That's correct.

12 Q Not the investigators.

13 A Well, the Solicitor is an investigator, to some
14 degree.

15 Q Okay. That's a good answer. The only thing, of all
16 these things you tested both times, that matches
17 Christopher Heller is one single cigarette butt?

18 A Right.

19 Q Which I believe is 89 or --

20 A No, it's 33.

21 Q 33.1.

22 A Well, I think -- I think his is the fifth cigarette
23 butt.

24 Q Okay.

25 A But from that ashtray, the hot pepper ashtray which I

1 received five cigarette butts from, one of those matched.

2 Q Not any other cigarette butt matched to Heller?

3 A That's correct.

4 Q Not a beer bottle?

5 A No.

6 Q Not a beer can?

7 A No.

8 Q Not a blood spot?

9 A No.

10 Q So seven through 33.4 is not Heller right, not

11 Christopher Heller?

12 A No.

13 Q 34.1 through 96 is not Christopher Heller?

14 A Well, of those items in which we developed a profile,

15 they were not Christopher Heller.

16 Q So other than what everyone admits is his blood?

17 A Right, with his known.

18 Q And which number was this?

19 A Heller would have gotten just a buccal swab, right.

20 Q And which number would that be?

21 A Eighty-two.

22 Q So all of this and all of this is not Heller's?

23 A Well, I would venture to say if we tested his

24 clothing for skin cells, we probably would have gotten

25 some of his D.N.A., but that was clothing.

1 Q That's assuming it was his clothing, correct?

2 A That's true.

3 Q And you did -- you tested what you tested, and it
4 came back not Heller, correct?

5 A Well, all we did was examined for blood. We found
6 one blood spot on one pair of jeans. We did not find any
7 blood on the remaining, but we did not do any D.N.A.
8 testing on the clothes.

9 Q So you can test for skin cells?

10 A Yes, we can.

11 Q You can swab somebody's hand, maybe, and there can be
12 a transfer of skin cells, possibly?

13 A We don't typically swab hands unless there's blood on
14 it because you're going to pick up the person's hand which
15 is swabbed.

16 Q Blood can be transferred from one person to another
17 person?

18 A Correct.

19 Q Okay. And somebody's hand was swabbed in this case,
20 wasn't it, Guzman Hernandez?

21 A There were some swabs from the hand. I'm not sure --

22 Q You didn't test that, though, did you?

23 A I didn't test it. It could have been for gunshot
24 residue for all I know.

25 Q You didn't even check it?

1 A It wasn't part of the D.N.A. analysis request, no.

2 Q But it was submitted.

3 A It was submitted to the Richland County evidence
4 room.

5 Q Okay.

6 A It was part of some evidence that I received. It was
7 in the packaging, but it was not something I was directed
8 to test.

9 Q All right.

10 A I believe I explained that some of those items in the
11 packaging are not for D.N.A. They're just in the
12 packaging so we get it all together so we have the item
13 numbers.

14 Q And I believe -- you told Ms. Garfield this as you
15 went through it, but I just want to summarize it a little
16 bit. No analysis was done on the swabs from the exterior
17 door handle, correct?

18 A Which item was that?

19 Q (There was no response).

20 A There was some analysis done on --

21 Q That would be number 59 --

22 A Yes.

23 Q Fifty-nine and 60 -- I'm sorry. That's not what I'm
24 going to hand you. Number 35, there was no analysis done
25 on that, correct?

1 A That's the exterior handle of the storm door.

2 Q There was no analysis done on there, right?

3 A No.

4 Q There was no analysis done on number 36, the
5 interior?

6 A No.

7 Q There was no analysis done on any of the glass shards
8 submitted?

9 A No. I understand there was some glass broken in the
10 struggle, but there was no analysis. I'm not --

11 Q Not even the one that had blood indicated on it?

12 A Which one was that?

13 Q I'm sorry, not even the one that looked like it had
14 blood on it, or did you not look at the blood --

15 A I didn't look at it.

16 Q It wasn't requested?

17 A No. It was just some broken glass. Evidently, it
18 was collected for whatever reason. There is a trace test.
19 You can do a glass comparison. You know, there could have
20 been some broken glass found on his clothing. It could be
21 matched back to the glass, but that type of analysis is
22 not done in Richland County.

23 Q And if there is what appears to be blood on a glass
24 shard, you would be able to swab that and get a sample of
25 it possibly?

1 A Sure.

2 Q And then test it?

3 A Sure.

4 Q And that wasn't done in this case?

5 A As far as I know, there was no blood on the glass
6 shards.

7 Q As far as you know.

8 You testified that you didn't -- nothing was tested
9 from either one of the victim's clothing because blood
10 was -- they were caked with blood?

11 A Right.

12 Q And you didn't think you could get a good result.

13 A Well, I could get a good result.

14 Q Well --

15 A It would be the person's blood who it belonged to.
16 They were bleeding.

17 Q And just go with me here for a minute. So if you get
18 a scrape on your hand, it may not drip blood, correct?

19 A That's true.

20 Q But there would be blood present?

21 A Could be.

22 Q And if that hand touched a piece of clothing, that
23 would be transferred, couldn't it?

24 A Yes, it could.

25 Q So if a hadn't gets possibly scraped at some point,

1 there is a possibility of blood transfer?

2 A True.

3 Q And with the victim's clothing, you didn't go through
4 and inspect that clothing for different spots of blood?

5 A Well, if the clothing is soaked with the victim's
6 blood and someone would have scraped, they means they
7 would have left a minute amount of blood on there. We
8 would have run the D.N.A., gotten a major profile of the
9 victim. There would have been, possibly, a minor
10 contributor. We couldn't even tell that had come from the
11 blood because it's all soaked with blood.

12 Q Did you look at the clothing?

13 A No. It was my understanding it was soaked.

14 Q It was your understanding?

15 A Yes.

16 Q So it's possible the blood could be soaked from here
17 down, correct, and be clean from the chest up?

18 A Anything is possible, if you want to elicit
19 possibilities, yeah.

20 Q A very real possibility that one part of the clothing
21 could be soaked, and there could be smudges or marks on
22 the other part of the clothing. You would agree that's
23 very possible?

24 A Smudges and marks of the other person's blood, yeah.
25 There's a struggle going on, obviously.

1 Q But it's --

2 A If you were being stabbed, there would be a big
3 struggle going on. So there would probably be lots of
4 smudges, lots of marks.

5 Q And that's still a mystery to you because you haven't
6 looked at the clothing?

7 A No. As you said, I analyzed 100-something already.
8 We felt like that was sufficient to determine if there was
9 another bleeder in this case.

10 Q Cost too money to do that.

11 A And there was.

12 Q I'm sorry, I didn't mean to interrupt you.

13 A You did interrupt me.

14 Like I said, we analyzed numerous amounts of samples
15 from the crime scene. If there had been another bleeder,
16 it's my belief that we would have picked it up.

17 Q Did you ever clear the crime scene?

18 A No.

19 Q See pictures of it?

20 A I trust our crime scene experts. They are trained in
21 blood spatter analysis, blood stain analysis, and they had
22 the ability to collect stains that they believed are
23 potentially from more than one person.

24 Q So you haven't seen the crime scene?

25 A No.

1 Q Or pictures?

2 A No. I'm busy in the laboratory.

3 Q So in total, we have three unidentified females
4 throughout these tests?

5 A Yes.

6 Q That you have good profiles for?

7 A Yes.

8 Q That if somebody gave you a sample, you could
9 probably match them up, if they match?

10 A Oh, yeah.

11 Q At least eliminate or match?

12 A Absolutely.

13 Q And you have two unknown male D.N.A. profiles?

14 A Yes.

15 Q That you could eliminate or match if given a sample?

16 A Yes.

17 Q And those profiles that you have, Guzman is
18 eliminated from that.

19 A Yes.

20 Q Chavis is eliminated from that?

21 A Well, some of them is a mixture of Chavis and these
22 other, these unknown people.

23 Q But the unknown profile Chavis is eliminated from?

24 A Well, obviously. She concluded that she matches part
25 of it, and she doesn't match the other part.

1 Q And --

2 A I mean, you're repeated what I've already testified
3 to.

4 Q And Risinger and Heller are both eliminated from
5 this?

6 A Yes.

7 MR. COLLINS: Okay. I don't have any further
8 questions, Your Honor.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION:

11 BY MS. GARFIELD

12 Q Mr. Barron, I requested that you -- I requested for
13 you to run those items --

14 A Yes.

15 Q -- early part of January; is that correct?

16 A Correct.

17 Q Did I ask you to rerun anything or just to test new
18 additional items?

19 A New additional items.

20 MS. GARFIELD: Thank you.

21 (Pause).

22 THE COURT: Are you through?

23 MS. GARFIELD: Yes, sir.

24 THE COURT: You may step down. Thank you very much.

25 You may be excused.

1 Could I see the attorneys up here just a second?

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

4 THE COURT: Call your next witness, please.

5 MS. GARFIELD: Thank you, Your Honor. The State
6 calls Dr. Clay Nichols.

7 CLAY NICHOLS, after being duly sworn,
8 testified as follows:

9 THE CLERK: Have a seat in the witness box. State
10 your name for the record, please.

11 THE WITNESS: Clay Allen Nichols, N-I-C-H-O-L-S.

12 DIRECT EXAMINATION:

13 BY MS. GARFIELD

14 Q Dr. Nichols, where are you employed?

15 A I'm the chief medical examiner for Richland County.
16 My office is over at Richland Memorial Hospital.

17 Q And can you please give the jury the benefit of
18 hearing your educational background?

19 A I received my Bachelor of Science degree from the
20 University of Oklahoma in 1985 -- excuse me, '81. In '85,
21 I received my M.D. degree also from the University of
22 Oklahoma.

23 After that I entered a residency program in both
24 anatomic and forensic pathology at M.U.S.C., completing
25 that in 1989. Then for the next ten years I was on the

1 faculty at M.U.S.C. where I was an Associate Professor
2 teaching pathology to medical students, residents, and
3 fellows.

4 After that I entered private practice in 2000 here in
5 the Columbia area where I'm the Chief Medical Examiner.
6 I'm also a staff pathologist at both Richland and Baptist
7 hospitals.

8 I'm board certified in both forensic and anatomic
9 pathology. I hold an unrestricted license to practice
10 medicine and surgery in the State of South Carolina.

11 Q Dr. Nichols, have you ever been offered as an expert
12 in forensic pathology?

13 A Yes, I have.

14 Q Approximately how many times?

15 A Hundreds.

16 MS. GARFIELD: Your Honor, at this time I would offer
17 Dr. Nickels as an expert in forensic pathology.

18 THE COURT: Any objection?

19 MR. COLLINS: No objection.

20 THE COURT: All right. The Court so finds.

21 THE WITNESS: Thank you, Your Honor.

22 BY MS. GARFIELD

23 Q Dr. Nichols, did you have an opportunity to perform
24 an autopsy on Gustavo Hernandez Guzman?

25 A Yes, I did.

1 Q And when did you perform such autopsy?

2 A August 25, 2006.

3 Q Okay. I'm going to show you some photographs which
4 are marked for I.D., State's Exhibits number 69 through
5 74. Without showing those to the jury yet, can you
6 explain what those are photographs of?

7 A State's Exhibit 69 shows the right profile of the
8 deceased, mainly demonstrating four incised wounds to the
9 face. There's also a stab wound to the right side of the
10 chest.

11 State's Exhibit 70 shows an abrasion above the left
12 eye on the forehead.

13 State's Exhibit 71 is an isolated picture of the
14 deceased's right chest showing the fatal stab wound.

15 State's Exhibit 72 is of the decedent's left hand
16 showing an incised wound which would be characterized as a
17 defense injury on the back of the left hand.

18 State's Exhibit 73 is also the left hand but shows an
19 additional incised wound or defensive wound down the
20 middle left finger.

21 Q Dr. Nichols, do those pictures accurately reflect the
22 victim that you performed the autopsy on?

23 A It does, and I have one more.

24 Q Oh, I'm sorry.

25 A State's Exhibit 74 shows an incised wound to the top

1 of the left shoulder.

2 Q Have those pictures been altered in any way?

3 A Not that I know of.

4 MS. GARFIELD: Your Honor, at this time I would offer
5 those exhibits into evidence.

6 MR. COLLINS: Same objection as before.

7 THE COURT: Same objection, overruled. Admitted over
8 objection.

9 (WHEREUPON, State's Exhibits Nos. 69 - 73, having
10 previously been admitted, are admitted again.)

11 (WHEREUPON, State's Exhibit No. 74, was admitted into
12 evidence.)

13 BY MS. GARFIELD

14 Q Dr. Nichols, can you please, just using those
15 photographs, explain to the jury the injuries you observed
16 while conducting this autopsy.

17 A I can show these to the jury now?

18 Q Yes, sir.

19 A May I step down, Your Honor?

20 THE COURT: Yes, sir.

21 MS. GARFIELD: Beg the Court's indulgence.

22 (Pause).

23 THE WITNESS: State's Exhibit 69 showing the right
24 profile of the decedent's face, and there is an incise
25 wound here, slashed.

1 There is an additional wound here to the mid cheek,
2 and under the chin -- I'm sorry. Here there is one, and
3 then right between the lip and chin itself is an
4 additional incised wound. That's also known as a cut.

5 This one is a little upside down, but you see the
6 deceased's nose and mustache here, and there's this red
7 mark above his left eye on the forehead. That's an
8 abrasion. That's a red mark or what some people call
9 carpet burns or something where his skin was roughened up
10 by a blunt object, such as a fall to the floor.

11 This is the fatal stab wound to the right side of his
12 chest. You can see it's rather gaping and elongated.
13 This is more of a slashing type injury, but the knife
14 itself actually penetrated into the heart that caused the
15 fatal bleeding.

16 State's Exhibit 72 shows a cut or incise wound to the
17 back of the left hand. Usually, when a person is being
18 attacked, they will often put their hands up trying to
19 ward off the attacker.

20 If the person is wielding a knife, many times the
21 hands get cut. That's known as a defensive injury. This
22 one also shows the left hand, which is State's Exhibit 73.

23 You can see that there's a cut down on the left
24 finger in the different direction, different place, two
25 different injuries to the back of the left hand.

1 This is the top of the left shoulder right in here
2 showing a rather deep incised wound again.

3 (The witness fell off the step).

4 Oh.

5 THE BAILIFF: Are you okay?

6 THE WITNESS: I am.

7 THE COURT: Are you okay, Dr. Nichols?

8 THE WITNESS: Do you know how many times you told me
9 to watch out for that step?

10 Yes, sir. Thank you, Your Honor.

11 THE COURT: At least it was going up instead of going
12 down.

13 THE WITNESS: Yes, yes.

14 THE COURT: Well, do you need -- are you okay? Do
15 you need some time?

16 THE WITNESS: Nope.

17 MS. GARFIELD: Do you want to take a minute?

18 THE WITNESS: No.

19 THE COURT: Go ahead, Solicitor.

20 MS. GARFIELD: Thank you, Your Honor.

21 BY MS. GARFIELD

22 Q Dr. Nichols, based on your expertise, are you able to
23 determine what kind of weapon caused those injuries?

24 A This looks like a single edge weapon, such as a
25 knife.

1 Q Any particular kind of knife?

2 A Usually in these particular cases a pocketknife is
3 used. It would have to be one of a longer blade,
4 something about three to four inches. It certainly
5 doesn't rule out a longer knife, but given the
6 circumstances, a knife such as that was used.

7 Q And can you testify as to what kind of strength or
8 force would be used in causing these injuries?

9 A This is a substantial amount of force, especially the
10 one to the chest because it actually went through one of
11 his ribs, I believe his right third rib. This is
12 something an adult would be able to do.

13 Q And Dr. Nichols, can you tell me what a collapsed
14 lung causes?

15 A It would cause serious injury, and one of the
16 complications of a collapsed lung may be death. Most
17 people don't die as a result of it. They get treatment,
18 but certainly given certain circumstances, it can cause
19 death.

20 Q And can you summarize for the jury how many wounds to
21 his face did he have?

22 A I believe four.

23 Q And --

24 A But I don't -- I will count them again.

25 Q Okay.

1 A Four, yes.

2 Q And can you tell us did he have any wounds -- I'm
3 sorry, strike that.

4 What I was going to ask, you testified in the
5 pictures that there were abrasions to his forehead?

6 A That's correct.

7 Q Were there any other abrasions to his body?

8 A Yes. There was an abrasion to the right knee, as
9 well as a minor shallow incised wound or scratch over the
10 right biceps.

11 Q Along with the abrasions on the forehead, would that
12 be consistent with someone falling down on the ground?

13 A Yes. That would be known as a face plant, that the
14 person -- like I just did, a practical example, going
15 straight down and the forehead striking the pertinent
16 object causing an abrasion.

17 Q Thank you, Dr. Nichols.

18 To fill out your final report, were you able to
19 review any toxicology reports of the victim?

20 A Yes, I did.

21 Q And what were your findings in toxicology report?

22 A His blood was positive for a breakdown byproduct of
23 cocaine known as benzoecanine.

24 Q So he had cocaine in his system?

25 A He had used cocaine recently, yes.

1 Q Dr. Nichols, can you tell the jury what the ultimate
2 cause of death was to this victim?

3 A Mr. Gustavo Hernandez died as a result of what's
4 known as cardiac tamponade due to an incise wound to the
5 chest.

6 Cardiac tamponade means that the pericardial sac that
7 protects the heart that the heart sits in, in the middle
8 of the chest, filled up with blood, and his heart can no
9 longer beat appropriately and he died.

10 MS. GARFIELD: Beg the Court's indulgence.

11 (Pause).

12 Thank you, Dr. Nichols. Please answer any questions
13 Mr. Collins has.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION:

16 BY MR. COLLINS

17 Q You said one of the rubs was broken, too, right?

18 A Yes.

19 Q Just out of curiosity, how do you define a
20 pocketknife?

21 A It's a single-edge blade approximately three to
22 four inches in length. That's the most common type.

23 Q Okay.

24 A As I mentioned before, that doesn't rule out another
25 type of knife.

1 Q Okay.

2 A But this is the most common type of knife.

3 Q Can you rule out if there was like a guard on the
4 handle of the knife?

5 A I did not see evidence of a guard. That would be
6 known as a quillian mark, and I did not see evidence of
7 that.

8 Q Did you see any evidence of a serrated blade?

9 A No. That would leave a particular pattern, and I
10 didn't see any evidence of that either.

11 Q So A really sharp blade?

12 A Yes, sir.

13 Q I believe you said.

14 A Yes, sir.

15 Q And anywhere from three to four inches to --

16 A Well, three to four inches. I guess you could have a
17 long thin knife like a sword if you wanted to, but that
18 wouldn't be realistic, but once again, the common things
19 used in common day homicides we see are pocketknives or
20 kitchen knives.

21 Q So this could be a kitchen knife or a pocketknife?

22 A It would be possible, but once again, the common
23 knife is a pocketknife.

24 Q So the pocketknife is just on your knowledge of
25 what's -- you think is common?

1 A Common and usual, yes, sir.

2 Q Okay. Thank you.

3 A Uh-huh.

4 THE COURT: Any redirect?

5 MS. GARFIELD: Beg the Court's indulgence.

6 (Pause).

7 Thank you. Nothing further.

8 THE COURT: Dr. Nichols, thank you very much. Please
9 be careful.

10 THE WITNESS: I will. Thank you. I did that at my
11 daughter's wedding, too, when I gave her away. It was,
12 once again, speculator.

13 THE COURT: That created some excitement, I'm sure.

14 THE WITNESS: Wakes everybody up.

15 Thank you very much for your attention.

16 THE COURT: Can I see the lawyers up here just a
17 second?

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

20 THE COURT: All right. Madam Forelady, members of
21 the jury, we're going to break at this time. We're not
22 going to be able to start in the morning until 10:30. So
23 if you'll be in the jury room at 10:30, we'll get started
24 at that time.

25 Please don't discuss the case with anyone, amongst

1 yourselves or with anyone else. I want you to make a
2 decision on what you hear in the courtroom, and I'll see
3 you in the morning at 10:30. Have a good evening.

4 (WHEREUPON, the jury left open court at approximately
5 4:57 p.m.)

6 THE COURT: Mr. Mustard -- get Mr. Mustard.
7 Go back this way (indicating) and grab him.

8 THE WITNESS: He's at the door.

9 THE COURT: Bring him in the hall. Give me about two
10 minutes. I'll be right back.

11 MS. FENT: Your Honor, Your Honor.

12 MS. GARFIELD: Judge.

13 MS. FENT: Your Honor.

14 THE COURT: We'll go out there.

15 MS. GARFIELD: Can we approach?

16 MS. FENT: Can we approach, Your Honor?

17 (There was no response.)

18 (Pause).

19 THE COURT: What did you want? Pardon?

20 MS. FENT: Well, we wanted to address the release of
21 this potential juror, but...

22 THE COURT: What? Did you want me to tell him
23 something? I told him Monday I would talk to him today,
24 and that's what I was doing, sort of see how he was doing.

25 MS. FENT: Okay.

1 THE COURT: And he said he's going to hang in there.

2 MS. FENT: Thank you.

3 THE COURT: Okay?

4 MS. FENT: Okay.

5 THE COURT: I told him he could bring him a mug of
6 coffee tomorrow, and we'll take more breaks if we have to.
7 He's willing to proceed.

8 All right. Mr. Heller, would you stand and raise
9 your right hand, please?

10 CHRISTOPHER HELLER, after being duly
11 sworn, testified as follows:

12 THE COURT: All right. You can have a seat. All
13 right. Mr. Heller --

14 MS. FENT: Have all the jurors been released, Your
15 Honor? Because your door is still open, I want to make
16 sure all the jurors are gone.

17 THE BAILIFF: He's going around to close it.

18 MS. FENT: Okay.

19 (Pause).

20 THE COURT: Mr. Heller, under the Constitution of
21 both the states and the U.S. constitution, fifth
22 amendment, you have the right to remain silent.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: No one can make you testify against
25 yourself. Do you understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: No person can be compelled in a criminal
3 case to be a witness against themselves, commonly referred
4 to as your fifth amendment right to remain silent. Do you
5 understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You have that right. That's a personal
8 right that you have. Nobody can waive that right for you.
9 Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Only you can waive that right. Have you
12 had an opportunity to talk to your attorney about your
13 right to testify?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you understood the conversations
16 that you have had with your attorney?

17 THE DEFENDANT: Yes, sir..

18 THE COURT: Do you need more time to talk with your
19 attorney about your decision to testify or not testify?

20 THE DEFENDANT: No, sir.

21 THE COURT: You understand that you do not have to
22 prove your innocence. It's the state's responsibility to
23 prove you guilty beyond a reasonable doubt, and I will
24 charge the jury to that effect. Do you understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You also understand if you decide not to
2 testify that I will inform the jury -- the jury they
3 cannot use that as an inference of guilt, and your failure
4 to testify cannot be considered by the jury in any manner
5 whatsoever. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, if you do elect to testify, you
8 assume the role of a witness. If the question is
9 admissible under the Rules of Evidence and the rules of
10 court, you would have to answer the question. Do you
11 understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You can't pick and choose which question
14 you answer and which question you don't answer. Do you
15 understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: It's not like on television where they
18 say, "Well, I'm going to take the fifth on that question"
19 and answer the next question. Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You either take the witness stand and
22 answer all the questions, or you don't take the witness
23 stand. Do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have any questions about it?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has anybody forced you or threatened you
3 or coerced you into testifying?

4 THE DEFENDANT: No, sir.

5 THE COURT: Has anybody forced you or coerced you
6 into not testifying?

7 THE DEFENDANT: No, sir.

8 THE COURT: I've already asked you this one time.
9 I'll ask you again: Do you need to consult with your
10 attorney about what we're speaking about now?

11 THE DEFENDANT: No, sir.

12 THE COURT: Have you understood what I have explained
13 to you?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you have any questions about what I've
16 explained to you?

17 THE DEFENDANT: No, sir.

18 THE COURT: Do you wish to testify?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You desire to testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. All right. If you do change your
23 mind between now and the time you testify, that's fine. I
24 just wanted to explain these rights to you today. Do you
25 understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Collins, do you have any questions
3 you want to ask your client concerning his fifth amendment
4 rights and any conversations that you all may have on that
5 subject? I'll be happy for you to ask him anything if you
6 would like to.

7 MR. COLLINS: I think we have fully discussed it.

8 THE COURT: All right. Well, let me ask you a couple
9 of questions. Has he appeared to understand the
10 conversations you have had with him?

11 MR. COLLINS: Yes, Your Honor.

12 THE COURT: And has there been any indication at all
13 that he needs a mental evaluation?

14 MR. COLLINS: No, sir.

15 THE COURT: From his appearance, do you feel that he
16 does understand the questions that you have asked him?

17 MR. COLLINS: Yes, sir.

18 THE COURT: Have you had ample opportunity to discuss
19 with him his fifth amendment rights?

20 MR. COLLINS: We've had a couple of years, Your
21 Honor.

22 THE COURT: Okay. All right. All right. Thank you
23 very much. See you at 10:30.

24 MS. GARFIELD: Thank you.

25 THE COURT: Let me go over one thing with you,

1 Solicitor, if you want to come up here in private real
2 quick, and Mr. Collins.

3 (Whereupon, there was a bench conference).

4 (An unrelated matter was placed on the record).

5 (There was an overnight recess).

6 THE COURT: Let me see the attorneys just a second.

7 (Whereupon, there was a bench conference.)

8 MS. FENT: Your Honor, we are going to be asking the
9 defendant to show his tattoos to the jury, before we
10 close. If you want to litigate that, I don't know if
11 there's an objection or not.

12 THE COURT: Litigate it?

13 MS. FENT: And we're ready to --

14 THE COURT: I thought we were litigating it. You're
15 going to ask him to do what now?

16 MS. FENT: Display his tattoos to the jury.

17 MR. COLLINS: Which tattoos?

18 THE COURT: Where? Tell me what -- let me see the
19 pictures that you're talking about. I don't know what
20 you're talking about. I know I heard some testimony about
21 that.

22 MS. FENT: Well, we don't --

23 MS. GARFIELD: Well --

24 MS. FENT: -- have pictures of the tattoos. We have
25 the sketch of the tattoos. We're going to actually ask

1 the defendant to stand up.

2 THE COURT: All right. Let me see the sketch.

3 MR. COLLINS: I have no objection to him showing the
4 arm that is on the sketch.

5 THE COURT: You don't?

6 MR. COLLINS: Not to the arm that's on the sketch,
7 but that's it.

8 MS. FENT: But he also has "made man" on his chest
9 and the --

10 THE COURT: Has what?

11 MS. FENT: Made man.

12 MS. GARFIELD: Made man.

13 THE COURT: Made? M-A-D-E?

14 MS. GARFIELD: Uh-huh.

15 THE COURT: What does that have to do with anything?

16 MS. GARFIELD: Well, the --

17 MS. FENT: Tracy identifies that he has a tattoo that
18 says "made man" on him. She just couldn't remember. She
19 thought it was on his arm, but it's on his chest.

20 MS. GARFIELD: And Lieutenant Siniard observed that
21 when he arrested him. He just testified to that.

22 THE COURT: Well, we just have -- do you have any
23 objection? You don't have any objection to the arm?

24 MR. COLLINS: I don't have any -- I've got -- only to
25 him having to take his shirt off in front of the jury.

1 THE COURT: Well, we'll just deal with it at the
2 time. I'll listen to the testimony.

3 MR. COLLINS: I believe it's --

4 THE COURT: Does he have a T-shirt on or --

5 MR. COLLINS: He has a dress shirt on. I believe
6 it's as far as the identification.

7 THE COURT: Can he roll his sleeve up?

8 MR. COLLINS: He can easily roll the sleeve up, show
9 his left arm.

10 MS. FENT: We actually -- that actually -- that's a
11 problem because Tracy sees a tattoo of "made man", and it
12 ends up being she doesn't remember where it is, but he, in
13 fact, has this tattoo of "made man" on his chest. It goes
14 to her --

15 THE COURT: It's -- it's -- but let me tell you how
16 we'll deal with it, okay. If the police officer insists
17 he saw it, that's fine. He can testify he saw it. Okay?

18 Now, who is going to cross the defendant?

19 MS. FENT: I am.

20 THE COURT: All right. If you ask him about the
21 tattoo and he denies it or something, I mean, I'll deal
22 with it at that time.

23 MS. FENT: Okay.

24 THE COURT: I'm just not going to allow you to do it
25 unless there's some basis that he says, "I don't have a

1 tattoo" or you ask him about it, whatever, he denies it.
2 Then I'll probably let him pull his shirt up and we'll
3 look.

4 MS. FENT: Or if he decides not to testify.

5 THE COURT: Or if he's on cross-examination, you ask
6 him about the tattoo and what it is, I'm not going to have
7 him just pull his shirt up, okay.

8 MS. FENT: Okay.

9 MR. COLLINS: Thank you, Your Honor.

10 MS. FENT: Or also if for some reason he decides not
11 to testify.

12 THE COURT: Right.

13 MS. FENT: Okay.

14 THE COURT: Okay.

15 MS. GARFIELD: I just have three pieces of evidence I
16 need to have marked.

17 THE COURT: Okay.

18 (WHEREUPON, State's Exhibits Nos. 77 - 79 were marked
19 for identification only.)

20 THE COURT: Are you ready to go?

21 MS. GARFIELD: Yes, sir.

22 THE COURT: All right. Bring the jury.

23 (WHEREUPON, the jury came into open court at
24 approximately 10:47 a.m.)

25 THE BAILIFF: The jury is seated, Your Honor.

1 THE COURT: Thank you very much.

2 Call your next witness, please.

3 MS. GARFIELD: Thank you, Your Honor. The State
4 calls Lieutenant Howell Siniard.

5 HOWELL SINIARD, after being duly
6 sworn, testified as follows:

7 THE CLERK: Have a seat in the witness box. State
8 your name for the record.

9 THE WITNESS: Howell Siniard, S-I-N-I-A-R-D.

10 DIRECT EXAMINATION:

11 BY MS. GARFIELD

12 Q Where are you employed?

13 A I'm currently employed with the South Carolina State
14 Law Enforcement Division, otherwise known as S.L.E.D.

15 Q What is your current rank with S.L.E.D.?

16 A I'm currently a Lieutenant in the Special Victim's
17 Unit.

18 Q And what are your duties with S.L.E.D.?

19 A I'm a Supervisory Special Agent. I supervise eight
20 agents directly and assist in the supervision of 20 agents
21 and administrative specialists.

22 My agents are responsible for investigating cases
23 that are assigned in the area of special victims, which
24 are people with disabilities or mental disabilities.

25 Q And how long have you had these duties, Lieutenant?

1 A Approximately two years.

2 Q And how long have you been with S.L.E.D.?

3 A Approximately two years.

4 Q So before you were with S.L.E.D., where were you
5 employed?

6 A The Richland County Sheriff's Department.

7 Q And how long were you employed at the Richland County
8 Sheriff's Department?

9 A Approximately 16 years.

10 Q And before you retired, what was your position at the
11 sheriff's department?

12 A I was a senior Special Agent in major crimes.

13 Q And I didn't mean to say retired. I meant to say
14 before you left the sheriff's department.

15 A I retired from the sheriff's department.

16 Q You retired and then went on to S.L.E.D.?

17 A I did. I also retired from the United States Air
18 Force.

19 Q And particularly, what were you doing at the Richland
20 County Sheriff's Department before you retired?

21 A I was assigned to the Alcohol, Tobacco and Firearms
22 as an agent working firearms cases or violent crimes where
23 firearms were used within Richland County.

24 Q And was that in conjunction with federal authorities?

25 A Yes, it was.

1 Q And before you had that position, what did you do at
2 the sheriff's department?

3 A I was a Major Crimes Investigator.

4 Q And what does Major Crimes mean?

5 A Any type of violent crimes or aggravated assaults,
6 sexual assaults. An area that I was interested in for
7 approximately four years were sexual assaults.

8 Q Did you also have the occasion to investigate
9 homicides?

10 A I did.

11 Q And back in August of 2006, particularly August 25th,
12 were you given the opportunity to assist in homicide
13 investigation involving Christopher Heller?

14 A I was.

15 Q But your duties weren't assigned to Major Crimes at
16 that time, was it?

17 A No, it wasn't. I was actually on my work going
18 downtown to the federal building, A.T.F., when I got a
19 call that we had had two homicides that previous night.

20 I responded to headquarters for a staff meeting so
21 that we could discuss the two homicides and make
22 assignments on who was going to be assigned to them.

23 Q And were you given an assignment?

24 A Yes, I was.

25 Q And what was your assignment?

1 A My assignment was to be the primary investigator for
2 the -- it's K.K. Martin is the actual name of the mobile
3 home park. We called it the K.K. Martin homicide, so I
4 was assigned to that case.

5 Q And why were you assigned to that particular case?

6 A My experiences and other homicides and that I could
7 basically take the case and go with it. We had another
8 case that same morning within probably six miles from
9 where this K.K. Martin Mobile Home Park was, and I was
10 available.

11 Q Were you familiar with this incident location?

12 A Yes, I was.

13 Q And -- I'm sorry. Please continue.

14 A During the course of my investigations prior to going
15 to the Major Crimes Unit I was a Narcotic's Agent for
16 several years with Richland County. During that time, I
17 had made many cases in Richland northeast.

18 Q When you were assigned, basically, what did you know
19 about the case?

20 A That there was a Hispanic male that had died from
21 wounds, and there was a white female who was in bad shape
22 at Richland Memorial Hospital.

23 Q Were there any other witnesses known to law
24 enforcement at this time?

25 A We felt there may be a white female, but there was

1 also a white female connected to the -- and I want to say
2 the other homicide was on Decker Boulevard; that there was
3 also a white female connected there. At the moment we
4 didn't know if these two cases were going to be tied into
5 each other.

6 Q Was there anyone you could interview that could help
7 link them together?

8 A Yes. I had a prior homicide a few months prior. I
9 had a subject that was in the Alvin Glenn Detention Center
10 on a homicide charge. This person also spoke Spanish and
11 was a female.

12 Q And did she know any of the parties involved in this
13 crime?

14 A Yes. I felt that she would know all parties
15 possibly, especially white females.

16 Q Did you have an opportunity to interview her?

17 A Yes. I had someone pick her up from the jail that
18 morning and bring her to the sheriff's office.

19 Q I'm sorry, Lieutenant. Did you say what her name
20 was?

21 A Her name was Miranda Lancour.

22 Q And were you able to interview Ms. Lancour?

23 A I did.

24 Q And what was the purpose of interviewing Ms. Lancour?

25 A To see if she could identify a white female that may

1 hang out in the Hispanic area mobile home park.

2 Q And what description did you have of this white
3 female at the time?

4 A That she was approximately -- may I refer to my
5 notes?

6 Q Please do so. Those are notes you made while you
7 were investigating this case?

8 A Yes. At our staff meeting, we just had a white
9 female had fled the scene with a Hispanic male. That's on
10 the Decker Boulevard homicide.

11 Q Okay. That's the other homicide?

12 A Yes, ma'am. With Miranda at headquarters, she was
13 debriefed about her knowledge of a white female named
14 Tracy.

15 Q And was Ms. Lancour able to help you identify the
16 subject named Tracy?

17 A Yes, she was.

18 Q And at that time, what did y'all do next to try to
19 locate Tracy?

20 A We had a description of Tracy, so we called her --
21 Captain Smith called an investigator he knew with the West
22 Columbia Police Department to see if he was aware of any
23 white females named Tracy.

24 Q And what was the description of Tracy given to you?

25 A I believe -- I don't have it in my notes, her

1 particular description, white female, approximately 5'4",
2 5'5".

3 Q Any description of the hair or anything of that
4 nature that you recall?

5 A Blond, blond hair, blondish hair.

6 Q And was the detective in West Columbia able to assist
7 you with the name?

8 A Yes. He came up with the name of Bille Joe Risinger.

9 Q And what were you able to determine about the
10 whereabouts of Ms. Risinger?

11 A I didn't hear your question.

12 Q Were you able to determine where Ms. Risinger was?

13 A Yes. We got her mother's address.

14 Q And where was that address?

15 A In the Irmo area off Lake Murray Boulevard.

16 Q Were you able to make contact with her mother?

17 A Yes. Yes. Her mother worked -- I found that her
18 mother worked at D.H.E.C. here on -- downtown on Bull
19 Street, and I made contact with her. She said her
20 daughter was at her home.

21 Q At her home?

22 A Yes.

23 Q And were you able to eventually make contact with
24 Ms. Risinger?

25 A We did.

1 Q And where did you make contact with her?

2 A At her home in Irmo.

3 Q And when you went to see her, who was with you?

4 A Investigator Gonzales.

5 Q Now, at this time had anybody been assigned from the
6 sheriff's department to assist you in your investigation?

7 A Yes, Willie Gonzales was an investigator.

8 Q Do -- normally, are you assigned a partner to work a
9 case?

10 A Yes.

11 Q And why was Willie Gonzales assigned to work this
12 case?

13 A We had a team that had already been called out
14 assigned to the first one. We had to come up with a team
15 for the second one. We also have to have a team ready for
16 the next one, the next unknown homicide.

17 Willie was available. We looked down the list of
18 investigators we had. Willie had not assisted in a
19 homicide investigation, so he was assigned to me
20 primarily, and in my favor, he spoke Spanish. I knew we
21 were going to be encountering Spanish speaking
22 individuals.

23 Q And how did you know that?

24 A Because of the -- my prior experiences in these
25 mobile home marks along Percival Road.

1 Q And was the other murder also involving Spanish
2 speaking witnesses?

3 A Yes. Yes, it was.

4 Q So you and investigator Gonzales traveled to Irmo to
5 interview Tracy?

6 A Yes.

7 Q And when you came in contact with Tracy, did she
8 speak with you?

9 A Yes. We went to her mother's home and picked her up
10 and brought her back to the sheriff's office.

11 Q If you can please summarize for the jury what did
12 Tracy share with you of her involvement?

13 A Yes. Tracy said she was at Ms. Chavis' trailer when
14 the stabbing occurred. She identified then a black male
15 about 5'2" to 5'4" with a round belly, tattoo on the
16 around, "made man" and money signs. He was wearing a
17 white T shirt, short pants, and white tennis shoes. I
18 believe she also stated that he had a round face and bald
19 head.

20 Q Was she able to give you a name?

21 A No.

22 Q Was she able to give you a description with any other
23 people that were involved?

24 A She identified a person she knew by Kel and Dev and,
25 of course, Mr. Guzman and Ms. Chavis.

1 Q And did she have any last names for Kev and Dev?

2 A No.

3 Q Now, while you were out interviewing Tracy, is there
4 anyone doing any interviewing at the trailer park?

5 A Yes. I had asked Raphael Gonzales, not related to
6 Willie Gonzales, he's a CAT team member, a Community
7 Action Team member that works that area. He also speaks
8 Spanish.

9 We do what we call a community saturation. I asked
10 him if his people could saturate the community, and that
11 would be just going door to door, not out there like a
12 task force going door to door but very indiscretely asking
13 people about this and if they had any information that
14 they could assist us with.

15 Q And did that bring you to any other additional
16 information?

17 A No.

18 Q At this time, Lieutenant, do y'all have any idea of
19 who has done this crime?

20 A No, we don't.

21 Q Okay. Moving on to the next day, did you ever have
22 an opportunity to actually go and interview the victim?

23 A Yes. On August 27th following a severe wound or
24 stabbing or gunfire, my experience is I can't rush to the
25 hospital because they're usually sedated very badly.

1 I usually wait a couple of days before I attempt to
2 go to the hospital to talk to them. It was on August
3 27th, two days later, that I went to Richland Memorial
4 Hospital to locate Mary Chavis.

5 Q And where was Ms. Chavis in the hospital?

6 A She was in the Intensive Care Unit.

7 Q Did you have an opportunity to come in contact with
8 her?

9 A Yes, I did.

10 Q And what did you observe when you saw Ms. Chavis?

11 A She was bandaged quite severely, especially in the
12 upper torso area including her arms and her face.

13 Q And was she able to speak with you?

14 A She was some. I didn't -- I don't like pressing the
15 issue. I need to talk to them just a little bit to see
16 how they're doing.

17 As you know, sometimes if you just jump right in
18 there and say "Tell me who did this and give me a
19 description," they may retract on you. They'll back off.
20 They get very emotional, and it's very hard to get
21 information from them.

22 Q Were you able to get any information from Mary that
23 day?

24 A Other than she told me that Tracy was there. She did
25 not know her assailant, but Tracy was there and that

1 she -- I asked her about a composite. I brought a
2 forensic artist by. Could she help that artist draw a
3 picture, and she said she could.

4 Q At this point, two days after the incident, you still
5 don't know who has done this crime?

6 A No, that's correct.

7 Q At that time did you set up a meeting with the
8 forensic artist for Mary?

9 A Yes. The next morning I called State Law Enforcement
10 Division and talked to Lieutenant Roy Pascal, who is now
11 retired, but he was a supervisor in that forensic art area
12 that day and asked him if I could have a forensic artist
13 meet me at the hospital pertaining to this case to see if
14 she could draw a composite.

15 Q Were there any forensic artists employed with the
16 Richland County Sheriff's Department at that time?

17 A No, no.

18 Q So you were assisting the help of the State Law
19 Enforcement Division in this investigation?

20 A That's correct.

21 Q Did someone from S.L.E.D. go meet with Mary?

22 A Yes, Deborah Goff and Special Agent Mike -- and I
23 don't have his last name. Ms. Goff, it was her very first
24 time to do a composite for S.L.E.D. They normally work
25 alone, but she -- Mike was with her, basically as a field

1 training officer, just to watch how she did it.

2 Q Did you provide any details to Agent Goff before she
3 arrived?

4 A No. As a matter of fact, we went straight in to see
5 Ms. Chavis, and I introduced them and then I left.

6 Q And then what did you go do?

7 A That particular day -- well, before all of that, I
8 had actually talked with Dr. Lewis, who is Ms. Chavis'
9 doctor. I wanted to confirm with him that it was going to
10 be okay for me to have an artist brought into her room to
11 draw the picture.

12 Q And did you get clearance from her doctor?

13 A I did.

14 Q Then while Mary is meeting with the artist, you
15 leave. Do you have an opportunity to meet with Tracy
16 again?

17 A Yes. That was in the morning that I had a meeting
18 with Ms. Chavis, with the artist. That afternoon I had
19 picked up Tracy at her mother's workplace and taken her to
20 the S.L.E.D. annex which is on Bush River Road where the
21 Forensic Art Unit is located. I dropped Tracy off there
22 with Special Agent Goff.

23 Q And she also gave Special Agent Goff a description of
24 the person she had last seen at the trailer?

25 A Yes, that's correct.

1 Q Was Tracy ever brought back to the sheriff's
2 department for any other questioning?

3 A She was.

4 Q And what was the nature of that questioning,
5 Lieutenant?

6 A She was brought back just for a follow-up interview.

7 Q Was she able to help you in any way identify who Kev
8 was?

9 A Yes, she was. We really wanted to know more about
10 who he was calling Kev or Kevin to try to -- try to
11 identify him.

12 We still hadn't actually gotten a name for him other
13 than some kind of street name or something they go by, but
14 she was asked to look in a database of photographs from
15 the jail. She did, as Captain Smith has already testified
16 to, just going down through the K's with Kevs, Kevins.
17 She identified Kevin Nails.

18 Q And what, at this time according to Tracy, was the
19 role of Kevin Nails?

20 A Kevin Nails was a local drug dealer. He would hang
21 out in a bar. Of course, we -- law enforcement, to my
22 knowledge, had no knowledge of that prior to learning from
23 Tracy.

24 Apparently, he would hang out at the Oasis bar,
25 receive a phone call. He would deliver short supplies of

1 crack cocaine --

2 MR. COLLINS: Objection, Your Honor. This is based
3 on hearsay.

4 THE COURT: Pardon?

5 MR. COLLINS: This is based on hearsay.

6 MS. GARFIELD: This is based on investigation.

7 THE COURT: I'll -- the way the question was phrased,
8 I'll sustain it.

9 MS. GARFIELD: Thank you, Your Honor.

10 THE COURT: Disregard the comment made about the
11 information concerning the drugs.

12 Go ahead.

13 BY MS. GARFIELD

14 Q If we could just jump to what was his particular role
15 as far as the crime occurring?

16 A He was a transporter. He had a car and the other,
17 other people did not, apparently.

18 Q And had he been to the incident location that day,
19 according to Tracy?

20 A Yes.

21 Q And who had he brought there?

22 A He had brought a guy named Devon, I believe is his
23 name, and Tracy and the defendant, Christopher Heller.

24 Q At the time we didn't know it was the defendant; is
25 that correct?

1 A That's correct.

2 Q And once you're able to identify the name Kevin
3 Nails, what do you do?

4 A Well, we want to find Kevin Nails to interview him.

5 Q And were you able to obtain an address for Kevin
6 Nails?

7 A Yes, we did through just running his name in our
8 database.

9 Q Where is that address?

10 A It's on Highway 6 in Lexington, way out on Highway 6
11 in Lexington.

12 Q And did you have an opportunity to go to his address?

13 A I did. I had dropped Tracy off. Not getting ahead,
14 but when I drooped her off to have her composite, I
15 attempted just to locate the residence.

16 We didn't know who Kevin was or really what was going
17 on. I wanted to do an intelligence drive by of the
18 residence, see if there's any cars in the driveway, that
19 type of thing. I was unable to locate it, so I didn't
20 drive walking out on Highway 6.

21 Q So after that what did you do?

22 A I went back and picked up Tracy.

23 Q All right. Let's jump to going to Kevin Nails'
24 residence. Did you eventually make it to the residence?

25 A Yes, we did.

1 Q And what did you -- who accompanied you?

2 A Captain Smith from the Richland County Sheriff's
3 Office, Chief of Police John Ewing, who is now the
4 Bishopville Chief of Police. He was an investigator at
5 that time. He actually was brought along because he had
6 experience with John Nails on previous cases.

7 Q You mean Kevin Nails?

8 A Kevin Nails, I mean, and Investigator Gonzales and
9 myself.

10 Q Lieutenant Siniard, you're going to see one person.
11 Why were there four investigators?

12 A We just -- like we stated before, we didn't really
13 know what to expect when we got there based on the type of
14 crime we had in the K.K. Martin Mobile Home Park.

15 Q And when you got there, what did you do?

16 A We knocked on the door, and we knocked on the door.
17 Kevin Nails finally came to the door and opened it.

18 Q And...

19 A We interviewed Mr. Nails, and Mr. Nails was quite
20 forward with who we were looking for was probably his
21 cousin, Christopher Heller, who is seated at the defense
22 table this morning with the white shirt on with...

23 Q And did he -- did he go with you back to the
24 sheriff's department?

25 A Yes, he did.

1 Q And what was the purpose of going to the sheriff's
2 department?

3 A We had asked him for a consent to take his car back
4 to inspect it. We believed there would be blood up under
5 the wheel well based on the tire track we had at the
6 scene.

7 Q And that's the tire track in blood at the scene
8 you're referring to?

9 A Yes, ma'am.

10 Q And had you been given any description of Kevin's car
11 at the time?

12 A We had. Tracy had provided some details. A lot of
13 times when you get details from a victim they're not maybe
14 precisely on the color or the make and model.

15 Q And did Kevin go back with you at headquarters?

16 A He did.

17 Q Did you have an opportunity to interview him?

18 A I did.

19 Q And did Kevin admit to you that he had driven this
20 car to the mobile home park that night?

21 A He had.

22 Q And did he admit to you he had brought his cousin,
23 Christopher Heller, to the mobile home park?

24 A That's correct.

25 Q Okay. Did he tell you if Christopher Heller left

1 with him?

2 A Christopher Heller did not leave with him from the
3 mobile home park, no.

4 Q Can you just briefly summarize what Kevin Nails
5 shared with you?

6 A Yes. That he had -- was driving there. They saw
7 Tracy. They picked Tracy up. His cousin wanted to hook
8 up with Tracy, so when he made his stop at Ms. Chavis'
9 trailer, his cousin wanted to stay there.

10 Mr. Nails was -- concluded his business there, and he
11 was ready to leave. Mr. Heller wanted to stay. There was
12 a little bit of an argument about that. Apparently, he
13 stayed. Mr. Heller -- Mr. Nails returned to the Oasis.

14 Q And did he say when he came in contact with his
15 cousin again?

16 A He did. This would have been about four o'clock in
17 the a.m. when this incident occurred.

18 MR. COLLINS: Objection, Your Honor.

19 THE WITNESS: It did take --

20 MR. COLLINS: I have to object. This is bolstering
21 prior testimony we've already heard.

22 THE COURT: Overruled. Go ahead.

23 BY MS. GARFIELD

24 Q Thank you.

25 A That he went back around nine-something p.m. that

1 following evening, same day, following evening when he had
2 called him from an unknown location.

3 Q And that's when he picked up his cousin?

4 A That's correct.

5 Q And then where did he take him? Where did he say he
6 took his cousin?

7 A Directly to the Shell station at Bluff Road near
8 I-77.

9 Q And did he indicate whether or not his cousin told
10 him anything had happened?

11 A He indicated that they had no conversation.

12 Q Lieutenant, did you ever go to that -- well, I'm
13 sorry, the Shell station on Bluff Road?

14 A I did. I spoke with a manager. I was concerned
15 about a videotape to try to corroborate Mr. Nails'
16 statement to me.

17 They do have video there. Myself and the manager
18 reviewed it during that time period. We go back four,
19 five, six hours and follow several hours.

20 The video there is not 360 around the store. There's
21 just certain areas that they do have video. Not knowing
22 exactly what his mother may have been driving, no, we -- I
23 could not identify the mother's car arriving in the
24 parking lot.

25 Q And what date is all of this occurring on?

1 A The date of the -- when we were at the store looking
2 at the video or the date when they were supposed to have
3 been dropped off?

4 Q I'm sorry. The date Kevin Nails is telling you all
5 of this information.

6 A The date Kevin Nails is telling us all of that would
7 have been on the -- it's been on August 29th.

8 Q So finally four days after the incident has occurred,
9 you have a name --

10 A That's correct.

11 Q -- to attach to a suspect?

12 A That's correct.

13 Q At that time -- at that time -- just beg the Court's
14 indulgence.

15 (Pause).

16 Were you able to get any further information from
17 Ms. Chavis?

18 A Yes. After receiving the information about
19 Mr. Nails, we were -- had the opportunity to receive a
20 photo to put in a photo lineup.

21 Q Did you have anything to do with making that lineup?

22 A No, I did not.

23 Q Were you able to show a photo lineup to Bille Joe
24 Risinger?

25 A I did.

1 Q Did you show one to her or Mary first?

2 A I showed it to Mary first. Correction. On
3 August 30th we obtained the full lineup, and I at first
4 went over and showed it to Bille Joe Risinger at her
5 mother's house.

6 Q And that's the Irmo residence?

7 A That's approximately nine a.m. on August 30th.

8 Q I'm going to show you State's Exhibit Number ten. Do
9 you recognize this?

10 A Yes.

11 Q Can you share with the jury what that is?

12 A That's a photographic lineup that was given to me by
13 Lieutenant McDonald of the Richland County Sheriff's
14 Office that I took over to -- and Investigator Gonzales to
15 Bille Joe Risinger at her mother's house and presented it
16 to her.

17 Q When you presented this photo to Bille Joe, what did
18 you ask her to do?

19 A I said, "I'm going to show you six photographs. In
20 those photographs, just ignore any type of clothing they
21 may have on or the length of their hair, mustache,
22 goatees, and that aspect of it, but concentrate on the
23 face itself. Around the eyes, the forehead, the nose
24 area, the mouth area.

25 If you see the person that you have identified

1 previously as being one that took part in a crime or was
2 there when a crime had occurred, to give me the number of
3 the picture or to put your finger on it, some way to tell
4 me that's the person that did it."

5 Q Did she indicate a person on that photographic
6 lineup?

7 A She did.

8 Q And who did she indicate?

9 A Photograph number three.

10 Q And who does -- what does photograph number three
11 correspond to?

12 A Mr. Heller.

13 Q And how long did it take Bille Joe to pick that
14 picture out?

15 A A very short period of time, a second or two.

16 Q Did you suggest to her in any way which picture to
17 pick?

18 A No.

19 Q Did you point out any picture?

20 A No.

21 Q Did you tell her the person was definitely in the
22 lineup?

23 A No.

24 MS. GARFIELD: Your Honor, at this time, I'd move
25 State's Exhibit Number ten into evidence.

1 THE COURT: Any objection?

2 MR. COLLINS: If I can just take a look at it.

3 (Pause).

4 No objection.

5 THE COURT: Okay. State's Exhibit 10 admitted
6 without objection.

7 MS. GARFIELD: Thank you, Your Honor.

8 (WHEREUPON, State's Exhibit No. 10 was admitted into
9 evidence.)

10 BY MS. GARFIELD

11 Q After you showed this photographic lineup to Tracy,
12 Bille Joe, what did you do next?

13 A I drove directly to the Richland Memorial Hospital to
14 speak with Ms. Chavis.

15 Q Did you have the opportunity to also show a
16 photographic lineup to Ms. Chavis?

17 A I did.

18 Q And what kind of instructions did you give Ms. Chavis
19 regarding the lineup?

20 A The exact same instructions. As she mentioned
21 earlier, part of that statement is that the person of
22 interest may or may not be in this six picture lineup.

23 Q And was she able to make an identification?

24 A Yes, she was.

25 Q I'm going to hand you what's already been marked into

1 evidence, moved into evidence, State's Exhibit

2 Number nine. Do you recognize that?

3 A Yes, I do.

4 Q And what is that?

5 A That's a composite of six pictures with Mr. Heller.

6 Q Is the same six pictures that you have shown Bille
7 Joe?

8 A Yes, it is.

9 Q And Bille Joe and Mary have had no communication?

10 A No. That's why it's important if you leave one
11 witness, go directly to the next one, and I had
12 information they had not communicated.

13 Q And Mary was able to pick out a picture?

14 A Yes, she was.

15 Q And what picture was that?

16 A She verbally said it was picture number three.

17 Q And how long did it take her to pick that picture
18 out?

19 A A second or two.

20 Q And was she able to sign that document?

21 A No, she was not.

22 Q And why not?

23 A Because both hands were severely damaged, bandaged.

24 Q Thank you.

25 Lieutenant Siniard, did you make any suggestion to

1 Mary who she should pick out?

2 A No, not at any time.

3 Q So at this time, you have two witnesses who have
4 picked the defendant out of a photo lineup. What's your
5 next course of action?

6 A Along with a statement we received from an actual
7 relative, Mr. Nails, the two victims who were at the scene
8 who picked this individual out as being there, we felt we
9 had enough probable cause to obtain an arrest warrant or
10 two.

11 Q And did you know at this time where Christopher
12 Heller was?

13 A Based on the information we had from Mr. Nails, it
14 was in Appling County Georgia or the town of Baxley.

15 Q And where is Baxley, Georgia?

16 A I don't know the exact mileage. If you go down 95,
17 it's east of Savannah, Georgia several miles.

18 Q What kind of town is Baxley?

19 A A small southern town.

20 Q And did you, in fact, travel to Baxley, Georgia?

21 A I did.

22 Q When did you do that?

23 A Investigator Gonzales and I left on August 31st
24 approximately six a.m.

25 Q Would this be the day after obtaining these

1 photographic identifications?

2 A That's correct.

3 Q About how long did it take you to get to Baxley?

4 A It was approximately three-and-a-half, four hours.

5 Q And when you arrived in Baxley, what did you do?

6 A We went straight to the sheriff's department and were
7 introduced to the sheriff and the chief deputy.

8 Q And explain to the jury what kind of sheriff's
9 department this is as far as the size of the building.

10 A Small town. The magistrate's court is a small jail,
11 and the sheriff's department are in the same building.

12 Q And when you got there, what did you do after meeting
13 with the deputies in Appling?

14 A The sheriff took me to a magistrate where his chief
15 deputy and myself -- I signed an affidavit that we had
16 previously sent down so they would have our information to
17 put into the warrant. I signed an affidavit, and the
18 chief deputy did before, I believe his name was Judge
19 Sears.

20 Q And this was an advocate -- excuse me, an affidavit
21 to obtain what?

22 A A search warrant.

23 Q And a search warrant for where?

24 A That search warrant was for an address known as [REDACTED]
25 Ten Mile Road in Baxley, Georgia.

1 Q And who was known to live at that location?

2 A Christopher Heller.

3 Q And did you, in fact, go to that location?

4 A I did.

5 Q Who accompanied you?

6 A Several law enforcement agencies to include the
7 sheriff's department deputies, the sheriff, the chief
8 deputy, myself and Investigator Gonzales.

9 Q And did you all ride together, or how did you get
10 there?

11 A We were kind of split up. I rode in a van. The
12 typical scenario before a search warrant like this would
13 be a briefing at the sheriff's office.

14 Everybody needs to know where they're going when they
15 get there. This is not one where you're looking for just
16 documentation where you go and knock on the door and
17 someone opens the door and you just advise them that
18 you're there to conduct a search warrant for whatever
19 documents. We were looking for clothing or anything
20 pertaining to this crime, to include Christopher Heller.

21 Q When you execute such search warrants, just kind of
22 explain to the jury the procedures the police have to go
23 through for their safety.

24 A Based on the unknown as to what happened, you always
25 take it to the highest level. Since there was a stabbing

1 here involved, we didn't know if firearms were going to be
2 in the home.

3 You have to suspect they generally are in a country
4 setting or even in a city setting now. Uniform deputies
5 would be the first ones to go through.

6 If the door is locked, they have what's called a door
7 knocker. It's a big metal pipe with a flat end on it.
8 They can swing it through the door lock area, and it
9 usually will bust it right open.

10 Anyone standing up or pounding the residence is asked
11 to get down. Unfortunately that might not be the politest
12 way of asking someone to get down. Typically, there's a
13 lot of yelling going on.

14 You want everybody in that dwelling to know the
15 police are there. The word "police" or "sheriff's
16 department" is used frequently, "get down, get down".

17 Not being from there and not familiar with the people
18 at that residence, generally if someone came here from
19 another town, I -- we always want to keep them outside and
20 on the perimeter in case a car comes pulling up while the
21 search is going down.

22 You're outside. If somebody jumps through a window,
23 that outside perimeter person is there then to take them
24 down. So I elected of course, to stay outside.

25 Q And where was Investigator Gonzales?

1 A He was with a small group that went to a mobile home
2 which was down a lane right beside the trailer house.

3 Q And what was the purpose of going to that mobile
4 home?

5 A To look for Christopher Heller. There was
6 information that he had -- would hang around this trailer.

7 Q Was he found there?

8 A No, he was not.

9 Q Okay. Once the Appling County law enforcement
10 agencies secured the residence, what did you do?

11 A One of the detectives that was assisting me informed
12 me that this particular room was Christopher Heller's, and
13 we went in that room and started going through clothing
14 looking for any of the clothing that had been previously
15 mentioned worn by the defendant.

16 Q And what -- if you would just give us a description
17 of that clothing to the jury.

18 A A white T-shirt, blue jean shorts and tennis shoes,
19 white --

20 Q And were you able to find such items in this room
21 that you had been told was Christopher Heller's?

22 A Yes, multiple white tennis shoes or multiple white
23 T-shirts, blue jean shorts and tennis shoes, generally in
24 the white area, maybe blue and white or some other small
25 color in there but generally white, maybe like his

1 favorite. My personal impression was this guy really
2 likes to wear white T-shirts and blue jean shorts.

3 Q Where were the items located in the room?

4 A There were just piles, two or three piles. It was
5 hard for us to determine if this was the clean pile from
6 the dirty pile. There was a hamper at the pile from over
7 the top.

8 Q Did you obtain all the clothing?

9 A We didn't take everything, no.

10 Q Did you personally take the clothing?

11 A I did. I personally secured some clothing, yes.

12 Q And Lieutenant Siniard, without bringing you back,
13 you have been in court throughout this entire trial,
14 correct?

15 A That's correct.

16 Q And there has been clothing submitted through various
17 witnesses?

18 A Yes.

19 Q And you had an opportunity to review that clothing,
20 as well. Is that the clothing you took from the search
21 warrant?

22 A Yes, it was.

23 Q Lieutenant Siniard, at that time what -- were you
24 ever informed, while you were in the home, of any other
25 arrests being made?

1 A Yes. One of the detectives that was assisting me
2 would go in and out of the room. One part of the time he
3 came in and informed me that the sheriff had taken the
4 mother and the girlfriend into custody.

5 Q And did you know for what purposes at that time?

6 A No, I did not.

7 Q Did you have anything do with that decision?

8 A No.

9 Q Had you said anything to those individuals?

10 A No.

11 Q After you completed your search, what did you and
12 Investigator Gonzales do next?

13 A We wrapped up the sacks that we had with the clothing
14 in them. Investigator -- I rode in a van to the scene.
15 Investigator Gonzales had driven my car. We retrieved my
16 car, and we loaded up the items, the sacks that we had
17 obtained. We followed someone back to the sheriff's
18 office.

19 Q And where did you put those items?

20 A In the trunk of my car.

21 Q And when you got back to the sheriff's office, where
22 did you go?

23 A We went back in, and we received information that
24 Mr. Heller -- someone had communicated back to the sheriff
25 or the sheriff's chief deputy that Mr. Heller was going to

1 turn himself in.

2 Q So in the sheriff's department, were you waiting for
3 this?

4 A We were going to wait a reasonable length of time to
5 see if he would turn himself in.

6 Q And were you and Investigator Gonzales, where did you
7 wait?

8 A At it the sheriff's office, we had a -- there was a
9 small little canteen in the back.

10 Q Were you ever informed that Mr. Heller did, indeed,
11 turn himself in?

12 A Yes. We were standing in the courtroom, and we
13 received information that Mr. Heller was in the foyer.

14 Q You say you're sitting in the courtroom. Kind of
15 illustrate to the jury where the courtroom is in relation
16 to the sheriff's office.

17 A If you walked in the front door to the small
18 department, to the left is a window, a typical window with
19 a glass on it, with an administrative specialist behind it
20 or a communications person.

21 The first door to the left past that would be a
22 hallway that went back into the sheriff's office area, the
23 chief deputies, other administrative rooms but in the
24 sheriff's office.

25 Going back to the foyer, the next door opened up, and

1 it went into a small courtroom approximately the size of
2 the jury box.

3 Q Okay.

4 A Maybe just a little bit larger if you squared it off.

5 Q And that's where you and Investigator Gonzales were?

6 A We were standing in that area with several other
7 deputies, and there were probably six or eight people in
8 there.

9 Q When was the first time you saw Christopher Heller?

10 A When the door opened, and he was walking through the
11 door frame.

12 Q And what was the first thing done to Christopher
13 Heller when he got there?

14 A As he walked through, he was facing me, I was six or
15 eight feet from him, but Investigator Gonzales and Chief
16 Deputy DeLoach, I believe it was, approached him from the
17 sides and patted him down.

18 Q And what was the reason for patting him down?

19 A Well, we're taking someone into custody. We're going
20 to secure them up to make sure they have no pins on them
21 or knives or guns, et cetera.

22 Q And at that time -- let me ask you this: At that
23 time, did you observe any injuries to Christopher Heller?

24 A No, and throughout -- you're always looking for an
25 injury because an individual, you take them into custody,

1 has an injury.

2 You want to get first aid to them. You want to ask
3 him, "Do you want to go to the hospital to have that
4 bandaged up, et cetera?"

5 Q Did he have any cuts on his hands or arms?

6 A Not that I observed.

7 Q And at that time, what did the Appling County
8 Sheriff's Department do to Mr. Heller?

9 A Previously the sheriff stated if he turned himself in
10 and we wanted to talk to him, he would provide us an
11 office area for privacy.

12 Q And did he do so?

13 A He did.

14 Q And where did he provide an area for y'all to talk?

15 A There was a side door that went back to where the
16 canteen was. It was a back small hallway that had other
17 offices attached to the hallway.

18 We were led down the hallway to a small office,
19 typical office for a supervisor, I guess. If it had a
20 desk, a chair behind it, and two chairs in front of him.

21 Q And who went into this small office?

22 A Christopher Heller, Investigator Gonzales, and
23 myself.

24 Q And what was the purpose of going into this small
25 office?

1 A We wanted to conduct an interview of Mr. Heller.

2 Q At that time was Mr. Heller's rights read to him?

3 A Yes, they were. It's the first thing we did.

4 Q And who read him his rights?

5 A Investigator Gonzales.

6 Q And were you present for those rights to be read?

7 A Yes, I was.

8 Q I'm going to show you what's been marked as State's
9 Exhibit Number one. Do you recognize this document?

10 A Yes, I do.

11 Q And please explain to the jury what this document
12 reflects?

13 A That's a Richland County Sheriff's Department
14 standard form advising someone of their rights.

15 Q Is that the form that Investigator Gonzales used to
16 advise Mr. Heller of his rights?

17 A Yes, ma'am.

18 Q And you were present for that?

19 A Yes, I was.

20 Q You observed Investigator Gonzales go over those
21 rights?

22 A I did.

23 Q Did he appear to be clear with Mr. Heller?

24 A Yes, he was.

25 Q And was -- I'm sorry?

1 A He was clear with Mr. Heller.

2 Q Was Mr. Heller -- did Mr. Heller appear to
3 understand?

4 A He did.

5 Q And as he went through each right, what did you
6 observe Investigator Gonzales do?

7 A He would have Mr. Heller initial after each one of
8 the little statements or bullets.

9 Q And ultimately, did Christopher Heller sign that
10 document?

11 A Yes, he did.

12 Q And did you observe him do so?

13 A I did.

14 Q And did he waive his rights?

15 A Yes, he did.

16 Q And did he sign that, as well?

17 A He did.

18 Q And all of that is written on that form?

19 A Yes, it is.

20 Q Investigator -- Lieutenant Siniard, if you could just
21 plead read that document from top to the end into the
22 record.

23 A Sure. "Richland County Sheriff's Department,
24 interrogation, advisement of rights. Name is Christopher
25 R. Heller." That's printed in. "Place: Baxley, Georgia,

1 Appling County Sheriff's Department", written in.
2 "Officers: Investigator Gonzales/Investigator H.
3 Siniard." It's written in. "Date: 8/31/06" is written
4 in. The time is 13:31 written in, and that is 1:31 p.m.

5 Q And who wrote in that time?

6 A Investigator Gonzales.

7 Q And did he also write in that other information
8 you're referring to as written in?

9 A Yes, he did.

10 Q Thank you. Please continue.

11 A The first -- it says your rights. The first one it
12 says, "Before we speak -- before we ask you any questions,
13 you must understand your rights." There's a place on the
14 left where the investigator can check off or he can have
15 someone initial.

16 MR. COLLINS: Your Honor, we have no objection to
17 this document being admitted into evidence.

18 THE COURT: I understand. Okay.

19 The exhibit number -- that's number what, one?

20 MS. GARFIELD: Yes, sir.

21 THE COURT: All right. State's Exhibit Number one
22 admitted without objection.

23 (WHEREUPON, State's Exhibit No. 1 was admitted into
24 evidence.)

25 MS. GARFIELD: Thank you. Your Honor, may he --

1 THE COURT: If you want to publish it, that's fine.

2 He can.

3 BY MS. GARFIELD

4 Q Thank you. Please continue.

5 A Okay. Number two, "You have the right to remain
6 silent." Number three, or the next one is "Anything you
7 say can be used against you in court. You have the right
8 to talk to a lawyer for advice before we ask you any
9 questions and have a lawyer with you during any
10 questioning.

11 If you cannot afford a lawyer, one will be appointed
12 for you before any questioning, if you wish. If you
13 decide to answer questions now without a lawyer present,
14 you still have the right to stop answering at any time.
15 You also have the right to stop answering at any time
16 until you talk to a lawyer."

17 Then we ask for a signature and if you understand
18 those. Normally you get an acknowledgment, yes, I do or
19 no, I don't.

20 Q Did Christopher Heller appear to understand those
21 rights?

22 A He did.

23 Q And did he sign them?

24 A Yes, he did.

25 Q And did he initial each right as it was read to him?

- 1 A He did.
- 2 Q And please continue what the bottom portion is.
- 3 A The very bottom part is called a waiver of rights.
- 4 It's, "I have read this statement of my rights, and I
- 5 understand what my rights are. I am willing to talk and
- 6 answer questions. I understand and know what I am doing.
- 7 No promise has been made to me and no pressure or coercion
- 8 of any kind has been used against me," and there again you
- 9 understand that, and then they sign it.
- 10 Q And Christopher Heller signed that?
- 11 A Yes, he did.
- 12 Q Did you observe him sign that?
- 13 A Yes, I did.
- 14 Q Did you also sign that document?
- 15 A I did.
- 16 Q At any time, Lieutenant, did you make any sort of
- 17 promise to Christopher Heller to sign that statement?
- 18 A No, I did not.
- 19 Q At any time did you threaten him?
- 20 A No, I did not.
- 21 Q At any time did you make any sort of threats or
- 22 promises concerning his family members?
- 23 A No, I did not.
- 24 Q Did you derive him of any food or drink?
- 25 A No, I did not.

1 Q Did you -- if he wanted to go to the bathroom, would
2 you have let him?

3 A Yes.

4 Q Did you turn the heat up real high?

5 A No.

6 Q Did you turn the air conditioner way low?

7 A No.

8 Q Did he freely and voluntarily sign that document?

9 A Yes.

10 Q At that time did you ask Christopher Heller about
11 what had happened?

12 A Yes, I did.

13 Q Please explain to the jury how you did so.

14 A Do you have a copy of the statement so I can refresh
15 my memory?

16 Q Yes, I do. I'll hand you what's been marked as
17 State's Exhibit Number two.

18 A The statement is pre -- it's a template that's loaded
19 into a laptop I have. We had our own laptop and our own
20 printer.

21 I may ask him how old he is, what's his date of
22 birth, where he went to high school, just general
23 questions, the highest grade in school that you attended.

24 Q I'm going to stop you, Lieutenant, just to go back.
25 You just said there's a template in your computer.

1 A Yes.

2 Q Explain to the jury if you were to open that
3 template, what would already be written?

4 A Okay. There is a question. My name would be on
5 there, previously on the template. On the next line would
6 be answers, and then I have to type in, of course, whoever
7 I'm interviewing's name, but going back to the top
8 "statement of" is in the template.

9 I would have to type in the individual's name, his
10 home address, his city and state and zip code, made at
11 Columbia, South Carolina, this, that's in the template.

12 Type in the date, and the day of is in the computer.
13 I have to type in the month and the hours. In the
14 presence of, and my name is normally in my template, but
15 if I have another investigator with me, I can type in then
16 "and investigator so and so" of the Richland County
17 Sheriff's Department.

18 Then it's I, Christopher Heller, I have to type in
19 the name again, Christopher Heller. It's an advisement,
20 again, of the rights. Then it's under the bottom of that
21 under the rights, it says "do make the following
22 statement: Questions," that's questions to be asked in
23 this statement would be Investigator Siniard.

24 Answers, I type in then the defendant's name
25 Christopher Heller. That's where I put black male and

1 date of birth. That's where I've asked him his date of
2 birth.

3 Q And before you continue, just to go back since you
4 did refer to this as a template, where did you have in
5 this statement that the statement was given?

6 A I had that it was given at Columbia, South Carolina.

7 Q And was that an error, Lieutenant?

8 A That was.

9 Q What should you have done?

10 A I should have backspaced or gone to the header,
11 footer I think it is or I can't recall right now exactly
12 what it is, but I would have backspaced out that and put
13 in Baxley, Georgia.

14 Q Because this statement was given in Baxley; is that
15 correct?

16 A That's correct.

17 Q In this little room at the sheriff's department?

18 A Yes, it was.

19 Q Okay, please continue. What did you ask him?

20 A I asked him -- the question was -- and it's already
21 typed in on my template, "What's the highest grade of
22 school you completed?" Some people put 14 years, 16
23 years. Some people put six years. Mr. Heller responded
24 by the tenth grade.

25 The next question is, "Can you read and write?"

1 That's in the template. The answer was, and I typed in,
2 yes, sir. Some people may say no or very little or
3 limited. That would be -- whatever they respond to is
4 what we try to put in that block.

5 The next question, "Are you here today under the
6 influence of any alcohol or drugs?" The answer that I
7 typed in was no, sir.

8 Q Lieutenant, before you continue with the next
9 question, did he still appear cooperative?

10 A Yes, he did.

11 Q What was his demeanor like at this time?

12 A I don't want to say someone is really relaxed in that
13 type of setting, but he was relaxed enough for us to
14 continue the interview. He wasn't jittery. I didn't feel
15 uncomfortable interviewing him.

16 Q And he was freely giving you these answers?

17 A That's correct.

18 Q And at any time if he would have said, "I don't want
19 to talk," what would you have done?

20 A We would have stopped.

21 Q Thank you. Please continue with your next question.

22 A The next question is an open-ended question. I hope
23 when we do these that -- and the question was, "What
24 happened in Columbia, South Carolina on Friday August 25th
25 at approximately 04:00 hours or four a.m.?" That four

1 a.m. is not in there. I was just referring, giving you
2 the idea of what 04:00 is.

3 Then I wait on a response so I haven't led the person
4 being interviewed to give me answers back that I'm
5 providing them.

6 Q And you wrote -- what you wrote down next is what he
7 told you?

8 A That's correct.

9 MR. COLLINS: Again, Your Honor, we have no objection
10 to this being entered into evidence at this point.

11 THE COURT: Okay. State's Exhibit Number two
12 admitted without objection.

13 MS. GARFIELD: Thank you.

14 (WHEREUPON, State's Exhibit No. 2 was admitted into
15 evidence.)

16 THE WITNESS: He said, "My cousin and another black
17 male left the Oasis Club. My cousin stopped in the
18 roadway to pick up a little white girl that was walking.
19 Kevin dropped the girl off and I at a trailer. Inside the
20 trailer was a white lady and a Mexican man. The lady let
21 us in.

22 Once inside -- (pause) white girl that Kevin picked
23 up and I went into a bedroom and started smoking crack. I
24 went inside for a few minutes, and when I came back
25 inside, the lady that lived there told me I had to go. I

1 told her I was waiting on Kevin to come back and pick me
2 up. I just started stabbing people."

3 BY MS. GARFIELD

4 Q And this is his words?

5 A That's his words.

6 Q Please continue.

7 A "Sometimes" -- when there's a pause there, I have a
8 choice as an investigator to continue to let it stay, let
9 it stay in a pause mode to let them continue talking, or I
10 have to insert another question to keep it going. There
11 was a short pause.

12 He said "stabbing people". I asked the question,
13 "Where did you get the knife?"

14 His answer was, "It was mine. It was a fold up
15 knife. It had a brown handle. The blade was about two or
16 three inches long."

17 There was a pause.

18 The next question was, "Who did you start stabbing
19 first?"

20 "The lady. The man jumped on my back inside the
21 trailer."

22 Q And Lieutenant Siniard, he is providing these
23 answers?

24 A Yes.

25 Q Thank you, and this is still in Baxley, Georgia in

1 the little room at the sheriff's department?

2 A Right. The next question was, "Who did you start
3 stabbing first?"

4 "The lady. The man jumped on my back inside the
5 trailer."

6 The next question was, "What did you do after
7 stabbing the lady and the man?"

8 "I ran. I found an old empty trailer and hid there.
9 I stayed there until about dark. I asked a lady if I
10 could use her phone to call someone to pick me up. I
11 called Kevin and he came. I stayed at the lady's house
12 until Kevin arrived.

13 Kevin called mother, Carolyn Robinson, who met along
14 the interstate. Kevin's mother pick me up and brought me
15 to my mother's in Georgia."

16 Then question: "What happened to the knife?"

17 "I threw it somewhere after leaving the girl's
18 trailer."

19 Question, "The Nike shoes you have on, are they the
20 ones you were wearing in Columbia August 25, 2006?"

21 "No, sir. I was wearing white and blue Rebooks.
22 They're in my room under my bed."

23 "Where are the T-shirts and pants you were wearing?"

24 "They're in my room."

25 "How long were you in Columbia before August 25th,

1 2006?"

2 "About three days."

3 Question: "What was your business in Columbia?"

4 Answer: "My aunt, Carolyn Robinson, was going to
5 take Kevin and I to Cherokee, North Carolina to the
6 casino."

7 Question: "Can you describe the white girl Kevin
8 picked up?"

9 Answer: "Long brownish hair, and she was short."

10 That concluded the interview.

11 Q Is there one more page?

12 A Oh I'm sorry, there is. There was one last question.

13 "Is there anything else" -- and this is something we
14 try to put at the end. It's not in the template. We try
15 to put this at the end of the closure of the statements.

16 The question is: "Is there anything else that you
17 would like to add to your statement?"

18 Answer: "No, sir. Everything I told you was the
19 truth."

20 Q Once you had finished typing the statement, these are
21 the words Christopher Heller has provided you, correct?

22 A That's correct.

23 Q What do you do?

24 A Then we print out the statement, and then we have him
25 sign it. We go back over it again for review and have him

1 to sign it. We allow them to read it. If there is
2 anything -- if they, the defendant doesn't like or someone
3 being interviewed, they have an opportunity to say, "I
4 meant it this way" or "I meant it that way."

5 Q Did Mr. Heller make any revisions?

6 A No.

7 Q He had an opportunity to review his statement?

8 A Yes, he did.

9 Q And did he sign his statement?

10 A Yes, each page.

11 Q Each page?

12 A That's correct.

13 Q And did you also sign this statement?

14 A I did.

15 Q And did anyone else sign the statement?

16 A Yes. Willie Gonzales, Investigator Gonzales, signed
17 it on the witness block.

18 MS. GARFIELD: Thank you.

19 Judge, I'd like to get this marked for I.D. purposes.

20 MR. COLLINS: No objection to that.

21 (WHEREUPON, State's Exhibits Nos. 80 - 82 were marked
22 for identification only.)

23 MS. GARFIELD: Your Honor, may Lieutenant Siniard
24 step down?

25 THE COURT: Yes, ma'am.

1 BY MS. GARFIELD

2 Q I'm going to show you what's been marked for I.D.
3 purposes State's Exhibit number 80. Is this just an
4 enlarged version of the statement you just read, the first
5 page?

6 A That's correct.

7 Q And can you show me where you signed the statement?

8 A There's a -- South Carolina has a notary block. We
9 try to swear everyone in for the statement.

10 Q And did you have an opportunity to date this
11 document?

12 A Yes, I did.

13 Q And what was the date?

14 A 31st of August, 2006.

15 Q And is there also a place that you put the date where
16 this -- when the statement is made?

17 A Yes.

18 Q And where is that?

19 A That's in this place here to certify and also in the
20 top.

21 Q And this was the date that you gave the statement --
22 August -- that you took the statement, August 31st, 2006?

23 A That's correct.

24 Q And can you show the jury the portion of the template
25 that you should have changed?

1 A That would have been this portion up here where it
2 says Columbia, South Carolina.

3 Q And also would you have changed the bottom where it
4 says "sheriff's department"?

5 A Yes. That would have been -- well, we're of the
6 Richland County sheriff's department. It would have been
7 in this area where it says Columbia. It would have been
8 in Baxley, Georgia.

9 Q In each of these questions and answers, you're typing
10 as you're talking?

11 A Sometimes. Sometimes you would ask them a question,
12 and you just pause and listen to them. Then you go back
13 and ask them again now, you did this, and you type it in.

14 Q But these were his words you typed?

15 A Yes.

16 Q Please remain standing.

17 I'm going to show you what's been marked as State's
18 Exhibit number 81 for I.D. purposes. Is this an enlarged
19 version of the second page of this statement?

20 A Yes, it is.

21 Q And again, did you write the date of when this
22 statement was taken?

23 A Yes, I did.

24 Q And what was that date?

25 A I wrote this date in here, and why I did it, I

1 don't -- it's 25, August. It could have been because I'm
2 already thinking ahead of where I need to go next.

3 25 August was our target date of when this incident
4 actually occurred. That's an error on my part. The date
5 of this statement was actually taken there, and that
6 appears to be Gonzales' handwriting.

7 Q Thank you.

8 Now, I'm going to finally show you State's Exhibit
9 Number 82 for I.D. purposes. Is this an enlarged version
10 of the third page?

11 A Yes, it is.

12 Q And again, did you write the statement, the date of
13 when this statement, was given?

14 A Yes, I did. I made an error on the third page also,
15 same mistake. I wrote in 25 August.

16 Q Is this exactly the way the statement looked, these
17 three pages, after Christopher Heller signed it in Baxley,
18 Georgia?

19 A Yes.

20 Q Was it altered in any way after that?

21 A No.

22 Q At that time it became a legal document?

23 A That is correct.

24 Q Thank you. Please take the stand. Thank you.

25 (Pause).

1 Actually, if you can get back down, I'm sorry.

2 Let me ask you two more things. If you will read
3 again, what is that first question on the second page,
4 State's Exhibit Number 81?

5 A "Where did you get the knife?"

6 Q And what was the answer?

7 A The answer was, "It was mine. It was a fold up
8 knife. It had a brown handle. The blade was about two or
9 three inches long."

10 Q Lieutenant Siniard, at this point in your
11 investigation did you have any idea what kind of knife was
12 used?

13 A No. We have really no idea.

14 Q Did you later learn what knife possibly could be used
15 from the pathologist?

16 A Yes.

17 Q And what kind of knife was that?

18 A A small knife. I think he went up to four inches.

19 Q And it was also a pocketknife?

20 A That's correct.

21 Q Okay. I'll also ask you the next to the last
22 question. If you'll just read that one.

23 A "What is your business in Columbia?"

24 Q And what was his answer?

25 A "My aunt, Carolyn Robinson, was going to take Kevin

1 and I to Cherokee, North Carolina to the casino."

2 Q At that time in your investigation, had you ever been
3 told anything about Cherokee?

4 A No.

5 Q Anything about a casino?

6 A No.

7 Q However, you were in the courtroom when Kevin Nails
8 testified, were you not?

9 A That's correct.

10 Q And you were in the courtroom when he testified that
11 Christopher Heller was in town to go to a casino?

12 A Yes.

13 Q Okay. Thank you. Now please take a seat.

14 (Complies).

15 At any time during this question answer session, did
16 you make any kind of threats or promises to Christopher
17 Heller?

18 A No.

19 Q At any time if he didn't want to talk to you, what
20 would you have done?

21 A If he said, "I don't want to talk to you anymore," we
22 may have asked why. "Do you want something to eat or
23 drink? Do you want to take a break."

24 If he had said, "I want to talk to my attorney,"
25 everything would have stopped. We would have packed up

1 and returned to -- with him, of course, to South Carolina.

2 Q After the statement did you have any other kind of
3 conversation with Christopher Heller?

4 A Not -- it would have been -- not pertaining to the
5 case. It may have been like do you play football or
6 something like that in high school.

7 Q What's the purpose for this kind of chitchat?

8 A Just to make him feel relaxed. We have a long drive
9 ahead of us. I asked him when he makes his trip back and
10 forth to Columbia to visit relatives which way did he go.
11 I found that coming down through Savannah was a long
12 drive. The deputies talked about taking, I believe, it is
13 U.S. 1 back through Augusta, Georgia. That way. I asked
14 him, and he said he would also take U.S. 1.

15 Q And he was cooperative with --

16 A Yes.

17 Q -- this chitchat, as well?

18 A Sometimes during the trip I asked him, "Are we on the
19 right road?" It seemed like it was longer and longer.

20 Q At any time because of the information Mr. Heller
21 gave you, did you return to the residence?

22 A We did.

23 Q Before you returned to the residence -- I mean, I'm
24 sorry. When I say residence, I'm referring to the home of
25 Christopher Heller.

1 A That's correct.

2 Q Before you returned to the home -- or back up. Why
3 are you going to go to the home?

4 A Because he had mentioned that he wasn't wearing the
5 ones that he had on, when I asked that question, but they
6 were in his room under his bed.

7 Q At that time did you find it necessary to go back and
8 get those particular tennis shoes?

9 A Yes, because we had left a lot of items there. We
10 didn't have a vehicle big enough to bring back the amount
11 of clothing, I think that it would take, the room in our
12 car. We collected everything.

13 Q Did you obtain consent from the defendant to go back
14 to his home and do so?

15 A Yes, we did.

16 Q Your Honor, at this time I would like to -- I'm
17 sorry.

18 Lieutenant Siniard, if you will look at State's
19 Exhibits number 77 and 78 and share with the jury what
20 each of those documents are like.

21 A Yes. When we discussed about a consent to search
22 your room, we filled it out on a Richland County Sheriff's
23 Department form for a consent to search. Then we thought,
24 well, it would be safer if we had a consent to search from
25 Georgia. So we asked someone from Georgia if we could

1 borrow one of their consent to search forms. They
2 provided it, so it was filled out, actually, on two
3 different forms.

4 Q And did --

5 A Same --

6 Q For the same purpose?

7 A For the same purpose, yes.

8 Q And did Christopher Heller give you consent?

9 A Yes, he did.

10 Q And did he sign those documents?

11 A Yes, he did.

12 Q Did you observe him sign those documents?

13 A Yes, I did.

14 Q He signed both of them?

15 A That's correct.

16 MS. GARFIELD: Your Honor, at this time I would like
17 to offer these exhibits into evidence.

18 THE COURT: Any objection?

19 MR. COLLINS: Let me take a look at them.

20 (Pause).

21 No objection, Your Honor.

22 THE COURT: All right. Seventy-seven and 78 are
23 admitted without objection.

24 (WHEREUPON, State's Exhibits Nos. 77, 78 were
25 admitted into evidence.)

1 BY MS. GARFIELD

2 Q Thank you.

3 When you went back to Christopher Heller's residence,
4 did you obtain the tennis shoes?

5 A We did.

6 Q And was there anything else that Christopher Heller
7 pointed out to you?

8 A Yes. He indicated that -- either pointed or said, "I
9 was wearing that T-shirt, too." So we kept -- we took the
10 T-shirt also.

11 Q So at the second time at the residence, you took a
12 pair of tennis shoes and the T-shirt?

13 A That's correct.

14 Q Did he point out to you the pants he was wearing?

15 A No.

16 Q Did he indicate to you that he knew where the pants
17 he was wearing were?

18 A I don't -- I don't recall any information about
19 pants.

20 Q Would you perhaps refer to your notes and see if
21 that --

22 A Yes.

23 Q -- helps refresh your memory?

24 A Yes. As Heller pointed -- may I?

25 (There was no response).

1 He offered to -- the pants that we were looking for
2 weren't there. We assumed we had packed them, so he
3 offered to show those to us once we returned to Columbia.

4 Q So the pants he said he was wearing the night that he
5 stabbed the people you had already taken into evidence?

6 A That's correct.

7 Q Okay. After you left Mr. Heller's home, where did
8 you all go next?

9 A We returned to the sheriff's office.

10 Q And after that where did you go?

11 A At the sheriff's office we were -- I was trying to
12 keep from staying overnight. I had asked Judge Sears if
13 he could conduct an extradition hearing. If the defendant
14 would waive his extradition, we could possibly take him
15 back to Columbia with us on that trip versus having to
16 come back.

17 Q Did he waive his extradition?

18 A He did.

19 Q At that time, did you travel back to Columbia?

20 A We did.

21 Q And what kind of car were you driving?

22 A A black Crown Victoria.

23 Q And in the car was who?

24 A In the car was Willie Gonzales was in the front seat.
25 Myself, I was driving, and Mr. Heller was in the back

1 right seat.

2 Q At any time did you stop along the way for food?

3 A We did.

4 Q And did you provide food for Mr. Heller?

5 A Yes.

6 Q And once you returned back to Richland County, where
7 did you go?

8 A We immediately went back to the area. I drove down
9 Brookhurst, and then I was asking him if he could just
10 describe the way, when he left the residence, where he
11 went.

12 Q And Brookhurst, that's here in Richland County?

13 A That is, that's correct.

14 Q He was still under advice of rights at this time?

15 A Yes.

16 Q And was he cooperative with telling you -- answering
17 your questions at the time?

18 A Yes, he was.

19 Q And did you get out of the car at Brookhurst?

20 A I don't recall. We drove down Brookhurst, and he
21 indicated he turned right on Percival Road. I turned
22 right, and we drove down several hundred feet.

23 There were two or three areas he may have turned
24 right into, and we finally narrowed it down to one. We
25 turned right. We went up into a small area where there

1 were several trailers, but they were all abandoned.

2 Q And he's telling you where to go?

3 A Yes.

4 Q And he was telling you -- what was he doing while he
5 was -- what was the purpose of this travel?

6 A To get him to show me where he stayed during the time
7 period following the incident until he called Kevin Nails.

8 Q And was he able to show you where he stayed?

9 A Yes.

10 Q And where was that?

11 A It was a small -- and I'm wanting to recall that.
12 It's a brownish trailer. It's a small trailer. It
13 probably had been a one bedroom or a very small two
14 bedroom where both doors are on the same side of the
15 trailer.

16 Q What was the nature of this trailer park where this
17 particular trailer was located?

18 A It was in proximity to K.K. Martin. We were going to
19 look there to see if we could find any evidence that he
20 may have left while he was held up in the trailer.

21 Q Were there any people living in that trailer park?

22 A No. It was completely abandoned.

23 Q And at that time, what did you do after he had shown
24 you these locations?

25 A We returned to the sheriff's office to start our

1 documentation process of it, serving arrest warrants.

2 Q I'm sorry. I forgot to ask you, go back up. Did you
3 ask him to show you where he discarded the knife?

4 A Yes. As we drove along Percival Road, it was quite a
5 distance to where he threw it. Of course, it was on the
6 Fort Jackson side, and that would have been the south side
7 of Percival Road.

8 If you put Percival Road on that east, west, east
9 coming back towards Columbia -- or correction, east going
10 towards Kershaw County or the big garbage landfill or west
11 going towards Columbia or I-77, it would have been on the
12 Fort Jackson side.

13 Q And at that time, is that when you then went to the
14 sheriff's department?

15 A Yes. Well, we drove up. We discussed that, and then
16 we looked for the trailer, thought he had identified it,
17 so we went to the sheriff's office.

18 Q And where is the sheriff's department?

19 A On Two Notch Road.

20 Q And when you got there, what did you do with
21 Mr. Heller?

22 A We parked in the back, and we go straight in to
23 C.I.D.

24 Q You're going to have to tell the jury what C.I.D.
25 means.

1 A I'm sorry, that's Investigations Division, Criminal
2 Investigations Division. I called for someone from the
3 lab to come pick him up for what we call major case
4 prints.

5 Any time you have a major case, a homicide or
6 aggravated assault, you want to get major prints from the
7 suspects when you capture them.

8 That -- when you book someone in jail, you get just
9 the tips of the fingers or the roll of the thumb. In
10 major case prints, we're going to ask for rolls of the
11 full hand.

12 Q Now, there was evidence later in this case, and it's
13 been testified to that some prints were lifted in this
14 case. Are you familiar with that?

15 A Yes.

16 Q And just refresh the jury as to what kind of prints
17 were taken.

18 A Those were latent prints, and I believe they were
19 identified as Mr. Guzman's and Ms. Chavis'.

20 Q So anything that was compared to the defendant did
21 not match?

22 A That's correct.

23 Q But there was -- it was requested?

24 A That's correct.

25 Q After you get the major prints, major case prints

1 from the defendant, what did you do?

2 A We walked -- before we had him transported to the
3 jail, we walked back and opened a couple of the bags we
4 had to see if he could point out those blue jeans.

5 Q And did he do so?

6 A He did.

7 Q And all those items, the tennis shoes, the white
8 shirt, and the blue jeans were taken into evidence?

9 A That's correct.

10 Q And you have been in the courtroom. You know they're
11 this these boxes; is that correct?

12 A That's correct.

13 Q Lieutenant Siniard, he was booked in at that time at
14 the jail?

15 A Yes.

16 Q At any time after that, did you have contact with
17 Christopher Heller?

18 A I did.

19 Q And when did you do that?

20 A On September 4th.

21 Q And do you recall what the nature of going to talk to
22 him then was?

23 A Yes. I wanted to pick him up and bring him back to
24 the Brookhurst area again to see if he could narrow down
25 the area where he threw the knife and back at the trailer

1 again.

2 Q Why did you wait from August 31st to September 4th to
3 do that?

4 A August 31st, I believe, was a Friday. I'll have to
5 look at my math, but it was a Labor Day weekend.

6 Q Did you get him the next day after you went back to
7 work?

8 A Yes.

9 Q And when you went and got him, you went to
10 Brookhurst?

11 A Yes.

12 Q And what did you do at that time?

13 A We did spend very little time where the incident
14 actually occurred. We spent more time down on Percival
15 Road. I had him out of the car.

16 Q And actually, I'm going to stop you because I didn't
17 ask you this question: Did you advise him of his rights
18 again at this point?

19 A I'm sorry. Yes, we did.

20 Q And when did you do that?

21 A At the car prior to asking any questions about
22 whether he may have thrown the knife or hid out.

23 Q Was it just you and him?

24 A Yes, it was.

25 Q And did you go over his rights on that advice of

1 rights form again?

2 A Yes, I did.

3 Q I'm going to hand you what's been marked as State's
4 Exhibit Number three. Do you recognize this document?

5 A Yes, I do.

6 Q And what is that document reflecting?

7 A It's an advisement of rights signed September 4 -- 04
8 -- I mean correction, 09/04/2006 at 15:18 hours, which
9 would have been 3:18 p.m. It's signed by Christopher
10 Heller and witnessed by myself.

11 Q And is that document just like the other document?

12 A Yes.

13 Q The other advice of rights form?

14 A Yes. I, on the other hand, instead of having the
15 defendant initial, a lot of times they're in handcuffs. I
16 don't want to un-handcuff them or give them too much time
17 to start initialing a whole bunch of blocks. As I read
18 it, I'll just check off as we go down the line.

19 Q And did you do so on this form?

20 A I did.

21 Q And did Christopher Heller sign that form?

22 A He did. He was not un-handcuffed. I have a belly
23 chain that gives the right and left hand some flexibility
24 but not a lot. You can't raise your arm up above your
25 chest area.

1 Q Did you witness him sign that form?

2 A Yes, I did.

3 Q And at the bottom, did he again waive those rights?

4 A Yes, he did.

5 Q And did he sign that waiver?

6 A He did.

7 Q And did you observe his signature?

8 A Yes.

9 Q You observed him sign that form?

10 A Yes.

11 Q Did you also sign that form?

12 A I did.

13 MS. GARFIELD: Your Honor, at this time I would
14 introduce State's Exhibit Number...

15 THE COURT: Three.

16 MS. GARFIELD: Three into evidence.

17 THE COURT: Any objection?

18 MR. COLLINS: Beg the Court's indulgence.

19 (Pause).

20 No objection, Your Honor.

21 MS. GARFIELD: Thank you.

22 THE COURT: All right. State's exhibit number three
23 admitted without objection.

24 (WHEREUPON, State's Exhibit No. 3 was admitted into
25 evidence.)

1 BY MS. GARFIELD

2 Q Again Lieutenant Siniard, were any promises made to
3 the defendant?

4 A No.

5 Q Did you coerce him in any way?

6 A No.

7 Q How did he appear to you?

8 A I don't want to say a typical inmate status, but he
9 was cooperative.

10 Q At that time, what did you do?

11 A I had him demonstrate, and I didn't want to
12 un-handcuff him again, of course, but I wanted him to
13 demonstrate how he threw the knife. Did it throw it this
14 way or that way or that away or whatever (indicating).

15 Q Did he do so?

16 A He did.

17 Q And he was able to tell you where he threw the knife?

18 A Yes. I believe I even handed him a small stick,
19 would have been approximately the length, not trying to
20 judge the distance because we didn't have the weight, et
21 cetera, but how you would have thrown it. If it had been
22 this area right here, how you threw it, it was kind of
23 like an overhandled toss.

24 Q Was he able to give you the exact location of where
25 he threw it?

1 A No.

2 Q Where was he able to tell you where he threw it?

3 A We were -- we narrowed it down between a pump house
4 and a 45 mile per hour sign, and there were still several
5 feet.

6 Q About how long would you estimate that distance to
7 be?

8 A The total distance between the trailer and the
9 abandoned trailer was 2,069 feet.

10 Q Lieutenant, I'm not a metric person. Can you tell us
11 about how far that is?

12 A And neither am I. I believe it's 5,000 some feet to
13 a mile, because I used to live in Denver, but it's -- that
14 would have been approximately a little bit less than half
15 a mile.

16 Q That's between the incident location and the
17 abandoned trailer?

18 A Yes.

19 Q So somewhere along Percival Road between those
20 distances is where he tells you he threw the knife?

21 A That's correct.

22 Q Were you able to make any kind of sketch to help you
23 remember this for court today?

24 A I did.

25 Q Do you have that sketch with you in your notes?

1 A I don't have it in my notes here, no. I have it.

2 Q At the table?

3 A Yes.

4 Q I just happen to have it enlarged.

5 A That's good.

6 Q Would that help you explain it to the jury?

7 Your Honor, may the witness step down?

8 THE COURT: Yes, ma'am.

9 BY MS. GARFIELD

10 Q I show you State's Exhibit Number 79, having been
11 marked for evidence. Do you recognize this?

12 A Yes, I do.

13 Q And what is this?

14 A It's a map I pulled up from Microsoft maps of the
15 general area trying to get the target area and the center
16 of the map.

17 It's a map I drew from what the defendant was telling
18 me about his travels from the time he left the incident
19 trailer to the abandoned trailer and then where he went to
20 call Kevin Nails.

21 Q If you can just explain to the jury using the map to
22 aid you --

23 A Yes.

24 Q -- what Mr. Heller told you he did.

25 A This right here is Brookhurst. Some of you may be

1 familiar with Alpine Road. Little Pigs is right in there.
2 This is all Fort Jackson area over here.

3 This would have been Ms. Chavis' trailer. He said he
4 came out of that trailer, came down to Percival Road and
5 that he actually crossed over on the -- we call it the
6 Fort Jackson side.

7 He ran along this way. He got up in this area, and
8 he turned into this abandoned mobile home park. There
9 were like two lanes that had gone through this mobile home
10 park connecting with Old Percival Road and Percival Road.

11 There he indicated the trailer. The back door was
12 partially still open. That's where he stayed. He stayed
13 in the back part of that trailer right after the incident
14 until it got dark that next evening.

15 He came out of the trailer, went back down on
16 Percival Road and continued on until he came to Marlbine
17 (phonetic) and went there and knocked on the door and
18 asked to use the telephone.

19 Then Mr. Nails, in his testimony, said he picked him
20 up at a stop sign. He never could narrow that down as to
21 who the lady was he called or where the stop sign exactly
22 was.

23 I didn't take him back down this way. We primarily
24 stayed right in here.

25 Q And did he show you where the knife was thrown?

1 A Yes. We narrowed it down to this area that would be
2 here, right about there here, and we searched that with
3 the day.

4 Q How long of an area is that?

5 A That would have probably been -- I don't know, maybe
6 a quarter-of-a-mile or less.

7 Q And that was the area he knew. He just didn't know
8 the exact location?

9 A Yes. This area here is a ditch with trees. Then it
10 opens it up. This is a power line run back here. The
11 weeds in that are probably waist high.

12 Q That -- when you're describing the weeds is where he
13 indicates he threw this?

14 A Yes. Without knowing that he really threw it over
15 here, or it was just a little bit and it was under leaves,
16 we just never could find the knife.

17 Q And with that -- go ahead and take your seat.

18 Your Honor, at this time, I'd move State's Exhibit
19 Number 79 into evidence.

20 THE COURT: Any objection?

21 MR. COLLINS: No objection.

22 THE COURT: All right. 79 admitted without
23 objection.

24 (WHEREUPON, State's Exhibit No. 79 was admitted into
25 evidence.)

1 BY MS. GARFIELD

2 Q Lieutenant, you said you went and looked for the
3 knife?

4 A I did.

5 Q And was it just you going to look for it?

6 A I looked for it on one occasion, and I asked for
7 volunteers from the investigators. We all went back
8 another time and looked for it.

9 Q And this was in August.

10 A That's --

11 Q Oh, I'm sorry, September.

12 A September, yes.

13 Q And were you ever able to locate that knife?

14 A We were not.

15 Q What were the conditions like when you looked for it?

16 A Red bugs or chiggers. They were eating on us before
17 we could get out of there. Normally you don't find those,
18 I think, until several hours after you're out of the
19 woods. Before we got out of there, we were being eaten.

20 Q Why didn't you use any metal detectors?

21 A Very -- as close as we were, the weather hadn't been
22 too bad. We could find it laying on the top of the area
23 versus down in there.

24 Q Is this particular area heavily littered?

25 A Yes, it is.

1 Q Did you ever have the opportunity to go to that
2 trailer that Mr. Heller pointed out that he stayed in?

3 A I did.

4 Q And what did you do at the trailer?

5 A I completely photographed it inside and out.

6 Q And do we have those photographs?

7 A No, we don't.

8 Q Why not?

9 A I had downloaded -- just to give you a history about
10 the photograph, I had taken all of the photographs on a
11 camera.

12 I applied for a job at S.L.E.D. and applied for my
13 retirement at the same time. November 3rd -- I was
14 planning on retiring at the end of December. November 3rd
15 I caught a triple homicide.

16 You see where your priorities are shifting in these
17 other areas, but I had these -- my intentions were to
18 download them on the regular photographic board and set
19 them up so they'd be ready to go.

20 I kept waiting and kept waiting until it was time for
21 me to transfer over, and I had to download those on my
22 home computer so I could save them. It was right after
23 that my C drive crashed.

24 Q So you never had the opportunity to retrieve them?

25 A No, I did not.

1 Q And that just happens?

2 A Yes.

3 Q Did you ever have the opportunity to view any tattoos
4 on the defendant's body?

5 A Yes, I did.

6 Q And when did you do that?

7 A We returned to the sheriff's office, and I asked him
8 if he had tattoos. He showed me the tattoos he had.

9 Q What kind of tattoos were they?

10 A On his chest area under -- right under his chest
11 area, he had "made man".

12 Q Made man?

13 A Yes.

14 Q Did he have any tattoos on his arms?

15 A He did. On one arm, he had -- I believe it was like
16 three money signs, and then under that "my eyes only" but
17 the eye is a drawing of an eye with an apostrophe "s",
18 something to that effect.

19 Q At any time did you report -- well, as an
20 investigator, you knew that quite a large amount of items
21 had been taken into evidence.

22 A Yes.

23 Q And at any time, did you request D.N.A. to test any
24 of these items?

25 A Yes.

1 Q And when did you do that, about when?

2 A About on October 5th we had what was called a
3 homicide case review.

4 Q Do you know when the first real analysis was done?

5 A I have no idea on that.

6 Q And when did you leave the sheriff's department?

7 A I had a medical leave starting December 19th, and
8 from there I retired out.

9 Q And then you went on to S.L.E.D. --

10 A Not connected to the medical leave. That was just
11 for surgery and for the sick days I took following my
12 surgery, and then I had retirement, and then I transferred
13 over to S.L.E.D.

14 Q Did you keep your eye on this case after you left for
15 S.L.E.D.?

16 A I did.

17 Q Primarily how?

18 A I've got my copies of everything on all the homicides
19 I had done. I have those in my office now at S.L.E.D.

20 Q Did you keep regular contact with the Solicitor's
21 Office?

22 A Periodically we would call and ask, "Has it gone to
23 the grand jury? Has it not gone? Have you taken it to
24 the grand jury? Do you want me to take it?" Et cetera.

25 Q Lieutenant Siniard, the person that told you quote,

1 "I just started stabbing the people," do you see him in
2 the courtroom today?

3 A Yes, I do.

4 Q Can you identify him for the record?

5 A Yes. He's at the defense table, the defendant in
6 this case, Mr. Heller. He's wearing a white shirt.

7 Q Thank you. Beg the Court's indulgence.

8 (Pause).

9 Just a couple more questions.

10 Lieutenant, when you took Mr. Heller into custody in
11 Georgia, you indicated he was patted down for weapons.

12 Was any kind of pocketknife found on him?

13 A No.

14 Q And at the time when you're on your way to Georgia,
15 you had a couple of conversations with Ms. Chavis,
16 correct?

17 A That's correct.

18 Q Had Ms. Chavis at that time provided you any details
19 of the assault other than descriptions?

20 A Other than her just -- just the man started stabbing
21 her and wouldn't stop.

22 Q And that's the extent of what she had told you?

23 A Yes.

24 Q She was still in the hospital at that time?

25 A Yes.

1 Q And when you indicated that you talked with Bille
2 Joe, Ms. Risinger, did she ever tell you who was attacked
3 first?

4 A I'm not sure. I'd have to review her statement.

5 Q But the defendant told you in his statement that he
6 attacked the lady first?

7 A Yes.

8 MS. GARFIELD: Thank you, Lieutenant Siniard. No
9 further questions.

10 THE COURT: All right. Madam Forelady, ladies and
11 gentlemen of the jury, we'll take a short break at this
12 time. If you need anything, please let the bailiff know.
13 We'll get you back in ten minutes. Let everyone stretch.

14 (WHEREUPON, the jury left open court at approximately
15 12:15 p.m.)

16 THE COURT: Lieutenant Siniard, during the break
17 don't discuss your testimony with anybody.

18 THE WITNESS: Yes, sir.

19 THE COURT: Thank you very much. We'll take about a
20 ten minute break.

21 (WHEREUPON, a short break was taken.)

22 THE COURT: Let me see. Where were we?

23 MS. FENT: I think waiting for cross.

24 THE COURT: I missed you. I was looking for you over
25 there. You're already on the witness stand.

1 Are you ready for cross-examination?

2 MR. COLLINS: Yes, Your Honor. Do you want me to
3 push all the way through it or were you going to break?

4 THE COURT: Let's see how far we go.

5 MR. COLLINS: Okay.

6 THE COURT: How long do you think you'll be?

7 MR. COLLINS: It's kind of hard to quantify at this
8 point.

9 THE COURT: Okay. Bring us a jury, please.

10 (WHEREUPON, the jury came into open court at
11 approximately 12:37 p.m.)

12 THE COURT: All right. Cross-examination, please.

13 MR. COLLINS: Thank you, Your Honor.

14 CROSS-EXAMINATION:

15 BY MR. COLLINS

16 Q Now, Investigator Siniard, I just want to start off
17 with Ms. Garfield asked you -- or said that before you got
18 the statement from Mr. Heller, you didn't have any
19 information about the knife in the case, correct?

20 A Had the identification of the knife? No.

21 Q Didn't have anything, and you have sworn to tell
22 there truth here today?

23 A Yes, sir.

24 Q Do you remember turning in an affidavit for a search
25 warrant in Georgia?

1 A I remember signing an affidavit for a search warrant
2 in Georgia, yes, sir.

3 Q Signing it to be the truth?

4 A Yes, sir.

5 Q Do you remember exactly what's in that affidavit?

6 A It's a summary of the case.

7 Q If I showed it to you, would it refresh your memory?

8 A Yes, sir.

9 Q And specifically, I'll direct you to the second page.
10 Did you read out the information about the knife on that
11 affidavit on the second page?

12 A Well, the weapon was described by the autopsy
13 pathologist as being extremely sharp, at least a four-inch
14 blade?

15 Q Yes. And you signed that document on August 31st, at
16 10:30 in the morning, correct?

17 A Yes, sir.

18 Q Which would be a full three hours before the
19 statement of Mr. Heller, correct?

20 A Yes, sir.

21 Q Thank you.

22 Now, as an investigator, your job is to go out and
23 collect as much evidence as you can find, correct?

24 A Overall, yes, sir.

25 Q You want to interview witnesses?

- 1 A Yes, sir.
- 2 Q You want to check out crime scenes?
- 3 A Yes, sir.
- 4 Q You want to check people's stories?
- 5 A If at all possible, yes, sir.
- 6 Q You want to take notes as you go?
- 7 A Yes, sir.
- 8 Q And then you go back and you write reports from those
- 9 notes?
- 10 A Yes, sir.
- 11 Q You want to keep those reports accurate, correct?
- 12 A Yes, sir.
- 13 Q Complete?
- 14 A Yes, sir.
- 15 Q And thorough?
- 16 A Yes, sir.
- 17 Q And you wrote a report in this case, correct?
- 18 A I did.
- 19 Q Took detailed notes in this case?
- 20 A Yes, sir.
- 21 Q What you did?
- 22 A Yes, sir.
- 23 Q On the dates you did it.
- 24 A Yes, sir.
- 25 Q You even put the times you did it.

1 A Yes, sir.

2 Q Now, there's nothing in your notes about any crack
3 recovered from the crime scene either, is there?

4 A No, sir.

5 Q Now, I want to take you back -- we'll start from the
6 beginning in your notes, August 25th, okay. You had to go
7 seek out Bille Joe Risinger, correct?

8 A Once we found out who she was, yes.

9 Q And you had to go call her?

10 A Yes, sir.

11 Q She didn't call you.

12 A No, sir.

13 Q She tells you her version of the events?

14 A Yes, she does.

15 Q She's not very forthright with you from the
16 beginning, is she?

17 A Most people in her predicament aren't forthright with
18 you, no.

19 Q So you actually had to show her some evidence that
20 you knew she knew more before she revealed it, correct?

21 A I'm not aware of showing her any evidence.

22 Q Okay. Or tell her some information that you had?

23 A No, sir. She may have been asked was she at that
24 trailer during that time period and see what her response
25 was, yes, sir.

1 Q And you want to get as many details as you can out of
2 her, correct?

3 A That's correct.

4 Q She is the one person that you know at this point
5 that was there?

6 A That's correct.

7 Q You want to get things she saw, correct?

8 A Yes, sir.

9 Q The sequence of the events?

10 A Yes, sir.

11 Q Because you need to be heard -- you need her to be as
12 specific as possible.

13 A Yes, sir.

14 Q Because you want to try to catch this person that did
15 it, right?

16 A I want her to be as specific as she will be with me,
17 yes, sir.

18 Q And you took notes of things she told you?

19 A Yes, sir.

20 Q And she -- actually typed up a statement for her,
21 correct?

22 A That's correct.

23 Q And in your notes -- or in her statement, she put
24 that "Chino left to go get the phone for me."

25 A I don't have her statement in front of me.

1 Q If I showed you a copy, would it refresh your memory?

2 A Yes, sir.

3 (Pause).

4 Yes, sir.

5 Q So Chino left to go get the phone for her, correct?

6 A Yes, sir.

7 Q She heard a knock at the door, correct?

8 A Yes, sir.

9 Q Heard a commotion, correct?

10 A "I was in Deanna's bedroom when I heard a commotion,
11 and it scared me."

12 Q And it scared her. And then as you move along,
13 there's -- in there what she said Deanna said to her,
14 correct?

15 A "I turned the lock and locked the bedroom door. I
16 then crawled under a bed, saw a hatchet, et cetera, et
17 cetera."

18 Q And she said what Deanna said to her as she stepped
19 over Deanna.

20 A "Deanna asked me to lock her bedroom door."

21 Q And in her statement, she said she told Miguel to
22 call the police?

23 A Yes, that's correct.

24 Q And then she said she flagged Kevin down.

25 A She ran to the stop sign, flagged him down, yes, sir.

1 Q And she didn't initially disclose who Kevin was in
2 the beginning.

3 A Pardon?

4 Q She didn't initially disclose who Kevin was in the
5 beginning, though, right?

6 A She uses Kev or Country.

7 Q Okay. Now, there's no mention of any voice that she
8 heard at the door of the trailer during the attack, is
9 there?

10 A No, sir.

11 Q There's no description of a voice she heard at the
12 door of the trailer that night either?

13 A Or letting her talk.

14 Q And there's nothing in there about a voice in your
15 notes either?

16 A No, sir.

17 Q Now, you're done with the statement, aren't you? Let
18 me take that for you.

19 Now, throughout your investigation, you figured out
20 what Kevin Nails' phone number was, right?

21 A Yes, sir.

22 Q And you actually got a search warrant to get his
23 phone log, correct?

24 A Yes, sir.

25 Q And from your investigation, you also figured out a

1 phone number from the trailer park, right?

2 A I'm not sure who figured that one out, if there was
3 one figured out, yes, sir.

4 Q You're the lead investigator in this case, right?

5 A That's correct.

6 Q That means you supervise all the other investigators
7 working on this case?

8 A Not necessarily on everything that's going on, no.

9 Q You're in charge of the investigation.

10 A I'm in charge of the investigation.

11 Q If there's a witness to a crime, you would know about
12 it.

13 A I would hope so, but that's not the case in every
14 case.

15 Q And you have a case jacket on this. You still keep
16 case jackets --

17 A Yes.

18 Q -- even at S.L.E.D. now?

19 A Yes, sir.

20 Q And you turned it over to the Solicitor's Office?

21 A Yes, sir.

22 Q And they, in turn, turn it over to the defense?

23 A That's correct.

24 Q So the case jacket in this case at one time was in
25 your possession, though, right?

- 1 A That's correct.
- 2 Q And that includes the reports from the investigators,
3 right?
- 4 A Correct.
- 5 Q And the statements given by all witnesses
6 interviewed?
- 7 A That's correct.
- 8 Q Even the ones that haven't come here and testified
9 today?
- 10 A That's correct.
- 11 Q And it's your job to review that to make sure that
12 the investigation is going in the right direction?
- 13 A Yes, sir.
- 14 Q Now, you talked about you got a team to go to a
15 community knock at the trailer park, right?
- 16 A That's correct.
- 17 Q Raphael Gonzales?
- 18 A That's correct.
- 19 Q And he actually went and spoke with a Miguel Olvera,
20 correct?
- 21 A Yes, sir, I think so.
- 22 Q And got a written statement from Miguel Olvera?
- 23 A Someone took a statement from him, yes, sir.
- 24 Q And Miguel Olvera is Mechanic's roommate, correct?
- 25 A I think so, yes, sir.

1 Q And in the statement, Miguel Olvera talks about
2 seeing a man run from the trailer?

3 MS. GARFIELD: Objection, Your Honor, hearsay.

4 MR. COLLINS: I'm asking as far as the direction of
5 the investigation, Your Honor, not for the truth of the
6 matter.

7 MS. GARFIELD: Your Honor, it is for the truth of the
8 matter.

9 THE COURT: I'll sustain the objection.

10 BY MR. COLLINS

11 Q You learned from your investigation that there was a
12 witness in this case, correct?

13 A Yes, sir.

14 Q Named Miguel Olvera?

15 A There was a statement taken from Mr. Miguel.

16 Q And one of the suspects developed was a skinny man
17 running from the trailer, correct?

18 MS. GARFIELD: Objection, Judge.

19 THE COURT: What's your legal objection?

20 MS. GARFIELD: He's basing his question on hearsay.

21 THE COURT: I'll sustain the objection.

22 MR. COLLINS: Your Honor, there is State v. Thompson.

23 There's a case where you're allowed to get into the
24 direction of an investigation.

25 THE COURT: I understand that, but you're not allowed

1 to get in all the hearsay and try to come in the back door
2 for hearsay.

3 You first asked him what did he say. Now, you're
4 trying to ask him different to sustain the hearsay.
5 That's the basis of the -- sustaining the objection.
6 Please proceed.

7 BY MR. COLLINS

8 Q You obtain a phone number for Miguel Olvera, correct?

9 A I have not obtained anything from Miguel. Someone
10 else took that statement and --

11 Q And someone else got a search warrant for that?

12 A They -- they could have, yes, sir.

13 Q And that would be in the case jacket?

14 A That would, yes, sir, if a search warrant was
15 conducted.

16 Q You looked through your case jacket, haven't you?

17 A I didn't -- Miguel, in that statement, was not of
18 particular interest to me at the time I was doing the
19 first week or two of this investigation, no, sir.

20 Q You were aware that an E.M.S. worker saw a Hispanic
21 man with the victim when he arrived, correct?

22 A That's correct.

23 Q That --

24 A That whole trailer park is populated with Hispanics,
25 yes, sir.

1 Q And you -- your testimony here today is that you
2 weren't concerned with a person who was a witness to a
3 murder.

4 A I was concerned. That wasn't -- I didn't handle that
5 part of it. There was no lead developed that I personally
6 wanted to follow up on concerning Mr. Miguel.

7 Q You didn't want to follow up on a skinny man.

8 MS. GARFIELD: Objection, Judge. It's hearsay.

9 THE COURT: Overruled, go ahead.

10 BY MR. COLLINS

11 Q You didn't want to follow up on a skinny man.

12 A I personally didn't follow up on a skinny man, no,
13 sir.

14 Q Thank you.

15 And you personally haven't reviewed the phone records
16 that were --

17 A I --

18 Q -- that were subpoenaed in this case?

19 A I've looked over the phone records. I haven't
20 personally purged every line, no, sir.

21 Q You have two different phone numbers that were
22 subpoenaed, correct?

23 A Yes, sir.

24 Q One from Kevin Nails.

25 A Yes, sir.

- 1 Q And one from the trailer park.
- 2 A Yes, sir.
- 3 Q And you haven't personally looked at them?
- 4 A I have looked at them. I have not purged every line
- 5 in the subpoena, no, sir.
- 6 Q Okay. And phone record for Kevin Nails, correct --
- 7 A That's correct.
- 8 Q -- you had that in your possession?
- 9 A Uh-huh.
- 10 Q You just testified on direct that you were aware that
- 11 Christopher Heller called his cousin, correct?
- 12 A That's the statement I had taken from him.
- 13 Q That --
- 14 A They called.
- 15 Q I'm sorry, from a lady's house?
- 16 A That's correct.
- 17 Q And you just told this jury that you weren't able to
- 18 determine who that lady was.
- 19 A We looked for that lady. We went down the phone
- 20 records. We made several calls from the phone numbers,
- 21 and we did not come up with that lady, no, sir.
- 22 Q So you did look at the phone records and investigate
- 23 the phone records?
- 24 A During that time, yes, sir, but we didn't purge
- 25 everything. There were several pages to that subpoenaed

1 record.

2 Q Two pages regarding the incident date.

3 A And we narrow it down to the exact time from what the
4 defendant or any other witness says in their statement,
5 yes, sir.

6 Q And one of those calls would have been at 3:27 in the
7 morning.

8 A We don't know the exact time.

9 Q There's not an exact time from the phone records?

10 A What phone calls, specifically, are you talking about
11 at 3:27?

12 Q You --

13 A I don't have the -- I don't have the subpoenaed
14 records in front of me, sir.

15 Q Okay. We'll just move along.

16 Now, as part of your investigation team, you had
17 Investigator Godfrey doing work for you?

18 A Our -- we have 80 investigators, or they did have
19 when I was at the sheriff's office. A lot of those
20 investigators are doing different things during this
21 period of time.

22 Q You had Investigator Godfrey working for you on this
23 case?

24 A Investigator Godfrey -- not working precisely for me
25 taking a command from me but maybe from Captain Smith or

1 Lieutenant McDonald, who were my superiors, yes, sir.

2 Q And he wrote a report about what he did in this case,
3 right?

4 A Godfrey, yes, sir.

5 Q And it was in your case jacket?

6 A That's correct.

7 Q Investigator Ewing at the time was working with you
8 on this case, correct?

9 A That's correct.

10 Q And he wrote a report.

11 A That's correct.

12 Q And it was in your case jacket?

13 A Yes, sir.

14 Q Investigator Kevin Baker was working with you on this
15 case.

16 A That's correct.

17 Q And he wrote a report.

18 A That's correct.

19 Q And it was included in the case jacket.

20 A Yes, it was.

21 Q And these were some of the people that were on the
22 team that went out and interviewed witnesses, correct?

23 A That's correct.

24 Q And none of them have been in this courtroom this
25 week, have they?

1 A No, sir. I haven't seen them.

2 Q Investigator Godfrey came in contact with witnesses,
3 correct?

4 A That's correct.

5 Q He got a statement from a witness.

6 A He did.

7 Q You got information that a neighbor saw somebody
8 fitting the description of the suspect, correct?

9 A That's correct, and I did a follow up with that
10 neighbor, and he denied everything.

11 Q Denied everything as in denied his statement?

12 A He denied what he -- the information he gave to
13 Investigator Godfrey.

14 Q The written statement that he signed was true?

15 A I -- I didn't follow up on his written statement with
16 him that he gave Godfrey. I followed up with him after
17 Godfrey's statement, and he didn't -- said he didn't tell
18 the truth to Godfrey.

19 Q And that's not mentioned in your notes, is it?

20 A It could not have been.

21 Q It's not in your notes, is it?

22 A May I check?

23 Q Take your time.

24 (Pause).

25 A Yes. On September 11th, 2006 at 15:20 hours I met

1 with a Mark Hornsby, I believe you're referring to, at the
2 Shell Station.

3 He wouldn't met me at his residence on Percival Road
4 and East Boundary. Hornsby had reported to Investigator
5 Godfrey that a black male wearing a white T-shirt came to
6 his door around three a.m. on August 25th, 2006 asking to
7 use the telephone.

8 Hornsby denied and asked the male -- denied that and
9 asked the male to leave. I presented Hornsby with a
10 photographic lineup which he couldn't identify to anyone.

11 Q And he didn't see any blood or injuries on the black
12 male?

13 A That's all the information he provided me with, yes,
14 sir.

15 Q Okay. And that he didn't want to cooperate after
16 that?

17 A I had no contact with him after that, no, sir.

18 Q To your knowledge, he's part of the drug community
19 around that trailer park?

20 A If you work in those areas, sometimes people are
21 reluctant to talk to law enforcement, yes, sir.

22 Q Now, in doing your investigation you try to figure
23 out the sequence of events throughout the night, correct?

24 A We try the best we can, yes, sir.

25 Q You get information from the different witnesses,

1 correct?

2 A That's correct.

3 Q You want to -- and during this investigation, from
4 witnesses, you determined that Mr. Gustavo Hernandez
5 stumbled out of the trailer, correct?

6 A Yes, sir.

7 Q And you determined that an individual was seen
8 running out of the trailer before Mr. Guzman Hernandez
9 came out of the trailer, correct?

10 A There may have been mention of that, yes, sir, by
11 someone I haven't spoke with.

12 Q It may be in a statement.

13 A May be in someone else's statement, yes, sir.

14 Q That's in the case jacket you have?

15 A Yes, sir.

16 Q That's part of the investigation you're in charge of?

17 MS. GARFIELD: Objection, Judge, hearsay.

18 THE COURT: Overruled. Go ahead.

19 BY MR. COLLINS

20 Q That's part of the investigation you're in charge of?

21 A That's correct.

22 Q Okay. Let's move on to your conversations with Mary
23 Chavis.

24 A All right, sir.

25 Q August 27th, 2006, three p.m., very specifically in

1 your notes. That was your first talk with her, right?

2 A Yes, sir.

3 Q It was in the hospital?

4 A That's correct.

5 Q After she had had three surgeries, correct?

6 A I couldn't tell you how many she had. She was in the
7 Intensive Care Unit.

8 Q In I.C.U. with I.V.'s hooked up to her.

9 A Yes.

10 Q Obviously medication in her?

11 A That's correct.

12 Q And you wanted to get as many details as you can
13 without going overboard, right?

14 A Yes, sir.

15 Q You testified you don't want to just go in there and
16 say, "What happened? Who did this?"

17 A That's correct.

18 Q You want to build up a rapport?

19 A I -- I had met Ms. Chavis on a previous case for
20 about ten minutes. I didn't know if she knew me or not.

21 Q So you want to get as many details as you can from
22 her.

23 A I didn't necessarily go in there to get as many as I
24 could. I was hoping to get some, yes, sir.

25 Q Because you wanted to find out who did this.

1 A Yes, sir.

2 Q And you want to know has much as you can about this
3 case.

4 A That's correct.

5 Q Now, let's move to the -- and you took notes about
6 what you and her talked about on that date, correct?

7 A Yes, sir.

8 Q Now, let's move to the next day, August 28th. This
9 is again three p.m., correct?

10 A Yes, sir.

11 Q You met with Ms. Goff and Ms. Chavis. This was
12 composite drawing day, right?

13 A Yes, sir.

14 Q And again, you're trying to get details about what
15 the suspect looked like.

16 A Yes, sir.

17 Q You want to get even more details about what happened
18 at the crime scene, correct?

19 A Yes, sir.

20 Q You want to get as much information as you can out of
21 it at that point, right?

22 A At this visit it's not an interview for me but more
23 for Ms. Goff to do a composite, yes, sir.

24 Q And after she completed the composite, you met with
25 Ms. Goff and Mary Chavis after that, correct?

1 A After the composite I met with Ms. Goff and retrieved
2 a copy of the composite.

3 Q And you got information that at that point what you
4 have in your notes is that Tracy brought a black male to
5 her trailer, correct?

6 A Yes, sir. I probably met with Ms. Chavis a few
7 moments before Ms. Goff arrived at the --

8 Q And in it it says that he left and immediately came
9 back and started cutting her, correct?

10 A Yes, sir.

11 Q There's no mention in your notes of Chino from your
12 conversations with Mary Chavis, is there?

13 A No, sir. I don't believe I asked Ms. Chavis anything
14 about Chino. I didn't know if she knew he was deceased or
15 not.

16 Q There's no mention of a guy running back into the
17 trailer with his shirt off, is there?

18 A Oh no, sir.

19 Q There's no mention of watching a man walk to a
20 neighborhood's house and walk back through her den window,
21 is there?

22 A No, sir. That -- my time with her spent that period
23 of time was not to get details like that.

24 Q There is mention anywhere in your notes of creepy
25 behavior by a man hanging out at the trailer?

1 A No, sir.

2 Q There is no mention of any money exchanged by anybody
3 in her trailer?

4 A No, sir.

5 Q There's no mention of any crack exchanged by anybody
6 in her trailer?

7 A Not when I spoke with Ms. Chavis at the hospital, no,
8 sir.

9 Q And nowhere in your notes is there any mention of
10 that from her?

11 A That's correct.

12 Q And your notes span the whole investigation?

13 A Yes, sir.

14 Q And you -- a written statement was never done with
15 her?

16 A That's correct.

17 Q The lone eyewitness, and that was your last contact
18 with her.

19 A That could have been, yes, sir.

20 Q Until this week.

21 A That -- I may have saw her at a bond hearing
22 previously, yes, sir.

23 Q Okay. Now, let's skip -- take -- let's go to
24 August 31st. Let's talk a little bit about this trip to
25 Baxley, Georgia.

1 A Okay.

2 Q You just mentioned at the beginning the search
3 warrant was signed about 10:30, right?

4 A Yes, sir.

5 Q And it included an affidavit that you authored,
6 right?

7 A (There was no response).

8 Q Right?

9 A What was the last part?

10 Q The search warrant included an affidavit that you
11 authored, right?

12 A Yes, sir.

13 Q When I saw authored, I mean you signed it and swore
14 it was true.

15 A We had sent them down a copy of that, and they made a
16 copy for the judge, yes, sir.

17 Q You had sent it the day before?

18 A I don't remember exactly when. It could have been
19 the evening before.

20 Q Okay. And in that affidavit is when you talk about a
21 very short blade.

22 A Yes, sir.

23 Q At least four inches in length?

24 A Yes, sir.

25 Q From information that you gained from the autopsy

1 pathologist.

2 A Yes, sir.

3 Q Now, once you got the search warrant and everything,
4 you assembled the team at headquarters, right?

5 A The sheriff did, yes, sir.

6 Q You had a safety meeting to discuss each person's
7 role.

8 A That's correct.

9 Q You piled into a van with a bunch of Georgia
10 officers.

11 A I did.

12 Q Investigator Gonzales got in a car behind the van.

13 A Yes, sir.

14 Q Roughly seven to ten officers total?

15 A Yeah, seven or ten vehicles, yes, sir.

16 Q Seven or ten vehicles now?

17 A Yes, sir. It was several vehicles.

18 Q Several vehicles?

19 A Yes, sir.

20 Q Okay. Seven to ten officers or seven to ten
21 vehicles?

22 A No. It was seven to ten officers and vehicles.

23 Q So each officer was driving their own vehicle?

24 A There were several officers driving vehicles. There
25 were five or six in the van.

1 Q Okay. So if we have six or seven vehicles, at least
2 six or seven officers plus five or six?

3 A You initially have a group of people go into the
4 search warrant. Once it's secured, you rapidly downsize
5 your force.

6 Q So you arrive at the house with a van?

7 A That's correct.

8 Q They pile out, and you talked about how you -- they
9 had a no-knock warrant, and they went right in the house.

10 A Yes, sir.

11 Q And you covered the perimeter?

12 A Yes, sir.

13 Q The house gets cleared, and you walked in?

14 A Yes, sir.

15 Q You want to know where is Christopher Heller's room?

16 A Yes, sir.

17 Q Find out the mother was in there, right?

18 A Yes, sir.

19 Q And his fiancée?

20 A There was another female, yes, sir.

21 Q Okay. And you go and start recovering clothes.

22 A I was pointed to where Christopher Heller's room was
23 and myself and a Baxley -- or Appling County detective
24 walked in the room with me, yes, sir.

25 Q And then you also recovered clothes from his

1 brother's room?

2 A Yes, sir.

3 Q And bagged as evidence in this case?

4 A Yes, sir.

5 Q And you actually served the search warrant on his
6 mother, correct?

7 A I could have. I -- do you ever the search warrant in
8 front of you? Does it say --

9 Q If you don't remember it, that's okay, but you were
10 aware she was there?

11 A There were a lot of things going on. I could have
12 served it. They could have served it. I think they would
13 have served it. My signature would have been on the
14 affidavit of that search warrant.

15 Q You were aware she was there?

16 A Yes, sir, fully aware.

17 Q And you were aware she was taken back to headquarters
18 when the team went back to headquarters?

19 A I was informed by, I believe, the detective that was
20 helping me search the room that the sheriff had had them
21 taken into custody.

22 Q Taken into custody as in being booked?

23 A They were taken into custody.

24 Q So you were aware of that before you ever got back to
25 headquarters?

1 A There's true.

2 Q You go back to headquarters and you're all there for
3 what, an hour or two?

4 A I don't know how long it was. Investigator Gonzales
5 and I had a -- we had a snack they had purchased, and I
6 gave them right at \$100 for the sheriff to take his men to
7 a restaurant.

8 Q And you guys were hanging out talking?

9 A We were in the canteen just talking, yes, sir.

10 Q Okay. And then Christopher Heller comes and turns
11 himself in?

12 A We received information that he had called, and he
13 was going to turn himself in.

14 Q So he became aware that you guys were looking for
15 him?

16 A Yes, sir.

17 Q Because he called you?

18 A The sheriff had deputies that -- going to other
19 family member's homes.

20 Q And Baxley is a small town?

21 A Yes, sir, they knew. Everybody knows his family.

22 Q Everybody knows everybody?

23 A I would assume, yes, sir.

24 Q And you testified when Heller came in, he was patted
25 down.

1 A Yes, sir.

2 Q And handcuffed?

3 A He's put in a belly chain. If you're familiar with
4 the belly chain, it's a chain that goes around the waist.
5 We'll tighten it up just enough so they can't pull up,
6 maybe stick it into a belt loop. Then it has a handcuff
7 on each side of the arm.

8 The arm is free to move. If it's a male, they can go
9 to the restroom by themselves or they're going to have to
10 have assistance. You're going to have to take off the
11 handcuff when they go to the restroom.

12 Q Called shackles, right?

13 A That may be an old term.

14 Q Okay.

15 A It's a belly chain in current terminology, and we put
16 leg irons on him also.

17 Q So belly chain and leg irons.

18 A Yes, sir.

19 Q And you isolate him in a -- in a private office?

20 A We asked for a private room to interview him in, yes,
21 sir.

22 Q Just you, correct?

23 A Yes, sir.

24 Q Gonzales?

25 A Yes, sir.

1 Q And Mr. Heller and his shackles?

2 A That's correct.

3 Q No video camera?

4 A No, sir.

5 Q No audio camera -- I mean, no audio device?

6 A That's correct.

7 Q Nobody from Georgia sitting in the room?

8 A No.

9 Q We've heard some testimony. You've been in here.

10 There's a policy that Richland County does not videotape
11 statements in interviews?

12 A Yes, sir.

13 Q Correct?

14 A Yes, sir.

15 Q And I believe Mr. -- he said something about budget
16 reasons, correct?

17 A I'm not familiar with why exactly they do it. It
18 dates back quite a long time ago.

19 Q And they paid for your trip to Baxley, Georgia,
20 didn't they?

21 A Who did?

22 Q The sheriff's department.

23 A I was in a sheriff's -- I was in my assigned
24 sheriff's department car when I went.

25 Q And you turned your receipts in for the food, too?

1 A Yes. The food, on a trip like that, the county does
2 pay for your food.

3 Q So your trip is paid for.

4 A Well, yes.

5 Q Okay. And you testified that the time on the advice
6 of rights form was 1:31 p.m.

7 A Yes, sir.

8 Q And the time on the statement is 1:30 p.m.

9 A Yes, sir. That was taken from the right bottom of
10 the computer. If I'm doing a statement, that's where I
11 take the timeframe.

12 Q And you read the statement into the record. I think
13 it took you, I was counting, about six minutes to read the
14 whole statement, right?

15 A I wasn't counting.

16 Q It's no longer than ten minutes. You can agree with
17 that?

18 A That's true.

19 Q It's fairly short. You guys were in there for over
20 an hour, though, right?

21 A We could have been.

22 Q And yet the statement is timed at 1:30.

23 A Yes, sir.

24 Q And you asked him what grade he's in?

25 A Uh-huh.

1 Q Whether he can read and write?

2 A Uh-huh.

3 Q And you just asked him what happened?

4 A Yes, sir.

5 Q You didn't build any rapport?

6 A There's not a lot to build there. Once we get the
7 statement in, then we can start talking about other
8 issues.

9 Q Okay. And then before you left headquarters to go
10 back to his house, you let him see his mother, didn't you?

11 A I don't think it was, no, sir.

12 Q You weren't in -- in the courtroom when he was
13 allowed to see his mother before he was taken from
14 headquarters?

15 A I seem to recall it was after we came back from the
16 residence after -- or it was either before -- it may have
17 been after the extradition hearing.

18 Q But he was allowed to see his mother --

19 A And he --

20 Q -- before he went back to Columbia?

21 A In the courtroom, yes, sir.

22 Q In the courtroom?

23 A Yes, sir.

24 Q And you don't have anything about his mother in your
25 notes on this case, do you?

1 A No, sir.

2 Q No mention of it?

3 A No, sir.

4 Q Now -- and you said you didn't observe any injuries
5 on Mr. Heller?

6 A No, sir.

7 Q No cuts?

8 A No.

9 Q No scrapes, no bruises where somebody could have
10 kicked him?

11 A I didn't do a full body check, no, sir, but I didn't
12 observe any injuries on the areas that he had exposed.

13 Q If somebody would have told you that they kicked the
14 attacker, you would have checked for bruises, right?

15 A If there was a significant injury the attacker should
16 have had when he departed, if a witness saw something that
17 was standing out, yes, sir.

18 Q If someone would have told you that they kicked the
19 attacker repeatedly, you would have checked for bruises,
20 wouldn't they?

21 A If someone told me they kicked him repeatedly with a
22 high heeled shoe or something of that nature, yes, sir.

23 Q I'm going to repeat the question because I don't know
24 if I got a straight answer.

25 If someone told you that they kicked the attacker,

1 and I'm not saying any kind of shoes, just to kick the
2 attacker, you would have checked for bruises on your
3 suspect that you would have arrested, correct?

4 A I would have. It would have been the next day or the
5 next hour, but the next week, no, sir.

6 Q Not within five days you wouldn't bother checking?

7 A No, sir.

8 Q Because in your life bruises disappear within five
9 days?

10 A He wasn't walking with a limp, and I didn't see
11 bruises on his skin he had exposed to me, no, sir.

12 Q And there's nothing in your notes noting anything
13 about that?

14 A That's correct.

15 Q Now, let's go back to Columbia and go to the trailer
16 park where you took Mr. Heller. He showed you, pointed
17 out which trailer he stayed in that night?

18 A Yes, sir. He was pretty close, and it seemed like he
19 did say "the brown one" or something to that effect. We
20 didn't spend lots of time there because we had dark coming
21 on, and we had some other things to do. It had been a
22 very long day.

23 Q And you testified he also told you the general area
24 he threw the knife, right?

25 A Yes, sir.

1 Q And that was on August 31st?

2 A Yes, sir.

3 Q And that you didn't do anything for the entire
4 weekend because it was Labor Day weekend, right?

5 A Yes, sir.

6 Q You just let that knife sit out there in the woods.

7 A Yes, sir.

8 Q You let that trailer sit out there unprotected by
9 crime scene tape.

10 A The -- yes, sir.

11 Q And then you go to pick Mr. Heller up on
12 September 4th from the jail.

13 A That's correct.

14 Q You take him back out to the trailer park.

15 A That's correct.

16 Q And you take pictures inside and outside of this
17 trailer?

18 A Yes, sir.

19 Q And you already testified you had the case jacket on
20 this case, right?

21 A Yes, sir.

22 Q You still have it in your possession even though you
23 don't work for Richland County anymore, right?

24 A What date are you talking about now?

25 Q The case jacket.

1 A Today?

2 Q Or leading up to this case. Let's just say a month
3 ago.

4 A Okay.

5 Q You still keep track of your case jackets, right?

6 A I have my personal copy. No, the case jacket itself
7 is in the file at the sheriff's office.

8 Q And the only thing from the case jacket that's
9 missing are the pictures of this trailer?

10 A Yes, sir.

11 Q Because you lost them on your personal computer?

12 A Yes, sir.

13 Q Is it standard procedure to put crime scene pictures
14 in your personal computer?

15 A That particular trailer was not a crime scene. The
16 crime didn't occur in that trailer. That's where
17 Mr. Heller stated that he hid out for the evening. Those
18 were on my personal camera.

19 Q Had he been covered in blood and stayed in that
20 trailer, it's possible blood could be in that trailer,
21 correct?

22 A Yes, sir. We looked for blood. We didn't see any
23 blood in the trailer.

24 Q Thank you, no blood in the trailer.

25 A No, sir. I've been in law enforcement 42 years, and

1 I have processed scenes where there are blood. I looked
2 for the blood in the trailer. I looked for -- for stools
3 that were basically fresh, the smell of fresh urine. I
4 didn't see any of those, no, sir.

5 Q And no clothing --

6 A And no clothing.

7 Q -- with blood on it?

8 A And no clothing, no, sir.

9 Q Thank you.

10 And the time you took him out to the trailer, at
11 either time did you have a video of that?

12 A No video, no, sir.

13 Q No audio recording of that conversation either?

14 A No, sir.

15 Q You didn't bother to video when you say he showed you
16 how he threw the knife?

17 A No, sir.

18 Q You testified that he was in shackles when you picked
19 him up from the jail, right?

20 A That's correct.

21 Q And you undid his left hand so he could have signed
22 the waiver?

23 A No, sir. He would have signed the waiver with a
24 handcuff on.

25 Q With a handcuff on him?

1 A Yes, sir. All of his signatures should be with a
2 handcuff on.

3 Q And you -- he showed you how he threw the knife in
4 the shackles, too?

5 A I just wanted to know if he threw it overhanded,
6 sideways, upside down.

7 Q And he --

8 A He demonstrated he threw it overhand.

9 Q So he was in his belly chain shackles, right?

10 A Yes, sir.

11 Q And he demonstrated that he threw it overhand?

12 A No, sir.

13 Q Okay. And there's no video of that?

14 A No, sir.

15 Q All of the Richland County patrol cars, patrol cars,
16 have dashboard cameras, correct?

17 A Yes, sir.

18 Q And police officers in patrol cars actually have
19 audio recording on their uniform, correct?

20 A Yes, sir. All uniform -- I don't say all uniformed.
21 It's a thing that's occurring in the industry now in law
22 enforcement that they do primarily for DUI's.

23 Q But you didn't use any of that technology?

24 A No, sir, I did not.

25 Q And you testified you and some of the members of your

1 investigative team went and searched for the knife?

2 A Yes, sir.

3 Q There's no mention of this anywhere in your notes, is
4 there?

5 A It may not have been. It's --

6 Q It may not have been, or there is no mention?

7 A No, sir. There's no indication of it.

8 Q Now, on October 5th, 2006, that's your last entry in
9 your notes on this case, right?

10 A Actually, the last entry is 12/19; 11/15 would have
11 been the next and 10 -- 10/5.

12 Q And you turned those notes over to the Solicitor's
13 Office?

14 A Yes, sir. That probably would have been after they
15 had received discovery. That probably didn't come after
16 the -- the secretary -- once I sent my final one in, she
17 had probably already sent her stuff to the Solicitor's
18 Office. May I tell you what the 12/15 was? I want to
19 tell you what --

20 Q I'd rather you not because --

21 A Okay.

22 Q -- I haven't seen it.

23 A Got you.

24 MR. COLLINS: I would ask the Judge if I could get a
25 copy of this additional discovery.

1 THE COURT: Go look at it. Go look at it. He'll
2 show it to you.

3 (Pause).

4 BY MR. COLLINS

5 Q You can go ahead and read, read what's in your notes.
6 You can go ahead and read it.

7 A Did you want it on 10/5.

8 Q No. Just start after 10/5 with what I didn't have.

9 A 11/15, that case was --

10 MS. GARFIELD: Your Honor, may I have a chance to
11 review it, as well?

12 THE COURT: Yes. Go look at it.

13 MS. GARFIELD: Before --

14 THE COURT: Madam forelady, ladies and gentlemen of
15 the jury, we'll take a lunch break at this time. They can
16 review this at lunch, okay.

17 It's 1:15. Be back in the jury room at about 2:45.
18 I'll see you then. Please don't discuss the case amongst
19 yourselves. Go straight to the jury room when you come to
20 the courthouse.

21 (WHEREUPON, the jury left open court at approximately
22 1:13).

23 THE COURT: If you'll show them the notes during the
24 lunch break and answer any questions about those notes, I
25 appreciate it.

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you very much. I appreciate it.

3 We'll take a lunch break. We'll start back at --

4 MR. COLLINS: And Your Honor, for the record it's
5 just that he presented to the grand jury and that he
6 checked on the status. It's nothing of any evidentiary
7 value. I was asking him to read it so the jury would know
8 there was nothing being hidden.

9 THE COURT: That's fine. I wanted him to have an
10 opportunity to look at it before he read it.

11 MR. COLLINS: Thank you.

12 THE COURT: How much longer are you going to be?

13 MR. COLLINS: Um...

14 THE COURT: How many more notes do you have?

15 MR. COLLINS: Not many, Your Honor.

16 THE COURT: Not many? All right. We'll recess for
17 lunch.

18 MS. GARFIELD: What time did you say, 2:45?

19 THE COURT: An hour-and-a-half, whatever that is.

20 Did I did it? Well, 1:15, two, 2:45.

21 (WHEREUPON, a lunch break was taken.)

22 THE COURT: Anything from the State before we bring
23 the jury?

24 MS. GARFIELD: No, sir.

25 THE COURT: From the defendant?

1 MR. COLLINS: No, sir.

2 THE COURT: All right. Bring us the jury, please.

3 (WHEREUPON, the jury came into open court at
4 approximately 2:48 p.m.)

5 THE BAILIFF: The jury is seated, Your Honor.

6 THE COURT: Okay. Thank you very much.

7 Mr. Collins, cross-examination.

8 MR. COLLINS: Thank you, Your Honor.

9 BY MR. COLLINS

10 Q Now, Investigator Siniard, before we broke, we were
11 talking about a couple of entries into your notes that I
12 didn't have possession of. Do you not have a copy of your
13 notes with you?

14 A I don't.

15 Q I'll hand them. This is just the last page that I
16 have. I don't have a copy of what you have?

17 A Okay.

18 Q But just -- we can talk about it generally, but just
19 so the jury is not confused, you said there were a couple
20 of new entries into the notes that I didn't have.

21 A Yes, sir.

22 Q And these entries were just that you attended a grand
23 jury, grand jury hearing.

24 A That's correct.

25 Q And that you made a call to check up on the progress

1 of the case.

2 A That's correct.

3 Q Okay. And that was the only two things in there that
4 I didn't have, correct?

5 A Yes.

6 Q Okay. Now, let's back up to October 5th, 2006. You
7 made an entry into your notes on that day?

8 A Yes, sir.

9 Q You actually kind of made somewhat of a checklist, a
10 to do list, in that entry, right?

11 A I would need to refer to my notes for that, yes.

12 Q Okay. Do you know where your notes are? Well, I can
13 give you the last page, if it will refresh your memory.

14 A Yes, sir.

15 Q I believe it said you had a meeting with a couple of
16 other investigators?

17 A That's correct.

18 Q And you talked about some things you could possibly
19 do?

20 A Yes, sir.

21 Q You talked about testing some clothing for D.N.A.
22 evidence?

23 A Yes, sir.

24 Q You talked about trying to figure out who this Devon
25 character was.

1 A Yes, sir.

2 Q And you talked about trying to locate the residence
3 that Christopher Heller called Nails from?

4 A Yes, sir.

5 Q We don't know who Devon is today, do we?

6 A I don't know who Devon is today, no, sir.

7 Q There's no notes anywhere in your record to show any
8 efforts you made to find out who Devon was since October
9 5th?

10 A Not in my notes, no, sir.

11 Q Okay. And there's nothing in your notes about
12 efforts you made to find out where the residence was the
13 phone call came from?

14 A Not in my notes, no, sir.

15 Q And you didn't go out to the Oasis Club either, did
16 you?

17 A No, sir, I did not. I did not personally go to
18 Oasis, no, sir.

19 Q You didn't bother -- you don't have any witnesses
20 evidence from the Oasis Club?

21 A No, sir.

22 Q You don't have a video from the Oasis Club?

23 A No, sir.

24 Q And the video you looked at from the Shell Station,
25 you never took into evidence?

1 A No, sir. There was nothing on there that I --

2 Q But you --

3 A Later on I would have taken it into evidence for.

4 Q Nothing that you saw?

5 A No, sir.

6 MR. COLLINS: Beg the Court's indulgence.

7 (Pause).

8 No further questions, Your Honor.

9 THE COURT: Redirect?

10 MS. GARFIELD: Just briefly, Your Honor. Your Honor,
11 I found Lieutenant Siniard's notes. May I give them to
12 him so he can review them, if need be?

13 THE COURT: Yes, ma'am.

14 REDIRECT EXAMINATION:

15 BY MS. GARFIELD

16 Q Okay. Thank you.

17 Lieutenant Siniard, just to go over just a couple of
18 things that Mr. Collins asked, you had the opportunity to
19 talk to Mary Chavis at the hospital.

20 A I did.

21 Q And what was, primarily, your purpose of interviewing
22 Ms. Chavis at that time?

23 A Prior to the photo of the -- the composite was to see
24 if she -- I felt she was in a condition enough to go
25 through that.

1 Q And were you at that time trying to elicit details of
2 everything that had happened?

3 A Not everything, no, ma'am.

4 Q You were primarily trying to get details regarding to
5 an identification of a suspect?

6 A Yes.

7 Q And Mr. Collins has also made mention about an
8 individual, Mark Hornsby, who lives in the house across
9 the street from Mary?

10 A That's correct.

11 Q And lastly, Lieutenant Siniard, Mr. Collins talks
12 about how someone in the course of the investigation makes
13 contact with Miguel Duran-Olvera?

14 A That's correct.

15 Q And you never interviewed Mr. Olvera, correct?

16 A No, I do not.

17 Q And the purposes of that is he had given -- he's --
18 I'm sorry. Mr. Collins is asking if you followed up on
19 the lead of the skinny guy.

20 A That's correct.

21 Q Was there any other additional information other than
22 the skinny guy provided?

23 A By Mr. Miguel?

24 Q Yes, sir.

25 A I would have to have his statement to know if he said

1 anything.

2 Q Okay. Let me get that for you.

3 (Pause).

4 Lieutenant Siniard, I'm asking just limited to any
5 other descriptions along with skinny guy?

6 A Yes, there was.

7 Q And what was that information?

8 A He was skinny, about 5---

9 MR. COLLINS: Your Honor, may we approach briefly?

10 THE COURT: Yes, sir.

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

13 BY MS. GARFIELD

14 Q As I said before, just please tell the jury the
15 additional information regarding the description of the
16 skinny guy.

17 A That he was about 5'7", 5'8".

18 Q Was there any information regarding race?

19 A Could not tell the race of the person because he was
20 in the shadows.

21 MS. GARFIELD: Thank you. Beg the Court's
22 indulgence.

23 (Pause).

24 Thank you, Lieutenant Siniard. Nothing further.

25 THE COURT: Recross?

1 RE CROSS-EXAMINATION:

2 BY MR. COLLINS

3 Q In that statement there's information about the
4 timing of the person you described running out of the
5 trailer, correct?

6 A The timing?

7 Q Or the sequence of the --

8 MS. GARFIELD: Objection, Your Honor, that's beyond
9 my cross -- redirect.

10 THE COURT: Overruled.

11 BY MR. COLLINS

12 Q There's test--- there's information about who came
13 out of the trailer, correct?

14 A Yes, sir.

15 Q There's information that first the skinny guy came
16 out, right?

17 A Correct. Let me get -- on this statement, he's
18 referring to, I believe, two different trailers at first.

19 Q On the same line you were just reading with
20 Ms. Garfield --

21 A Okay.

22 Q -- skinny guy about 5'7", 5'8".

23 A Yes, sir.

24 Q You said that he -- that was referring to someone he
25 saw leaving the trailer?

1 A Yes, sir.

2 Q After he had heard a commotion?

3 A Yes, sir.

4 Q Okay. And then it says the person took off running
5 from the trailer, right?

6 A Yes, sir.

7 Q And it said after subject came out, about two minutes
8 later, Chino stumbled out of the trailer, right?

9 A Yes, sir.

10 MR. COLLINS: Okay. No further questions.

11 THE COURT: Okay. Thank you very much. You may step
12 down. Thank you very much. Watch your step for me.

13 Do you want to call your next witness?

14 MS. FENT: Your Honor, at this time the State rests
15 its case.

16 THE COURT: The State rests?

17 MS. FENT: Yes, Your Honor.

18 THE COURT: Okay. All right. Madam forelady and
19 ladies and gentlemen of the jury, I'm going to have to ask
20 you to go to the jury room very briefly. I'll get you
21 back briefly. Don't discuss the case while you're out.

22 (WHEREUPON, the jury left open court at approximately
23 2:58 p.m.)

24 THE COURT: Any motions?

25 MR. COLLINS: Yes, Your Honor.

1 At this time the defense would renew all previous
2 motions and objections. Specifically, the defense
3 consented to the introduction of evidence with the
4 information that all of the officers who collected the
5 evidence would be available to testify.

6 After consenting to that, we learned that one of the
7 officers was not available to testify throughout this
8 trial. I believe we had that on the record then, but just
9 this --

10 THE COURT: Well, which specific items? I believe
11 that's 21 through 40.

12 MR. COLLINS: Your Honor.

13 THE COURT: State Exhibits, which items are you
14 referring because there's a lot of items the officers did
15 testify about. So let's get very specific on what you're
16 referring to.

17 MR. COLLINS: Your Honor, the defense consented to
18 waive the chain of custody witnesses.

19 THE COURT: The only time you need a chain of custody
20 is on an item that's been tested, so tell me what items
21 you're talking about on 21 through 40.

22 I want you to be very specific because when you make
23 this motion, you're indicating that 21 through 40 should
24 not be admitted. So you tell me which one of those items
25 you think there's tests been run, and the chain of

1 evidence has not been established properly and which
2 officer did not testify concerning which exhibits. That's
3 what I need to know.

4 MR. COLLINS: Beg the Court's indulgence, Your Honor.

5 THE COURT: If you need to look at that big sheet
6 that they had, that big board, feel free to do it. They
7 had a board up there they were marketing stuff on.

8 MR. COLLINS: I have the list here, Your Honor. Your
9 Honor, specifically number 24.

10 THE COURT: All right. Twenty-four.

11 MR. COLLINS: Twenty-five, 26, 27, 28, 29, 30.

12 THE COURT: All right. Now, you're saying that
13 nobody testified in this trial about where those items
14 were taken out of this trailer because that was your
15 concern.

16 You wanted to know specifically where they were taken
17 from. The Court took the position that if the State,
18 under what your agreement for admission was to determine
19 where the items came from in the house, and when you made
20 the objection during the trial, the Court took the
21 position as long as the officer saw those items being
22 removed, that was sufficient.

23 So tell me which items that were not testified to in
24 this courtroom were removed, or tell me which items --
25 where there's been no testimony about where they were

1 removed from. I guess that's the best way to try to
2 answer it. It wasn't all of those items, I know.

3 MR. COLLINS: I believe all of the ones that I stated
4 when the exception of number 24 were mentioned.

5 MS. GARFIELD: Your Honor, let me interject here
6 because Mr. Collins, I don't know if you were still here
7 yesterday, when we got together with the court reporter
8 yesterday to go over all of the evidence and get some
9 things in order, I was confused about item 24 because it
10 said "swabs from Hernandez".

11 The court reporter and I got together, and I actually
12 tried to bring it to your attention yesterday before you
13 were talking to Mr. Delgado. That's actually inaccurate.
14 I believe Ms. Tracy has changed it. That actually should
15 have reflected "blood swabs".

16 THE COURT REPORTER: I wrote down what was on the
17 envelope, and that's -- that's how I got that description,
18 because that's what the envelope said.

19 MS. GARFIELD: Yeah.

20 THE COURT: Okay, and that's fine.

21 MS. GARFIELD: I wanted Mr. Collins to be aware of
22 that.

23 THE COURT: Okay.

24 MS. GARFIELD: Also, all of those items that
25 Mr. Collins testified -- that he's objecting to,

1 Investigator Bouknight.

2 THE COURT: Well, first of all, let him tell me what
3 he's objecting to.

4 MS. GARFIELD: Okay.

5 THE COURT: I'm trying to narrow down what he's
6 objecting to, and I'm going to hear from the State.

7 MR. COLLINS: Your Honor, I think I'm running into a
8 problem here that may make this issue completely moot, but
9 I think I was explaining where I'm coming from.

10 THE COURT: Okay.

11 MR. COLLINS: I consented to a whole lot of evidence
12 coming in.

13 THE COURT: I understand.

14 MR. COLLINS: And I --

15 THE COURT: You consented but you wanted to know
16 where those items were coming from, the location in the
17 trailer. I specifically asked you why did you need to
18 know that. You said it went towards your defense.

19 MR. COLLINS: It was -- my position --

20 THE COURT: All of this occurred up at the bench, I
21 believe.

22 MR. COLLINS: Yes, sir.

23 THE COURT: And I said, "Fine." If they don't prove
24 where they came from, I would not admit them. I may not
25 have said that, but that was my intention.

1 I want to know which items you're now taking the
2 position that they were not identified where they came
3 from out of the trailer. That's what I need to know,
4 where there were tests performed because it -- unless
5 there's some type of test run, there's no chain of custody
6 required, just identification about who took it and then
7 the custodian.

8 MR. COLLINS: My understanding of the agreement was
9 not on -- as far as where it came from. It was the
10 agreement that each officer that collected the evidence,
11 which would be necessary to introduce them into evidence,
12 would testify.

13 I was told that all of them would testify. I guess
14 I'm confused because everything was marked as evidence,
15 and we've gone through the trial. Whether or not it's
16 been introduced as evidence in front of the jury or not,
17 these things have come in under evidence.

18 That's the problem I had is that it was my
19 understanding all of this was already in evidence when I
20 consented to it.

21 THE COURT: I understand, but I'm ready to take it
22 out if you can tell me something that has -- something
23 that did not, was not identified where it was mooted.

24 I specifically asked you that question when we were
25 talking about it, why do you want the -- you said it was

1 important to your defense as to where it was removed from
2 in the trailer.

3 I think the prosecution went through it in detail
4 explaining where the hot pepper ashtray came from and ash
5 -- cigarette butts in the bedroom, cigarette butts on the
6 couch.

7 MR. COLLINS: I believe my position was I wanted to
8 be able to cross-examine the person that collected the
9 evidence and how it was collected.

10 THE COURT: That wasn't what I interpreted, and
11 that's not what's in the record. My question to you now
12 is specifically which items do you think should not be
13 admitted under the agreement that the court has enumerated
14 on this record. That's what I'm asking you.

15 MR. COLLINS: If that's the agreement, I'm not
16 objecting to anything. It's already in. We're -- I can't
17 decipher which ones I can -- I can take out based on the
18 issue --

19 THE COURT: I mean, if you can decipher it, I will
20 take them out of evidence. They will not go back to the
21 jury room.

22 MR. COLLINS: I will withdraw that particular motion
23 if that's the agreement on the record with the Court.

24 THE COURT: Well, that's my understanding.

25 What is the Solicitor's understanding of the

1 agreement?

2 MS. GARFIELD: Well, first of all, the items he's
3 objecting to were introduced through the officer that
4 collected them. Investigator Bouknight took the stand and
5 did testify that he --

6 THE COURT: Which officer is it that he's complaining
7 about did not -- was not --

8 MS. GARFIELD: That's why I'm confused, because I did
9 that investigator, and I know he testified to collecting
10 the items. We went think the packaging, and we moved them
11 into evidence through the officer.

12 THE COURT: All right. Mr. Collins, which officer
13 are you saying did not -- should have testified that did
14 not testify?

15 MR. COLLINS: Officer B. Allen, the first C.S.I.

16 THE COURT: Officer Allen?

17 MR. COLLINS: Yes.

18 THE COURT: All right. What did Officer Allen remove
19 from that trailer that someone else did not testify about?

20 MS. GARFIELD: Lieutenant Elsey testified about
21 everything that was taken from Allen. She testified that
22 she had seen the items there with the exception of the
23 condom, and that was not admitted.

24 MS. FENT: The condom and there was a knife.

25 THE COURT: The condom has not been admitted.

1 MR. COLLINS: No.

2 MS. FENT: Right.

3 MR. COLLINS: Right.

4 MS. GARFIELD: Everything else Lieutenant Elsey
5 testified she had seen in the trailer.

6 MR. COLLINS: Including the knife. I don't remember
7 any testimony about a knife.

8 MS. FENT: Yeah, there was -- I agree with you.
9 There were two knives collected, and one of them you had
10 objected to and we didn't -- I believe we didn't offer.

11 MS. GARFIELD: Items --

12 THE COURT: Here are the knives (indicating).

13 MS. FENT: Oh, okay. It's not the one in the white
14 box. It's the one in the envelope, I believe, is the one
15 that Allen --

16 MR. COLLINS: Okay.

17 MS. FENT: And I thought we did not admit that one
18 because I took it out with the condom, and this is Exhibit
19 48. So I mean, we have no problem if you want to take --

20 THE COURT: Exhibit 48. What I'm trying to tell you,
21 if you'll tell me, I'll take it out.

22 MR. COLLINS: I understand, Judge. I guess we don't
23 have a problem with any of this evidence. I was just
24 putting on the record as far as the agreement of --

25 THE COURT: I understand that but --

1 MR. COLLINS: I believe it's moot.

2 THE COURT: -- if you put something on the record
3 that hasn't been complied with, then I've got to deal with
4 it. Do you follow me?

5 MR. COLLINS: I agree. I believe it's been dealt
6 with, and the issue is moot at this point.

7 THE COURT: Okay.

8 MR. COLLINS: So I'll withdraw that motion.

9 THE COURT: I'm not telling you to withdraw it. I'm
10 just trying to tell you if there's an issue that you have
11 a problem with, I'm going to try to correct it.

12 MR. COLLINS: Thank you, Judge.

13 Moving on to specifically the previous objections and
14 motions regarding the Denno hearing, specifically the
15 voice identification regarding Bille Joe Risinger on the
16 stand, I ask --

17 THE COURT: You wanted to cross-examine, and I
18 refused that.

19 MR. COLLINS: Yes, sir, and the objection to all of
20 the photo line---

21 THE COURT: I think you wanted to cross-examine in
22 camera, I believe. Is that what you said?

23 MR. COLLINS: Yes, Your Honor. According to Neil v.
24 Biggers I asked for an in camera cross-examination. I
25 also am objecting to the photo identifications, the

1 in-court identifications and the out-of-court
2 identifications by both Bille Joe Risinger and Mary
3 Chavis, the mention of parole by the State's witness Kevin
4 Nails. I specifically made a pretrial motion that their
5 witnesses be --

6 THE COURT: Well, you made that motion for a new
7 trial. I denied it.

8 MR. COLLINS: Yes, sir.

9 THE COURT: Do you have any new motions?

10 MR. COLLINS: I'm just...

11 And also, Your Honor, we've heard testimony that
12 there was a video from the Shell gas station that was
13 viewed by the investigator during the investigation of
14 this case and was not turned over as evidence.

15 He stated that he did not see anything on it.
16 However, no one else was allowed to look at it. That
17 would be a violation of Rule 5 and due process. I would
18 move for a mistrial based on that.

19 THE COURT: Tell me about this video. I don't know
20 what he's talking about.

21 MS. GARFIELD: I'm sorry?

22 MR. COLLINS: Of the Shell Station on Bluff Road.

23 MS. GARFIELD: There was no video taken in because
24 there was nothing incriminating on it by law enforcement.

25 THE COURT: All right. What are you specifically

1 saying, Mr. Collins? I'm not sure I understand what
2 you're asking the Court to do and what your complaint is.

3 MR. COLLINS: Your Honor.

4 THE COURT: You're saying it should have been turned
5 over?

6 MR. COLLINS: Your Honor, Investigator Siniard
7 testified he went and viewed the video from the Shell
8 Station, which would have been the same day of this
9 incident.

10 THE COURT: Okay.

11 MR. COLLINS: He said he did not view anything on
12 that video. This is the incident location where he could
13 have seen Mr. Heller. He could have seen Kevin Nails.

14 If -- by chance, if there's any way you see a person
15 on there that didn't have any blood on his clothing or
16 anything like that, it could have been exculpatory.
17 There's no way for me to know any of that now.

18 That video is long gone now, was not collected and
19 not turned over, but it was in full knowledge of the lead
20 investigator who is an arm of the State.

21 THE COURT: He didn't have a copy of it. He looked
22 at it at the store, I believe; is that correct?

23 MS. FENT: Correct.

24 THE COURT: He didn't have anything to turn over to
25 you, so how could you stand there and make a motion for a

1 new trial when there was nothing to turn over? I mean,
2 you're standing there accusing the State of not turning
3 something over to you that they don't have; is that
4 correct?

5 MS. FENT: It is not in our possession. He didn't
6 collect it, because he didn't see anything on it.

7 THE COURT: I mean, he looked at it at the store and
8 decided not to collect it, so -- they retape over those
9 tapes, so how could you make a motion on this violation of
10 Brady when they didn't have it to begin with to turn over
11 to you?

12 MR. COLLINS: It's my position that while he's
13 viewing it, it's in his possession.

14 THE COURT: All right. That motion is denied.
15 Anything else?

16 MR. COLLINS: Then we would move for a directed
17 verdict based on the evidence presented that they have not
18 met their burden, and there is no reason for the jury to
19 come back with a guilty verdict.

20 THE COURT: All right. Anything else?

21 MR. COLLINS: No, Your Honor.

22 THE COURT: Okay. Are you ready to move forward with
23 your testimony?

24 MR. COLLINS: Yes, Your Honor.

25 THE COURT: Do you need a short break? I'll give you

1 a short break, if you need it.

2 MR. COLLINS: I believe we're ready, but if we can
3 just -- as far as scheduling today and the rest of the day
4 tomorrow, I spoke with Ms. Fent. I think we would be in
5 agreement that we would both prefer, if possible, if it's
6 okay with Your Honor, to do closing and the charges
7 tomorrow morning.

8 THE COURT: Well, let's see how far we get today,
9 okay.

10 MR. COLLINS: My case will probably be done within an
11 hour to an hour-and-a-half, I would say.

12 THE COURT: We'll sort of see how far we get today.
13 We'll discuss it at the time.

14 MR. COLLINS: Okay. Thank you, Your Honor.

15 THE COURT: I'm not going to commit to that right
16 now, okay.

17 MR. COLLINS: Okay. Thank you, Your Honor.

18 MS. FENT: I think we also need to go over the
19 defendant's record, criminal record --

20 MR. COLLINS: Yes.

21 MS. FENT: -- if he's going to be testifying.

22 THE COURT: What do you think qualifies?

23 MS. FENT: We have five convictions that qualify. He
24 has a possession with intent to distribute marijuana from
25 1999 conviction date.

1 THE COURT: '99?

2 MS. FENT: '99 and basically, on the same date in
3 2001, he pled to another possession with intent to
4 distribute marijuana; a manufacture, sell, dispense,
5 distribute with intent to distribute; drug trafficking
6 within 1,000 feet of a park, recreation facility or public
7 housing, and another manufacture, sell, dispense,
8 distribute with intent to distribute.

9 THE COURT: What's the last two dates?

10 MS. FENT: They're all -- they're all 2001. It's
11 August 3rd --

12 THE COURT: Okay.

13 MS. FENT: -- of 2001. He pled to all four of those.

14 THE COURT: So you got possession with intent to
15 distribute marijuana, two, one in '99, and you have got a
16 drug trafficking and manufacturing; is that correct? I
17 thought you said it was five. Did I miss one?

18 MS. FENT: There are -- yes. There's the one
19 conviction from 1999 that's possession with intent to
20 distribute marijuana, and then there are four separate
21 convictions from 2001.

22 THE COURT: Okay.

23 MS. FENT: There's a possession. It looks like two
24 possession with intent to distribute marijuanas.

25 THE COURT: Okay, all right.

1 MS. FENT: One manufacturing.

2 THE COURT: And one trafficking.

3 MS. FENT: And one drug trafficking, correct.

4 THE COURT: Okay. All right.

5 MS. FENT: Did you have a copy of that?

6 THE COURT: Mr. Collins, do you agree with those --

7 MR. COLLINS: I --

8 THE COURT: That those can be used by the State or do
9 you disagree?

10 MR. COLLINS: I disagree.

11 THE COURT: All right. Why do you disagree?

12 MR. COLLINS: Under Rule 609(a)(1), which all of
13 these convictions fall under, is subject to Rule 403.

14 The prejudicial nature of these charges saying he is
15 a drug dealer is very prejudicial. The probative value of
16 these charges is nothing. It's strictly for propensity
17 evidence to say that he's a drug dealer. This case isn't
18 about drug dealers.

19 I don't think there is probative value. The
20 prejudicial value far outweighs any probative value these
21 convictions could have.

22 THE COURT: Yes, ma'am?

23 MS. FENT: If it was a drug case, I would probably
24 agree with him that we were trying to prove he was, in
25 fact, a drug dealer, and we were going to be admitting

1 conviction that he deals in drugs.

2 This isn't such a case. It's a murder and A.B.I.K.
3 He has already -- presumably, he's going to testify
4 consistently with how he testified at pretrial, which was,
5 "I smoked crack with these people." There's already drugs
6 involved.

7 It doesn't make it any -- throw any mud towards his
8 character any more than it already is in terms of him
9 hanging around with the -- you know, his cousin who is a
10 drug dealer.

11 He's smoking crack with these people in the trailer,
12 and it's -- you know, he's already admitted doing that,
13 but the probative value of it is -- also, assuming he's
14 going to testify consistently with his pretrial testimony
15 is he's trying to say "these officers are lying. My story
16 is truthful. These officers are lying. They have put a
17 false confession in there. They coerced me to give a
18 confession, you know, about -- because of my mother, and
19 believe me over these officers."

20 You know, that is why prior convictions are
21 admissible, so the jury can know this and can weigh his
22 credibility versus the other witnesses who have testified.

23 THE COURT: Anything very briefly on rebuttal?

24 MR. COLLINS: Yes, Your Honor. Her argument
25 basically supported propensity --

1 THE COURT: I'm sorry?

2 MR. COLLINS: Her argument just supported propensity
3 evidence as the reason they're trying to introduce it, not
4 whether he's dishonest or truthful. These are crimes of
5 dishonesty or truthfulness. She is saying, "He is a
6 criminal. He has a record; therefore, you can't believe
7 him." That's exactly why it's not admissible.

8 THE COURT: All right. I'm going to deny your
9 motion. I'll allow them to use those convictions.

10 Anything else? Do you need a few minutes to get
11 ready, Mr. Collins?

12 MR. COLLINS: No, we're ready.

13 THE COURT: Okay. Bring the jury, please.

14 (WHEREUPON, the jury came into open court at
15 approximately 3:18 p.m.)

16 THE BAILIFF: The jury is present.

17 THE COURT: Thank you very much.

18 MR. COLLINS: The defense calls Loranda Heller. I
19 believe she is on her way in right now.

20 THE COURT: Okay. Thank you, sir.

21 (Pause).

22 LORANDA HELLER, after being duly
23 sworn, testified as follows:

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

1 (There was no response).

2 DIRECT EXAMINATION:

3 BY MR. COLLINS

4 Q State your name for the record.

5 A My name is Loranda Heller.

6 Q Good afternoon, Ms. Heller.

7 A Good afternoon.

8 Q I'm going to be as brief as possible with you here
9 since we need some information from you. How do you know
10 Christopher Heller?

11 A He's my son.

12 Q Does he live with you?

13 A Beg your pardon?

14 Q Does he live with you?

15 A Yes.

16 Q Where are you from?

17 A Baxley, Georgia.

18 Q Do you have a lot of family in Baxley?

19 A Yes.

20 Q And just how -- what family members live in Baxley
21 with you?

22 A I have another son that lives with me and my mother
23 and my nieces and aunts and uncles, cousins.

24 Q It's a small town?

25 A Yes.

1 Q What does -- and where were you living back in August
2 of 2006?

3 A [REDACTED] Ten Mile Road.

4 Q Is that in Baxley?

5 A Yes, sir. It's in the country.

6 Q And I'm just going to go ahead and get right to the
7 point. You know why you're here to testify, don't you?

8 A Yes.

9 Q And can you just explain to the jury what you were
10 doing on the morning of August 31st, 2006?

11 A Well, on the morning of -- that particular morning, I
12 was in bed, and my little goddaughter, I call her my
13 goddaughter, Jena, she was --

14 Q And who is Jena?

15 A Jena is Chris' friend.

16 Q Okay. So you go --

17 A I just call her my little goddaughter.

18 Q Oh, okay.

19 A And she was in the room with me, and she heard noise.
20 She come in and she said, "Mama, do you hear that noise?"
21 I said, "No, I don't hear no noise." I said, "What does
22 it sound like?" She said, "I don't know." She said,
23 "Just hush and listen for a minute."

24 So I got up out of my -- out of bed and went to go
25 out of my room to go to the front door to look and see

1 what the noise was. So as I opened my bedroom door, there
2 was a police, a sheriff's deputy. He was right in front
3 of me with a gun pointing at me.

4 At that instance, he was screaming, "Get on -- get on
5 the floor. Get on the floor. Get on the floor," but I
6 was in such shock. If I hadn't fell on the floor, I
7 really do believe that man would have shot me.

8 Q Do you even remember getting down on the floor?

9 A No, no.

10 Q Did it shock you?

11 A Yes.

12 Q And then after they got you down on the ground, what
13 happened after that?

14 A I stayed on the floor. We -- we stayed on the ground
15 for a while, and then they told us to get up after a
16 while, and then they were going through the rooms. They
17 was asking me, "Where was Chris?" Like I told them, I
18 didn't know where Chris was.

19 Q Why didn't you know where Chris was?

20 A Because he usually gets up in the morning and goes to
21 town or looks for a job or something like that. Whenever
22 they leave, I don't know what time they leave or when they
23 leave.

24 Q And how old is Chris?

25 A He's 29 now.

1 Q And you don't keep up with every --

2 A No.

3 Q -- little thing he does?

4 A No.

5 Q So they were searching your house. About how long
6 did they search your house?

7 A Honestly, I don't recall.

8 Q Did it seem like a long time?

9 A Yeah. It seemed like a long time, but I mean, I'm
10 scared, so I mean, I don't know what time.

11 Q Okay. You said you were scared. Does that concern
12 you when you get scared or shocked for any reason?

13 A Yes.

14 Q And why is that?

15 A Because it just physically makes me sick.

16 Q Have you ever had any history of physical problems,
17 medical problems?

18 A Yes. I had a heart attack.

19 Q When did you have a heart attack?

20 A I had a heart attack in 19 -- two -- '04.

21 Q 2004?

22 A Right.

23 Q Are you a little nervous here today?

24 A Yes.

25 Q Is this the first time you ever testified --

1 A Yes.

2 Q -- in a Court proceeding?

3 A Yes.

4 Q So just take your time. I'm going to ask you a few
5 questions. Were you on any kind of medication since the
6 time of that heart attack?

7 A Yes. I was taking two medications at the time,
8 increased to seven, seven medications.

9 Q Is that for high blood pressure and things like that?

10 A Yes.

11 Q And has Chris ever been around when you talked about
12 these health problems?

13 A Yes.

14 Q He is aware of these problems?

15 A Yes.

16 Q Is he concern about you?

17 A All the time.

18 Q After he searched your house, what did they do with
19 you after that?

20 A They told -- the sheriff's deputy from Georgia told
21 us that they were going to take us downtown to ask us some
22 questions and -- well, I wasn't dressed to go out of the
23 house like I was.

24 So I asked him could I get -- put some things on, so
25 I just took and put something on over what I had on,

1 and -- but before they took us, I mean, while they was
2 going through the house and everything, they were putting
3 things out of my other son's room in a bag. I just asked
4 them why was they taking that stuff. They said they were
5 taking it for evidence and stuff.

6 Q And did they take you downtown to the headquarters?

7 A Yes.

8 Q Did they process you in? Did they book you?

9 A I remember being in a little room that had probably
10 two little tables, one with a pad that you put your
11 fingerprints on and a machine on the table, and then the
12 chair that the sheriff sat in was in front of me. The one
13 that I was sitting in was right next to the door.

14 Q Any windows in that room?

15 A I don't remember.

16 Q So you the sheriff was sitting in front of you, but
17 what was he asking?

18 A First he read me my rights, and he asked me did I
19 want a lawyer. So I told him yes, but he was trying to
20 ignore me and everything. Because I didn't answer because
21 I was waiting on him to do what he was going to do, he
22 took me out of that room and took me out to, I guess, a
23 service desk --

24 Q Uh-huh.

25 A -- and he had me fill out paper with a name and

1 everything on it. Then they put me in a -- in a room with
2 a -- there was already a person in there, and she was on
3 the bunk. I was sitting on the -- whatever, the stool or
4 whatever that thing is in that room.

5 Q Was it kind of like a holding cell, I guess?

6 A Yes.

7 Q Did you feel that you were free to leave at any
8 time --

9 A No.

10 Q -- during this? Were you a little stressed out
11 because of it?

12 A Yes.

13 Q Did you know what was going on?

14 A No.

15 Q Had Chris said anything to you to raise your
16 suspicions about anything?

17 A No.

18 Q Did he act weird in any way?

19 A No. He acted like Chris always acts. Chris is quiet
20 and laid back most of the time.

21 Q And how many days had he been home before they came
22 to your house? Just if you can remember. I know it was a
23 couple of years ago.

24 A Probably about two or three, I'm not sure.

25 Q Okay. And about how long did you have to stay in

1 that holding cell?

2 A The way I was feeling, it felt like -- it felt like a
3 long type. I mean, I'm not sure how long -- it might have
4 been 30 minutes. It might have been 45 minutes. I'm not
5 sure.

6 Q Were you concerned about your health at that point in
7 time?

8 A Yes.

9 Q Was your heart racing?

10 A Yes.

11 Q Were --

12 A Like it's doing now.

13 Q Were you wondering when you were going to get to go
14 home?

15 A Yes. Because I mean they told me all they was going
16 to do is ask me questions, and they put me in a holding
17 cell.

18 Q Did they say anything about charging you with a
19 crime?

20 A The sheriff, the sheriff just said that they were
21 going to -- the State of Georgia was charging me with
22 aiding and abetting and that South Carolina was going to
23 charge me also.

24 Q And they said South Carolina was going to charge you
25 also?

1 A Yes, they did.

2 Q At what point in time did somebody come in and let
3 you out?

4 A It probably wasn't long after that. Well, I had been
5 in there a little bit, and they came -- came and got me
6 out.

7 Q Okay. And where did they take you when they got you
8 out?

9 A In probably like a little -- a little miniature size
10 courtroom. I guess that's what it was. I don't know what
11 they used -- for classes and stuff like that.

12 Q Okay.

13 A And when I look -- when they took us in there, it was
14 probably maybe like a few minutes, and then they had Chris
15 shackled, and they brought him in. He hugged me and
16 kissed me, and then they took him off.

17 Q Okay. Did you get to go home after that?

18 A Yes.

19 Q Did somebody give you a ride home?

20 A The G.B.I. took us, took us home.

21 Q Okay. Were you ever charged with anything because of
22 this?

23 A I have no idea. I mean, nobody ever said anything
24 else to me.

25 Q Have you ever heard from --

1 A No.

2 Q -- any of these people again?

3 A No.

4 Q Have you ever heard from South Carolina?

5 A No.

6 MR. COLLINS: Thank you. Please answer any questions
7 these ladies may have.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION:

10 BY MS. GARFIELD

11 Q Good afternoon, Ms. Heller.

12 A Hello.

13 Q This is the first time you and I have ever talked,
14 correct?

15 A I believe so.

16 Q The last time you saw Chris was the night before this
17 incident?

18 A Yes.

19 Q And you never saw him between the law enforcement
20 arriving to your home to when you got to the police
21 station?

22 A Right.

23 Q You didn't have any contact?

24 A No.

25 Q You actually got to see Chris before you left the

1 police station though, right?

2 A Yes, just a few minutes.

3 Q You got to talk to him.

4 A Just about two or three minutes.

5 Q And the law enforcement that you talked with at the
6 police station, that's not this law enforcement officer,
7 is it?

8 A No.

9 Q Who was that law enforcement officer?

10 A The one in -- in Baxley?

11 Q Uh-huh.

12 A The sheriff.

13 Q From Baxley?

14 A Right.

15 Q You have lots of family in Baxley, Georgia?

16 A Yes.

17 Q In fact, your mother lives there, as well?

18 A Yes, she does.

19 Q Do y'all live close to each other?

20 A I live about five, six miles in the country, and my
21 mom lives in town.

22 Q You consider where you live the country?

23 A Yes.

24 Q And that's where Chris grew up?

25 A No, not in the country.

1 Q Not in the country but in Baxley?

2 A Right.

3 Q You love your son very much.

4 A Yes. I love all my children.

5 Q Thank you. Beg the Court's indulgence.

6 (Pause).

7 He had previously been in South Carolina that week?

8 A I couldn't tell you.

9 Q I believe you testified on direct examination that he
10 had been home, you think, two to three days?

11 A Yes.

12 Q And he had been away previously before that?

13 A Yeah, but I don't know where he was.

14 Q Do you know who brought him home?

15 A My sister.

16 Q And who was that?

17 A Carolyn Robinson.

18 Q And does she have a son?

19 A Yes.

20 Q And what's her name, his name?

21 A Kevin Nails.

22 MS. GARFIELD: Thank you. Nothing further.

23 THE COURT: Redirect?

24 MR. COLLINS: No more question questions, Your Honor.

25 THE COURT: Ms. Heller, you may step down. Be

1 careful stepping down.

2 Call your next witness please, sir.

3 MR. COLLINS: May she be excused, Your Honor?

4 MS. FENT: No objection.

5 THE COURT: Ms. Heller, you're welcome to stay in the
6 courtroom in you want to stay.

7 THE WITNESS: Okay.

8 THE COURT: Or you're free to go. Your choice, okay.

9 THE WITNESS: Thank you.

10 THE COURT: Thank you very much.

11 MR. COLLINS: Your Honor, the defense calls
12 Christopher Heller.

13 THE COURT: Mr. Heller, come around and be sworn,
14 please.

15 CHRISTOPHER HELLER, after being duly
16 sworn, testified as follows:

17 THE CLERK: Have a seat in the witness box. State
18 your name for the record, please.

19 THE WITNESS: My name is Chris Heller.

20 DIRECT EXAMINATION:

21 BY MR. COLLINS

22 Q Chris, we've known each other for a while, haven't
23 we?

24 A Yes.

25 Q For a couple of years now, right?

1 A Yes.

2 Q Are you a little nervous up here today?

3 A Yes.

4 Q You know what we're going to be talking about, right?

5 A Yes.

6 Q And have you been waiting awhile to talk about this?

7 A Yes.

8 Q Chris, I'm just going to -- we're going to start from
9 the beginning. What were you and Kevin doing back on
10 August 25th?

11 A We -- we went to the club first. After the club --

12 Q Hold on. Chris, let me just cut you off before we
13 get into it because I know they're going to bring it up.
14 Have you ever been corrected of something before?

15 A Yes.

16 Q And what have you been convicted of?

17 A I've been convicted of marijuana charges, and I've
18 been convicted of cocaine charges, drug dealing.

19 Q Okay. I just wanted to go ahead and get that out of
20 way.

21 A Yes.

22 Q We'll go back. You were with Kevin on August 25th?

23 A Yes.

24 Q Right? And what were you guys doing that night?

25 A We went to -- we picked up the white girl. She had

1 called him.

2 Q Well, let's back up.

3 A Okay.

4 Q Before we even get to that what were you and Kevin
5 doing earlier that night?

6 A We was at the Oasis Club.

7 Q Okay. Just start from there. Just kind of let the
8 jury know what happened.

9 A Okay. We was at the Oasis Club. He got the call.
10 He had to go do something, so he tells me he got a call,
11 and he had to go do something.

12 Instead of me going to stay at the club by myself, I
13 went with him. Him and another dude, Devon, which I never
14 knew who he was at the time.

15 Q What did Devon look like?

16 A He was tall. I'd say about 5'8", 5'9". He had long
17 hair, braids, dark skin, that's about it. He was a little
18 younger than me.

19 Q Would you say he was heavy?

20 A Skinny.

21 Q Skinny and so you -- the three of you go out to Club
22 Oasis?

23 A Yes, sir.

24 Q Okay.

25 A We leave. He gets to some corner, and he picked the

1 girl up. She got in the car. We went to the lady's
2 house, Ms. Mary, which I --

3 Q Did you ever meet --

4 A I didn't know her name at the time. I didn't know
5 who she was, and we went there. Devon went in the back
6 room with Tracy. After that, I went back there with
7 Tracy. We smoked crack, whatever else, you know.

8 Q Well, Chris, I mean, let's just go ahead. Whatever
9 else, did you have sex with her?

10 A Well, I didn't have sex with her, but she fondled me.

11 Q Okay.

12 A You know, sexually wise.

13 Q Okay.

14 A After that then Tracy, she wanted to start arguing
15 with me about my drugs, so it -- we argued for a little
16 bit, you know. I didn't really get no, no mad or hostile
17 with her or nothing, but the lady said that she feels like
18 I should leave. So I left, no questions asked, no
19 argument. I left.

20 Q Where did you go?

21 A When I -- when I left, she told me to go across the
22 street and use the dude's telephone across the street.
23 He'll let you use the phone. I did that. He didn't let
24 me use the phone, so I left. I walked to the store.

25 Q And --

1 A I used the payphone to call my cousin.

2 Q Where was the store, Chris?

3 A The store was like about a mile-and-a-half up the
4 road. I walked a mile-and-a-half up the road.

5 Q Are you familiar with this area?

6 A Never been there in my life. I didn't know where I
7 was going, but I was just trying to get to somewhere and
8 call my cousin to come get me. I was in a secured area.
9 I didn't know nothing about it. Anything could have
10 happened to me that night, for all I know.

11 I did this, and I called him. He picked up the
12 phone, and then like it went dead. So I've been waiting
13 on him to come and pick me up.

14 As I was waiting, I went to an abandoned trailer and
15 I stayed there. I stayed there until my high went down
16 and you know, I was straight.

17 Q When you said your heart (sic) went down, had you
18 been drinking that night?

19 A Well, I was drinking, smoking crack.

20 Q Were you partying?

21 A Yes, sir. We was smoking weed, so you know, I was
22 pretty high, you know.

23 Q Okay.

24 A So I calmed down, and I went, I called Kevin again.

25 Q And where did you call him from this time?

1 A This lady, she let me use the phone. I don't know
2 who she was or nothing, but she let me use the phone.

3 Q Okay.

4 A And I called him. He come and picked me up.

5 Q Now --

6 A Took me to my auntie.

7 Q Now, you have been in here, and you have heard all
8 the testimony.

9 A Yes, sir.

10 Q When you say you used the lady's phone, was this, you
11 know, a good 12, 13 hours later?

12 A Yes, somewhere around in there, I guess --

13 Q Did you --

14 A -- somewhere around in there. I didn't have a time.
15 I didn't have a watch.

16 Q Did you pass out in that abandoned trailer?

17 A Yes.

18 Q And did you go make the call when you woke up?

19 A Yes.

20 Q Okay. So you made the call to Kevin. You talked to
21 him, and he came to pick you up.

22 A Yes.

23 Q Where did you go after that?

24 A After that he took me, like I say, to the store. My
25 auntie got me, and we went from -- to the store to my

1 auntie's house. We stayed there that night. The next day
2 she took me home.

3 Q And did you have a change of clothes with you at any
4 point in this?

5 A Yes, sir. Yes, I did.

6 Q You had a change of clothes with you when you were at
7 this trailer?

8 A When I was at -- no. No, sir. I had the same
9 clothes on.

10 Q When did you have a change of clothes?

11 A When I got to my auntie's house, I took a shower and
12 everything, you know.

13 Q Were you --

14 A Still --

15 Q I'm sorry, go ahead.

16 A Still got the same clothes, still got the same
17 clothes.

18 Q Okay. So she took you back home to Baxley?

19 A Yes.

20 Q Are her and your mother pretty close?

21 A Yes, very.

22 Q Are you and Kevin pretty close?

23 A Yes.

24 Q So you got back to Georgia?

25 A (Nods in the affirmative).

1 Q What did you do after that?

2 A Well, in between me being home, I'm out looking for a
3 job because I had -- before the trip I had -- I had just
4 quit a job, and I was trying to another job, prior to me,
5 you know, doing the dishes and stuff like that, but I did
6 that.

7 I want to say on a Thursday morning or -- I think it
8 was Thursday I had got a call for -- to go to an
9 interview. So I went to the interview.

10 Q Where was the interview, Chris?

11 A At Burger Kind.

12 Q Is it hard to find a job with a criminal record?

13 A Sort of, sort of.

14 Q You're trying to work your way in from the ground up?

15 A Yes.

16 Q So you had an interview at, I think, Burger King?

17 A Yes.

18 Q Did you go to that interview?

19 A Yes, I went to that interview.

20 Q What happened after the interview? Did you hear from
21 somebody?

22 A I left from the interview. I called from my mama's
23 house for my mama to come pick me up. There was no
24 answer. So I was like, you know, something funny, you
25 know. She always answers the phone.

1 If not her, my girlfriend answers the phone. So I
2 called my grandmother's house, and my grandmother, she
3 tells me that they got your mama downtown. So I'm like,
4 "Got her downtown for what?"

5 Q Now, you grew up in Baxley, right?

6 A Uh-huh.

7 Q And news travels pretty fast in that small town?

8 A Fast.

9 Q Okay.

10 A Very fast.

11 Q So your grandmother told you that your mother was
12 downtown?

13 A Yes.

14 Q Did that have any special meaning to you?

15 A Yes, very, very.

16 Q And why is that?

17 A Because I know the conditions of my mother's health,
18 and I always try to do anything to keep my mom level at a
19 cool pace because I -- I hate to see my mama get sick. I
20 hate to see her in the hospital bed, but at that moment I
21 was frantic.

22 (crying).

23 Excuse me.

24 Q It's okay. You can take your time.

25 (Pause).

1 A Well, I'm frantic, and I asked this girl to take me
2 home to the sheriff's department, and when I got there it
3 was a whole bunch of officers in there. I asked them,
4 "Are y'all looking for me? What's the problem?"

5 They tell me -- well, they didn't exactly tell me,
6 but they tell me that I was a suspect to something that
7 happened. So I asked them, "Where is my mother?"

8 They tell me, and I'm like, "Well, why did y'all --
9 what are you holding my mother for? You know, you came
10 looking for me. You didn't -- you didn't come to get
11 her."

12 Q Were you worried about her heart at that time?

13 A Yes, sir.

14 Q So what did they do with you after that?

15 A They took me, they patted me down, and they took me
16 to this little room.

17 Q And who was in that room with you, Chris?

18 A Two of them.

19 Q All right.

20 A The two South Carolina investigators.

21 Q Had you ever seen them before?

22 A Never in my life.

23 Q And just kind of tell the jury what they did in
24 there.

25 A Well, at the time I started asking them about my

1 mother and what was going on, so they give me a room.

2 They tell me that I have -- I could be a murderer to some
3 people that I don't even know and that they don't have
4 witness. They don't have nobody --

5 Q I'm sorry. Is that what -- they said they didn't
6 have any witnesses? They didn't have anybody?

7 A Yes.

8 Q Okay. It's okay, Chris. Just take your time.

9 (crying).

10 (Pause).

11 A They tell me this, and they tell me that somebody had
12 to fall for this crime; that they don't have anybody. So
13 I tell them I don't know nothing.

14 I'm asking them about my mother because I don't know
15 nothing, so they tell me that they're going to charge my
16 mother for aiding and abetting me; that she illegally
17 helped me out or hid me out or something, and it wasn't
18 even like that.

19 I'm trying to tell them that, no, I'm handling my
20 business trying to get a job, but they tell me the only
21 way that they will release my mother and my girlfriend was
22 that I take these charges.

23 Q By "take these charges", what does that mean to you,
24 Chris?

25 A I would give up my freedom for my mama, and at the

1 time I loved my mama so much that I'd do anything for my
2 mama.

3 I just couldn't stand the fact of seeing her sitting
4 in a jail cell that she's never been in that situation
5 before, so I knew there wasn't nothing else for me to do
6 but sign this paper that they presented me.

7 Q What kind of paper did they give to you first?

8 A This paper, it had on the front that -- it already
9 had my name on it. It had some other stuff written on it.

10 I didn't physically just read what was on the paper,
11 but the first thing I noticed was my name on this paper,
12 so -- and it's like either you could take the charges or
13 we could go about it another different way.

14 So during this process I asked him, "Well, if I take
15 these -- if I take these charges, y'all are going to let
16 my mother go?" They said, "We'll talk to the Sheriff and
17 see what we can do."

18 Mr. Gonzales, he left out the room, and he went and
19 talked to the sheriff. And he came back in, but he said
20 they're going -- they're going to let you see your mother,
21 but first we have to take care of this process. Then I
22 signed my name on this paper.

23 Q Did they give you something else to sign after that?

24 A Yes, sir. That's when they read me my rights.

25 Q After you signed the paper?

1 A After I signed this paper they read me my rights.
2 Then going through the process of this, he pulls out a
3 laptop, and he starts typing. Okay, from there he -- he
4 asked me questions. I'm still the same as I am right now
5 today, right now as I'm crying. I was just like this.

6 Q Oh, Chris, did they ask you questions after you had
7 signed the paper?

8 A Yes.

9 Q What kind of -- what all did they ask you?

10 A He asked me well, how old I was, and what level
11 school did I finish and other questions. Then he asked me
12 about what happened.

13 I told him we went to this trailer. We picked the
14 girl up. Me and the girl fondled around. We got into a
15 little argument. They asked me to leave. I left. I told
16 them that.

17 Q Did you ever --

18 A And they asked me about a knife. I tell them I don't
19 know nothing about no knife, and he asked me have I ever
20 owned a knife before. I said yes, a little pocketknife, a
21 small little bitty knife, a little black knife, little
22 ragged edge, a small little key chain knife. You know,
23 something you would have on your key chain. I told him
24 that, and he started -- he tapped on the thing.

25 Q Now, when you said you had an old key chain type

1 knife, you're talking about one of those knives about the
2 width of a pen?

3 A No, sir. Smaller than that.

4 Q About like this long (indicating)?

5 A Yes. It's something you will like -- where I get
6 (sic) the knife from, I won it at a fair.

7 Q And did you have that night with you at the time you
8 were hanging out --

9 A No, sir.

10 Q -- with Kevin?

11 A No, sir.

12 Q And did they continue asking you questions after you
13 told them that?

14 A Yes, sir. They asked me some other questions. I
15 can't really recall all the questions that he asked me,
16 but the main, main questions that I remember was what
17 happened then, and I tell him what happened.

18 Q Did they ever give you the statement to read over and
19 review?

20 A When I got a statement to review, we was here in
21 South Carolina.

22 Q Okay. Before we get to South Carolina, about how
23 long were you in that office with Investigator Gonzales
24 and Siniard?

25 A I'd say during the negotiation and me waiting to see

1 my mother, an hour or so.

2 Q And did you go anywhere after that?

3 A Yes, sir. They asked me could I retrieve the clothes
4 that I had on that night.

5 Q Did you have any problem showing them?

6 A No, sir, none at all. I told them anything to clear
7 me up. I'll show you all that I've got, and we went back
8 out there. When we got there, they had me sign another
9 paper giving consent that I'm giving up my proper items
10 that I wore.

11 Q Did they ask you to waive your extradition back to
12 South Carolina?

13 A Yes, sir, they did.

14 Q Did you do that?

15 A Yes, sir.

16 Q Why did you do that?

17 A I was just trying to clear myself and be -- just
18 whatever it was that they needed me to do.

19 Q Okay. And after you got back to South Carolina,
20 where did they take you?

21 A When I got back to South Carolina, they went straight
22 to -- back over to this place that they say was a crime
23 scene, where it happened at.

24 Q Was that the same trailer that you and Kevin and
25 Devon had gone to?

1 A They didn't necessarily go to that trailer, but they
2 come (sic) through the area.

3 Q Okay. And did they ask you any questions as they
4 were driving around there?

5 A Yes. They asked me to show where I had been at,
6 where I stayed, in the trailer.

7 Q Did you do that?

8 A I did that.

9 Q Did they ask you anything about where you threw a
10 knife?

11 A He asked me where I threw a knife, and I told him I
12 didn't know nothing about a knife. I told him that before
13 we left the station.

14 Q Okay. And after they drove you around the trailer
15 park, they take you down to headquarters after that?

16 A Yes. They took me to headquarters.

17 Q Is that the first time you saw you were being charged
18 with murder?

19 A Yes.

20 Q Did you become a little bit upset?

21 A Well, I was, but just -- it was a hard pill to
22 swallow.

23 Q Did you regret your decision to sign that piece of
24 paper at that point in time?

25 A Yes.

1 Q Were you glad your mom was out of jail, though?

2 A Yes, but -- I'd do anything for my mother.

3 Q Let me take you a few days after this, Chris. It was
4 after that you went to jail, right?

5 A Yes, sir.

6 Q And then a few days later Investigator Siniard came
7 down to pick you up?

8 A Yes.

9 Q And where did he take you?

10 A He took me back over there again.

11 Q Did you point out the trailer again?

12 A Once again.

13 Q Did he ask you where you threw the knife or how you
14 threw the knife?

15 A Yes, sir.

16 Q Did you show them how you threw a knife?

17 A No, sir.

18 Q Were you shackled?

19 A Yes, sir.

20 Q Both arms connected to your belly?

21 A Yes, sir.

22 Q Even if you had wanted to, would you have been able
23 to throw anything being shackled?

24 A No way. There's no way possible you can do it.

25 Q And did he take you back to the jail?

1 A He took me to -- to the store. He took me to the
2 store, and he asked me did I want anything out of the
3 store. He got me a pack of cookies and a soda.

4 He rode back by there one more time and asked me
5 where -- do you honestly -- "Where's the knife?"

6 I don't know where the knife is. You're going to
7 make me know something that I don't know, so -- and he
8 took me back to the headquarters, from headquarters back
9 to the jail.

10 Q Chris, did you stab anybody that night?

11 A No, sir.

12 Q Did you kill anybody that night?

13 A No, sir.

14 MR. COLLINS: I have no further questions.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION:

17 BY MS. FENT

18 Q You were in South Carolina on August 25th of 2006,
19 weren't you?

20 A Yes, ma'am.

21 Q You were in Columbia, South Carolina on August 25th,
22 2006?

23 A Yes, ma'am.

24 Q You were at Brookhurst Court at that trailer park on
25 August 25th, 2006, weren't you?

1 A Yes, ma'am.

2 Q You were, in fact, at Mary Chavis' trailer on August
3 25th, 2006?

4 A Yes, ma'am.

5 Q You were there with Kevin, your cousin?

6 A Yes, ma'am.

7 Q Kevin Nails, correct?

8 A Yes, ma'am.

9 Q Same Kevin Nails that came and testified in this
10 trial?

11 A Yes, ma'am.

12 Q You went there with Devon, correct?

13 A Yes, ma'am.

14 Q You all first had gone to the Oasis Club, and then
15 you go and pick up Tracy?

16 A Yes, ma'am.

17 Q Tracy, Bille Joe Risinger, who testified in this
18 courtroom?

19 A Yes, ma'am.

20 Q You all are driving around in Kevin's car?

21 A Yes, ma'am.

22 Q This car, State's Exhibit 23?

23 A Yes, ma'am.

24 Q And all of you go over to Mary Chavis' apartment.

25 A Yes, ma'am.

1 Q You smoke crack?

2 A Yes, ma'am, I did.

3 Q With Tracy?

4 A Yes, ma'am.

5 Q With Mary?

6 A No, ma'am.

7 Q Did Devon and Kevin smoke crack?

8 A No, ma'am.

9 Q Even though --

10 A They put it in the weed but just physically, no, no,

11 ma'am.

12 Q Okay. Even though Kevin admits he smoked crack?

13 A Yes, ma'am; yes, ma'am.

14 Q Kevin left, right? Kevin wanted to leave?

15 A He had a call and he left.

16 Q So that's a yes?

17 A Yes, ma'am.

18 Q And he left with Devon?

19 A Yes, ma'am.

20 Q And you did not want to go?

21 A No, ma'am. I wanted to stay and finish what I was

22 doing.

23 Q You wanted to stay in that trailer with Mary and

24 Tracy.

25 A With Tracy that was with me, yeah.

- 1 Q And you wanted to have sex with Tracy?
- 2 A Yes, ma'am.
- 3 Q In fact, your cousin said you said you wanted to
- 4 "trick the B".
- 5 A Yes, ma'am.
- 6 Q And "trick" means to have sex with, right?
- 7 A Yes, ma'am.
- 8 Q And "B" was bitch?
- 9 A Yes, ma'am.
- 10 Q You wanted to trick the bitch?
- 11 A Yes, ma'am.
- 12 Q And you were cussing?
- 13 A Yes, ma'am.
- 14 Q And he said, "Get out of my car. You go ahead and
- 15 stay here. Get out of my car."
- 16 A Yes, ma'am, but he didn't say it like you're trying
- 17 to say it, though.
- 18 Q And you went back into the trailer?
- 19 A Yes, ma'am.
- 20 Q With Mary?
- 21 A Yes, ma'am.
- 22 Q And Tracy?
- 23 A Yes, ma'am.
- 24 Q And Chino was in there?
- 25 A I don't know who Chino was.

1 Q The Mexican man.

2 A Yes, ma'am.

3 Q You talked about a Mexican man in your statement?

4 A No, ma'am, not to my knowledge.

5 Q Page one, "Inside the trailer was a white lady and a
6 Mexican man"?

7 A I didn't say that.

8 Q You did not say that?

9 A No, ma'am.

10 Q But Mary and Tracy are in there, correct?

11 A Yes, ma'am.

12 Q You went into the back bedroom with Tracy?

13 A Yes, ma'am.

14 Q Is that where y'all smoked some crack?

15 A Yes, ma'am.

16 Q And you said that you and Tracy then got into an
17 argument, right?

18 A Yes, ma'am.

19 Q You got into that argument in the back bedroom or the
20 living room?

21 A It was in the bedroom -- in the living room back
22 there. In the bedroom --

23 Q Okay.

24 A -- coming into the living room, because we was coming
25 out of the back bedroom.

1 Q Okay. It started back there and then continued into
2 the living room?

3 A Yes, ma'am.

4 Q Mary tells you to leave, right?

5 A Yes, ma'am.

6 Q She doesn't like you arguing.

7 A Yes, ma'am.

8 Q And she tells you to leave.

9 A Yes, ma'am.

10 Q And you went just across the way from her trailer to
11 the next trailer to call someone, right?

12 A Yes, ma'am, just across the street, yes, ma'am.

13 Q Across the -- just across the road, there's two
14 little driveways out there?

15 A It was just across the street.

16 Q Which way did you go?

17 A I come out of the trailer. I walked around the
18 trailer across the street. There was a fence, fenced in
19 property, and I walked across there.

20 Q And you were going to use the phone?

21 A Yes, ma'am.

22 Q Because Mary wanted you to leave?

23 A Yes, ma'am.

24 Q And you said that guy wouldn't let you use the phone?

25 A Yes, ma'am.

1 Q You ended up staying in a trailer all night?

2 A Yes, ma'am.

3 Q What time was this when you leave Mary's trailer?

4 A I can't give a time because I don't know. I didn't

5 have a watch on. I didn't know what time it was.

6 Q Early morning hours?

7 A Yes, ma'am.

8 Q Could it have been between three and four?

9 A Yes --

10 Q Okay.

11 A -- somewhere around there, maybe four.

12 Q Okay. You leave between three and four in the

13 morning, and it's not until after 9:30 p.m. that night

14 that you finally see Kevin?

15 A Yes, ma'am.

16 Q So you don't -- you hide out in that trailer?

17 A No, ma'am. I just stayed in that trailer.

18 Q You stayed in an abandoned trailer?

19 A Yes, ma'am.

20 Q This is August 25th.

21 A Yes, ma'am.

22 Q It's hot outside. It's Columbia, South Carolina.

23 A Yes, ma'am.

24 Q There was no air conditioning in this trailer.

25 A Yes, ma'am.

- 1 Q There was no electricity in this trailer.
- 2 A True.
- 3 Q There was no running water in this trailer.
- 4 A Yes, ma'am.
- 5 Q And you stayed there five a.m.?
- 6 A It was in the morning until --
- 7 Q Six a.m.?
- 8 A -- the evening.
- 9 Q Seven a.m., eight a.m. You stayed there through the
- 10 daylight hours?
- 11 A Yes, ma'am, I was asleep.
- 12 Q In that trailer?
- 13 A Yes, ma'am, I was asleep.
- 14 Q You waited until it was dark again before you left
- 15 that abandoned trailer.
- 16 A Yes, ma'am, it was dark.
- 17 Q And that's the same trailer that you showed
- 18 Investigator Siniard, and was Willie Gonzales there at the
- 19 time you showed him the trailer?
- 20 A When we first got there, yes.
- 21 Q The first time. Kevin picked you up, then, late the
- 22 next evening?
- 23 A Yes, ma'am.
- 24 Q The dark hours?
- 25 A Yes, ma'am.

1 Q And he directly delivers you to Carolyn Robinson,
2 right?

3 A Yes, ma'am; yes, ma'am.

4 Q Who is your auntie. You call her Auntie?

5 A Yes, ma'am.

6 Q He goes right from picking you up to delivering you
7 to your auntie?

8 A Yes, ma'am.

9 Q And you're saying that your auntie then takes you to
10 her house?

11 A Yes, ma'am.

12 Q Where you can shower.

13 A Yes, ma'am.

14 Q I'm sure you wanted to take a shower.

15 A Yes, ma'am.

16 Q You're in a hot trailer for several hours, right?

17 A Yes, ma'am.

18 Q So you can change your clothes.

19 A Yes, ma'am.

20 Q Possibly wash your clothes?

21 A No, ma'am.

22 Q You're probably not smelling too good.

23 A No, ma'am.

24 Q You didn't want to wash your clothes?

25 A No, ma'am.

1 Q Get something to eat?

2 A Yes, ma'am.

3 Q And then the next thing is your auntie drives you all
4 the way back to Baxley, Georgia?

5 A Yes, ma'am.

6 Q Now, you had planned with your auntie to go to the
7 Cherokee casinos, didn't you?

8 A Yes, ma'am, we did.

9 Q But you abandoned that plan, and your auntie drove
10 you back to Baxley, Georgia?

11 A No, ma'am.

12 Q You never got to those Cherokee casinos, did you?

13 A Yes, ma'am. The reason why we didn't go is because
14 my aunt's fund had ran low, and she was -- there was no
15 way we could make the trip. We didn't have enough money.

16 Q Couldn't afford to go to the casinos but drove you
17 back to Baxley?

18 A Yes, ma'am.

19 Q Caroline Robinson, your auntie, you are very close
20 with, aren't you?

21 A Yes, ma'am.

22 Q You have spoken with her numerous times since you
23 have been charged with this?

24 A Yes, ma'am.

25 Q She has come to visit you many, many times since you

1 have been charged with this?

2 A Yes, ma'am.

3 Q She has written you letters?

4 A Yes, ma'am.

5 Q In fact, on one of your phone calls with her, she
6 tells you that she loves you more than her own son,
7 doesn't she?

8 A Yes, ma'am.

9 Q More than Kevin Nails.

10 A Yes, ma'am.

11 Q Let's talk a little bit about the statement.

12 (WHEREUPON, State's Exhibit No. 83 was marked for
13 identification only.)

14 BY MS. FENT

15 Q Marked for identification State's Exhibit 83. You
16 said that they did read you an advice of rights that you
17 signed?

18 A Yes, ma'am.

19 Q And is that it?

20 A Yes, ma'am.

21 Q Can you see it okay from there?

22 A (There was no response).

23 Q Can you see it okay?

24 A Yes, ma'am.

25 Q Your name is Christopher R. Heller?

1 A Yes, ma'am.

2 Q And you spoke with them in Baxley, Georgia at the
3 Appling County Sheriff's Department, did you not?

4 A Yes, ma'am.

5 Q And it was Investigator Willie Gonzales and
6 Investigator Howell Siniard?

7 A (Nods in the affirmative).

8 Q And that day at the Appling County Sheriff's
9 Department was August 31st, 2006, wasn't it?

10 A Yes, ma'am.

11 Q It's about 1:30 in the afternoon, wasn't it?

12 A Yes, something like that.

13 Q Yeah. Did they read to you "before we ask you any
14 questions you must understand your rights"? Did they read
15 that to you?

16 A Yes, ma'am. They read it to me.

17 Q And did you put your initials right there?

18 A Yes, I did.

19 Q They said, "You have the right to remain silent."
20 Did they read that to you?

21 A Yes, they did.

22 Q And you put your initials there, didn't you?

23 A Yes, I did.

24 Q They said, "You have the right to talk to a lawyer
25 for advice before we ask you any questions and to have a

1 lawyer with you during questioning." Did they read that
2 to you?

3 A Yes, they did.

4 Q And is that your initials?

5 A Yes, ma'am.

6 Q "If you cannot afford a lawyer, one will be appointed
7 for you before any questioning, if you wish." Are those
8 your initials?

9 A Yes, ma'am.

10 Q Did they read that to you?

11 A Yes, ma'am.

12 Q "If you decide to answer questions now without a
13 lawyer present, you still have the right to stop answering
14 at any time. You also have the right to stop answering at
15 any time until you talk to a lawyer." Did they read that
16 to you?

17 A Yes, ma'am, they did.

18 Q And are those your initials?

19 A Yes, ma'am.

20 Q There's a place right here for witnesses and a
21 signature. Did you sign right there, signed Christopher
22 R. Heller?

23 A Yes, I did.

24 Q Can you read, Mr. Heller?

25 A Yes, I can.

1 Q Can you write, Mr. Heller?

2 A Yes, I can.

3 Q You have a tenth grade education, don't you?

4 A Yes, ma'am.

5 Q Were you under the influence of any alcohol or drugs
6 when you went and turned yourself in?

7 A No, ma'am.

8 Q You understand everything that they were saying to
9 you?

10 A Yes, ma'am.

11 Q And they signed this as witnesses, didn't they?

12 A Yes, ma'am.

13 Q Investigator Gonzales and Investigator Siniard. And
14 it says, "Waiver of rights. I have read this statement of
15 my rights and understand what my rights are. I am willing
16 to talk and answer questions. I understand and know what
17 I am doing. No promises have been made to me, and no
18 pressure or coercion of any kind has been used against
19 me." Did they read that to you?

20 A Yes, they did.

21 Q And did you sign right under that waiver of rights?

22 A Yes, ma'am, but before I answer this question, that
23 -- at the time of that, I didn't have no choice of what I
24 was put through.

25 Q Would you like me to read it again?

1 A Yes, ma'am.

2 Q Okay.

3 A Well, it -- it still doesn't consist of what I'm

4 answering so...

5 Q You would like me to read it again to you?

6 A Yes, ma'am.

7 Q "I understand and know what I am doing. No promises

8 have been made to me, and no pressure or coercion of any

9 kind has been used against me."

10 A Yes, ma'am.

11 Q They read that to you?

12 A Yes, ma'am.

13 Q And that is your signature?

14 A Yes, ma'am.

15 Q Christopher R. Heller?

16 A Yes, ma'am.

17 Q Okay. And they signed as witnesses?

18 A Yes, ma'am.

19 Q Page one of your statement. You lived at [REDACTED] Ten

20 Mile Road, Baxley, Georgia?

21 A Yes, ma'am.

22 Q 31513?

23 A Yes, ma'am.

24 Q Again, Christopher Robert Heller, right?

25 A Yes.

1 Q And it was the 31st day of August, 2006?

2 A Yes.

3 Q About 1:30 in the afternoon?

4 A Yes, ma'am.

5 Q Investigator Howell Siniard and investigator Willie
6 Gonzales who are of the Richland County Sheriff's
7 Department, they identified themselves. They were there?

8 A Yes, ma'am.

9 Q "I, Chris Heller, understand that I have the right to
10 remain silent. Anything I say can be used against me in
11 court.

12 I have the right to talk to a lawyer for advice
13 before you ask me any questions and to have a lawyer with
14 me during any questioning.

15 If I cannot afford a lawyer, one will be appointed
16 for me before any questioning, if I wish. If I decide to
17 answer questions now without a lawyer present, I still
18 have the right to stop answering at any time. I also have
19 the right to stop answering at any time until I talk to a
20 lawyer."

21 You can read?

22 A Yes, ma'am, I can.

23 Q Then who was it that was asking you the questions,
24 Investigator Siniard?

25 A Both of them was asking me questions.

1 Q Both of them were asking questions. Was Investigator
2 Siniard the one typing?

3 A Yes, ma'am.

4 Q And you are a black male, and your date of birth is

5 [REDACTED]

6 A Yes, ma'am.

7 Q You went to the tenth grade?

8 A Yes, ma'am.

9 Q And again, you can read and write?

10 A Yes, ma'am.

11 Q You are not under the influence of any alcohol or
12 drugs?

13 A No, ma'am.

14 Q Now, let's take this sentence by sentence. Did you
15 tell them: "My cousin Kevin Nails and another black male
16 left the Oasis Club"?

17 A Yes, ma'am, I did.

18 Q Did you tell them: "My cousin stopped in the roadway
19 to pick up an (sic) little white girl that was walking"?

20 A Yes, ma'am, I did.

21 Q "Kevin dropped the girl off -- the girl and I off at
22 the trailer"?

23 A Yes, I did. We was as a group.

24 Q So Kevin had initially gone in?

25 A We all had been in there except Kevin. He didn't go

1 there.

2 Q Even though he testified that he did go in and smoke
3 crack with everybody?

4 A Yes, ma'am.

5 Q "Inside the trailer was a white lady and a Mexican
6 man"?

7 A I didn't say that.

8 Q What did you say?

9 A I didn't say that.

10 Q Did you say "inside the trailer"?

11 A No, ma'am.

12 Q "Was a white lady"?

13 A No, ma'am, I didn't say that.

14 Q Was there a white lady inside the trailer?

15 A Yes, ma'am, there was, but I didn't say that.

16 Q The lady let you in?

17 A No, ma'am.

18 Q You didn't say that?

19 A No, ma'am.

20 Q "Once inside, the white girl that Kevin picked up and
21 I went into a bedroom and started smoking crack"?

22 A I said that.

23 Q "I went outside for a few minutes, and when I came
24 back inside, the lady that lived there told me I had to
25 go"?

1 A No, ma'am. I didn't -- I didn't say that, that I
2 went back out. I didn't say that.

3 Q Okay.

4 A No, ma'am.

5 Q "The lady that lived there told me I had to go"?

6 A Yes, ma'am, I said that.

7 Q "I told her that I was waiting on Kevin to come back
8 and pick me up"?

9 A I did say that.

10 Q "I just started stabbing people"?

11 A No, ma'am. I did not say that.

12 Q Is this your signature at the bottom of this piece of
13 paper?

14 A Yes, it is.

15 Q And again, you can read and write?

16 A Yes, ma'am.

17 Q Is this your signature at the bottom? "This is to
18 certify that I have read or have read to me the foregoing
19 statement consisting of three pages, and a true copy has
20 been given to me on this 31st day of August, 2006"?

21 A Yes, ma'am.

22 Q That's your signature?

23 A Uh-huh.

24 Q Did they ask you where you got the knife?

25 A No, ma'am.

- 1 Q They did not ask you that?
- 2 A No, ma'am.
- 3 Q You told them about a knife though, didn't you?
- 4 A Well, he asked me have I ever owned a knife.
- 5 Q Okay.
- 6 A He didn't ask me where I got a knife from. He asked
- 7 me had I ever owned a knife, and I described to him the
- 8 knife that I own.
- 9 Q The black pocketknife?
- 10 A Yes, ma'am.
- 11 Q So you said the word "pocketknife"?
- 12 A No, ma'am.
- 13 Q And you said two or three inches long?
- 14 A No, ma'am.
- 15 Q How many inches did you tell him?
- 16 A No, ma'am. It was like a mini, real small.
- 17 Q Did you tell him how many inches?
- 18 A No, ma'am. I never did. No, ma'am.
- 19 Q Who did you start stabbing first?
- 20 A I didn't say that.
- 21 Q What did you do after stabbing the lady and the man?
- 22 A I didn't say none of that.
- 23 Q What happened to the knife?
- 24 A I didn't say none of that.
- 25 Q The Nike shoes you have on, were they asking about

1 the Nike shoes?

2 A They asked me about the shoes I had on. I don't wear
3 Nikes. I didn't have Nikes.

4 Q Okay. That you had some white and blue Reeboks.

5 A Yes, ma'am.

6 Q You told them about that?

7 A Yes, ma'am.

8 Q That you were wearing white and blue Reeboks?

9 A Yes, ma'am.

10 Q Did you tell them where they were, that they were --

11 A In my room.

12 Q -- in your room under the bed?

13 A Yes, ma'am.

14 Q And they wanted to know where the clothes were that
15 you were wearing?

16 A Yes, ma'am.

17 Q And you told them they were in your room?

18 A Yes, ma'am.

19 Q Did you tell them how many days you had been in
20 Columbia prior to August 25th, 2006?

21 A I think I did.

22 Q About three days?

23 A Yes, ma'am, I think I did.

24 Q You think you told them, answered this question for
25 them?

1 A Yes, ma'am.

2 Q And then your Aunt Carolyn was going to take Kevin
3 and you to Cherokee, North Carolina to the casinos?

4 A It wasn't Kevin. It was me and my grandmother and
5 her.

6 Q Did you tell the investigators this information?

7 A I didn't tell them no Kevin. I told them me and my
8 grandmother and my auntie. They assumed Kevin.

9 Q And did you describe Tracy for the investigators?

10 A Yes, sir -- yes, ma'am, I did, gave a photo, and I
11 pointed her out.

12 Q And is this your signature at the bottom of page two?

13 A Yes, ma'am.

14 Q And again, under the part where it's to certify that
15 I have read or had read to me the foregoing statement
16 consisting of three pages, and a true copy has been given
17 to me the 31st day of August, 2006. Is that your
18 signature, again, down at the bottom?

19 A Yes. It looks like my signature, yes, ma'am.

20 Q Did you sign it?

21 A Yes, ma'am.

22 Q So it's your signature?

23 A Yes, ma'am.

24 Q Page three, is there anything else you want to add?

25 Did they ask you about that?

1 A Yes, ma'am.

2 Q And you said, "No, sir. Everything I told you is the
3 truth"?

4 A Yes, ma'am.

5 Q And did you sign the bottom of page three?

6 A Yes, ma'am.

7 Q That is your signature, "I have made the foregoing
8 statement freely and voluntarily without fear, threat,
9 promise of reward or hope of reward of any kind"?

10 A Yes, ma'am.

11 Q That is your signature?

12 A Yes, ma'am.

13 Q And again, this is to certify that I have read or
14 have read to me the foregoing statement consisting of
15 three pages, and a true copy has been given to me the 31st
16 day of August, 2006. Is that your signature?

17 A Yes, ma'am.

18 Q You said that you did tell them about a pocketknife
19 that you own, correct?

20 A Yes, I did.

21 Q You described it as a black pocketknife?

22 A Yes, ma'am.

23 Q You did not have that pocketknife on you when you
24 showed up at the sheriff's department?

25 A No, ma'am, I didn't.

1 Q When they patted you down, it wasn't on you?

2 A No, ma'am, I didn't.

3 Q And you just testified on direct examination that you
4 said you told them about your clothes and that you -- they
5 asked you could you retrieve the clothes that you had on
6 that night, and your answer was "anything I could give
7 them to help them out," correct?

8 A Yes, ma'am, and I...

9 Q Did you point out a knife when you went back to that
10 residence and say, "That's the pocketknife I was telling
11 you about"?

12 A No, ma'am. They didn't ask me about it. No, ma'am.

13 Q You just testified "anything I could give to them to
14 help them out;" is that correct?

15 A Yes, I did.

16 Q But you did not point out a pocketknife to them?

17 A No, ma'am. No, I didn't.

18 Q You do have some tattoos on you, don't you?

19 A Yes, I do. Yes, ma'am.

20 Q In fact, on one of your arms you have three dollar
21 signs, don't you?

22 A I have two dollar signs.

23 Q Where are they?

24 A They're on my left arm.

25 Q On your left arm?

1 A Yes, ma'am.

2 Q Two dollar signs?

3 A Yes, ma'am.

4 Q And you also have a tattoo that says "made man",
5 don't you?

6 A Yes, I do. Yes, ma'am.

7 Q And where is that tattoo?

8 A That tattoo is across my chest.

9 Q Across your chest. State's Exhibit Number eight,
10 that tattoo says "made man", doesn't it?

11 A Yes, it does.

12 Q That was the tattoo described by Tracy or Bille Joe
13 Risinger, wasn't it?

14 A It was.

15 Q Just exactly like you have across your chest.

16 A Yes, ma'am.

17 Q The only way somebody is going to see that tattoo
18 across your chest is if you're taking on and off your
19 shirt, aren't they?

20 A Yes, ma'am.

21 Q You also previously testified in this courtroom
22 regarding your statement, correct?

23 A Yes, ma'am.

24 Q The giving -- the facts around giving your written
25 statement to the investigators, didn't you?

1 A Yes, I did.

2 Q In this very courtroom, and you sat in that very
3 chair.

4 A Yes, ma'am.

5 Q And when you did that, you did not mention that
6 investigator --

7 MR. COLLINS: Objection, Your Honor.

8 THE COURT: What's your legal objection?

9 MR. COLLINS: May we approach briefly?

10 THE COURT: Pardon?

11 MR. COLLINS: May we approach briefly?

12 THE COURT: Yes, sir.

13 (WHEREUPON, a bench conference was held in the
14 presence, but not within the hearing, of the jury)

15 THE COURT: All right. Madam forelady, ladies and
16 gentlemen of the jury, I know you have been out, in and
17 out, but we've been in the courtroom about an hour and 40
18 minutes.

19 We're going to take a break at this time. The court
20 reporter needs a break, and so does everybody else. Don't
21 discuss the case amongst yourselves, and I'll get you back
22 in about 15, 20 minutes.

23 (WHEREUPON, the jury left open court at approximately
24 4:21 p.m.)

25 THE COURT: Okay. Mr. Heller, you may step down to

1 the attorney's table, please, sir. Be careful stepping
2 down.

3 (Complies).

4 THE BAILIFF: Watch your step.

5 THE COURT: All right. Solicitor, I believe when
6 Mr. Collins was on -- I don't recall. It was one witness.

7 MR. COLLINS: Bille Joe or was it Mary Chavis or
8 Bille Joe Risinger? I believe it was Mary Chavis.

9 MS. GARFIELD: I think it was Bille Joe.

10 THE COURT: And you were going into the testimony
11 that we had done in camera. I restricted you just to
12 impeachment of things that she may have said.

13 MR. COLLINS: Yes, Your Honor.

14 THE COURT: Now, that same thing applies to the
15 State.

16 Now, where are you going?

17 MS. FENT: Well, he --

18 THE COURT: We have in camera hearings to take
19 testimony outside the presence of the jury.

20 MS. FENT: Absolutely.

21 THE COURT: Not to come in and repeat that testimony
22 before the jury.

23 MS. FENT: Absolutely.

24 THE COURT: All right. If he said --

25 MS. FENT: But this --

1 THE COURT: -- something different today than he said
2 in the sworn statement, you can impeach him with that. So
3 where are you going?

4 MS. FENT: Absolutely. He specifically in pretrial
5 was testifying regarding the facts, the coercive nature of
6 his -- the giving of his statement.

7 He did not mention that Willie Gonzales left the room
8 and then came back and said that "we worked out that we'll
9 release your mom if we just finish this up here." He
10 never said that Investigator Willie Gonzales left that
11 room, never testified to it.

12 THE COURT: Well, that may be, but that's not really
13 impeachment. Impeachment is where he says something
14 different, not leave something out.

15 MS. FENT: But it goes directly to -- if you're
16 trying to establish that they coerced to me -- you know,
17 they coerced this statement out of me and this is how they
18 did it, and he leaves that fact out, an important fact out
19 in establishing the coercion, it's directly relevant that
20 he would leave that out --

21 THE COURT: And you --

22 MS. FENT: -- and now --

23 THE COURT: Well, he --

24 MS. FENT: -- he figured out, "Well, that didn't
25 work. I didn't get my statement" --

1 THE COURT: All right. Well, you --

2 MS. FENT: -- "suppressed. I need to add some facts
3 to it."

4 THE COURT: All right. Now, did he state here -- I
5 believe you said on direct that Officer Gonzales left out,
6 correct?

7 MS. FENT: On direct he said that Investigator
8 Gonzales left, right, and then came back and said --

9 THE COURT: Well, is that --

10 MS. FENT: -- we have worked that out.

11 THE COURT: Was that question asked of him Monday in
12 camera?

13 MS. FENT: The question was asked of Greg Collins,
14 "Tell me what happened. Why were you coerced into giving
15 this statement?"

16 I mean, he couldn't lead his own witness. He can't.
17 He has to say, "You tell us what happened in that room.
18 Tell the judge what happened in that room." He can't ask
19 that question directly.

20 THE COURT: All right.

21 MR. COLLINS: Your Honor.

22 MS. FENT: It's illegal.

23 THE COURT: If that's where you're headed, I'm not
24 going to let you do that. I don't think that's
25 impeachment. I don't think that's a contradictory

1 statement. That's just something -- you had asked him a
2 question Monday, okay. So I'm not going to allow you to
3 go into that.

4 Anything else you want to go into from the testimony
5 Monday?

6 MS. FENT: Is there anything else? Yes. In fact, I
7 want to cross him on his demeanor. He testified to these
8 same facts regarding his mom's ill health and that -- how
9 coerced he was.

10 He sat in front of this jury crying about it. Then
11 he testified on Monday without a tear coming out of his
12 eye, without 12 jurors sitting there, you know, was able
13 to tell the exact same story and not shed a tear.

14 THE COURT: All right. Why shouldn't I allow her to
15 ask when he was testifying Monday about similar facts did
16 he cry or not cry?

17 MR. COLLINS: Well, Your Honor, demeanor is something
18 that's to be judged by a jury. I don't believe you can
19 impeach demeanor. There's different circumstances.
20 There's 12 strangers in the room. He shouldn't have to go
21 through that explanation where they impeach him.

22 THE COURT: All right. I'm not going to let you do
23 that.

24 MR. COLLINS: It's the emotion.

25 THE COURT: All right. What else do you want to use

1 about the transcript on Monday?

2 (Pause).

3 I assume you have got an objection to all of these?

4 MR. COLLINS: Yes, Your Honor.

5 THE COURT: Okay. I didn't -- I guess I didn't do
6 the right format. Do you have objections to her using
7 those two prior statements?

8 MR. COLLINS: Yes, Your Honor. I don't believe --

9 THE COURT: That motion is granted.

10 MR. COLLINS: Thank you, Your Honor.

11 THE COURT: Anything else you want to use on the
12 statement that we need -- can go over now? I mean, if
13 there's the direct impeachment or direct change of
14 testimony, I will let you do it because it's a sworn
15 statement.

16 MS. FENT: Well, I understand the Court's ruling. I
17 guess I just disagree in terms of --

18 THE COURT: Well, that's --

19 MS. FENT: -- that he left out.

20 THE COURT: That's fine. Every time I make a
21 decision, 50 percent of the people in front of me
22 disagree, okay. That's fine. I don't mind disagreeing.
23 You wouldn't be a good lawyer if you didn't disagree,
24 okay.

25 MS. FENT: I'm doing it politely.

1 THE COURT: I understand, and I appreciate you're
2 doing it politely. If you didn't do it politely, it might
3 be a different situation, okay. Anything else you want to
4 bring out to the Court's attention?

5 MS. FENT: No, Your Honor.

6 THE COURT: All right. We'll take our recess. Thank
7 you very much.

8 (WHEREUPON, a short break was taken.)

9 THE COURT: All right. Are you ready? Is the State
10 ready?

11 MS. FENT: Yes, Your Honor.

12 THE COURT: Is the State ready?

13 MS. FENT: Yes, Your Honor.

14 THE COURT: Is the defense ready?

15 MR. COLLINS: The defense is ready.

16 THE COURT: Bring us the jury, please.

17 MR. COLLINS: We'll have him go ahead and go up
18 there.

19 THE COURT: Yes, sir. Mr. Heller, go ahead and have
20 a seat.

21 (WHEREUPON, the jury came into open court at
22 approximately 4:58 p.m.)

23 THE BAILIFF: The jury is seated, Your Honor.

24 THE COURT: Okay. Thank you very much.

25 Solicitor, you may continue cross-examination.

1 BY MS. FENT

2 Q When you testified on direct examination, you said
3 that when you got back to South Carolina, they gave you
4 your statement to review, correct?

5 A Yes, ma'am.

6 Q You previously testified in this courtroom regarding
7 the facts of giving your statement, didn't you?

8 A Yes, ma'am.

9 Q You sat in that chair right there?

10 A Yes, ma'am.

11 Q You were -- you were placed under oath, correct?

12 A Yes, ma'am.

13 Q Just like you were today?

14 A Yes, ma'am.

15 Q And when you testified about this before, you said
16 that in South Carolina they did a second statement, didn't
17 you?

18 A Yes, ma'am, I did.

19 Q That's different than what you said today. You
20 said -- today you said they gave you a statement to
21 review, and on Monday you said that you did another
22 statement, a second statement, correct?

23 A Yes, ma'am, I did.

24 Q Mr. Collins asked you about your criminal
25 convictions, and you said it was marijuana and drugs?

1 A Yes, ma'am.

2 Q But let's specifically -- 2000 -- excuse me, 1999,
3 April 8th, 1999 you were convicted of possession of
4 marijuana, correct?

5 A Yes, ma'am, I were (sic).

6 Q In August of 2001, August 3rd, 2001, you were
7 convicted of possession of marijuana, correct?

8 A Yes, ma'am.

9 Q Manufacturing, selling, dispensing, distributing with
10 intent to distribute, correct?

11 A Yes, ma'am.

12 Q Also with drug trafficking within 1,000 feet of a
13 park, recreation facility, or public housing, correct?

14 A Yes, ma'am.

15 Q And with manufacturing, selling, dispensing,
16 distributing with the intent to distribute, another count
17 of that, correct?

18 A Yes, ma'am.

19 Q While you -- this case has been pending, you have
20 also been in communication with your cousin, Kevin Nails,
21 haven't you?

22 A Yes, ma'am.

23 Q And, in fact, you wrote him a letter at one point,
24 didn't you?

25 A I wrote numerous letters, so...

1 Q Numerous letters?

2 A Yes, ma'am.

3 Q In one of those letters you instructed your auntie to
4 tell Kevin to trash the letter after he read it, didn't
5 you?

6 A I probably have, yes, ma'am.

7 Q In addition, while you -- this case has been pending,
8 you have spoken with your father, with your dad, over the
9 phone, haven't you?

10 A Yes, one time, yes, ma'am.

11 Q And during that phone conversation your dad asked
12 you: "What did you do? What happened?"

13 A Yes, he did.

14 Q And you said, "I can't tell you over the phone,"
15 didn't you?

16 A Yes, ma'am, everything that's going to happen, I did.

17 Q And you knew that that phone conversation was being
18 tape recorded.

19 A No, ma'am.

20 Q You didn't see the big sign next to the phone that
21 said all of these conversations are being recorded?

22 A No, ma'am.

23 Q How many phone calls have you made since you were
24 arrested on this case?

25 A I have made numerous phone calls.

1 Q Numerous phone calls?

2 A Yes, ma'am.

3 Q Ten?

4 A More than ten.

5 Q Twenty?

6 A Yes, ma'am.

7 Q Thirty?

8 A Yes, ma'am.

9 Q Forty?

10 A More than 40.

11 Q Fifty?

12 A Yes, ma'am.

13 Q A hundred?

14 A I don't know.

15 Q Could be?

16 A Yes, ma'am, probably.

17 Q Of all of those times, you're saying you have missed

18 the big sign next to the phone --

19 A There's -- there's no sign --

20 Q -- that says --

21 A In any dormitory that you go in, there's no sign

22 giving you an indication that the phones are being

23 monitored. There is not.

24 Q But you still didn't want to tell your dad over the

25 phone what you did.

1 A Yes, ma'am.

2 MS. FENT: No further questions.

3 THE COURT: Redirect?

4 MR. COLLINS: Thank you, Your Honor.

5 REDIRECT EXAMINATION:

6 BY MR. COLLINS

7 Q Chris, I told you not to talk about your case over
8 the phone, didn't I?

9 A Yes, sir.

10 Q You were just doing what I told you to do.

11 A Yes, sir.

12 Q Now, Ms. Fent spent a lot of time scribbling on the
13 advice of rights form up here.

14 A Yes, sir.

15 Q Did you feel like you had any choice but to sign that
16 piece of --

17 A No, sir. I felt I had no choice. At the time my
18 mother's condition, and her freedom, was on the line
19 and -- as well as mine, because I just felt like I was
20 stuck between a hard rock.

21 It was -- if I -- if I do right, if I didn't do
22 wrong, it didn't matter. I just felt like I wanted to get
23 my mama free at the time.

24 Q And she made a big deal about the statement. You
25 said they -- they got you to sign something. In Georgia,

1 they got you to sign something. Can you explain that?

2 A Yes, sir. When I -- the statement that I signed in
3 Georgia, which like I said, I didn't read. I didn't read
4 it at all.

5 I just -- I was crying. I was emotionally crying. I
6 put my signature on this piece of paper to wait to see
7 what was going to happen with my mother. That was the
8 only thing I was concerned about. It was just -- let them
9 release my mother. That's all.

10 Q What about the one in Columbia?

11 A The one in Columbia, when I got in Columbia, I was
12 still emotional, but I still -- I didn't -- I didn't
13 normally just read, sit there and word for word read the
14 statement. I signed it, but he did make out another
15 statement.

16 Q And was a true copy of either one of those ever given
17 to you?

18 A No, sir. I never received no copy.

19 Q No matter what it said? Not matter what it says on
20 there?

21 A No, sir. I never received no copy.

22 Q And you talked about your pocketknife. When was the
23 last time you actually had that pocketknife?

24 A Well, I know it was -- I couldn't recall the last
25 time I ever -- I picked that key chain up.

1 Q Was that just the only knife you really ever had?

2 A Yes, sir.

3 MR. COLLINS: Thank you.

4 THE COURT: You may step down. Thank you very much.

5 Do you have any further witnesses?

6 MR. COLLINS: At this time, the defense rests, Your
7 Honor.

8 THE COURT: Okay. Does the State have any rebuttal
9 testimony or reply testimony?

10 MS. FENT: No, Your Honor.

11 THE COURT: Okay. Thank you very much.

12 All right. Ladies and gentlemen of the jury, it's
13 five o'clock. We'll quit at this time.

14 The only thing left in the trial will be closing
15 arguments and the charge on the law from the Court, and we
16 will complete that in the morning.

17 If you'll be in the jury room at 9:30. Please don't
18 discuss the case among yourselves or with anyone else. If
19 you see anything in the paper, on T.V., please don't read
20 it. I want you to make a decision on what you hear in the
21 courtroom, what you have heard in the courtroom, not what
22 you read or see on television.

23 Mr. Mustard, if you'll stand in the hall, I'll talk
24 to you.

25 See you tomorrow at 9:30.

1 (WHEREUPON, the jury left open court at approximately
2 5:07 p.m.)

3 THE COURT: All right. Anything before we adjourn?

4 MS. FENT: Nothing from the State, Your Honor.

5 THE COURT: Anything from the defendant?

6 MR. COLLINS: Your Honor, we would renew all previous
7 motions and objections and move for the directed verdict
8 again.

9 THE COURT: All motions and directed verdict denied.

10 MR. COLLINS: Also, for the mention of a letter from
11 my defendant or from a letter that was mentioned in
12 cross-examination, I was never given a copy of this
13 letter. I'm not sure what she was referring to.

14 If we could inquire as to whether that was part of
15 the discovery or where that letter came from. I would
16 just -- that would be --

17 THE COURT: I don't know. They didn't introduce it,
18 so I mean, I don't know.

19 MS. FENT: I'll clear that up. It's actually one of
20 the phone conversations that's recorded that he's talking
21 with Carolyn Robinson, and he says, "Hey, I mailed Kevin a
22 letter. Tell Kevin to trash it after he reads it," so we
23 don't actually have possession of the letter.

24 MR. COLLINS: That clears it up.

25 THE COURT: Okay. Anything else?

1 MR. COLLINS: I believe that is it, Your Honor, at
2 this point. We just move for a mistrial for those reasons
3 previously stayed, and I believe that covers it.

4 THE COURT: Okay. See you in the morning. Have a
5 good evening.

6 (Pause).

7 If you all have any requests -- I don't need any of
8 this on the record.

9 (There was an overnight recess).

10 (WHEREUPON, Court's Exhibit No. 13 was marked for
11 identification only.)

12 THE COURT: All right. I have discussed with the
13 attorneys about a juror, Billy Mustard, juror number 187.
14 He is self-employed. He has a project that he has been
15 working on in the evenings all week long after jury duty.
16 I asked him to stay with us until Thursday or Friday to
17 make sure we didn't lose any jurors. He agreed to do
18 that.

19 I have informed the attorneys about that, and the
20 attorneys this morning have agreed that I can excuse
21 Mr. Billy Mustard and put on the alternate; is that
22 correct from the State?

23 MS. GARFIELD: That's correct, Judge.

24 THE COURT: Is that correct from the defendant?

25 MR. COLLINS: Yes, Your Honor.

1 THE COURT: All right. The issue is how to draw the
2 alternate. We have two alternates. Ashley M. Love, juror
3 number 162, was the first alternate; Erika M. Bates, juror
4 number 15, was the second alternate.

5 The South Carolina Court Rules of Procedure, Rule 47,
6 state you draw, replace the jurors, in the order in which
7 they were drawn. That's the South Carolina Rules of Civil
8 Procedure, not the South Carolina Criminal Procedure.

9 Code section 14-7-1340 says that you place -- you
10 draw the name of the alternates that are going to be
11 replaced, and the Court has taken the position that
12 14-7-1340 will prevail in criminal court since that same
13 method of alternate jurors is not established in the South
14 Carolina Rules of Criminal Procedure. So I think
15 14-7-1340 are applicable.

16 So what I'm going to do is ask the clerk to put those
17 two names on something, and we'll have a bailiff drawing
18 the order of the names out. That's the juror that I will
19 replace with Mr. Mustard under South Carolina 14-7-1340.

20 Any objection from the State?

21 MS. GARFIELD: No, sir.

22 THE COURT: Any from the defendant?

23 MR. COLLINS: No, sir.

24 THE COURT: All right. Thank you very much.

25 They need to probably amend that statute and make it

1 uniform, the courts think, or at least modify the statute
2 saying you draw according to the rules and modify the
3 South Carolina Criminal Rules of Procedure where you draw
4 them in the order they're drawn. That's -- that's the
5 conflict, in my opinion, between the rules and the
6 statute.

7 Madam Clerk, whenever you have the two names in a
8 hat, I'll get one of the bailiffs to draw the name out.
9 We'll know who it will be.

10 THE CLERK: Is a cup okay? Does anybody have a hat?

11 THE COURT: If so, I'm afraid now we do everything by
12 a computer. I doubt that computer is set up to do what
13 we're doing now.

14 (The bailiff drew a name).

15 THE CLERK: Erika Bates.

16 THE COURT: Erika Bates. All right. Let the record
17 reflect that the clerk put the two names in a white cup,
18 and the bailiff drew the name out of Erika Bates. The
19 Court will receive Erika Bates, juror number 15, as one of
20 the 12 jurors.

21 All right. Anything else before we bring the jury?

22 MS. FENT: No, Your Honor.

23 THE COURT: Okay. All right.

24 (Pause).

25 Is there anything else before we bring the jury?

1 MS. FENT: No, sir.

2 THE COURT: Is the State ready for closing arguments?

3 MS. FENT: Yes, sir.

4 THE COURT: Is the defense ready?

5 MR. COLLINS: The defense is ready.

6 THE COURT: All right. And I think we said yesterday
7 45 and 30; is that correct, 45 minutes and 30 minutes?

8 MS. FENT: Try my hardest, yes.

9 THE COURT: All right.

10 MR. COLLINS: That's correct, Your Honor.

11 THE COURT: All right. Thank you very much. Bring
12 us a jury, please.

13 (WHEREUPON, the jury came into open court at
14 approximately 9:55 a.m.)

15 THE BAILIFF: All jurors are present.

16 THE COURT: All right. Madam Forelady, members of
17 the jury, I have excused one juror, Mr. Mustard, and Erika
18 M. Bates, juror number 15, is now on the jury panel.

19 Which -- which one is Erika Bates?

20 ALTERNATE JUROR: Me.

21 THE COURT: Ms. Bates, you are now on the jury rather
22 than the alternate.

23 Solicitor?

24 CLOSING STATEMENT:

25 MS. FENT: As citizens of the United States, all of

1 us, regardless of whether or not we were born here or we
2 moved here and became citizens, have taken our hands,
3 placed them across our chest and pledged allegiance to the
4 great country we live in.

5 The last words of that oath that we have all said is
6 "and justice for all". That includes Mary Chavis, and
7 that includes Gustavo Guzman Hernandez who died viciously
8 at the hands of this man.

9 Mary will be maimed and disabled for the rest of her
10 life. Mary may suffer from an addiction that many of us
11 hopefully will never know, but she is entitled to justice.

12 I want to talk to you a little bit about the law that
13 the judge is going to read to you in what we call the
14 charge of the Court, and not just to read it to you but
15 hopefully to apply it to some of the evidence that we've
16 heard this week.

17 First and foremost, the defendant stands charged with
18 the offense of murder. It is the willful, felonious
19 killing of a human being with malice aforethought, and
20 that malice being either expressed malice or implied
21 malice.

22 Malice suggests wickedness, hatred, and a
23 determination to do what one knows to be wrong without
24 just cause or excuse or legal provocation, just cause,
25 excuse or legal provocation.

1 You are not going to hear in the Court's charge
2 anything about self-defense or insanity or that any type
3 of legal excuse or just cause has been brought up this
4 week.

5 It need not be in the mind of the one doing the
6 killing for any particular length of time before the act.
7 So when you're asking yourself is he standing at that door
8 and he just starts stabbing the people, malice can still
9 be inferred or implied. He does not have to have
10 premeditated doing this, thought it out. It does not have
11 to be there for any particular length of time.

12 Express basically is, "I'm going to kill you,"
13 somebody stating out loud, "I am going to kill you." So
14 we all know what the person's thoughts are. That doesn't
15 always happen. People don't walk around announcing the
16 next thing that they're going to do, "I'm going to open
17 the door. I'm going to take a step. I'm going to kill
18 you." Sometimes they just start stabbing.

19 So implied malice, that's really what we're dealing
20 with where one intentionally and deliberately does an
21 unlawful act which he or she then knows to be wrong and in
22 violation of his or her duty to another and where no
23 excuse or legal provocation appears.

24 Running and hiding in a trailer all night long,
25 clearly knows this to be wrong.

1 Malice can be inferred when the deed is done with a
2 deadly weapon. You can find that malice was in the mind
3 of the defendant just by the use of the weapon that he
4 used.

5 Deadly weapon is any article, instrument, or
6 substance which is likely to cause death or great bodily
7 harm. The judge is going to instruct you that a knife is
8 a deadly weapon, is an example of a deadly weapon.

9 When you take a knife and plunge it into someone's
10 chest, when you take a knife and plunge it into their
11 stomach, it is clear that there is malice in that person's
12 mind.

13 You can also find it if the conduct is so culpable
14 and inexcusable, so aggravated and grossly reckless as to
15 show an active, intentional disregard of the consequences
16 of human life, thus denoting a malignant spirit, a heart
17 devoid of social duty and fatally intent on mischief.

18 Again, plunging a knife into a human being's chest,
19 plunging the knife into her stomach, repeatedly stabbing
20 them in the head, repeatedly stabbing them in their body,
21 in their back. Just from the facts alone malice can be
22 inferred; the use of the knife alone, malice is inferred.

23 Assault and battery with intent to kill is the
24 unlawful act of a violent nature to a person of another,
25 again with malice aforethought, same definitions of malice

1 apply.

2 The actions, the brutal vicious attack on Mary
3 Chavis, the same facts and circumstances, malice apply to
4 her also.

5 Assault basically is the intentional creation of a
6 reasonable fear of imminent bodily harm. It's, "I'm
7 standing there, and I pulled back to hit you." It's the
8 threat of contact.

9 Battery then is going to be the completed contact, so
10 the assault with the knife is going to be the pulling back
11 of the knife. The assault and battery is when that knife
12 plunges into her chest, plunges into her face, plunges
13 into her back, her head, her hands.

14 Strangely enough, as lawmakers are, the title of the
15 statute is assault and battery with intent to kill.
16 However, a specific intent to kill is not an element of
17 this offense.

18 So the person doesn't have to intend to kill the
19 person, but there must be a general intent to commit
20 serious bodily injury, a general intent to commit serious
21 bodily injury when plunging, again, that knife into Mary's
22 stomach, "I want to hurt her", at the very least.

23 Intent: Well, again, people don't walk around just
24 announcing the next thing that they're going to do. We
25 can't cut open a person's head and read in their brain

1 what were they thinking at the time.

2 Intent may be shown by the acts and conduct of the
3 defendant and the circumstances from which you can
4 naturally and reasonably infer intent, evidence of the
5 character of the assault, the brutal nature of the
6 assault.

7 He meant every single one of those stabs, every
8 single one of those stabs. He draws back again, again,
9 again.

10 The character of the instrument used, a knife. The
11 manner in which it was used, directly into their bodies.
12 The purpose to be accomplished and the resulting wounds or
13 injuries, 16 to 18 inch -- centimeter -- excuse me, 16 to
14 18-centimeter gash to the stomach.

15 Intent may be inferred when it's demonstrated that
16 the defendant voluntarily and willfully commits an act,
17 the natural tendency of which is to destroy another's
18 life.

19 When you're talking about malice and you're talking
20 about intent, and we've had testimony about how long all
21 of these injuries were, the doctor came up here and wrote
22 on the diagram, but this isn't life size. You know, what
23 is this? That's 16 to 18 centimeters. That is how long
24 the wound was in Mary abdomen. Fifteen centimeters to her
25 face, six centimeters to her shoulder, five to her other

1 shoulder, four centimeters, her head, multiple two
2 centimeter gashes, seven centimeter, six centimeter.

3 In addition, the doctor testified there were
4 multiple, multiple stabs to her head, the total length of
5 all those stabs to her head were 15 centimeters.

6 We have to prove to you beyond a reasonable doubt.
7 Proof beyond a reasonable doubt is proof that leaves you
8 firmly convinced of the defendant's guilt.

9 There are few things in this world that we know with
10 absolute certainty, and in criminal cases the law does not
11 require proof that overcomes every possible doubt, and
12 that is because the only way we would ever be able to
13 prove to anyone more than beyond a reasonable doubt, to
14 eliminate every possible doubt, the only way we would ever
15 be able to do that is if you were there and saw the whole
16 thing yourself. Then you would not be sitting here as a
17 juror. You would have been sitting in this chair as a
18 witness.

19 If, based on your consideration of the evidence, you
20 are firmly convinced the defendant is guilty of the crime
21 charged, you must find him guilty.

22 If, on the other hand, you think there is a real
23 possibility that he is not guilty, you must give him the
24 benefit of the doubt and find him not guilty.

25 It is your job as jurors to judge the credibility or

1 the believability of every single witness, and that
2 includes the defendant.

3 Just as you judge any other witness's credibility,
4 you judge his. He is not presumed to tell the truth. You
5 test his story like you test everybody else's. Was the
6 witness straightforward or hesitant when answering
7 questions and if so why?

8 Was the witness consistent or inconsistent, not only
9 with themselves but also with each other? And if they
10 were inconsistent with each other, is it reasonable
11 inconsistency? Did they just have a different vantage
12 point? How does the witness know the facts that he or she
13 had testified to? Was the witness present during the
14 incident or did he happen on the scene after it occurred?

15 Was the testimony of the witness strengthened or
16 weakened by the other testimony or evidence, and is there
17 some reason a witness would want to give testimony which
18 would help or hurt one side or the other? In other words,
19 was the witness bias or prejudice?

20 When you walk through Mary and Tracy's testimony and
21 what they recall happening, the physical evidence
22 corroborates that, the physical evidence backs up what
23 they remember happening from Tracy saying that she is
24 throwing glass out the window to try to get somebody's
25 attention, and sure enough, there's glass right outside

1 that window the investigators picked up, to the
2 identification of the defendant even being at the scene.
3 Kevin says yeah, he was there. Tracy identifies him.
4 Mary identifies him, the cigarette butt in the ashtray
5 puts the defendant there, and the defendant himself puts
6 him there.

7 Kevin, on the other hand, his cousin, is going to be
8 holding back some information. Kevin's cousin, who the
9 defendant admits, "I wrote him while this case has been
10 pending, and I told him to trash that letter after he read
11 it."

12 Dear Kevin, hold strong. Don't tell them what I told
13 you in the car. Don't tell them what I told you I did
14 with the knife. Don't tell them what -- what we did with
15 my clothes. Don't tell them I had blood on me, cuz.

16 You have heard testimony that the defendant used
17 cocaine, crack cocaine, and drank. So what do you do with
18 that information? Go back. What if he was on crack when
19 he did this?

20 The judge will instruct you that the voluntary use of
21 drugs or alcohol is not a defense to a crime. You are
22 responsible for the actions you take when you are under
23 the influence of alcohol or drugs. It is not a defense.
24 You do not get a free pass.

25 Identification: Mary and Tracy identified the

1 defendant, first providing sketches of this person that
2 came with Kevin to the home. Tracy describing the tattoos
3 that the defendant says, "Yes, I have the dollar sign
4 tattoo on my arm, and I have made man across my chest,"
5 and then identifying the defendant in photo number three.
6 Kevin even testified, "Yeah, photo number three is my
7 cousin," identifying him.

8 In testing whether or not they made accurate
9 identifications, you can discuss the opportunity to
10 observe the defendant at the time of the offense and to
11 thereafter make an identification.

12 So the amount of time that he is in that trailer, he
13 goes back into a room with Tracy for a period of time one
14 on one.

15 Tracy has already seen him right in the car when they
16 picked him up in the car, so driven in the car with him,
17 then hanging out in the trailer with him, goes into the
18 back bedroom with him for a while, comes back into the
19 living room. They're having an argument about something
20 face-to-face.

21 Mary is hanging out with him in the trailer, smokes
22 some crack with him in the bedroom. They sit across from
23 that bed. He sits in the chair. She sits on the bed.
24 There's a lamp in there. She has seen him.

25 When she goes out to the living room, Tracy and he

1 are having an argument. "Hey," she is trying to diffuse
2 the argument. She is having face-to-face contact with
3 him.

4 She tells him to leave, watches him walk over to the
5 trailer across, watches him come back. He opens the door,
6 and then in that doorway when she said, sitting right
7 here, that he was as close as this (indicating) when she
8 opened that door. When she opens that door, she looks
9 right at him.

10 He starts in, starts walking in. She puts her hand
11 out, "Where are you going? You are not coming in." She
12 is looking directly at him. "Where do you think you're
13 going?" Then she starts fighting, defending herself, in
14 that attack.

15 She has had ample opportunity to look him in the
16 eyes. The witness's degree of attention, the accuracy of
17 the witness's prior description, the prior description as
18 she sits down with this sketch artist.

19 Now, these are done separate times. They've not
20 spoken with each other, the level of certainty
21 demonstrated by the witness at the confrontation.

22 Mary sat here, "Beyond a shadow of a doubt, I know
23 that it was him that stabbed me. I will never forget his
24 face."

25 The defendant is given a statement, a signed

1 statement. You can determine the voluntariness of that
2 statement.

3 You can take into account in determining whether this
4 was a free and voluntary statement that he gave,
5 determining the age and the youth of the defendant. He
6 would have been about 28 years old; education or lack
7 thereof, tenth grade education; his mental ability or
8 capacity.

9 He said he can read or write, tenth grade education,
10 28 years old. "I can read and write." His background and
11 environment, was it five prior criminal convictions? So
12 he has been involved in the criminal justice system
13 before.

14 When he comes upon these investigators, he brings
15 them in, sits them down, says "let's talk, if you want to
16 give a statement." The advice to the accused of his
17 Constitutional Rights, including but not limited to, the
18 right to remain silent, heard that; that a statement can
19 be used against him in a court of law. He initials each
20 and every one of these, the right to have a lawyer
21 present. He initials it.

22 If he cannot offered a lawyer, then a lawyer will be
23 appointed to represent him, and he can stop the statement
24 at any time. They go one by one down that statement.

25 The place and the length of the detention. He said

1 total they were in there for about an hour. This is not,
2 you know, they had me in there for 24 hours badgering me,
3 telling me come on, you have got to confess to this, the
4 nature of the questioning. They were gentlemen.

5 He comes in, said they just patted him down for their
6 safety and for his. Bring him into the room, sit him
7 down, calmly start going through the advice of rights.

8 Reading through the Court's charge, I read over this:
9 "You have but one objective, to seek the truth regardless
10 of its source."

11 Mary and Gustavo are entitled to drink from the same
12 cup of justice that we all drink from.

13 THE COURT: Mr. Collins?

14 MR. COLLINS: Thank you, Your Honor.

15 CLOSING STATEMENT:

16 MR. COLLINS: I like this board. I really wish the
17 investigators in this case would have followed this before
18 we got here (indicating).

19 This has been a long case. There's been a lot of
20 witnesses. I'm sure we're all tired. I'm not going to
21 give you any theatrics, try to put on a show or anything.

22 This case is actually pretty simple when you get down
23 to it. It's not that complicated. It's about a
24 statement, a couple of witnesses, and the physical
25 evidence, that's it. We're not doing rocket science here.

1 You have got a statement. You heard all about the
2 statement, and you heard a lot of completely different
3 things. He said this. He said that, everybody is
4 different.

5 Man, I wish we had a video of that. I wish we had a
6 recording of that, then our jobs would be really easy.
7 But you see, these people are the ones that controlled the
8 conversation regarding the scene, complete control.
9 Mr. Heller is in shackles. He can't go turn on a tape
10 recorder. He can't turn on a video recorder.

11 If we had a video, maybe we would see that he didn't
12 say, "I just started stabbing people." Maybe he didn't
13 say anything about a knife.

14 Investigator Siniard took the stand, put his hand on
15 the Bible and swore to tell the truth. He got up here and
16 when asked, "Did you have any information about the knife
17 from the autopsy or pathologist before you talked to
18 Christopher Heller?"

19 "No, ma'am, I did not."

20 Then you saw his eyes as soon as I said, "Do you
21 remember signing an affidavit before you talked to
22 Christopher Heller?"

23 He knew he had been caught because he knew good and
24 well the description of the knife. He signed an affidavit
25 three hours before he ever talked to Christopher Heller

1 that said "a knife, very sharp, at least four inches in
2 length", information gained from an autopsy pathologist.

3 You heard him admit that on the stand. He admitted
4 it freely because he knew he was caught. That's just one
5 lie we caught him in.

6 If he lied about that, what else did he lie about?
7 You can't catch him on everything because they made a
8 point not to video anything. They made a point not to
9 record anything. Now, they said, "That's just our
10 standard procedure."

11 Now, plantation owners had slaves, and that was their
12 stand procedure for a long time. That doesn't make it
13 right. "Well, it's for budget reasons." Give me a break.

14 This is the same sheriff's department that bought an
15 armored car with a 50-caliber machine gun on it, and they
16 can't go down the street to Wal-Mart and buy a video
17 camera? That's insulting.

18 They even come in here and cite that as a reason they
19 had the procedure. They had the procedure so that's their
20 word against a criminal, and nobody can do anything to
21 back check it. That's why they took him off in a separate
22 room, so it's just the three of them. They can come in
23 here and say whatever they need to say.

24 His initials, Mr. Heller's initials and signature is
25 all over that thing, because he's trying to get his mom

1 out of jail. They were very elusive, the investigators,
2 very elusive.

3 "Well, we didn't have any control over his mother's
4 fiancée getting arrested. That was the Georgia officers."
5 Who do you think was running this thing? Georgia didn't
6 know anything about this crime. The only thing the
7 Georgia officers knew is what they told them. They were
8 running the show.

9 "Well, I don't know what they were doing." That's
10 because they don't -- they're trying to hide the fact that
11 they did threaten to keep his mom in jail, and that was a
12 deal they made. That's the reason they're trying to stay
13 away from that, because they know that was wrong.

14 The State has to prove beyond a reasonable doubt that
15 Chris voluntarily gave his statement and voluntarily said
16 all that.

17 If you don't find beyond a reasonable doubt that he
18 voluntarily gave this without being coerced, you are not
19 to even consider this statement. I'm going to repeat
20 that. If you find that they don't prove beyond a
21 reasonable doubt that he voluntarily gave this without
22 being coerced, you don't even consider the signed
23 statement. That's the reason they're staying away from
24 that issue because they know.

25 They admit that they threatened to keep his mom in

1 jail; that they would let her out if he signed that piece
2 of paper, that statement isn't coming in.

3 Now, they keep saying on the stand talking about T.V.
4 shows, and this isn't C.S.I. and we don't have that
5 capability and the kind of technology.

6 You know, they don't have the excuse of living in
7 Mayberry either, okay. They have a lot of technology, and
8 they can find a lot of things, and they can search out
9 leads and interview witnesses.

10 They can take notes. They can type things up. They
11 have a lot of capabilities. They have a lot of money, a
12 lot of funds. Budget is not an excuse.

13 Now, I just want to move to the witnesses. Nobody's
14 arguing. I don't feel complete sympathy with what these
15 two women go through and what the victim gave his life
16 for. This is brutal.

17 I am in no way saying that my heart doesn't go out to
18 the families. It goes out to the families.
19 Unfortunately, in this court we have to leave our emotions
20 outside because we have to look at the facts.

21 You can't let your emotions take over. You have to
22 listen to what they say and why they may be saying it and
23 what it was like and what they may have seen.

24 There's no doubt, no doubt, but Ms. Chavis and
25 Ms. Risinger firmly believe that's the man that did this,

1 no doubt. That's the face that comes up in their head
2 when they think about this.

3 You see, that's the face that's been coming up in
4 their nightmares. That's the face that they associate
5 with this, but we're talking about a dark trailer, so dark
6 that the E.M.S. worker, the first witness that came up
7 here, or the second witness, had to use a flash light to
8 go in there to find Mary.

9 We're talking about the front of this trailer. This
10 is with car headlights and a flash on the camera, and look
11 how dark it is out there.

12 These women describe Christopher Heller to a "T".
13 They did a good job because they hung out. They hung out
14 in a well-lit room. They smoked crack. They were hanging
15 out together, but the attack is something completely
16 separate because that doesn't give you any time to
17 respond. That's when we have a dark trailer with no light
18 on. The only light that is on is in the back bedroom with
19 the door closed. No porch light on, and there is no
20 street light.

21 Could they possibly be mistaken? Can Mary Chavis
22 possibly be mistaken about who she thinks she saw
23 attacking her?

24 Could she possibly be associating the last African
25 American face, the person that she saw? I'm sure she had

1 a lot of nightmares. I'm sure that was traumatic, and
2 that's the face she sees.

3 She wants him to pay. You heard her say she wants
4 him to be punished, and I don't blame her. That's the
5 person she thinks did this.

6 She sat in here all week. She listened to testimony.
7 She testified to some things that she hadn't told anybody
8 about until she came in here.

9 She is trying to make sure this guy gets convicted.
10 She is trying to help these prosecutors up here tie up
11 some loose ends. She said on the stand that she looked
12 out of her den window, watched Mr. Heller walk to a
13 trailer of a house, neighbor's house, and walk back.

14 Her den window, you'll get to take this back there.
15 Those aren't curtains. You can't see out of that window.
16 You heard the responding officer say all windows were
17 covered with something. The one that was broken had
18 plywood all over it.

19 She said she looked out that window and watched him
20 walk away. She knew it was him. She testified for the
21 first time this week that she got attacked. The man ran
22 out of the trailer and then ran back in with his shirt off
23 and sat down on the couch.

24 Maybe she is trying to explain that -- why they never
25 found any blood clothes with blood on them. It's a dark

1 trailer. She had a head full of crack. She went through
2 three surgeries with complete anesthesia. She is and pain
3 meds, a very traumatic event. Is it possible she is
4 mistaken about who did this?

5 Move to Bille Joe Risinger. "Who else could it have
6 been?" You heard her say that. "Who else?" You were
7 right there. She is assuming he did it.

8 She came in here for the first time ever in this
9 courtroom, didn't have it in her statement, wasn't in the
10 investigator's notes. "Well, I heard his voice before he
11 knock on the door." He said so and so, so I knew it was
12 him.

13 Do you think maybe she feels kind of bad for stepping
14 over her friend and not going to call 911 but going to
15 call her friend who happens to be a drug dealer instead?

16 Maybe she is trying to make up for that, help her
17 friend out, maybe help the prosecution out a little bit,
18 throw another little fact in there.

19 She knows she didn't see the attack. She didn't see
20 the attack or the attacker. Just throw that in there,
21 "Oh, I know it's him because I heard his voice."

22 Is she the kind of person you want to believe? The
23 person that would leave her friend, leave them there, to
24 go call her friend who happens to be a drug dealer?

25 "Who else could it be," right? Maybe it was the

1 skinny guy.

2 Investigator Siniard said, "Well, that was no
3 additional information." Chino's roommate saw part of the
4 -- saw his roommate die. He saw Chino stumble and fall to
5 the ground, saw part of the attack, saw a man run away
6 from the trailer.

7 Investigator Siniard didn't want to follow that up.
8 That wasn't even good information. Who else could it have
9 been? It had to be Christopher Heller. Maybe it was the
10 skinny guy who watched a known drug dealer pull up to a
11 crack house and leave, possibly dropped off some crack.

12 Maybe it was the skinny guy that watched and waited
13 until the last male left the trailer. Maybe it was the
14 skinny guy who wanted to get some crack no matter what.
15 You have all of this mountain of boxes and envelopes.
16 There was no crack in that trailer.

17 So I mean, what are we missing? We have everything.
18 That's where I'm coming to the physical evidence, a
19 cigarette butt. Boxes and boxes and stacks and stacks of
20 clothes. This is all for show, because none of it ties to
21 Christopher Heller except for the clothes he gave them.

22 They have a cigarette butt that matches his D.N.A.
23 He admits he was there. They got three unidentified,
24 unidentified females, two unidentified males in that house
25 and a lot more than one cigarette butt.

1 Maybe the name Devon. He put it on his to-do list,
2 "I need to find out who this Devon is." He didn't go to
3 the Oasis Club. He didn't go interview witnesses. He
4 didn't do anything to try to figure out who that was.
5 Maybe he would have matched one of those. Who knows.

6 Now, we have a knife. Nobody knows exactly what the
7 knife was. We do know that the knife broke a rib, broke a
8 wrist and was used a lot with a lot of force, brutally
9 used.

10 They're going to try to tell you it was a pocketknife
11 that didn't break, about the size of a Chapstick thing
12 that you could grip and do that kind of damage with?

13 Let's get serious here. We're talking about a knife.
14 Investigator Siniard got on the stand. This was after
15 Gonzales said nothing about searching for the knife.

16 Siniard gets up here and said, "Oh, yeah. We went
17 and looked. The bugs were biting. There was a lot of
18 trash on the ground, and we couldn't really find
19 anything."

20 He asked a lot of questions. He had the date. He
21 had the time. He had who he talked to and when he talked
22 to them. He was very specific in his notes. Not one
23 mention of looking for the knife in his notes.

24 Now, he testified that he had narrowed it down to a
25 quarter-mile place in the road as far as a person can

1 throw something.

2 Ladies and gentlemen, that's not that much of an area
3 to cover. If you're talking about this brutal of a crime
4 and you have the burden of proving it, I doubt they're
5 going to be finding it, not be. It may take you a little
6 bit of time, but you're going to find it.

7 Nobody ever told you that, and that's just what you
8 put in your notes. You're not going to go waste your time
9 looking for something that you know not -- isn't out
10 there.

11 All this evidence, they're going to let you take it
12 all back in. This is physical evidence, but it doesn't
13 tell you much. It's not indicating Christopher Heller.

14 Now, they're going to try to play on your emotions.
15 They've been trying that the whole case. Ms. Fent is
16 still going to get up today. That's not -- that's not
17 facts.

18 They're hoping to get your emotions going. They want
19 somebody to pay for this. Somebody should pay, but she
20 gets the wrong guy.

21 You saw Ms. Fent put Mr. Guzman Hernandez's daughter
22 on the stand. Ms. Fent showed her his autopsy picture.
23 What's the purpose of that other than to upset her? Why
24 would you do that? Try to get a rise out of the emotions
25 because they don't have the crime scene evidence.

1 At the end of the day they have a cigarette butt, not
2 one speck of blood from anywhere that's connecting this
3 crime on Christopher Heller on his cloths, on his shoes,
4 no blood in Kevin Nails -- the inside of Kevin Nails' car,
5 no blood inside of Kevin Nails' house, no blood inside of
6 Christopher Heller's house, no knife, no cuts on Chris'
7 hands, no scrapes anywhere on his hands or arms, no
8 bruises on his legs from where anybody kicked him,
9 nothing.

10 You have got to check your emotions at the door and
11 look at this case for what it really is. It's a forced
12 confession. You heard from Chris. You heard from his
13 mom. You have heard their explanations, which are a
14 little weak. Then you have identifications from witnesses
15 that have their heads full of crack in an extremely dark
16 trailer in an extremely dark trailer park in the middle of
17 the night.

18 Could they possibly have been mistaken? There is a
19 real possibility they are mistaken. That's because
20 Christopher Heller is an innocent man.

21 THE COURT: Solicitor?

22 CLOSING STATEMENT:

23 MS. FENT: On the one hand, he said that the
24 investigators have done a horrible job of investigating
25 this case; that they've done a horrible job, yet they are

1 so horrible that they are able to extract a forced
2 confession from the defendant by saying, "We have no
3 evidence. We got no witnesses. We need you to take the
4 fall for this."

5 They drive all the way to Baxley knowing that Tracy
6 has identified him in a photo lineup; Mary has identified
7 him as an attacker, as her attacker. They drive all the
8 way there. He turns himself in. He walks into the room,
9 and Lieutenant Siniard sits down and goes, "We're in a bad
10 place. We -- we got no evidence. We got no suspects. We
11 got no witnesses. We really just need you to take the
12 fall for this."

13 We, as citizens, as residents of this county, should
14 call ourselves extremely lucky that the Richland County
15 Sheriff's Department was there and is there for us.

16 Mary Chavis and Gustavo Guzman in this horrible,
17 horrible situation are extremely lucky that Lieutenant
18 Siniard did his job and did it well.

19 From the very beginning, four o'clock in the morning,
20 they start working to put this together starting with 911
21 communications sending out E.M.S.

22 E.M.S. gets on the scene, immediately checks Gustavo
23 Guzman. He is pulseless. He has no idea what happened,
24 and he realizes that the scene needs to be protected. So
25 he calls back to dispatch and said, "I need law

1 enforcement out here immediately," gets law enforcement
2 out there.

3 Joe Clark, he gets on the scene. He goes inside that
4 trailer. He hears moaning. He is by himself. He doesn't
5 know who is in that trailer, what is there to face him,
6 but he goes in there because he knows someone is in
7 trouble.

8 Mary Chavis is lying there holding her guts in. She
9 has been eviscerated, eviscerated. Her guts are coming
10 out. She is holding them in. He is going in there to
11 help her. He goes in there and checks to see if anybody
12 else is in that trailer and is dispatching for
13 investigators to come out and the E.M.S. to come back in
14 there to help her.

15 They began treating Mary immediately getting her to
16 the hospital, and then they get a Crime Scene Investigator
17 out there to that scene. I believe it was Bill Allen who
18 was the first person on the scene, and Joe Clark is saying
19 that he is putting crime scene tape up because he wants to
20 preserve any possible evidence at that scene.

21 Four in the morning they are starting to meticulously
22 mark and collect every single piece of evidence in all of
23 these boxes, mark about collect and preserve every single
24 piece of evidence.

25 Gustavo Guzman is dead. We do not know from him what

1 happened. Mary Chavis is going to the hospital.
2 Hopefully, we can save her life. She cannot tell us what
3 happened. We do not know what happened at this scene.

4 Lieutenant Elsey shows up. She is there from
5 five a.m. until 1:30 in the afternoon. Mike Bouknight now
6 comes out to the scene and meticulously is beginning to
7 collect all of this evidence with Lieutenant Clemmons,
8 meticulously packaging all of this, marking it so that we
9 know that swab one is in this package; swab two is in this
10 package, so we want to know exactly this swab came from
11 that spot on that photograph so we can put it all together
12 and find out who committed this horrible, atrocious act.

13 Now, they're assigning Lieutenant Siniard to the
14 case. We've got two homicides working. Maybe they're
15 related. We've got some description of a white girl.
16 Could it be the same? Let's start calling out to -- to
17 other investigators and police officers we know.

18 We're also going to assign Willie Gonzales his first
19 murder case to work together with an investigator with
20 over 40 years of law enforcement experience. We need a
21 Spanish speaker on it because we have possible Spanish
22 speaking witnesses, and we want to be able to communicate
23 and find out what happened, find out what happened.

24 Captain Stan Smith is calling out to Mark Jones, I
25 believe, of the West Columbia Police Department. You

1 know, we've had some other occasions to -- to have contact
2 with some of these people, with Mary Chavis, with a
3 Miranda Lancour. Can we identify who this white female
4 was? That machine is working.

5 They're pulling up driver's license photos to
6 identify Bille Joe. Called Bille Joe's house. Yeah, she
7 is here. Drive up to Bille Joe's house, talk to her,
8 start putting these pieces together.

9 Let's identify who Kevin is, get Bille Joe in, come
10 on, we know. We've got information from someone at the
11 scene that you got into a car with a black male. Who was
12 it? Okay. I didn't want to give up my drug dealer, but
13 it's this guy Kevin.

14 Let's sit down and start going through each and every
15 photograph of every Kevin at the Alvin S. Glenn Detention
16 Center until we find Kevin Nails. This is fine police
17 work.

18 Meanwhile, at the hospital while they're trying to
19 save Mary's life, we also get a Sexual Assault Nurse
20 Examiner out there to start collecting evidence in case,
21 in case, there was a sexual assault.

22 There is no stone left unturned in this case. We
23 need to get to the bottom of this.

24 We get out to Kevin, Kevin Nails. "Yeah, I was there
25 with my cousin. Yeah, okay, I drove there. I was there,"

1 and then we get Kevin to identify for us who is -- who's
2 your cousin? Get some photographs and identify him.

3 In the meantime at the same time that's working right
4 we've got -- already called S.L.E.D. to get some sketch
5 artist out to the hospital, to get a sketch artist to
6 Bille Joe, and let's see if we can get a sketch.

7 We have a murderer on the loose on our streets. We
8 need to get that person. Lieutenant Scott McDonald then
9 is putting together that photo lineup, and to make sure
10 that we're doing it right, he says, "Well, the color one,
11 the defendant's picture does have a blue background, and
12 we don't want that to be overly suggestive. We don't want
13 one photo in the lineup to stand out over the other photos
14 so that a person's eye would go to that photo. We want
15 this to be a fair and a good lineup. We want the right
16 guy."

17 So they make a black and white copy of it, so that
18 they all look much more similar. There is no
19 suggestiveness here as to who to pick out. We want a
20 solid case.

21 Stan Richards is at the autopsy. We need to collect
22 evidence here. Everything we've got, swabs on the hands,
23 I don't know. Maybe there was a gun used at some point.
24 We don't know. Go ahead. Do the G.S.R. swabs for
25 potential evidence later, the fingernail scrapings..

1 They find Mary Chavis' blood under Gustavo's
2 fingernails. Now, we know that there was blood on the
3 defendant from the attack because there is no evidence
4 that Gustavo when he went into that home, into Mary's
5 home, that he ever touched Mary, but he goes into that
6 home and he struggles with the defendant who has Mary's
7 blood on him. It gets under his fingernails.

8 The defendant showers and washes his clothes. We
9 know that the attacker, that the defendant didn't cut
10 himself because every swab of blood at the scene was
11 taken, and it is either Gustavo's or Mary's blood.
12 There's not someone else's blood out there at the scene
13 that's an unknown person. The defendant didn't cut
14 himself when he killed Gustavo and attacked Mary. There
15 is no unknown blood.

16 Tena Goff who takes in this evidence into the
17 property room making sure that it's all properly
18 preserved, sealed, even Mr. Abrahams who comes in here
19 retired from the property room, and Ms. Garfield shows him
20 a box and says, "Do you recognize this box?"

21 He looks down at it, and he goes, "No, I don't."
22 Well, she had the wrong box. That tells you that the
23 Richland County Sheriff's Department is doing everything
24 truthfully and right, because otherwise, he would go,
25 "Yeah. I recognize the box. I took custody of that."

1 Let's just get in and out of here and testify.

2 He said, "No. No, I don't recognize that box.
3 That's not our -- my signature would be on it, my
4 initials. You have got the wrong box." Then she said,
5 "Oh, I'm sorry. My apologies. Do you recognize this
6 one?"

7 "Yes, I do." Chain is preserved. They're doing
8 everything right and truthful.

9 Christine Barrickman, again who helps process
10 evidence, preserve it, John Barron who goes through every
11 piece of evidence and says that cigarette butt has the
12 defendant's D.N.A. on it putting him at the scene.

13 The Appling County Sheriff's Department reaching out
14 to the other jurisdictions, "We're coming down. We need
15 some assistance. We have a search warrant. We have an
16 arrest warrant. We need some assistance to do this."

17 To attack how they go into this home serving the
18 search warrant is ridiculous. If you go in to serve a
19 search warrant unarmed and not identifying yourself as law
20 enforcement, you come into my home not identifying
21 yourself as law enforcement, I am going to shoot you. I
22 am going to assume this is a home invasion, and I'm going
23 to protect myself. That's why you go in with credentials
24 and armed. You don't know the situation you're going
25 into.

1 I'm sure it wasn't pleasant for the defendant's
2 family, but he's the one that put them in the situation,
3 not the Richland County Sheriff's Department.

4 Investigator John Ewing bringing him in, but he knows
5 Kevin Nails. We need to go out and talk to Kevin Nails.
6 We need someone who has a rapport with him.

7 These are investigators and law enforcements officers
8 when they're working the streets, when they're working the
9 roads, are getting to know these people so that when they
10 have investigations, they will go as smoothly as they can.

11 Brian Godfrey who is out canvassing this scene,
12 Mary's neighborhood, seeing who they can knock on the door
13 talking to.

14 Mark Hornsby says, "Yeah, a black male came to my
15 door, knocked on it and wanted to use the phone, and I
16 said no." That is consistent with what Mary Chavis says,
17 is that she said, "Leave my home," the defendant, "Leave
18 my home. Go call your cousin to come pick you up. Get
19 out of my house."

20 She watches him walk across the street to a trailer,
21 sees a knock on the door and then has to come back. That
22 person didn't let him use their phone.

23 Dr. Byno, who treats Mary and could tell us the
24 horrible, horrible injuries that she suffered and that she
25 was clearly at risk of death.

1 Clay Nichols, Gustavo died as a result of that stab
2 wound to the chest, filling up with blood and stopping his
3 heart from pumping.

4 Miguel Duran-Olvera, the gentleman who says "A skinny
5 male, 5'7", 5'8", I see him run. I can't tell his race
6 because he was in the shadows," so Mr. Collins wants you
7 to believe that Mary Chavis standing this close to her
8 attacker is unable to identify him, but Miguel knows what
9 he's looking at across a dark trailer park in the shadows
10 and can't even tell the race of a person.

11 I mean, what is skinny? That is why you bring in
12 witnesses. They have to take the witness stand, and then
13 you can ask them, "What is your definition of skinny?" Am
14 I skinny? I think I'm fat. Maybe a lot of women feel
15 that way about themselves but what's skinny? He's looking
16 at someone, again, in the shadows. He can't even tell
17 their race.

18 Ms. Heller, the relationship between a mother and a
19 child is really pretty complex. How many mothers have
20 said, "I will do anything, anything for my child," but
21 when faced with difficult times, troubling times, a mother
22 has to ask themselves, "How far am I willing to go?"

23 For Tracy's mother it was coming to get her and
24 bringing her home and putting her into bed, but when law
25 enforcement called and said we need to talk to her, she

1 said she --

2 MR. COLLINS: Objection, Your Honor.

3 THE COURT: What's your legal objection?

4 MR. COLLINS: There's nothing in evidence about what
5 her mother said or did.

6 THE COURT: Overruled. Go ahead.

7 MS. FENT: The investigator testified that they
8 called, and the mother said, "Tracy is here."

9 For Auntie, Carolyn Robinson, who has said to the
10 defendant, "I love you more than my own son," it meant for
11 her going to get the defendant, bringing him back to her
12 home, providing him a place to clean up and then driving
13 him across state lines away from the trouble he was in.

14 Ms. Heller's role as a mother to the defendant as a
15 last ditch attempt at a defense, he escaped from the
16 confession.

17 The defendant told us after being read his rights
18 initialing every single right, acknowledging what he's
19 doing, signing at the bottom of that page saying that he
20 wanted to give up his rights and he wanted to talk, told
21 us what he did at that trailer. He told us about the
22 knife that he used. The defense says he didn't give that
23 information; they made that up.

24 Well, they've talked to the pathologist who said it's
25 at least four inches, but then in this statement that

1 they're trying to make up they say two to three. Well,
2 why aren't you going to say four. You want this to be --
3 right, if you're going to make it all up.

4 He says how he stabbed Mary first, then he stabbed
5 the Mexican man, the clothes that he was wearing, the
6 shoes that he had on, describing Tracy.

7 He's going -- came here to go to the casinos with his
8 aunt, which was abruptly called off, and he was taken back
9 to Baxley. He signs each and every one of these pages not
10 once but twice, and he's given the opportunity to say
11 anything else he wants to say. "Is there anything else
12 you would like to add?"

13 "No, sir. Everything I told you was the truth," and
14 he signed, again, two times.

15 Tracy identified the defendant as being in that
16 trailer that night, identifies his voice as the one she
17 hears. Kevin Nails identifies his cousin: "I brought him
18 there. It wasn't until 9:30 the next night when it was
19 dark that I go back and pick him up."

20 Mary looks into the eyes of the defendant as he is
21 stabbing her. The cigarette butt puts him there in that
22 trailer, and the defendant himself told you, "I just
23 started stabbing the people." There is nowhere in the
24 Court's charge, nowhere that it says that we have to prove
25 why he did it. Some things are unexplainable. "I just

1 started stabbing the people."

2 Her name is Mary Chavis. She was affectionately
3 known as "Dee". She is a daughter, a sister, and a
4 friend.

5 His name was Gustavo Guzman Hernandez. He was known
6 as Chino the mechanic, and he was a friend, and he was
7 known by Nohemi Guzman Flores as "mi papa," my father.

8 We ask that you now do what you did in the oath, what
9 you said in the oath to do, and that is to follow the law
10 and the evidence and a true verdict render and to find
11 justice for all. Find him guilty of murder and assault
12 and battery with intent to kill.

13 Thank you.

14 JURY CHARGE:

15 THE COURT: Madam forelady and members of the jury,
16 the State of South Carolina charges the defendant,
17 Christopher Robert Heller, with one count of murder and
18 one count of assault and battery with the intent to kill.

19 I will give you a copy of these instructions in
20 written form. During your deliberations, you may refer to
21 the instructions to guide your decision making. You must
22 consider the instructions as a whole and not follow some
23 and ignore others.

24 Madam Forelady, please return the instructions after
25 you have reached a verdict.

1 Now, as to these indictments, the defendant has
2 entered a plea of not guilty which places upon the State
3 the burden of proving the defendant guilty.

4 A person charged with committing a criminal offense
5 in South Carolina is never required to prove himself
6 innocent.

7 I charge you it's a vital, important rule of law of
8 evidence that a defendant in a criminal trial, no matter
9 how great or serious may be the offense with which he is
10 charged, must always be presumed innocent until his guilt
11 has been proven beyond a reasonable doubt.

12 This presumption of innocence remains with the
13 defendant at all times from the moment of his appearance
14 in this court throughout the trial until you, the jury,
15 have upon the testimony and evidence presented reached a
16 verdict of guilty beyond a reasonable doubt.

17 It's the solemn duty of the jury, if not clearly
18 convinced of his guilt beyond a reasonable doubt, to
19 acquit the defendant. So the burden of proof is upon the
20 State to establish by evidence to your satisfaction the
21 guilt beyond a reasonable doubt of this defendant.

22 Now, what is reasonable doubt? A reasonable doubt is
23 the kind of doubt that would cause a reasonable person to
24 hesitate to act. If you have such a doubt as to the guilt
25 of the defendant, then you would be entitled to a verdict

1 of not guilty.

2 Reasonable doubt may arise from evidence which is in
3 a case or from the absence or lack of evidence in a case.
4 You alone must make the determination of whether or not
5 reasonable doubt exists as to the guilt of the defendant.

6 The term "reasonable doubt" should be given its
7 everyday plain and ordinary meaning. Proof beyond a
8 reasonable doubt is proof that leaves you firmly convinced
9 of the defendant's guilt.

10 There are very few things in this world that we know
11 with absolute certainty. In criminal cases, the law does
12 not require proof that overcomes every possible doubt. If
13 based on your consideration of the evidence you are firmly
14 convinced of the defendant's guilt of the crime charged,
15 you must find him guilty.

16 On the other hand, if you are not firmly convinced
17 the defendant is guilty, you must give him the benefit of
18 the doubt and find him not guilty.

19 The evidence from which you'll decide the case
20 consists of the sworn testimony of the witness, both on
21 direct and cross-examination, regardless of who called the
22 witness, any exhibits that have been received into
23 evidence, any facts to which the lawyers have agreed or
24 stipulated.

25 Certain things are not evidence. You may not

1 consider them in deciding what the facts are. I will list
2 them for you, arguments and statements by the attorneys
3 are not evidence. The lawyers are not witnesses. What
4 they've said in their opening statements, closing
5 arguments and other times are intended to help you
6 interpret the evidence, but it's not evidence.

7 If the facts as you remember them differ from the way
8 the lawyers have stated them, your memory controls.
9 Questions and objections by lawyers are not evidence.
10 Attorneys have a duty to their clients to object when they
11 believe a question is improper under the Rules of
12 Evidence. You should not be influenced by the objection
13 or the Court's ruling on the objection.

14 Testimony that has been excluded or stricken or that
15 you have been instructed to disregard is not evidence. It
16 must not be considered.

17 Anything you may have seen on television, read in the
18 paper or heard from others when the court was not in
19 session is not evidence. You decide the case solely on
20 the evidence received at trial.

21 Under our constitution and code of laws, only you,
22 the jury, can make the findings of facts in this case. I
23 am not permitted to indicate to you how I may feel about
24 the testimony and evidence which has been presented
25 throughout this trial. It's been my intention to be fair

1 and impartial toward each of the parties involved.

2 To determine the facts in the case, you would have to
3 evaluate the credibility, which means the believability of
4 each witness.

5 Some of the things you may consider as you decide
6 whether or not to believe the witness's testimony about a
7 particular matter include: What was the manner and
8 appearance of a witness who testified? Was he or she
9 straightforward or hesitant in answering? Was the
10 testimony of a witness consistent or inconsistent? How
11 did a witness come to know the facts that he or she
12 testified to? Was the person present during the incident
13 or did he happen on the scene after it occurred? Is there
14 some reason a witness would want to give testimony which
15 would help or hurt one side or the other?

16 In other words, was the witness biased or prejudiced?
17 Was the testimony strengthened or weakened by other
18 testimony and evidence? You can believe as much or as
19 little of each witness' testimony as you think proper.
20 You may believe the testimony of a single witness against
21 that of many or just the opposite.

22 Of course, you do not determine the truth by merely
23 counting the number of witnesses presented by each side.
24 By that process, you have but one objective, to seek the
25 truth regardless of its source.

1 The same constitution and laws which designate and
2 make you the finders of the facts, as I just explained,
3 also make me the sole instructor of the law.

4 You should accept statements of the law as I give
5 them to you. The attorneys are not instructors of the
6 law. Please base your decision based on what the law is,
7 not what you think the law should be.

8 There are two types of evidence which are generally
9 presented during a trial: Direct evidence and
10 circumstantial evidence.

11 Direct evidence is the testimony of a person who
12 asserts or claims to have actual knowledge of a fact, such
13 as an eyewitness.

14 Circumstantial evidence is proof of a chain of facts
15 and circumstances indicating the existence of a fact. The
16 law makes absolutely no distinction between the weight or
17 value to be given to either direct or circumstantial
18 evidence, nor is a greater degree of certainty required in
19 circumstantial evidence than of direct evidence.

20 You should weigh all of the evidence in a case on a
21 contested factual issue. You may have some direct and
22 some circumstantial evidence.

23 To determine the facts in the case, you have to
24 evaluate the credibility, which means the believability,
25 of each witness.

1 Rules of Evidence ordinarily do not permit witnesses
2 to testify to opinions or conclusions. An exception to
3 this rule exists for the witness to be called expert
4 witnesses.

5 A witness who by education and experience has become
6 an expert in some art, science or profession may give an
7 opinion as to the subject the witness claims to be an
8 expert in and may also give a reason for the opinion.

9 You should consider any expert opinion given by a
10 witness like any other evidence. Give it the weight you
11 think it deserves. If you decide an expert's opinion is
12 not based on sufficient evidence -- excuse me, education
13 and experience or if you decide that the reasons given in
14 support of the opinion are not sound or that the opinion
15 is outweighed by other evidence, you may disregard the
16 opinion entirely.

17 An expert witness is to be given no greater weight
18 than that of other witnesses simply because the witness is
19 an expert.

20 You do not have to accept an expert's opinion even
21 though it is uncontradicted. An expert's opinion that is
22 otherwise helpful to the jury should not invade the
23 province of the jury just because his opinion on the
24 ultimate issue is cited. The jury still retains its power
25 and duty to judge the credibility of the expert and the

1 weight to be given to his or her opinion.

2 While the Court generally determines the
3 admissibility of evidence, I instruct you as regarding the
4 alleged statements by the defendant that you, ladies and
5 gentlemen of the jury, make the ultimate determination of
6 whether or not the defendant made such statement.

7 If he did make it, whether he was warned of his
8 Constitutional Rights and whether he knowingly and
9 intelligently waived his Constitutional Rights, whether it
10 was made by the defendants voluntarily of his own free
11 will, and finally, just what weight, if any, should be
12 given to the statement.

13 I charge you that you must determine if the alleged
14 statement was a product of an essentially free and
15 unconstrained choice by its maker. If you determine it
16 was, and the burden is upon the State to prove this fact,
17 as all other facts beyond a reasonable doubt, you may give
18 it such further consideration as you deem proper.

19 If you determine the alleged statement was not the
20 free and voluntary, willed expression of the defendant,
21 you should not consider it at all.

22 In determining whether a defendant's will was
23 overcome in obtaining a statement, you should consider
24 both the characteristics of the accused and the details of
25 the interrogation, which often are referred to as the

1 totality of the circumstances.

2 Some of the factors you may consider are the age and
3 youth of the accused; his education or lack thereof; his
4 mental ability or capacity; his I.Q. or intelligence; his
5 background and environment; the advice or lack thereof to
6 the accused of his Constitutional Rights, including but
7 not limited to, the procedural safeguard known as the
8 Miranda warnings concerning the right to remain silent;
9 that a statement could be used against him in a court of
10 law; the right to have a lawyer present. If an indigent,
11 that is he could not afford an attorney, a lawyer would be
12 appointed to represent him. He can stop the statement at
13 any time. Other factors to consider are the place and
14 length of the detention and the nature of the questioning.

15 You, the jury, must carefully scrutinize all the
16 surrounding circumstances before you give any weight to
17 the alleged statement. You must be satisfied beyond a
18 reasonable doubt that it was made by the accused
19 uninfluenced by promise or reward or threat or injury and
20 reduction of his rights.

21 An issue in this case is the identification of the
22 defendant, Christopher Robert Heller, as the perpetrator
23 of the crime charged.

24 The State of South Carolina has the burden of proving
25 identity beyond a reasonable doubt. Identification

1 testimony is an expression, belief or impression by a
2 witness.

3 You may consider the opportunity a witness had to
4 observe the alleged offender at the time of the offense to
5 thereafter make an identification. You may also consider
6 the witness's degree of attention. Additionally, you may
7 consider the accuracy of the witness's prior description
8 of the defendant. Finally, you may also consider the
9 level of certainty demonstrated by the witness at the
10 confrontation. It's up to you, the jury, to determine the
11 accuracy to the identification of the defendant.

12 Another issue in this case is the identification of
13 the defendant's voice. The State of South Carolina has
14 the burden of proving identity beyond a reasonable doubt.
15 Again, identification testimony is the expression of
16 belief or impression by a witness.

17 You may consider whether the witness has a basis for
18 being familiar with the voice, any particularity in the
19 voice, and finally, you may also consider the level of
20 certainty demonstrated by the witness.

21 You must consider the credibility of each
22 identification witness in the same manner as any other
23 witness. You may consider his or her truthfulness, as
24 well as the capacity, the opportunity of the circumstances
25 of the observation of the matters about which he or she

1 testified to.

2 Definition of murder: What is murder? By
3 definition, murder may be defined as the willful,
4 felonious killing of a human being with malice
5 aforethought.

6 Malice means any expressed malice or implied malice.
7 Malice is a word suggesting wickedness, hatred, and the
8 determination to do what one knows to be wrong without
9 just cause or excuse or legal provocation.

10 Malice need not be in the mind of the one doing the
11 killing any particular length of time before the act. Its
12 presence would be sufficient to render the killing murder.

13 Malice is said to be expressed when there is
14 manifested a violent, deliberate, intentional, unlawful
15 taking of the life of another human being.

16 Malice is implied where one intentionally,
17 deliberately does an unlawful act which he or she then
18 knows to be wrong and in violation of his or her duty to
19 another with no excuse or legal provocation. It appears
20 when the circumstances attending the killing show an
21 abandoned heart, a malignant heart, fatally, fatally, bent
22 on mischief.

23 Malice may be expressed as where previous threats of
24 vengeance or lying in wait of the circumstances show
25 directly the intent to kill was entertained.

1 The jury may also conclude by deductive reasoning
2 under certain circumstances that may arise, even though
3 there's no expressed or direct evidence of the intent to
4 kill.

5 Malice may be inferred whether no expressed intent to
6 kill is provided by direct evidence. It may be inferred
7 from the facts and circumstances which prove malice.

8 It may be inferred from the lawful -- excuse me.
9 Malice may be inferred from the willful, deliberate, and
10 intentional doing of an unlawful act without just cause or
11 legal excuse.

12 In other words, in its general significance, malice
13 means the doing of a wrongful act intentionally without
14 justification or legal excuse. Even if the facts proved
15 are sufficient to raise an inference of malice, this
16 inference must be simply an evidentiary fact to be into
17 taken into consideration by you.

18 Inferred malice may also arise when the deed is done
19 with a deadly weapon. A deadly weapon is any article,
20 instrument, substance which is likely to cause death or
21 great bodily harm. Whether instrument has been used as a
22 deadly weapon depends upon the facts and circumstances of
23 each case.

24 The following are examples of instruments which may
25 be deadly weapons: A pistol, shotgun, a rifle, a dirk, a

1 dagger, a knife, a slingshot, metal knuckles, a razor,
2 gasoline, a fire bomb, Molotov cocktail, and lighter
3 fluid.

4 The use of a deadly weapon: When it's used, you can
5 infer malice, but it does not require you to infer malice.
6 In other words, such conduct results directly in the death
7 of another if such conduct is so culpable and inexcusable,
8 so aggravated and grossly reckless as to show an active,
9 intentional disregard of the consequence of humans lives,
10 thus denoting a malignant spirit, a heart devoid of social
11 duty and fatally bent on mischief, an implication of
12 malice may arise.

13 Assault and battery with intent to kill: The
14 defendant is charged with assault and battery with intent
15 to kill. In order to prove assault and battery with
16 intent to kill, the State must prove beyond a reasonable
17 doubt the defendant, with malice aforethought, unlawfully
18 attempted or offered to commit a violent injury upon
19 another person and had the present ability to complete the
20 attempted injury.

21 An assault is the intentional creation of a
22 reasonable fear of imminent bodily harm. It is not
23 necessary attempted injury or harm actually take place.

24 For example, if I walk up to you, and we are within
25 arm's reach, I draw back and hit you, that is an assault.

1 A battery is the unlawful touching of another person by a
2 person who has committed the assault.

3 An unlawful touching can be caused by a part of the
4 accused's body or by any object the accused puts in
5 motion.

6 A battery is the completion of the assault by using
7 or applying force to another person, however slight in a
8 rude, angry, or resentful manner without legal
9 justification for doing so.

10 In my earlier example, if I carry through the assault
11 by hitting you, that is a battery. Malice is ill, hatred
12 or hostility towards another person. It's the intentional
13 doing of a wrongful act without just cause or excuse and
14 with the intent to inflict an injury under circumstances
15 of the law which infer an evil intent.

16 The definition of malice that applies to assault and
17 battery with intent to kill is the same as the definition
18 of malice that applies to murder.

19 If facts are proven beyond a reasonable doubt
20 sufficient to raise an inference of malice to your
21 satisfaction, this inference would simply be an
22 evidentiary fact when considered by you, the jury, on
23 other evidence in the case. You may give it the weight
24 you decide it should receive.

25 A specific intent to kill is not an element of

1 assault and battery with intent to kill. It must be a
2 general intent to commit serious bodily harm.

3 Intent means intending the result which actually
4 occurred, an accidental or involuntary. Intent may be
5 shown by acts and conduct to a defendant and other
6 circumstances from which you may naturally and reasonably
7 infer intent.

8 Evidence of the character of the assault or character
9 of the instrument used, the manner in which it was used,
10 the purpose to be accomplished, the resulting wounds and
11 injury may be considered in determining the intent with
12 which the assault was committed.

13 Intent may be inferred when it's demonstrated that
14 the defendant voluntarily and willfully commits an act,
15 the natural tendency of which is to destroy another's
16 life.

17 Voluntary intoxication: You have heard evidence that
18 the defendant might have been intoxicated. The voluntary
19 use of drugs or alcohol is not a defense to a crime.

20 A person who voluntarily becomes intoxicated is just
21 as responsible for the acts committed while intoxicated as
22 when the person is not intoxicated.

23 You have been selected as fair and impartial jurors
24 sworn to impartiality to try and determine the facts of
25 this case. If you comply with your oath to do so, no one

1 has the right to criticize your verdict. You will have
2 fully discharged your duty as jurors, and you decide this
3 case according to the testimony that you have heard from
4 the lips of sworn witnesses along with the other evidence
5 that has been produced.

6 I charge you as jurors you must decide the issues in
7 this proceeding without bias, without prejudice to any
8 party and not allow yourself to be governed by sympathy,
9 by prejudice, by passion, by public opinion or any other
10 arbitrary factor.

11 Both the State and the defendant have the right to
12 expect that each of you will carefully and impartially
13 consider all of the evidence in the case; that you will
14 follow the law as I have explained it to you.

15 Nothing I may have said or done during the course of
16 this trial has been in any way intended to express or
17 suggest a view in the case or an opinion as to the facts
18 or weight of the evidence, the credibility of the witness.
19 If any of my actions or words have seemed to so indicate,
20 you will disregard such and form your own opinion as to
21 these matters.

22 Ladies and -- Madam Forelady and ladies and gentlemen
23 of the jury, I have prepared two verdict forms. Please
24 disregard the order in which I state it. I had to put it
25 in some order.

1 The top of the case says, "The State of South
2 Carolina vs. Christopher Robert Heller." It has the case
3 number out beside it. "We, the jury, unanimously find the
4 defendant, Christopher Robert Heller, guilty of assault
5 and battery with intent to kill upon Mary Diane Chavis.

6 We, the jury, unanimously find the defendant,
7 Christopher Robert Heller, not guilty of assault and
8 battery with intent to kill upon Mary Diane Chavis," a
9 place to sign, a place to date, for the foreperson to
10 sign.

11 The second verdict form, the name of the case and the
12 number of the case. "We, the jury, unanimously find the
13 defendant, Christopher Robert Heller, guilty of the murder
14 of Gustavo Guzman Hernandez.

15 We, the jury, unanimously find the defendant,
16 Christopher Robert Heller, not guilty of the murder of
17 Gustavo Guzman Hernandez," a place for the foreperson to
18 sign and date it.

19 Ladies and gentlemen, as I said earlier, your verdict
20 has to be unanimous. All 12 of you have to agree. It's a
21 collective reasoning process. Listen to each other's
22 opinions, share your opinions, discuss the facts, look at
23 the evidence and share the evidence and arrive at a just
24 and fair verdict.

25 Madam Forelady, and ladies and gentlemen of the jury,

1 what I'm going to ask you to do is go to the jury room;
2 however, do not begin your deliberations until the bailiff
3 brings the verdict form, the charge that I just read and
4 the -- all of the exhibits that have been admitted into
5 evidence.

6 I need an opportunity to go over my charge with the
7 attorneys. I may bring you back and take something away
8 or add something. I want an opportunity to do that before
9 you begin your deliberations.

10 The alternate, Ms. Ashley Love, if you would just
11 keep your seat please, ma'am.

12 Madam Forelady and members of the jury, if you'll
13 follow the bailiff to the jury room, please.

14 (Whereupon, the jury left the courtroom at
15 11:22 a.m.)

16 THE COURT: Would you go shut the door, please?
17 Thank you. I appreciate it.

18 (Complies).

19 Thank you very much.

20 THE INVESTIGATOR: You're welcome, sir.

21 THE COURT: Any exceptions from the State?

22 MS. GARFIELD: None from the State, Your Honor.

23 THE COURT: Any from the defendant?

24 MR. COLLINS: None from the defense.

25 THE COURT: All right. If you would, come get with

1 the court reporter, make sure all the exhibits are
2 present, put on the record that they are present from the
3 State and from the defendant, and then I'll give -- we'll
4 send the exhibits back and tell the jury to begin its
5 deliberations.

6 (Pause).

7 MS. FENT: All right.

8 MR. COLLINS: Have at it.

9 (WHEREUPON, the jury began their deliberations at
10 11:29 a.m.)

11 THE COURT: All right. I understand we have a
12 verdict; is that correct? Is there anything from the
13 State before we bring the jury?

14 MS. GARFIELD: No, sir.

15 THE COURT: Anything from the defendant?

16 MR. COLLINS: No, sir.

17 THE COURT: All right. Bring us the jury, please.

18 (WHEREUPON, the jury returned to open court with the
19 verdict at 2:11 p.m.)

20 THE BAILIFF: All jurors are present, Your Honor.

21 THE COURT: All right. Madam forelady, I understand
22 you have reached a verdict; is that correct?

23 MADAM FORELADY: That's correct, Your Honor.

24 THE COURT: Would you hand the verdict forms to the
25 bailiff, please, sir -- please, ma'am.